

FALKIRK COUNCIL

Subject: CHANGE OF USE FROM DWELLINGHOUSE (CLASS 9) TO CHILDREN'S CARE HOME (CLASS 8) AT 102 OSWALD STREET, FALKIRK FK1 1QL FOR FTS CARE LTD - P/15/0102/FUL

Meeting: PLANNING COMMITTEE

Date: 25 June 2015

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered at the Planning Committee on 27 May 2015 (Copy of previous report appended), where it was agreed to continue the application for a site visit. This visit took place on Monday 8 June 2015.
2. Following a factual summary of the application by the case officer, the applicant's agent, provided background to the applicant's development proposal and provided assurances that the proposed development would not result in adverse impact on the amenity of the surrounding area. The applicant's agent also highlighted amendments that had been agreed during the application process to provide additional car parking and to address concerns raised in submitted objections.
3. Four objectors to the proposed development attended the site visit and re-iterated previously made objections in relation to issues of inadequate parking provision, loss of trees, impacts on privacy (over-looking) and amenity (noise and anti-social behaviour). In addition concerns were raised relating to drainage, invasive species (Japanese Knotweed), failure to carry out further neighbour notification following submission of amended plans and that disabled access to the site was inadequate for a commercial use.
4. Members of the Planning Committee sought clarification of concerns raised by objectors from the case officer, attending roads officer and the applicant's agent. The case officer confirmed that the proposed development, whilst involving the change of use from a dwellinghouse exhibited a similarity of use with that of the current residential use in respect of potential impacts on parking, privacy and amenity. The case officer confirmed that no impact on the existing drainage network (public water and sewerage) would result from the proposed development and that further neighbour notification had not been undertaken as the only amendments to the proposal as originally considered improved parking provision within the site following receipt of objections on this issue. The attending roads officer confirmed the acceptability of parking provision and site access arrangements for the site and use proposed. Furthermore, the resultant access changes including the removal of part of the front loading wall and the formation of dropped kerbs would not require planning permission in their own right.

The case officer noted that the Japanese Knotweed (*Fallopia Japonica*) pointed out by objectors was in fact 'Foxglove' (*Digitalis*) easily confused by the redness of root stems of both species.

5. The applicant's agent confirmed that the applicant would provide a boundary screen fence along the southern boundary of the site to address concerns of privacy. This has subsequently been formally confirmed and a planning condition requiring this boundary fence is now appended to the original recommendation to grant planning permission.
6. Subsequent to the site visit the Council's Building Standards Manager has confirmed that the proposed use does not require to provide access for the disabled over and above that which currently exists.
7. Councillor Chalmers, speaking as a local member, identified issues of concern to residents in respect of parking, access and amenity and of the need for these concerns to be given careful consideration.
8. Depute Provost Patrick, speaking as a local member, noted the amendments to the proposal clarified by the case officer and applicant's agent in relation to parking and privacy respectively and expressed support for the proposal as it would providing appropriate care for children in the area.
9. It is considered that no new matters have emerged from the site visit that would justify altering the officer recommendation of minded to grant planning permission. The previous recommendation is re-iterated as follows subject to an additional planning condition requiring the erection of boundary fencing as noted in paragraph 5 of this report.

10. RECOMMENDATION

10.1 It is 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) The 6 car parking spaces and the turning area indicated on approved plan 02A shall be provided for the lifetime of the development and the turning area shall be maintained, at all times, free of obstruction.
- (3) Notwithstanding the provisions of Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, no other use within this class shall be undertaken without the express prior consent of this Planning Authority.
- (4) Prior to the implementation of the approved use of 2.4 metres high close boarded timber fence shall be erected along the full southern boundary of the site and maintained in this position for the duration of the approved use; the fence details shall be submitted to and approved in writing by the Planning Authority.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2) In the interests of the users of the public highway.
- (3) In order to retain proper control over the use of the property.

- (4) To protect the privacy of surrounding residential properties.

