

FALKIRK COUNCIL

Subject: CHANGE OF USE OF OFFICE (CLASS 2) TO FORM HOT FOOD TAKE-AWAY (SUI GENERIS) AND EXTERIOR ALTERATIONS AT 11 MAGGIE WOODS LOAN, FALKIRK FK1 5HR FOR MR JATESH SANDHU - P/13/0317/FUL

Meeting: PLANNING COMMITTEE

Date: 22 August 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk South

Depute Provost John Patrick
Councillor Colin Chalmers
Councillor Dennis Goldie
Councillor Gerry Goldie

Community Council: No Community Council

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The site consists of a small commercial unit located within a row of commercial/retail units with flatted dwellings above, in a mainly residential area of Falkirk. The unit was previously used by the DVLA for office use (Class 2), but is currently vacant. It is now being proposed to change the use of the property to a hot food takeaway.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called in by Councillor Colin Chalmers and Depute Provost John Patrick.

3. CONSULTATIONS

- 3.1 The Roads Development Unit has no objection to the proposal.
- 3.2 The Environmental Protection Unit has no objection to the proposal. However, it has been requested that the applicant ensures that anti-vibration fixings are utilised where appropriate with the cooking odour extraction equipment. This can be conditioned where necessary.

4. SITE HISTORY

- 4.1 P/10/0172/FUL - change of use from class 2 retail (office) to hot food takeaway - application withdrawn.
- 4.2 P/10/0858/FUL - change of use from office (class 2) to cafe (class 3) - granted permission
- 4.3 P/12/0520/FUL - change of use of office (class 2) to hot food take-away (sui generis) - application withdrawn.
- 4.4 P/13/0032/FUL - change of use of office (class 2) to form hot food take-away (sui generis) - application withdrawn.

5. COMMUNITY COUNCIL

- 5.1 There is no Community Council active in this area.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, two contributors submitted letters to the Council. The salient issues are summarised below:
 - Will add additional traffic to the area.
 - Will add additional litter and create unwelcome odours.
 - Close proximity to Falkirk High School and Bantaskine Primary School will attract school children to another alternative to school meals.
 - Not required as there is already a hot food takeaway in one of the other commercial units.
 - Would cause an increase in cars to the site.
 - Would increase the rubbish at the site.
 - Would create noise at the site.

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.

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 be a presumption in favour of perforated shutters and grilles, as opposed to solid roller shutters.”*

7a.3 There are only minor alterations proposed to the shop front, and these are well-proportioned and sympathetic to the character of the existing building. No new security measures are being proposed for the unit, and the extract duct to the rear of the unit has been positioned to ensure it is not visually intrusive. It is therefore considered that the proposal accords with Policy EQ11.

7a.4 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.5 The proposed hot food takeaway would be located within a grouping of neighbourhood shops. It is not considered that the proposal would have an adverse effect on the amenity of adjacent residential properties, or the surrounding area in terms of noise, disturbance, litter or odours. The Environmental Protection Unit have not objected to the proposal, and are satisfied that the proposed extraction equipment would be sufficient in controlling odour. If any of these matters, including odours became an issue, the Environmental Protection Unit would investigate and, where necessary, could take the relevant action. During the assessment of the application, no issues were highlighted in relation to the current operating shop units and hot food takeaway unit, and it is not considered the proposed unit would operate any differently, or raise any additional matters. Parking, access and traffic generation are considered to be satisfied, as the units have dedicated parking and access. It is therefore considered that the proposal accords with Policy EP9.

7a.6 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material consideration to be assessed are public representations and the Falkirk Local Development Plan (Proposed Plan).

Assessment of Public Representations

7b.2 It is considered that the proposal would not create an unacceptable level of additional traffic to the area. The Roads Development Unit raise no concerns and the property shares the dedicated parking and access for the grouping of neighbourhood shops.

7b.3 There is no evidence to show that the proposal would increase litter in the area, and the Environmental Protection Unit have assessed the proposed extraction system, to ensure odours are properly controlled. If either became an issue, the Environmental Protection Unit could investigate and take action if appropriate.

7b.4 The location in relation to schools was not considered to be unacceptable, and would not in this case be seen to be a material consideration which would warrant refusal of the proposal.

7b.5 The presence of another hot food business at this particular location is not a material planning consideration, and therefore cannot be taken into account in the assessment of the proposal.

7b.6 It is not considered that the proposal would create an unacceptable increase in cars to the site. The Roads Development Unit have not objected to the proposal, and the site has the benefits of a dedicated car park and access.

7b.7 There is no evidence to show that the proposal would cause unacceptable noise issues at the site or to the surrounding area. If noise did become an issue for any reason, the Environmental Protection Unit could investigate and take action if necessary.

Falkirk Local Development Plan - Proposed Plan

7b.8 The Proposed Falkirk Local Development Plan was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.

7b.9 Policy TC04 - 'Food and Drink' states:

1. *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 locations where they are capable of fulfilling a tourism function.*
2. *Proposals must demonstrate that 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, and that parking and access requirements are satisfied.*

3. *Temporary consent for mobile snack bar vans may be granted where a specific need is demonstrated, and there is no adverse impact on local amenity or the visual quality of the locality*

7b.10 Policy D06 - 'Shopfronts' states:

"The design of new or altered shopfronts should be well-proportioned and sympathetic to the character of the building of which they are part, as specified within Supplementary Guidance SG04 'Shopfronts'."

7b.11 Policy TC04 Food and Drink and Policy D06 Shopfronts - The relevant policies contained within the Falkirk Local Development Plan (Proposed Plan April 2013) are considered to highlight the same issues as those within the current adopted plan. There are no considerations within the policies which would cause the proposal to be assessed in a different manner, or justify a refusal of planning permission. It is therefore considered that the proposal accords with Policies TC04 and D06 of the Falkirk Local Development Plan (Proposed Plan April 2013).

