



AGENDA ITEM

7

**ALTERATIONS & CHANGE OF USE
FROM RETAIL/OFFICES TO HOTEL
AND ALTERATIONS, EXTENSION AND
CHANGE OF USE FROM OFFICE &
HAIRDRESSERS TO HOTEL
(PARTIALLY RETROSPECTIVE) AT 22
& 26 PRINCESSTREET, FALKIRK FK1
1NE, & 2, 4 & 6 KERSE LANE
FALKIRK FK1 1RG FOR
MR STUART CRAWFORD
-P/16/0162/FUL**

FALKIRK COUNCIL

Subject: ALTERATIONS & CHANGE OF USE FROM RETAIL/OFFICES TO HOTEL AND ALTERATIONS, EXTENSION AND CHANGE OF USE FROM OFFICE & HAIRDRESSERS TO HOTEL (PARTIALLY RETROSPECTIVE) AT 22 & 26 PRINCES STREET, FALKIRK FK1 1NE, & 2, 4 & 6 KERSE LANE FALKIRK FK1 1RG FOR MR STUART CRAWFORD - P/16/0162/FUL

Meeting: PLANNING COMMITTEE

Date: 17 August 2016

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: Stephen McClure (Planning Officer), Ext. 4702

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The site consists of a hotel located within Falkirk Town Centre and within the Falkirk Town Centre Conservation Area. The hotel is made up of several buildings, with the main building being category B listed. It fronts onto both Kerse Lane and Princes Street, with a small car park located to the rear. The site is surrounded by a mixture of both commercial and residential properties. It is proposed to change the use of two units which are adjoining the hotel on Kerse Lane, and bring them into use as part of the hotel. This would also see an extension added to the two units at the rear and new frontages added. The shop frontages on Kerse Lane are retrospective, having been installed without the benefit of planning permission. There is also a unit on Princes Street which has been absorbed into the hotel and the front of the property altered, also without the benefit of planning permission, and is included within the application.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been referred to the Planning Committee at the request of Provost Reid. The reasons for the call in are given as being the applicant's constant retrospective applications.

3. SITE HISTORY

- 3.1 P/13/0057/FUL - Detail - Granted - 24.04.2013 - Change of Use from Shop Units (Class 1) to Coffee Shop / Bistro Area (Class 3) and Alterations to Façade
- 3.2 P/13/0146/LBC - Listed Building Consent Granted - 10.05.2013 - Internal Alterations
- 3.3 P/14/0370/FUL - Detail - Granted - 29.08.2014 - Change of Use from Shop (Class 1) to Extend Hotel (Class 7)
- 3.4 P/15/0543/FUL - Application Withdrawn - 05.11.2015 - Alterations & Change of Use from Offices to Hotel and Alterations, Extension and Change of Use from Office & Hairdressers to Hotel (Partially Retrospective)
- 3.5 P/13/0057/FUL - Detail - Granted - 24.04.2013 - Change of Use from Shop Units (Class 1) to Coffee Shop / Bistro Area (Class 3) and Alterations to Façade
- 3.6 P/13/0146/LBC - Listed Building Consent Granted - 10.05.2013 - Internal Alterations
- 3.7 P/14/0370/FUL - Detail - Granted - 29.08.2014 - Change of Use from Shop (Class 1) to Extend Hotel (Class 7)
- 3.8 P/15/0543/FUL - Application Withdrawn - 05.11.2015 Alterations & Change of Use from Offices to Hotel and Alterations, Extension and Change of Use from Office & Hairdressers to Hotel (Partially Retrospective)
- 3.9 P/07/0554/FUL - Detail - Granted - 26.07.2007 - Change of Use of Premises to Class 2 Office Use
- 3.10 P/08/0124/ADV - Advertisement Consent Granted - 06.03.2008 - Display of Non-illuminated Advertisement
- 3.11 06/0786/FUL - Detail - Granted - 30.11.2006 - Erection of External Smoking Shelter and Change of Use of Land to Form External Drinking Areas
- 3.12 06/0787/LBC - Listed Building Consent Granted - 17.10.2006 - Erection of External Smoking Shelter
- 3.13 P/08/0793/FUL - Detail Refused - 18.12.2008 - Erection of Temporary Marquee
- 3.14 P/11/0832/FUL - Detail - Granted - 06.06.2012 - (Partially Retrospective) Formation of External Seating Area, Formation of Vehicular Access and Erection of Stone Boundary Wall
- 3.15 P/11/0833/LBC - Listed Building Consent Granted -06.06.2012 (Partially Retrospective) Formation of External Seating Area, Formation of Vehicular Access and Erection of Stone Boundary Wall
- 3.16 P/11/0834/ADV - Advertisement Consent Granted - 04.05.2012 - Display of Non-Illuminated Advertisements (Retrospective)
- 3.17 P/12/0040/LBC - Listed Building Consent Granted - 18.05.2012 - Display of Non-Illuminated Advertisements (Retrospective)