Informative(s):-

- (1) 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.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 02A.
- (3) Should any made ground or suspect material be encountered during any site works, the applicant should inform the Planning Authority as there will be a requirement to undertake an appropriate environmental risk assessment in relation to contaminated land issues. An environmental risk assessment would require to be undertaken in accordance with current legislation and guidance and would be subject to review and approval by the Planning Authority.
- (4) Registration of the Care Home with the Care Commission will be required.
- (5) The Council's Social Work Service should be contacted regarding the establishment of a future relationship with this service.

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Director of Development Services

Date: 16th June 2015

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan (Proposed Plan).
4. Letter of Petition received from Peter Riddoch, Pjriddoch@hotmail.com on 20 March 2015
5. Letter of Objection received from Peter Riddoch, Pjriddoch@hotmail.com on 12 March 2015
6. Letter of Representation received from H S Buchanan, Comely House, Elgin Place, Falkirk, FK1 1QN, on 18 March 2015
7. Letter of Objection received from Miss Lesley Dickson, 103 Oswald Street, Falkirk, FK1 1QL, on 20 March 2015
8. Letter of Objection received from Mr John Beath, 37 Creteil Court, Falkirk, FK1 1UL, on 9 March 2015
9. Letter of Objection received from Shiona Finn, 31 Creteil Court, Falkirk, FK1 1UL, on 10 March 2015
10. Letter of Objection received from Mrs Anne Whigham, 32 Creteil Court, Falkirk, FK1 1UL, on 1 March 2015

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

FALKIRK COUNCIL

Subject: CHANGE OF USE FROM DWELLINGHOUSE (CLASS 9) TO CHILDREN'S CARE HOME (CLASS 8) AT 102 OSWALD STREET, FALKIRK FK1 1QL FOR FTS CARE LTD - P/15/0102/FUL

Meeting: PLANNING COMMITTEE

Date: 27 May 2015

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site lies at the southern end of Oswald Street, Falkirk, a street of predominantly terraced houses and flats near Falkirk Town Centre. The area is predominantly residential in character.
- 1.2 The proposed development seeks to change the use of a detached dwellinghouse to a residential care home (Class 8) for the care of children. The home would provide residential care facilities for four adolescent children. Staffing of the home would be provided on a shift basis with three staff present on weekdays and two staff at the weekend. A home manager would always be present and wakened nightshift care would be provided.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called to the Planning Committee by Councillor Colin Chalmers.

3. SITE HISTORY

- 3.1 No relevant site history.

4. CONSULTATIONS

- 4.1 The Council's Roads Development Unit expressed initial concern at the proposed access and parking provision at the site. The applicant's agent has submitted amended plans to address these concerns by proposing improved widened access to the site and additional off street parking.

- 4.2 The Council's Environmental Protection Unit has no objection subject to a contaminated land informative should permission be granted.

5. COMMUNITY COUNCIL

- 5.1 There is no Community Council for the area in which the application site is located.

6. PUBLIC REPRESENTATION

- 6.1 5 individual letters of objection and one letter of representation to the application have been received. In addition a petition of objection with 34 signatories has been submitted. The comments relate to:

- Adverse impact on residential amenity by means of noise, anti-social behaviour and access/parking disruption particularly at times of shift changes;
- Amenity impacts on a high proportion of elderly residents;
- Inadequate security for children being cared for at the site;
- Inadequate vehicular access and parking and road/pedestrian safety impacts;
- Drainage and water pressure issues;
- Japanese Knotweed invasive species on the site;
- Inappropriate site for the type of use proposed; and
- Adverse impact on the operation of a bed and breakfast business from 115 Oswald 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 The proposed development does not raise any issues of a strategic nature therefore the policies of the Structure Plan are not considered relevant.

Falkirk Local Plan

- 7a.2 The application site lies within the urban limit of Falkirk and in proximity to its Town Centre and supporting facilities.

7a.3 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.4 The proposed use, whilst involving social care, is a residential use. Potential impacts on residential amenity are considered in detail in response to objections. However in principle the proposed use is considered to accord with Policy SC7.

