

**FALKIRK COUNCIL**

**Subject:** DEMOLITION OF FORMER PETROL FILLING STATION AND ERECTION OF NEW RESTAURANT INCLUDING DRIVE-THROUGH OUTLET TOGETHER WITH ASSOCIATED CARPARK AREA, DRIVE-THROUGH LANE, SERVICE AREA, ACCESS AND LANDSCAPING AT PETROL STATION, CALLENDAR ROAD, FALKIRK FK1 1XS FOR KFC (GB) LTD - P/12/0431/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 30 January 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk North

Provost Pat Reid  
Councillor David Alexander  
Councillor Dr C R Martin  
Councillor Cecil Meiklejohn

**Community Council:** No Community Council

**Case Officer:** John Milne (Senior Planning Officer), Ext. 4815

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This application seeks to secure the redevelopment of a site previously used as a petrol filling station, located at the corner of Bellevue Street/Callendar Road, Falkirk. A vacant shop (Tesco's) and car park are situated north west, open space to the east and south east and a vacant car show room to the south.
- 1.2 The applicant proposes to erect a fast food restaurant incorporating customer seating, drive-through provision and car parking. The building would be single storey in height, rectangular in shape and reflect the applicant's corporate design characteristics.
- 1.3 The restaurant provision would extend to some 259sqm set within a site area of 2,225sqm. The remaining area would be for a vehicular access, car parking, open space and delivery areas.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The proposed development requires Committee consideration because approval of the proposal would be contrary to Development Plan policies. However, the proposal is not considered to be significantly contrary to the Development Plan.

### **3. SITE HISTORY**

3.1 No relevant site history.

### **4. CONSULTATIONS**

4.1 Falkirk Council's Environmental Protection Unit requests that suspensive planning conditions be imposed to address potential issues of land contamination, noise and odour generation.

4.2 Falkirk Council's Roads Development Unit have no objections subject to the imposition of a suspensive planning condition relating to details of the Sustainable Urban Drainage System to be employed.

4.3 Falkirk Council's Transport Planning Unit have no objection to the application.

4.4 Scottish Water have no objections to the application.

### **5. COMMUNITY COUNCIL**

5.1 No Community Council currently in place.

### **6. PUBLIC REPRESENTATION**

6.1 2 letters of objection have been received, raising concerns that:-

- The welfare aspects of the applicant raises objections;
- The proposal is yet another food outlet in Falkirk;
- The nutritional aspects of the proposal does not encourage healthy nutritious eating habits and actively contributes to strains placed upon the NHS resources for medical conditions associated with such lifestyle choices.

### **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 Policy ECON.1 ‘Strategic Development Opportunities’ states:

*“The Council will promote the following as strategic locations for major economic development:*

- Town Centres*
- 1 Falkirk Town Centre*
- 2 Grangemouth Docks*
- Gateways*
- 3 Middlefield/Westfield, Falkirk*
- 4 Falkirk Canal Interchange*
- 5 North Larbert / Glenbervie*
- 6 Gilston, Polmont*
- Urban/rural Regeneration Areas*
- 7 Langlea/Bainsford, Falkirk*
- 7a Former Manuel Works, Whitecross*
- Specialist Sites*
- 8 Grangemouth/Kinneil Kerse*

*Site boundaries will be defined or confirmed in Local Plans. The range of acceptable uses at each of these strategic sites is indicated in Schedule ECON.1.“*

7a.2 In Falkirk Town Centre, potential for major development exists on the north side, through the extension to Central Retail Park, to the north west through redevelopment of industrial land up to the Forth and Clyde Canal and to the east around the bus station. The latter two opportunities are expected to be longer term and are explored in detail through the Local Plan section of this report below.

7a.3 Policy ECON.2 ‘Strategic Development Opportunities - Development Criteria’ states:

*“Development of the strategic development opportunities identified in Policy ECON.1 will be subject to the following conditions:*

- (1) high standards of design will be required through a development brief and masterplan for each opportunity which will be approved by the Council and ensure a comprehensive and sensitive approach to site planning;*
- (2) provision must be made for walking, cycling and public transport infrastructure to allow a high level of access by transport modes other than the private car;*
- (3) the scale of any residential use must comply with the general housing allocations set out in Chapter 4 and adequate social and physical infrastructure must be in place to serve them;*

- (4) *the scale and nature of out-of-centre retailing and leisure provision must be complementary to provision in Falkirk Town Centre and the District Centres. Accordingly, a Retail/Leisure Impact Assessment will be required to demonstrate this for all retail developments of 2,500 sq. m. gross floorspace or more, and for major commercial leisure developments. Assessment of smaller retail developments (between 1,000 and 2,500 sq.m. gross) may also be required in certain circumstances; and*
- (5) *development at Grangemouth Docks must not prejudice the operation of the port. and should be compatible with the continuing activities of the petrochemical and chemical industries.”*

7a.4 Development at these strategic locations will be conditional on the approval of a Masterplan to guide development. Master planning will ensure that urban design, landscape, community safety and accessibility factors are properly built into site planning.