- 3.18 P/12/0471/FUL - Application Withdrawn - 30.11.2012 - Extension to Hotel (2 Storey to Rear)
- 3.19 P/12/0472/LBC - Application Withdrawn - 30.11.2012 - Extension to Hotel (2 Storey to Rear)
- 3.20 P/15/0543/FUL - Application Withdrawn - 05.11.2015 - Alterations & Change of Use from Offices to Hotel and Alterations, Extension and Change of Use from Office & Hairdressers to Hotel (Partially Retrospective)
- 3.21 F/94/0872 - Listed Building Consent Granted - 30.05.1995 - Internal and External Alterations (Listed Building)
- 3.22 F/99/0591 - Withdrawn - 11.04.2001 - Alterations and Extension to Building (Listed Building)
- 3.23 F/99/0590 - Withdrawn - 11.04.2001 - Extension to Hotel [Conservatory] (Detailed)
- 3.24 F/95/0026 - Detail - Granted - 07.04.1995 - Alterations to Premises (Detailed)
- 3.25 ENF/2015/0066 - 16.10.2015 - Enforcement Enquiry
- 3.26 ENF/2005/0011 - 04.02.2005 - Enforcement Enquiry
- 3.27 ENF/2016/0058 - Pending Consideration - Enforcement Enquiry
- 3.28 ENF/2016/0058 - Pending Consideration - Enforcement Enquiry
- 3.29 ENF/2006/0013 - 01.01.2012 - Enforcement Enquiry
- 3.30 ENF/2008/0077 - 19.02.2009 - Enforcement Enquiry
- 3.31 ENF/2009/0085 - 15.09.2009 - Enforcement Enquiry
- 3.32 ENF/2011/0076 - 06.06.2012 - Enforcement Enquiry
- 3.33 ENF/2015/0173 - 28.10.2015 - Enforcement Enquiry
- 3.34 ENF/2015/0174 - 13.08.2015 - Enforcement Enquiry
- 3.35 38/24/0254 - 01.01.2012 - Enforcement Enquiry

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 recommend a condition that all noise generated from musical entertainment within the premises shall be inaudible within nearby properties.

5. COMMUNITY COUNCIL

5.1 There is no Community Council active in this area at present.

6. PUBLIC REPRESENTATION

6.1 In the course of the application, two contributors submitted letters to the Council. The salient issues are summarised below: -

- The proposed plans for the extension to the hotel appear to show two rear windows and a fire door. It is anticipated this will lead to excessive noise nuisance as the windows and doors could be left open.
- There is an on-going noise issue relating to The Orchard Hotel.
- Due to the proposed extension of the hotel, there is concern that there will be a larger number of people gathering and loitering around the access areas to the rear.
- There are on-going issues with parking in Orchard Street which is due to overspill from The Orchard Hotel. Reduction in spaces on-site will not be seen to help this situation.
- It should be considered that The Orchard Hotel has expanded enough within the current site.
- It is disappointing that the applicant has been given the opportunity to submit an application for the works proposed and the works already completed on-site.
- Why is a further bar area being created rather than additional hotel accommodation?
- There are still outstanding issues with the unit absorbed into the hotel on Princes Street.
- Those using the facilities or staying in the hotel are causing noise issues in the rear parking area at present, further development will only add to this issue.
- Existing plans do not accurately show what is now on-site, as certain works have already been completed.
- A ramp was required at the Princes Street entrance for access, this is being stored against the railings in the street, and is not planned to be an integral part of the entrance.
- Several windows that face onto the car park were replaced with UPVC windows without planning permission.
- Works have already taken place to the units on Kerse Lane.
- The proposed extension to the hotel would cause overlooking to dwellings on Orchard Street, especially in relation to the proposed roof windows.

