

FALKIRK COUNCIL

Subject: CHANGE OF USE FROM BUILDERS STORAGE AREA (CLASS 6) TO SALE AND REPAIR OF MOTOR VEHICLES (RENEWAL OF PLANNING PERMISSION P/09/0862/FUL) AT MORVEN CONSTRUCTION LTD, GRANARY SQUARE, BANKSIDE, FALKIRK, FK2 7XJ FOR MORVEN MOTORCYCLES - P/11/0627/FUL

Meeting: PLANNING COMMITTEE

Date: 5 December 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk North
Provost Pat Reid
Councillor David Alexander
Councillor Craig R. Martin
Councillor Cecil Meiklejohn

Community Council: Langlees, Bainsford and New Carron

Case Officer: Stephen McClure (Planning Officer), Ext. 4702

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application seeks to renew planning permission for a change of use from a builder's storage area (Class 6) to sale and repair of motor vehicles, which was granted temporary permission for one year. The application site comprises an existing business unit and parking area, with the site being located within an established general business and industrial area. The unit is bounded on all sides by similar uses, and partially bounds the rear garden of a residential property to the north east.

2. REASON FOR COMMITTEE CONSIDERATION

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

3. SITE HISTORY

- 3.1 F/90/0453 - Change of Use of Storage 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 Application P/09/0862/FUL was granted for a change of use from a builder's storage area (Class 6) to sale and repair of motor vehicles (retrospective). The application was granted temporary permission until 30 September 2011, following consideration by the Planning Committee. This permission was subject to a condition that service and repair of all motor vehicles be carried out within the building. An informative was also included on the decision notice, advising that noise monitoring would be carried out to assess noise impact from the use on surrounding residential properties. The application which is the subject of this report was submitted prior to the expiration of the temporary period.

4. CONSULTATIONS

- 4.1 The Roads Development Unit have no objection to the proposal.
- 4.2 The Environmental Protection Unit have no objection to the proposal and advise that due to the close proximity of dwellinghouses to the site, the operator should have regard to controlling any noise produced by the development to ensure that no noise nuisance is caused. If noise complaints were received about the development, the Environmental Protection Unit would be obliged to investigate, and take any necessary action if the complaints were found to be justified under Statutory Nuisance Legislation contained in the Environmental Protection Act.
- 4.3 A number of visits have been made to the site since the grant of planning permission by the Environmental Protection Unit, as a result of a complaint from a neighbour. At no time did any officers witness any noise or odour nuisance relating to the applicants premises or activities. It was noted that the site is relatively quiet compared to the neighbouring units within the industrial area.

5. COMMUNITY COUNCIL

- 5.1 Langlees, Bainsford and New Carron Community Council have not made any representation.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 2 contributors submitted letters to the Council. The salient issues are summarised below:-
- Number 1 and 3 Hendry Street are affected by noise from the unit.
 - The main noise issue affecting no. 1 and 3 Hendry Street is related to motorbikes left running and revving for up to 15 minutes prior to a customer trying out the vehicle.

- There is another motorbike garage to the rear of no. 1 and 3 Hendry Street, however, no noise is heard from this, other than motorbikes driving to and from this other site.
- Number 3 Hendry Street is concerned about emissions coming from the unit at Bankside.
- Hendry Street is a residential area which should not be subject to unnecessary emissions.
- The value of No. 3 Hendry Street would be affected if this unit is granted permission for the sale and repair of motor vehicles.
- Why was permission granted which was to allow work to take place inside the unit, as surely this would require the unit to be properly kitted out for this use?
- The applicant has been carrying out work outside the unit, therefore breaching the condition of the temporary consent.
- When work is being carried out inside the unit, the doors are left open, therefore this does not make any difference to noise or fumes.
- There is constant noise of motorbikes coming and going from the unit in Bankside on all days of the week, including the weekend.
- Why has the applicant applied for sale and repair of motor vehicle? Surely there will then be a plan to not only sell and repair motorbikes, but also vehicles, which would make the noise and fumes worse.
- The fumes are affecting the family at 1 Hendry Street. They cannot let children play in the rear garden and have to shut all the windows in the dwelling to stop fumes coming in.
- An advert has been placed on television about the effects of fumes by the Council. The residents of 1 Hendry Street are experiencing this on a daily basis through no fault of their own, but by Falkirk Council allowing the continued trading of the unit.
- No issues with the unit when it was classed and used for storage.
- The residents of 1 Hendry Street have been dealing with Environmental Protection for a considerable amount of time. Eventually a noise monitor was placed at the property, although it is stated that this was at times of low use, and that it should have been placed there during the Spring/Summer months.
- In September a Planning Enforcement Officer visited the site in relation to complaints from the neighbouring residential property. It is claimed by the objector that since then and the submission of the current application, the noise levels have dropped.
- The Environmental Protection Unit has stated that there is not an issue with the unit. The residents at 1 Hendry Street have recorded tapes of noise from the unit, however the Environmental Protection Unit advise that this cannot be used as proof.