### **Falkirk Council Local Plan**

7a.5 ED.FAL 01 – Callendar Riggs/Callendar Road

Opportunity: Retail/Leisure/Office/Bus Station/Residential

Site Area: 2.2 hectares

Agency: Unknown

Comments: Opportunity for site assembly and redevelopment for Town Centre uses at the eastern end of the High Street, incorporating upgraded bus station. Opportunity linked to future of former Tesco store. Planning brief would be required.

7a.6 The application site is within the Falkirk Town Centre boundary and forms a small but prominent part of the wider area identified by Opportunity ED.FAL.01, which includes the bus station and former Tesco Store. The application has been submitted outwith the context of a wider development strategy and prior to the preparation of a planning brief. It therefore requires to be assessed on its own merits.

7a.7 Whilst the proposed drive through restaurant is, in general terms, suitable for a secondary area of the Town Centre, the Development Plan clearly identifies site ED.FAL.01 as a wider opportunity for comprehensive redevelopment to enhance the Town Centre, requiring an appropriate brief/Masterplan.

7a.8 The bringing forward of the former petrol station site in isolation, prior to the preparation of a wider Masterplan, represents a piecemeal approach to site redevelopment which is generally not favoured.

7a.9 In addition, a judgement needs to be made on the extent to which this use may prejudice the wider potential of the site, bearing in mind that it is located on the prominent apex of the site. The long-term opportunity cost that this may represent needs to be balanced against the merits of introducing new development, a perceived short term economic benefit unrelated to the future of the site as a whole.

7a.10 Policy FAL4 - 'Falkirk Town Centre' states:

*“(1) The Council will promote the role of Falkirk Town Centre as the Sub-Regional Centre within the Council area.*

- (2) *Within the core area, Class 1 retailing should predominate. The Council will not permit changes of use from Class 1 retail in ground floor premises, except where it is demonstrated that an alternative use would be of benefit to the retail function of the core area, and would not lead to a concentration of non-retail uses within the street frontage.*
- (3) *Within the secondary area, the Council will promote a balance of Class 1 retail, leisure, food and drink, Class 2 business, community and residential uses. Proposals for changes of use of ground floor properties from Class 1 retail will be permitted provided this balance is maintained, an active frontage is provided within shopping streets, and the proposal is satisfactory in amenity terms.*
- (4) *Within Central Retail Park, proposals for non-food retail, leisure and food and drink will be supported provided they comply with the Section 75 Agreement covering the Retail Park, including restrictions on the type of goods that may be sold within Phase 2.*
- (5) *Within upper storeys of Town Centre properties, the reuse of vacant floorspace for residential use will be supported.”*

7a.11 Policy EQ1 ‘Sustainable Design Principles’ states:

*“New development will be required to achieve a high standard of design quality and compliance with principles of sustainable development. Proposals should accord with the following principles:*

- (1) *Natural and Built Heritage. Existing natural, built or cultural heritage features should be identified, conserved, enhanced and integrated sensitively into development;*
- (2) *Urban and Landscape Design. The scale, siting and design of new development should respond positively and sympathetically to the site’s surroundings, and create buildings and spaces that are attractive, safe and easy to use;*
- (3) *Accessibility. Development should be designed to encourage the use of sustainable, integrated transport and to provide safe access for all users;*
- (4) *Resource Use. Development should promote the efficient use of natural resources, and take account of life cycle costs, in terms of energy efficient design, choice and sourcing of materials, reduction of waste, recycling of materials and exploitation of renewable energy;*
- (5) *Infrastructure. Infrastructure needs and their impacts should be identified and addressed by sustainable mitigation techniques, with particular regard to drainage, surface water management, flooding, traffic, road safety and noise; and*
- (6) *Maintenance. Proposals should demonstrate that provision will be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure.”*

7a.12 Policy EQ2 ‘Implementation of Sustainable Design Principles’ states:

*“In order to ensure that the principles set out in Policy EQ1 are incorporated into development proposals:*

- (1) *Masterplans will be required for development proposals requiring a comprehensive approach to design and infrastructure. The Council will set out the basis for the preparation of Masterplans in Development Frameworks or Briefs;*
- (2) *Development Briefs will be prepared by the Council for other development sites where merited by the size, sensitivity or complexity of the site;*
- (3) *Supplementary Planning Guidance Notes will be produced to provide detailed advice on the application of the sustainable design principles; and*
- (4) *Planning applications for significant residential, business or commercial development, or smaller proposals affecting protected sites or buildings, should be accompanied by a Design Statement explaining how each of the factors in Policy EQ1 has been complied with.”*

7a.13 Policy EQ3 ‘Townscape Design’ states:

*“New development will be required to contribute positively to the quality of the built environment. Proposals should accord with the following criteria:*

- (1) The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site’s environs and creates a sense of identity within the development;*
- (2) Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*
- (3) The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
- (4) Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
- (5) Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
- (6) The contribution to the townscape of important landmarks, skylines and views should be respected.”*

7a.14 When originally submitted the standardised design solution failed to meet local and national policy in some respects, including architectural response to the site’s context, creation of a distinctive development on a prominent site, building materials, finishes and general contribution to the townscape.

