

**FALKIRK COUNCIL**

**Subject:** DEMOLITION OF GARAGE PREMISES AND ERECTION OF CLASS 1 SHOP UNIT WITH ANCILLARY DELICATESSEN (CLASS 1) AND FORMATION OF CAR PARK AT 50 DALDERSE AVENUE, FALKIRK FK2 7EG FOR DAVID'S KITCHEN LTD - P/13/0760/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 February 2014

**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:** Grahamston, Middlefield and Westfield

**Case Officer:** Allan Finlayson (Senior Planning Officer), Ext. 4706

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

- 1.1 The application site lies within a predominantly residential area at 50 Dalderse Avenue, Falkirk.
- 1.2 The former use of the application site was for a Class 5 (General Industrial) vehicle repair and tyre replacement Class 5 (General Industrial) Use. Other commercial sites exist in close proximity to the application site in Grahams Road to the west and Dalderse Avenue to the east.
- 1.3 The application site is close to the busy Dalderse Avenue/Thornhill Road roundabout. Poor access to the site and very limited car parking opportunities currently exist.
- 1.4 The proposed development is for the demolition of the existing building and replacement with a smaller building with improved site access and parking opportunities. The replacement building is proposed to provide for a Class 1 (Retail) supermarket use of 450 square metres in floorspace. Incorporated within this space is a delicatessen franchise proposing to sell take-away food such as filled rolls, macaroni, stovies and soup.
- 1.5 It should be noted that on submission of the application it was considered that the proposed food take-away facility was intended to provide for a hot food take-away. Consideration of further information from the applicant has confirmed that the type of food to be sold is similar to a take-away bakery and therefore considered to be consistent with a Class 1 Retail use. In this respect the application description has been amended accordingly.

## **2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application was called to Committee by Councillor Alexander.

## **3. SITE HISTORY**

- 3.1 The building at 50 Dalderse Avenue has been used for Class 5 General Industrial Use for in excess of 15 years. No recent planning applications have been submitted for consideration.

## **4. CONSULTATIONS**

- 4.1 The Roads Development Unit has no objections to the proposed development subject to improvements to the existing road network. These improvements relate to new access formation and footpath reconstruction across the site frontage. The proposed site access is considered to be significantly improved over the existing access and positioned further west from the busy Dalderse Avenue/Thornhill Road roundabout.
- 4.2 Forty car parking spaces are now proposed above an existing provision of approximately five spaces. Parking provision is considered to be generous for the retail floor space proposed.
- 4.3 The Environmental Protection Unit has no objections subject to the imposition of a contaminated land condition. The applicant has confirmed that the existing site is contaminated and that full remediation will be required before any development can commence.

## **5. COMMUNITY COUNCIL**

- 5.1 No representation as been received.

## **6. PUBLIC REPRESENTATION**

- 6.1 25 objections have been received from residents in the surrounding area. The grounds of objection relate to:-
- Inadequate parking provision.
  - Road safety.
  - Adverse impact on amenity by means of noise, odour, litter and anti-social behaviour.
  - Noise and headlight glare of vehicles using the proposed car park.
  - Adverse impact on privacy.
  - Demolition disturbance.

- Over provision of retail and food uses in the surrounding area.
- Over development of the site.
- Proposed path links will exacerbate anti-social behaviour.

## 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 in the Structure Plan.

#### ***Falkirk Council Local Plan***

7a.2 Policy EP7 – ‘New Retail Development’ states:

- (1) *New retail development in excess of 500 m<sup>2</sup> gross will be permitted where it is consistent with Policies ECON.5 and ECON.6 of the Structure Plan, and specific policies for individual centres in the Settlement Statements.*
- (2) *Retail developments smaller than 500 m<sup>2</sup> serving neighbourhood needs will be permitted within the urban area, subject to other Local Plan policies.*
- (3) *Retail development must demonstrate a high level of design quality, compatibility with adjacent land uses and an ability to integrate functionally and visually with any centre of which it is to form part.*

7a.3 The proposed development is smaller than 500 square metres and considered to further improve access to neighbourhood shops, particularly for housing areas to the north of the site which have limited supermarket provision within walking distance. The proposal exhibits a high level of design quality and compatibility with surrounding areas.

7a.4 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.5 The application proposes a smaller building on the existing site providing the opportunity for a greater design contribution to the surrounding area. The proposed design is considered to be modest but imaginative and to reflect surrounding townscape character. Landscape improvements are proposed to soften the proposed car parking area and provide a less dense section of streetscape on Dalderse Avenue.