7c Conclusion

7c.1 It is considered that the proposal is acceptable development, is in accordance with Policies EQ11 and EP9 of the Falkirk Council Local Plan and Policies TC04 and D06 of the Falkirk Local Development Plan (Proposed Plan April 2013). There are no material planning considerations which would justify a refusal of planning permission.

8. RECOMMENDATION

8.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
- (2) Anti-vibration fixings shall be utilised where appropriate with the cooking odour extraction system equipment. A plan of the final layout of the cooking odour extraction system, including the details of the fixings, shall be submitted to and approved in writing by the Planning Authority prior to work commencing on-site.**

Reason(s):-

- (1) As these drawings and details constitute the approved development.**
- (2) To safeguard the environmental 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) 01 and 02.
- (2) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (3) Any plant or equipment associated with the completed development should be sited and operated in such a manner as to prevent any noise/odour nuisance occurring at nearby dwellings. If complaints are received about noise/odour from the development, the Environmental Health Unit would be obliged to investigate and take action as necessary if the complaints were found to be justified under Statutory Nuisance legislation contained in the Environmental Protection Act 1990.
- (4) Separate formal Advertisement Consent may be required for any signs associated with the proposed development. It is the applicant's 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: 13 August 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan (Proposed Plan April 2013).
4. Letter of Objection received from Depute Provost John K Patrick, john.patrick@falkirk.gov.uk on 27 May 2013.
5. Letter of Objection received from Bantaskine Tenants Residents Association, 21 Shannon Drive, Falkirk, FK1 5HU on 30 May 2013.

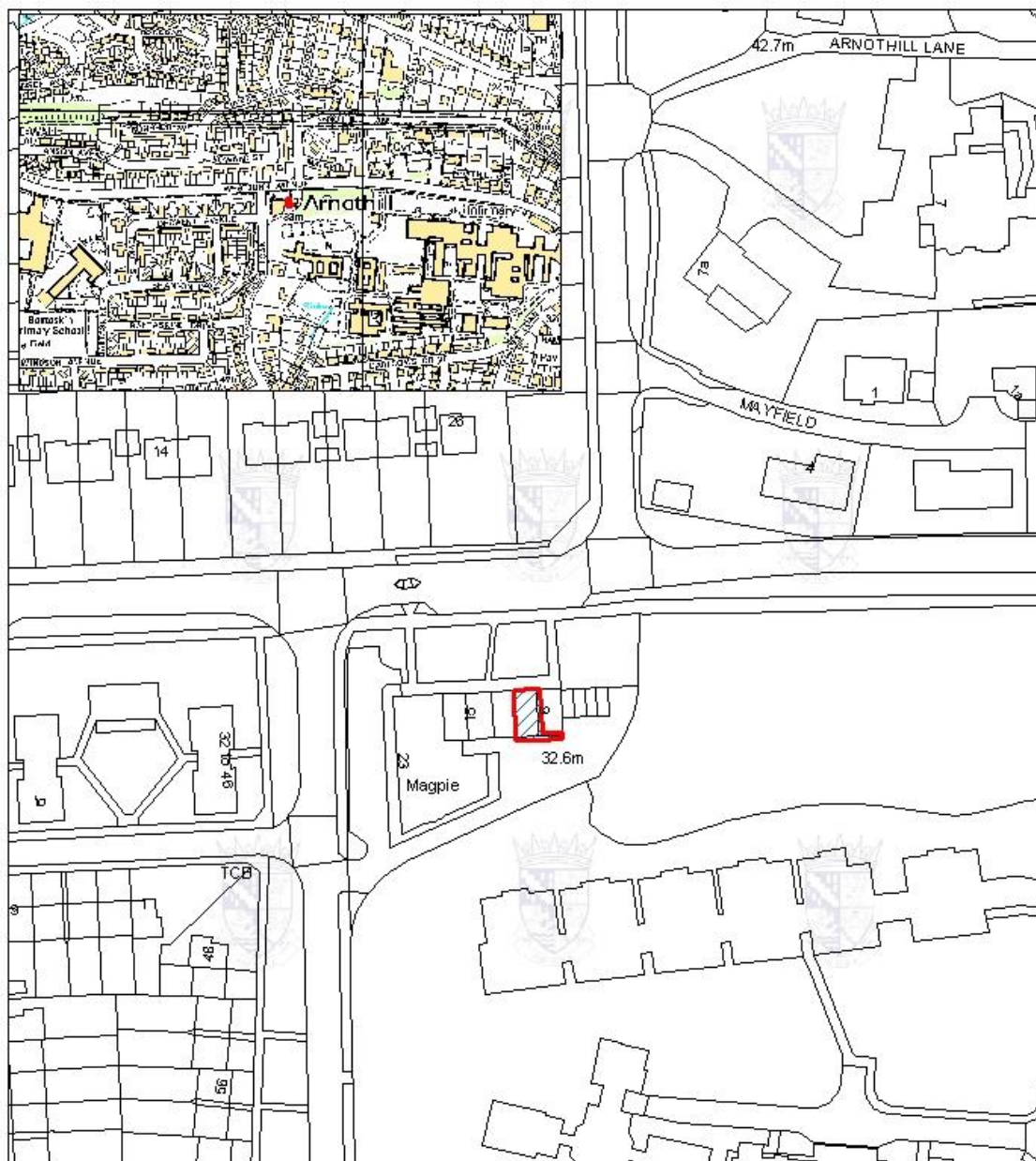
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

Planning Committee

Planning Application Location Plan

P/13/0317/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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