- Granting permission for such a change of use could cause a snowball effect with other adjacent units applying for similar uses.
- The objector submits that it was confirmed by the Planning Committee on the site visit carried out in relation to the previous application that the business was too close to 1 Hendry Street.

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 relevant policies within the Falkirk Council Structure Plan.
- 7a.2 The proposal raises no strategic issues and was therefore assessed against the Falkirk Council Local Plan alone.

Falkirk Council Local Plan

- 7a.3 The proposed development was assessed against the following policies:-
- 7a.4 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.”

7a.5 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, with changes of use of business units permitted, subject to amenity, environmental, access, traffic generation and other detailed considerations. The proposal is seen to be compatible with the surrounding area, which contains a mix of industrial and businesses uses. The access, parking and turning facilities are satisfactory, and the proposal would not increase traffic levels to an unacceptable level. Complaints were received by the Environmental Protection Unit in relation to a noise nuisance at the application site. The site has been investigated by the Environmental Protection Unit from before the application received its initial temporary consent. The investigation has continued throughout the year of operation, with numerous visits by officers as well as the placement of noise monitoring equipment. The site has also been visited by Planning Enforcement officers and Planning officers. No noise or odour 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 proposals. It is therefore considered that the proposal accords with Policy EP3.

7a.6 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.”

7a.7 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. It is therefore considered that the proposal accords with Policy EP11.

7a.8 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the public representations received.

Assessment of Public Representations

7b.2 The Environmental Protection Unit have carried out an investigation in relation to noise complaints received in regard to the site at Bankside. The site has been visited and monitored on many occasions, as well as noise monitoring equipment being placed in adjacent residential properties. There has been no noise nuisance recorded at the site and no enforcement action required to be taken.

7b.3 As stated previously, there has been no noise nuisance recorded at the site after an on-going investigation by the Environmental Protection Unit, as well as Planning Enforcement officers.

7b.4 It is noted that there is another motorbike garage to the rear of the properties, and that it appears to operate without any nuisance to the neighbouring properties. However, it must also be noted that no nuisance has been recorded at the unit at Bankside, as stated above.

- 7b.5 Emissions have also been monitored by the Environmental Protection Unit, with no unacceptable issues recorded.
- 7b.6 As stated previously, after investigation, the Environmental Protection Unit has not recorded any unnecessary emissions at the properties of Hendry Street.
- 7b.7 Property value is not a material planning consideration.
- 7b.8 If permission is granted for a specific use within an industrial unit, it would be the owner's/user's responsibility to comply with any necessary safety standards required by other legislation governing that use/operation. Planning permission does not give someone the right not to comply or obtain any other permissions and/or consents required.
- 7b.9 The Planning Enforcement officers have not recorded any breach of the condition which states that the service and repair of all motor vehicles shall be carried out within the unit.
- 7b.10 As stated above, there has been no noise nuisance or issues with fumes recorded at the site by the Environmental Protection Unit, which includes when the unit doors are open.
- 7b.11 As previously stated, there has been no noise nuisance recorded or witnessed by Council officers, including at weekend visits.
- 7b.12 A motorbike is classed as a vehicle, with sale and repair falling into different categories within the Town and Country Planning (Use Classes) (Scotland) Order 1997. The applicant requires both items within the Use Classes Order to allow for the current business. Given the size of the unit, it would not be considered that the business could intensify further, however, it would be acceptable to repair motor vehicles if granted permission for the proposed change of use.
- 7b.13 As stated above, the concerns regarding fumes have been investigated by the Environmental Protection Unit, with no issues being recorded.
- 7b.14 The application site was fully assessed and complaints that fall under legislation within the remit of the Environmental Protection Unit have been investigated. There have been no instances of unacceptable air quality being recorded or seen by the Environmental Protection Unit. The unit is also located within an established general business and industrial area. It should also be noted that Falkirk Council does not have any television adverts in relation to emission fumes.
- 7b.15 The unit, under class 6 storage and distribution, could see a similar or more intense use of the site, depending on the particular use of such a storage unit.
- 7b.16 It is a matter for the Environmental Protection Unit on when and where noise monitors are placed. The site has seen numerous visits as well as the carrying out of noise monitoring, with no noise nuisance being witnessed or recorded.
- 7b.17 Previous visits and the recent visits by Planning Enforcement officers and Planning officers have seen no increase or decrease in the activities at the site.
- 7b.18 The acceptance or non-acceptance of recorded noise tapes would be a matter for the Environmental Protection Unit under statutory noise legislation, and not a material planning consideration.