7a.6 Policy SC7 - ‘Established Residential Areas’ states:

*“Within established residential areas, there will be a general presumption against the introduction of uses which would be incompatible with the residential character and amenity of the area. Proposals for appropriate community services (e.g surgeries, day nurseries and neighbourhood shops), homeworking or other compatible business uses (e.g. guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided.”*

7a.7 The proposed retail use with ancillary delicatessen is considered to be compatible with the residential character and amenity of the surrounding area. The change of use from existing Class 5 General Industrial Use is considered appropriate and to result in a positive land use change more consistent with surrounding uses.

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

## **7b Material Considerations**

7b.1 The material considerations to be assessed are the Falkirk Local Development Plan (Proposed Plan), objections received and consultation responses.

### ***Falkirk Local Development Plan (Proposed Plan)***

7b.2 The Proposed Falkirk Local Development Plan (FLDP) 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.3 Policy HSG06 - 'Non-Residential Uses in Residential Areas' states:

*"Within established residential areas, the introduction of uses which would be incompatible with the residential character and amenity of the area will generally not be permitted. Proposals for appropriate community services (e.g surgeries, day nurseries and neighbourhood shops), homeworking or other compatible business uses (e.g. guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided."*

7b.4 Policy HSG06 reinforces policy EP7 of the extant Falkirk Council Local Plan. The proposed use is considered to be compatible with the established residential character and amenity of the area.

7b.5 In respect of the above policy considerations the proposal is considered to comply with the emerging Development Plan.

### **Objections**

7b.6 As referred to in paragraph 1.5 of this report the proposed development is not considered to incorporate a hot food take-away (Sui Generis) use as was originally thought. The proposed food take-away element is considered to be consistent with Class 1 Retail Food sales and similar to a take-away bakers shop. The application description has been amended accordingly. Any future change to a hot food take-away (Sui Generis) use would require further planning permission.

7b.7 The Roads Development Unit is satisfied with the proposed development. Improved access is to be provided further from the busy Dalderse Avenue / Thornhill Road roundabout. A surplus of parking is available for the uses and floor space proposed. Upgraded footpaths will be provided on the site frontage with Dalderse Avenue. The applicant's agent has provided detailed information that demonstrates delivery vehicles can turn within the site. The conclusion of consultation with the Roads Development Unit is that the proposal would provide acceptable infrastructure to support the development and no road safety concerns exist.

7b.8 The deletion of reference to a hot food take-away addresses concerns of residents in respect of potential impact on amenity.

7b.9 Noise and headlight glare within the proposed car park are addressed by the proposed erection of a two metre high boundary wall on all development boundaries shared with existing housing. This is an increase over existing one metre walls adjacent to housing on the western side boundary (Towers Court).

7b.10 The demolition of the existing buildings would result in the proposed building being in excess of 20 metres further from housing to the west. The existing building is of a significant height (8metres) located within two metres of the gables of existing housing to the west. The increase of space between buildings is considered to represent an opportunity for an improved environment with additional planting areas being provided in the proposed car park. The replacement building has a maximum height of 5.75 metres.

- 7b.11 Demolition disturbance is a temporary inconvenience only and inevitable with any development proposed.
- 7b.12 The level of provision of retail is only a material consideration in respect of the type of retail proposed and its location. It is considered that the proposed retail use complies with relevant Development Plan policies and is suitable for the proposed site in terms of being a compatible land use.
- 7b.13 The proposed development would represent a significantly smaller building on the site than the existing general industrial building. A surplus of car parking is proposed for the use. In these respects it is considered that the proposal does not represent over development.
- 7b.14 The proposed improvements to path linkages surrounding the site will open existing footpaths to provide greater circulation space, lighting and connections for path users and will result in more direct footpath access through the surrounding areas. It is considered that these improvements are likely to decrease the potential for anti-social behaviour in existing locations.

## **7c Conclusion**

- 7c.1 The proposed development is considered to comply with all relevant Development Plan policies. Deletion of the reference to a proposed hot food take-away and amendments to address the concerns of residents are considered to result in an opportunity to enhance the site and provide improved services to the community with associated environmental improvements.
- 7c.2 No material considerations are considered to exist that would justify the setting aside of Development Plan policy and refusing the proposed development.