7a.5 Policy SC15 - 'Nursery And Child Care Facilities' states:

"New proposals or the change of use of premises for nursery and child care facilities will be permitted, provided that:

- (1) The site affords a suitable environment for child care, including the provision of outdoor play space;*
- (1) Properties in residential areas are detached;*
- (2) Areas used as play space are enclosed and demonstrate the ability to minimise disturbance to neighbouring properties; and*
- (4) The proposal is satisfactory in access, parking and road safety terms."*

7a.6 The application site is considered to provide a suitable environment for child care on the basis that it comprises a large detached house with an adequate area of private garden ground. The enclosure of garden ground is not considered necessary given the age of children to be cared for.

7a.7 Access and parking arrangements are considered to be satisfactory following amendments required by the Roads Development Unit. Potential impacts on residential amenity are considered in detail in response to objections received.

7a.8 Accordingly, the proposed development is considered to accord with the Development Plan.

7b Material Considerations

7b.1 The material considerations relevant to the application assessment are the Falkirk Local Development Plan (Proposed Plan), consultation responses, objections received and the history of the company as a care provider.

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 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 HSG09 - ‘ Residential Care Homes’ states

“Proposals for residential care homes will generally be permitted where:

- 1. The location provides an appropriate residential environment;*
- 2. There is good access to public transport;*
- 3. The development is of a scale and character appropriate to the site;*
- 4. Sufficient amenity space can be provided for the enjoyment of residents; and*
- 5. The proposal complies with other LDP policies.”*

7b.4 Policy HSG09 primarily focuses on residential care provision for the elderly. However the policy is relevant for the proposal under consideration. The application site location is considered suitable for residential occupation by adolescent children given proximity to supporting infrastructure/facilities, access to public transport and other services. The site has adequate amenity space and no issues of over development are raised.

7b.5 The proposed development is considered to accord with the Falkirk Local Development Plan (Proposed Plan).

Consultation Responses

7b.6 The application has addressed the initial concerns of the Roads Development Unit by providing additional car parking provision and improved vehicular access to the site. No issues of road safety have been raised during this consultation process. Controlled parking exists in Oswald Street however the proposed use has demonstrated adequate access and parking provision. Unacceptable impacts on existing access, turning or parking provision are not considered likely.

7b.7 The Environmental Protection Unit has not raised any objection in respect of impacts on residential amenity. The requested contaminated land informative can be added to any grant of planning permission in respect of any ground breaking works.

Public Representations

7b.8 The objections and representation raised in response to the proposed development are summarised in section 6 of this report. The following assessment of these comments is provided.

7b.9 The application site is considered to be suitable for the proposed use on the basis that it is an existing house within a location accessible to supporting facilities such as education, health care and social opportunities such as retail, leisure and recreation.

7b.10 No adverse impact on residential amenity has been demonstrated during the application assessment. The site is a large detached dwellinghouse that could cater for a family of four children and two supporting parents in a more traditional family support arrangement. The children for which care is proposed will undoubtedly require specific care and support needs but this cannot be assumed to result in behaviour that would adversely impact on amenity.

7b.11 The security afforded to children at the site is the responsibility of carers and not the planning system. This is no different to the inability to control the security of any social group.

7b.12 Access and parking have been demonstrated to be adequate. Drainage and sewerage infrastructure will not become inadequate as a result of the proposed use. The presence of Japanese Knotweed on the site, if confirmed, would not be a justifiable reason to refuse planning permission.

7b.13 The issues of water pressure and drainage issues are not considered to be materially different as a result of the proposal as the property is already established.

7b.14 Impact on the operation of a bed and breakfast business is not a material planning consideration.

Company History

7b.15 The applicant has operated a similar care facility from a similar property at 11 Duke Street in Denny since 2010. The Environmental Protection Unit has confirmed that no complaints have been received regarding impact on amenity resulting from the applicant's other premises.

7c Conclusion

7c.1 The proposed development is considered to accord with all relevant policies of the extant and emerging Development Plan for the reasons detailed in this report. No material considerations are considered to exist that would justify the setting aside of Development Plan policy and refusing planning permission. The concerns raised in objection to the proposal have been responded to in this report.

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) The 6 car parking spaces and the turning area indicated on approved plan 02A shall be provided for the lifetime of the development and the turning area shall be maintained, at all times, free of obstruction.
- (3) Notwithstanding the provisions of Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, no other use within this class shall be undertaken without the express prior consent of this Planning Authority.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2) In the interests of the users of the public highway.
- (3) In order to retain proper control over the use of the property.