- The proposed extension would create a visually intrusive design into the area, as it would not match the neighbouring sandstone villas.
- The rear access will not be for emergency use only, it will be used for staff and hotel guests, and could be used by smokers.
- The proposed roof windows in the rear extension will cause overlooking of properties in Orchard 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

The Falkirk Local Development Plan was adopted on 16 July 2015. The proposed development was assessed against the following policy or policies:

7a.1 Policy 'TC02 - Development and Changes of Use in Centres' states:

“Within the defined boundaries of centres, a mix of retail, business, leisure, community and residential uses will be promoted consistent with maintaining the vitality and viability of these centres and their role in the network of centres. Proposals for development or changes of use for these uses will be supported subject to the following:

- 1. Within the core area of Falkirk Town Centre, ground floor premises should be retained in retail use, or non-retail use which actively supports the shopping or tourism function of the Town Centre;*
- 2. Within established shopping streets elsewhere in Falkirk Town Centre and in the District and Local Centres, ground floor premises should, where possible, retain an active frontage;*
- 3. The re-use of upper storeys in shopping streets for residential use will be supported; and*
- 4. Within Central Retail Park and the retail element of the Falkirk Gateway, development proposals and changes of use should comply with any relevant Section 75 Obligations covering these shopping areas.*

Outwith centres, proposals involving the loss of neighbourhood and rural shops (Class 1) and services (Class 2) which serve an important community function will only be permitted where the Council is satisfied the premises are no longer viable for such uses.”

7a.2 It is considered that the proposed change of use to the shop unit on Princes Street and the change of use and extension to the units on Kerse Lane, would allow a mix of uses to be maintained within the town centre area. This would maintain the vitality and viability of the centre, and be seen to expand a non-retail use which actively supports the shopping and tourism function of the town centre. It is therefore considered that the proposal accords with Policy TC02.

7a.3 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'."

7a.4 It is considered that the proposed alterations on Princes Street and to the units on Kerse Lane would create frontages that would be well-proportioned and sympathetic to the character of the building. The Princes Street elevation has seen the recessed shop front altered due to the internal requirements, although the design proposed would result in the frontage being mainly glazed, to allow for a minimal approach and a symmetrical appearance to the frontage. The Kerse Lane shop frontages have seen two new traditional style frontages installed although used internally as a single space. This would ensure that the streetscape is maintained, and result in an overall improvement to appearance and design of the premises. It is therefore considered that the proposal accords with Policy D06.

7a.5 Policy 'D10 - Conservation Areas' states:

"The Council will protect the historic character and visual amenity of each Conservation Area. Accordingly:

- 1. New development in Conservation Areas should preserve or enhance the character and appearance of the Conservation Area, with particular reference to the historic pattern and density of development; its setting; the architectural style, massing and materials of buildings; landscape treatments; and boundary features.*
- 2. The layout, design, materials, scale, siting and use of any development affecting an unlisted building in a Conservation Area, including extensions, replacement windows, doors, roofs, rainwater goods, boundary treatments and other features, should respect the character and appearance of the original building, and should conform to Supplementary Guidance SG16 'Design Guidance for Listed Buildings and Non-Listed Buildings in Conservation Areas'.*
- 3. Demolition of unlisted buildings within Conservation Areas which make a positive contribution to the special character and appearance of the area will only be supported where:*
 - the existing building is incapable of physical repair and re-use, as shown by the submission and verification of a thorough structural condition report; or*

- *the costs of repair and re-use are such that it is not economically viable. Supporting evidence should include a full economic appraisal, evidence that grant aid is not able to meet any funding deficit, and evidence that the building has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a restoring purchaser; or*
- *the demolition of the building is essential for the delivery of significant economic benefits for the local or wider community; and*
- *proposals for redevelopment of the site contribute to the character and appearance of the conservation Area.*

Existing buildings shall be retained on site until the redevelopment commences.

7a.6 It is considered that the proposals would preserve and enhance the character and appearance of the Conservation Area. The proposal would see improved frontages installed at Princes Street and Kerse Lane, which would return the units to a more appropriate design for the Conservation Area. The proposed materials to be used within the frontages are also considered to be suitable as are the materials proposed for the extension to the Kerse Lane units. This would see the main extension formed from a brick matching that of an existing rear extension within the hotel car park, and the roofs would be finished in slate. It is therefore considered that the proposal where relevant would accord with Policy D10.

Supplementary Guidance forming part of Local Development Plan

Falkirk Council Supplementary Guidance SG16 Listed Buildings and Unlisted Properties in Conservation Areas

7a.7 It is considered that the works proposed to the frontages on Princes Street and Kerse Lane, as well as the proposed extension to the Kerse Lane units, are appropriate to the buildings and to the Conservation Area. The design and materials of the proposed alterations and extension would respect and complement the design, character and appearance of the existing buildings. The proposed materials are considered to be acceptable. The proposed extension to the Kerse Lane units would result in an appropriate roof form. If the application were to be granted permission, a condition could be applied in relation to final external materials. It is therefore considered that the proposal accords with the Falkirk Council Supplementary Guidance SG16 Listed Buildings and Unlisted Properties in Conservation Areas.