## **8. RECOMMENDATION**

- 8.1 It is recommended that 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) Prior to the commencement of development a landscape plan including detailed specification for all hard and soft landscaped areas and species type shall be submitted for the written approval of Falkirk Council as Planning Authority including amendment as required.
  - (3) Prior to the commencement of development samples of all construction materials relating to masonry, fenestration and roof construction shall be submitted for the written approval of Falkirk Council as Planning Authority including amendment as required.

- (4) Unless otherwise agreed in writing no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.

Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.

Prior to the commencement of development the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report / validation certificate has been submitted to and approved in writing by the Planning Authority.

In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.

- (5) Pedestrian railings, of a type to be agreed in writing with Falkirk Council, shall be installed on the south end of the footpath on the east side of the new premises, on Dalderse Avenue prior to the opening of the approved building to the public.
- (6) A barrier of a type to be agreed in writing with Falkirk Council, shall be provided along the frontage of Dalderse Avenue to prevent vehicles entering or egressing the pedestrian / cycle area to the west side of the proposed premises prior to the opening of the approved building to the public.
- (7) The existing drop kerb accesses shall be removed and full footpath construction with 100mm high kerbs will be installed along the site frontage on Dalderse Avenue prior to the opening of the approved building to the public.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2-3) In the interests of amenity
- (4) To ensure that the site is made suitable for the development approved.
- (5-7) In the interests of road safety

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03B, 04C, 05C, 06C, 07B, 08, 09, 10, 11, 12A, 13A.
- (2) The applicant should have regard to controlling any noise produced by the construction and future use of the development to ensure that no noise nuisance is caused. If noise complaints were received about the development, the Environmental Health Unit would be obliged to investigate and take any necessary action if the complaints were found to be justified under Statutory Nuisance Legislation.
- (3) 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.

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Director of Development Services

Date: 14 February 2014



## **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Falkirk Local Development Plan (Proposed Plan)
4. Letter of Objection from Mrs Susie Skinner, 19 Middlemass Court, Falkirk FK2 7ER on 20 December 2013.
5. Letter of Objection from Mr Alan Rowberry, 7 Goosedubs Place, Falkirk FK2 7GW on 21 December 2013.
6. Letter of Objection from A & G Graham, 81 Dalderse Avenue, Falkirk FK2 7EP on 24 December 2013.
7. Letter of Objection from Alex Laird, 71 Dalderse Avenue, Falkirk FK2 7EP on 24 December 2013.
8. Letter of Objection from Owner/Occupier, 65 Dalderse Avenue, Falkirk FK2 7EP on 24 December 2013.
9. Letter of Objection from Sharyn Kemp, 44A Dalderse Avenue. Falkirk FK2 7EG on 7 January 2014.
10. Letter of Objection from Mr Iain Cooper, 2 Middlemass Court, Falkirk FK2 7ER on 22 December 2013.
11. Letter of Objection from Mrs C Scott, 16 Middlemass Court, Falkirk FK2 7ER on 10 January 2014.
12. Letter of Objection from Kathryn M Grant, 56 Slamannan Road, Falkirk FK1 5LE on 17 December 2013.
13. Letter of Objection from Sandra Halley, 15 Middlemass Court, Falkirk FK2 7ER on 22 January 2014.
14. Letter of Objection from Mrs Barrie Archibald, South Lodge, Etna Road, Falkirk FK2 9EL on 11 December 2013.
15. Letter of Objection from Owner/Occupier, 12 Middlemass Court, Falkirk FK2 7ER on
16. Letter of Objection from Gordon Kerr, 3 Middlemass Court, Falkirk FK2 7ER on 19 December 2013.
17. Letter of Objection from R Vallance, 1 Middlemass Court, Falkirk FK2 7ER on
18. Letter of Objection from Mrs Fiona Caleary, 46 Dalderse Avenue, Falkirk FK2 7EG on 22 December 2013.
19. Letter of Objection from D Low, 18 Middlemass Court, Falkirk FK2 7ER on
20. Letter of Objection from Mr Steven Rosie, 4 Cochrane Street, FK1 1QB on 23 December 2013.
21. Letter of Objection from Mr Kenneth Grant, 48 St. Johns Avenue, Falkirk FK2 7DP on 23 December 2013.
22. Letter of Objection from C Gibson, 40 St. Johns Avenue, Falkirk FK2 7DP on 23 December 2013.
23. Letter of Objection from Owner/Occupier, 50 St. Johns Avenue, FK2 7DP on 23 December 2013.
24. Letter of Objection from Mr & Mrs B McCue, 83 Dalderse Avenue, Falkirk FK2 7EF on 23 December 2013.
25. Letter of Objection from Mrs J Newlands, 75 Dalderse Avenue, Falkirk FK2 7EF on 23 December 2013.
26. Letter of Objection from Mrs Susie Skinner, 19 Middlemass Court, Falkirk FK2 7ER on 22 January 2014.