Informative(s):-

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pp Director of Development Services

Date: 18 May 2015

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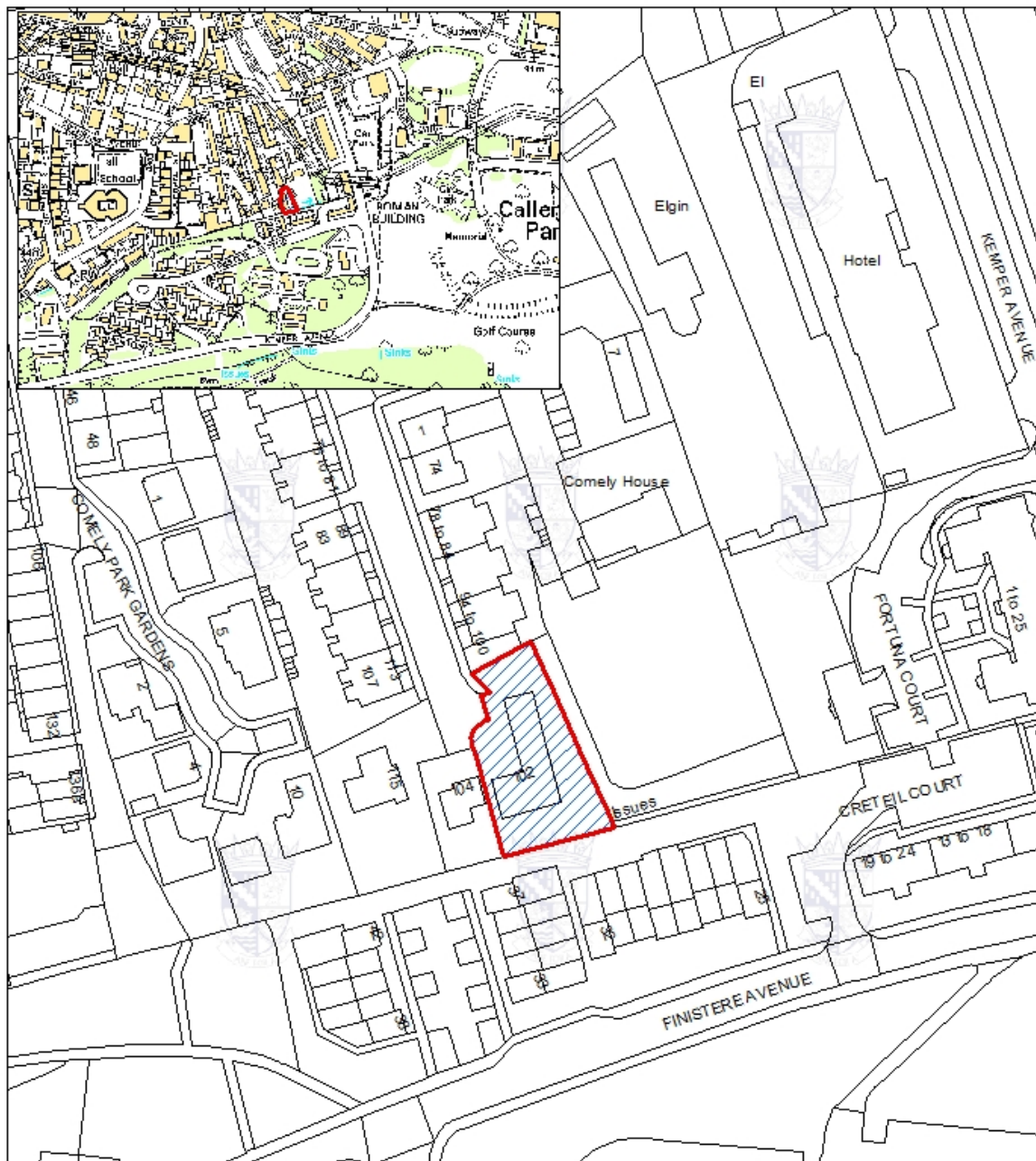
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/15/0102/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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