Falkirk Council Supplementary Guidance SG04 Shopfronts -

7a.8 It is considered that the proposed shop frontages would be well-proportioned alterations, replacing less sympathetic frontages. It is therefore considered that the proposals would accord with Falkirk Council Supplementary Guidance SG04 Shopfronts.

Consultation Replies

7a.9 The views of the Roads Development Unit are noted. In relation to the request from the Environmental Health Unit for a condition relating to noise it is considered that this would not be appropriate as it would not be measurable, or enforceable.

7b Material Considerations

- 7b.1 The material considerations to be assessed are consideration of the site in relation to coal mining legacy, assessment of public representations and consultation replies.

Consideration of the Site in relation to Coal Mining Legacy

- 7b.2 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. Any development proposal not exempt on grounds of type or nature, which would intersect with the ground requires the submission of a desk based Coal Mining Risk Assessment and Consultation with the Coal Authority.

The process recognises the need for flexibility and in cases where a further application (Matters Specified in Conditions) is necessary, the Coal Mining Risk Assessment may be deferred until that stage. If an assessment has been received and the views of the Coal Authority sought, these are summarised within the consultation responses above and appropriate conditions and/or informatives have been applied.

Assessment of Public Representations

- 7b.3 The rear windows which were to be placed in the proposed extension to the hotel have now been removed from the design. An access door to the rear would remain, which is not intended for general access. It is not possible to control the specific use of the access, or the door being left open.
- 7b.4 The on-going noise issues at The Orchard Hotel are being dealt with under Environmental Protection legislation and is not a material Planning consideration.
- 7b.5 It is not anticipated that the proposed extension would create any issues with persons accessing the hotel. If any anti-social behaviour did occur, this would be a matter for the Police.
- 7b.6 The Roads Development Unit have no objections. It is also noted that given the layout of the parking area to the rear of The Orchard Hotel, it is not anticipated that there would be a reduction in car parking spaces.
- 7b.7 Each application for planning permission requires to be assessed on its own merits and not be influenced by site history, or who the applicant is.
- 7b.8 The retrospective nature of an application for planning permission does not prejudice its determination. If permission were to be refused enforcement action could be instigated to remove or amend unauthorised works, this being dependant on the outcome of any appeal made against the decision.
- 7b.9 How a hotel business is run in relation to their floor area requirements is not a material planning consideration.
- 7b.10 The outstanding issues in relation to the Princes Street elevation have been included within the current application.
- 7b.11 Control of those using the premises is not a material planning consideration. If used as intended, there should be no issue to neighbouring properties. However, if there are on-going issues with noise or anti-social behaviour, this would best be addressed by the Environmental Protection Unit and/or the Police.

- 7b.12 The submitted plans marked as "Existing Plans", require to show the site prior to any development taking place, including retrospective works. As such, the submitted plans are considered to be accurate.
- 7b.13 It is not a requirement in terms of Planning that a ramp be included into the design.
- 7b.14 The removal of windows is at the time of writing this report being investigated.
- 7b.15 The rear windows previously proposed have now been deleted. A rear access door which is not intended for general access would remain. The use of the access, or control the door being left open is not a material planning consideration.
- 7b.16 The on-going noise issues at The Orchard Hotel are being dealt with under Environmental Protection legislation.
- 7b.17 It is not anticipated that the proposed extension would create any issues with those accessing the hotel. If any anti-social behaviour did occur, this would be a matter for the police.
- 7b.18 The Roads Development Unit have no objections to the proposal. It is also noted that given the layout of the parking area to the rear of The Orchard Hotel, it is not anticipated that there would be a reduction in car parking spaces.

7c Conclusion

- 7c.1 It is considered that the proposal is acceptable development and is in accordance with Policy TC02, D06 and D10 of the Falkirk Local Development 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 condition(s):-**
- 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 works commencing on the shop frontages and rear extension to the units on Kerse Lane, details of the materials to be used on the external surfaces of the building, 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.

Reason(s):-

1. As these drawings and details constitute the approved development.
2. 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) 01A, 02A, 03A, 04A, 05A, 06A, 07A, 08A and 09.
2. All noise generated from musical entertainment within the premises shall be inaudible within nearby properties to the satisfaction of Falkirk Council Environmental Health.
3. 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.
4. The applicant shall ensure that noisy work which is audible at the site boundary shall ONLY be conducted between the following hours:

Monday to Friday	08:00 - 18:00 Hours
Saturday	09:00 - 17:00 Hours
Sunday / Bank Holidays	10:00 - 16:00 Hours

Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Health Manager.

5. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.gov.uk

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.gov.uk

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pp Director of Development Services

Date: 8 August 2016

LIST OF BACKGROUND PAPERS

1. Falkirk Council Local Development Plan.
2. Falkirk Council Supplementary Guidance SG04 Shopfronts.
3. Falkirk Council Supplementary Guidance SG16 Listed Buildings and Unlisted Properties in Conservation Areas.
4. Objection received from Mr and Mrs Lumsden, 16 Orchard Street, Falkirk, FK1 1RF on 3 May 2016.
5. Objection received from Mr John Muir, 18 Orchard Street, Falkirk, FK1 1RF on 27 April 2016.

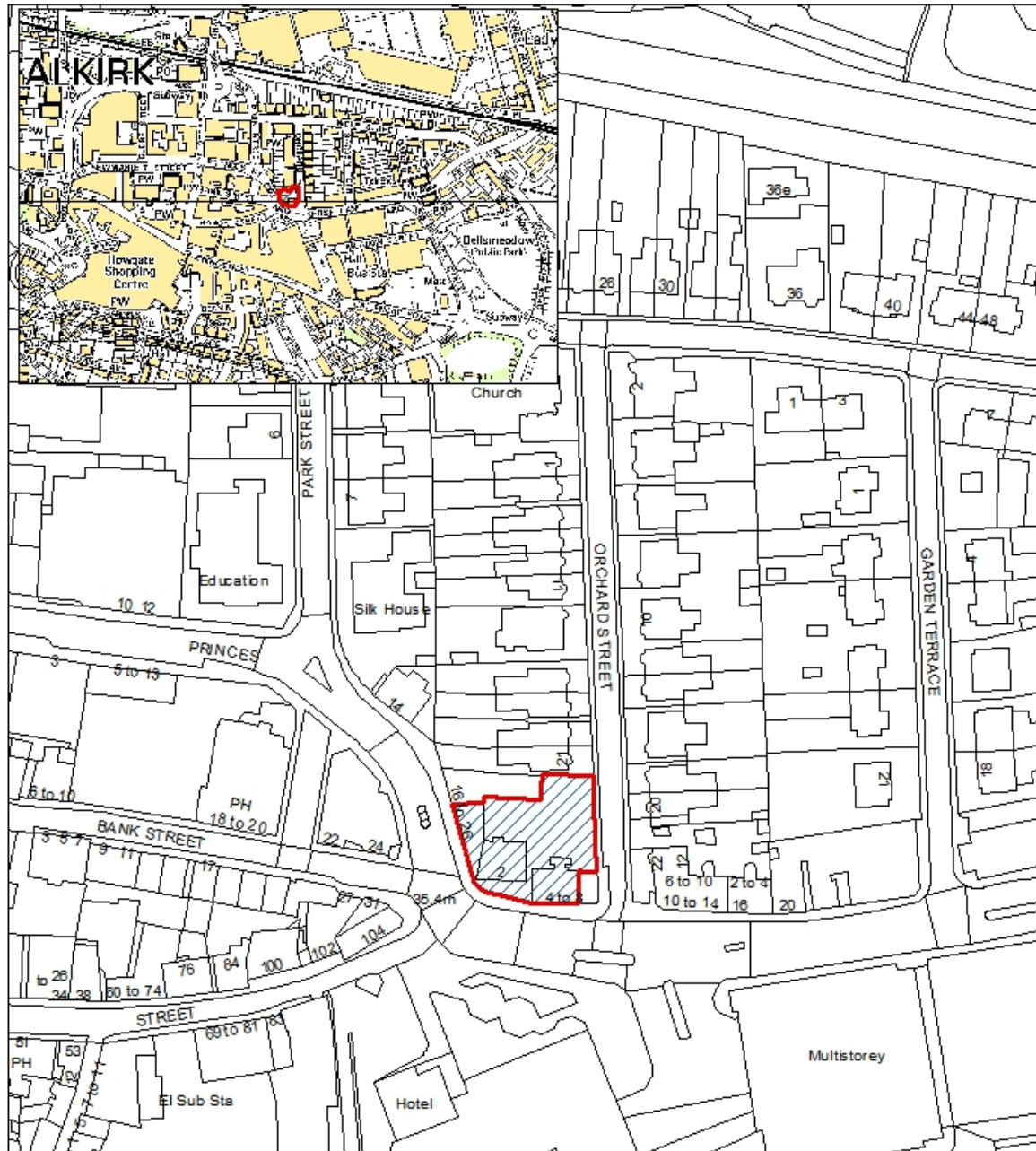
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

Planning Committee

Planning Application Location Plan

P/16/0162/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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