27. Letter of Objection from Owner/Occupier, 20 Middlemass Court, Falkirk FK2 7ER on 22 January 2014.
28. Letter of Objection from Mr and Mrs Robertson, 17 Middlemass Court, Falkirk FK2 7ER on 22 January 2014.

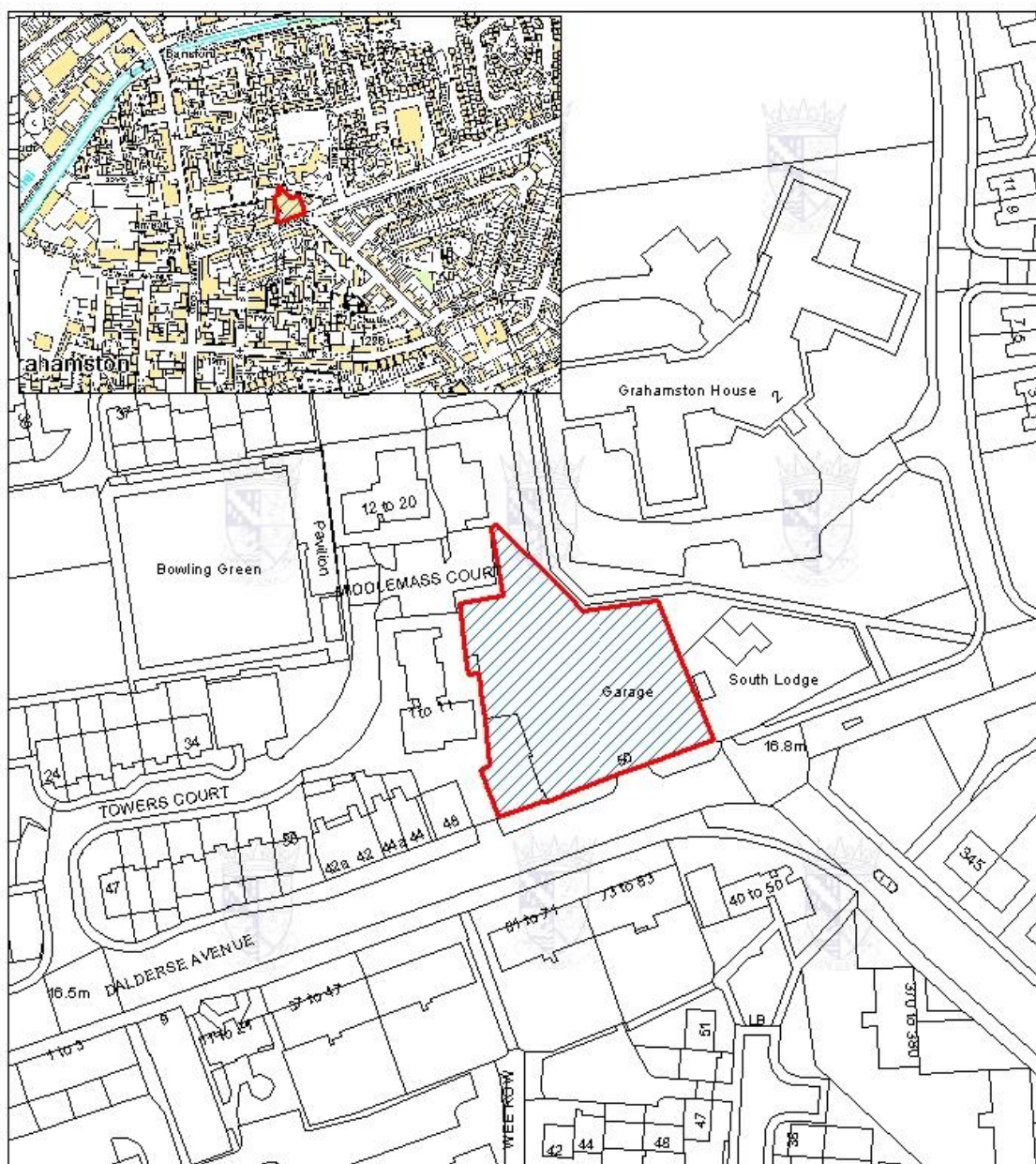
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/13/0760/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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