7c Conclusion

7c.1 It is considered that the proposal is acceptable development and is in accordance with Policies EP3 and EP11 of the Falkirk Council Local Plan. There are no material planning considerations which would justify a refusal of planning permission.

8. RECOMMENDATION

8.1 It is therefore recommended that 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.**

Pp

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Director of Development Services

Date: 25 November 2011

LIST OF BACKGROUND PAPERS

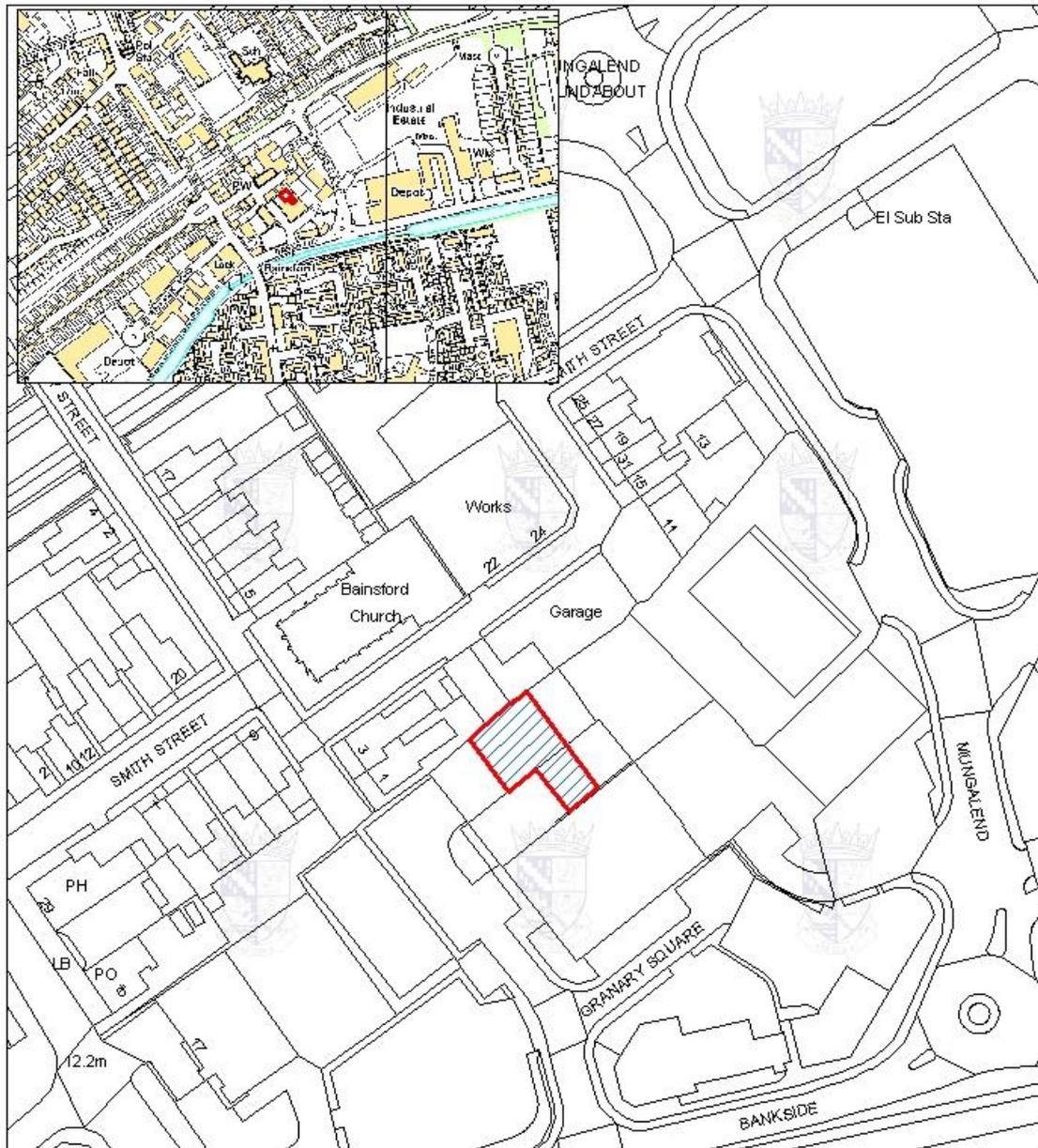
- 1. Falkirk Council Structure Plan.
- 2. Falkirk Council Local Plan.
- 3. Letter of Objection received from Pauline Black and Neil Ferguson, 1 Hendry Street, Falkirk FK2 7ND on 27 October 2011.
- 4. Letter of Objection received from Mrs Christine Miller, 3 Hendry Street, Falkirk FK2 7ND on 30 October 2011.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

Planning Committee

Planning Application Location Plan P/11/0627/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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