7a.15 Following discussion with the applicant, incremental modification has sought to improve a number of these elements, including alteration to boundary treatment and external finish to the structure to improve visual impact. The proposal is now considered to be acceptable in design terms, and complies with the policy requirements detailed above.

7a.16 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.17 This policy encourages proposals for Class 3 uses and hot food takeaways to locate in centres and sets out criteria in terms of impact on amenity, the retail function of centres and parking/access issues. In this regard, the proposal does not offend this policy.

7a.18 The proposed development does not fully accord with the Falkirk Council Structure Plan nor the Falkirk Council Local Plan in terms of the comprehensive redevelopment of the area through a Masterplan/design brief approval.

7a.19 Accordingly, the proposal does not accord with the Development Plan.

## **7b Material Considerations**

- 7b.1 The material consideration to be assessed are the economic history of the site and comments received from objectors and the Council's Action Plan for the Economic Downturn.

### ***Economic History***

- 7b.2 The wider site has been the focus of some attention over the years, including a Civic Trust sponsored design competition and the commencement of site assembly by Henry Boot. However, Tesco (the owner of the larger site) appears to be unwilling to actively pursue comprehensive redevelopment proposals at this time.

### ***Falkirk Council Action Plan for the Economic Downturn***

- 7b.3 In December 2008, the Council adopted an Action Plan for the Economic Downturn, which highlighted the potential for the Council to be flexible in its application of planning policies to help secure development. The proposal would contribute to the regeneration of the site as well as bring some economic activity in the form of new jobs and investment.

### ***Letters of Representation***

- 7b.4 The site is considered acceptable for a Class 3 use, given the relatively close proximity to mixed uses nearing the Town Centre. The proximity of a nearby education facility is also noted, although there is no specific Local Plan policy creating a moratorium on Class 3 uses in proximity to schools.
- 7b.5 The ethics and working practices of the applicant and the lifestyle choices of customers are not material in planning terms. No perceived injury to amenity of nearby residents has been established.

## **7c Conclusion**

- 7c.1 The proposed development does not fully accord with the terms of the Development Plan which aspires to the comprehensive redevelopment of the eastern end of the High Street, incorporating an upgraded bus station.
- 7c.2 Essentially, such comprehensive redevelopment is linked with a major landowner, Tesco Stores, and would require a planning brief.
- 7c.3 This site has been the focus of some attention over the years, although no recent indications have been received that such comprehensive redevelopment will be examined or progressed by the landowner.
- 7c.4 Consequently, it is considered that, given the current economic climate a more piecemeal approach may be acceptable and, under close scrutiny in terms of compatibility, appropriate redevelopment of the site be achieved.
- 7c.5 The proposal is not considered to be a significant departure from the Development Plan, by virtue of the land use being acceptable, albeit outwith a larger development strategy for the area. The presence of the proposal on a prominent visual location is, similarly, unlikely to detrimentally prejudice further redevelopment within the area.

## 8. RECOMMENDATION

8.1 It is therefore 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 of the date of this permission
- (2) Within 12 months of the date of this permission, details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
- (3)
  - i. No development shall commence on site unless otherwise agreed with the planning authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority.
  - ii. Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority.
  - iii. Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority.
  - iv. If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (4) Prior to any works on site, further details shall be submitted to and approved in writing by the Planning Authority as to the cooking/ventilation provision to be employed.
- (5) Prior to any works on site, further details shall be submitted to and approved in writing by the Planning Authority as to the Sustainable Urban Drainage system to be employed on the site.

- (6) Prior to any works on site, further details shall be submitted to and approved in writing by the Planning Authority as to the external boundary treatment, including decorative panels, to be installed on the site.

**Reason(s):-**

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2,6) To safeguard the visual amenity of the area.
- (3) To ensure the ground is suitable for the proposed development.
- (4-5) To enable the Planning Authority to consider this/these aspect(s) in detail.

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 1A, 2B, 3, 4B, 5B, 6, 7 and 8.
- (2) It is recommended that the applicant should consult with the Development Services Environmental Protection Unit concerning this proposal as legislation relating to odour nuisance is likely to affect this development.
- (3) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal in respect of noise legislation which may affect this development.
- (4) It is recommended that the applicant should consult with the Coal Authority concerning the proposal because of the possibility of disused mine workings under the site.
- (5) Falkirk Council have determined the application on the basis of available information relating to ground contamination/landfill gas. The responsibility for the safe development and secure occupancy of the site remains with the applicant/developer.
- (6) For the avoidance of doubt, demolition works may require the benefit of planning permission and these matters should be confirmed prior to any works on site.

**Pp**

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Director of Development Services

Date: 22 January 2013

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of objection from Miss Morgan Welsh, 32 Woodburn Crescent, Greenhill, Bonnybridge Fk4 2DJ on 18 August 2012.
4. Letter of objection from Mrs Lisa Orr, 57 Clyde Street, Falkirk FK1 4ED on 18 August 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

# Planning Committee

## Planning Application Location Plan P/12/0431/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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