

The background of the slide features a large, faint, light blue coat of arms of the City of Edinburgh. It includes a crown at the top with four thistles, a shield with a cross and four quarters (ship, lion, castle, unicorn), and a motto scroll at the bottom.

# **AGENDA ITEM**

**8**

**Alterations and Change of Use of  
Retail Storage/Office to Form 7 Flatted  
Dwellingshouses at 88 North Street,  
Bo'ness, EH51 9NF for All In One  
Property Solutions – P/17/0637/FUL**

**FALKIRK COUNCIL**

**Subject:** ALTERATIONS AND CHANGE OF USE OF RETAIL  
STORAGE / OFFICE TO FORM 7 FLATTED  
DWELLINGHOUSES AT 88 NORTH STREET, BO'NESS,  
EH51 9NF, FOR ALL IN ONE PROPERTY SOLUTIONS -  
P/17/0637/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 24 January 2018

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Bo'ness and Blackness

Provost Ann Ritchie  
Councillor David Aitchison  
Councillor Lynn Munro

**Community Council:** Bo'ness

**Case Officer:** Julie Seidel, (Planning Officer) Ext. 4880

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

- 1.1 This application relates to the alteration and change of use of the former 'Woolworths' building to form 7 flats (comprising of a bedsit, 1 and 2 bedroom accommodation). The application relates to the first floor which was used as storage and office accommodation for the ground floor shop. The proposal includes new windows and a handrail to the roof terrace. It is proposed to use the roof terrace for amenity/drying/play area purposes.
- 1.2 The building is located within the Bo'ness Town Centre Outstanding Conservation Area and is unlisted.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application requires to be determined by the Planning Committee as a statutory consultee has objected to the proposed development.

**3. SITE HISTORY**

- 3.1 An application (Ref: P/10/0548/FUL) for the subdivision and change of use of a Class 1 shop unit to form No. 3 Class 2 units and alterations to the shopfront was granted on 26 January 2011. This planning permission has lapsed.

#### **4. CONSULTATIONS**

- 4.1 The Council's Environmental Protection Unit has not objected to the proposed development.
- 4.2 The Council's Roads Development Unit has not objected to the proposed development.
- 4.3 The Council's Children's Services (Education) have not objected to the application and advise that the development does not require any contributions to education or nursery provision.
- 4.4 The Health and Safety Executive (HSE) WebApp advises against development on safety grounds.
- 4.5 Scottish Water has not objected to the proposed development.

#### **5. COMMUNITY COUNCIL**

- 5.1 The Bo'ness Community Council did not make comment on the application.

#### **6. PUBLIC REPRESENTATION**

- 6.1 In the course of the application, 1 letter of support was submitted to the Council. The grounds of representation can be summarised as follows:
  - Support for the regeneration of the town centre, but construction vehicles should not be parked in front of shops; and
  - No provision for resident parking.

#### **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**

- 7a.1 The Falkirk Local Development Plan was adopted on 16 July 2015. It includes a number of supplementary guidance documents which also have statutory status as part of the Development Plan. The proposed development was assessed against the following policies.

7a.2 Policy HSG03 Windfall Housing states:

*Housing development within the Urban and Village Limits, in addition to proposals identified within the LDP, will be supported where:*

- 1. The site is brownfield, or is open space whose loss can be justified in terms of Policy INF03;*
- 2. The proposed housing use is compatible with neighbouring uses and a satisfactory level of residential amenity can be achieved;*
- 3. The site enjoys good accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- 4. Existing physical infrastructure, such as roads and drainage, sewage capacity, and community facilities, such as education and healthcare, have the capacity to accommodate the increase in use associated with the proposed development, or can be upgraded through appropriate developer contributions as required by Policy INF02;*
- 5. The site is not at significant risk of flooding in the terms of Policy RW06;*
- 6. In the case of small gap sites and sub-divided plots, Policy HSG05 is satisfied; and*
- 7. It complies with other LDP policies.*

7a.3 The proposed development relates to the reuse of an existing vacant building within Bo'ness Town Centre. The proposed residential use is compatible with neighbouring uses, the site enjoys good accessibility by public transport, shopping, recreation and community facilities. Existing infrastructure can serve the development and the proposed development would achieve a good level of residential amenity. The application accords with and is supported by policy HSG03 'Windfall Housing'.

7a.4 Policy INF02 - Developer Contributions to Community Infrastructure

*Developers will be required to contribute towards the provision, upgrading and maintenance of community infrastructure where development will create or exacerbate deficiencies in, or impose significantly increased burdens on, existing infrastructure. The nature and scale of developer contributions will be determined by the following factors:*

- 1. Specific requirements identified against proposals in the LDP or in development briefs;*
- 2. In respect of open space, recreational, education and healthcare provision, the general requirements set out in Policies INF04, INF05 and INF06;*
- 3. In respect of physical infrastructure any requirements to ensure that the development meets sustainability criteria;*

4. *In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
5. *Where a planning obligation is the intended mechanism for securing contributions, the principles contained in Circular 3/2012.*

*In applying the policy, consideration of the overall viability of the development will be taken into account in setting the timing and phasing of payments.*

7a.5 Policy INF04 - Open Space and New Residential Development states:

*Proposals for residential development of greater than 3 units will be required to contribute to open space and play provision. Provision should be informed by the Council's open space audit, and accord with the Open Space Strategy and the Supplementary Guidance SG13 on 'Open Space and New Development', based on the following principles:*

1. *New open space should be well designed; appropriately located; functionally sized and suitably diverse to meet different recreational needs in accordance with criteria set out in Supplementary Guidance SG13 'Open Space and New Development'.*
2. *Where appropriate, financial contributions to off-site provision, upgrading, and maintenance may be sought as a full or partial alternative to direct on-site provision. The circumstances under which financial contributions will be sought and the mechanism for determining the required financial contribution is set out in Supplementary Guidance SG13 'Open Space and New Development'.*
3. *Arrangements must be made for the appropriate management and maintenance of new open space.*

7a.6 The application would result in 7 new flatted dwellinghouses, as such a contribution towards open space is required. As there is no space to accommodate any new open space within the site (it being an existing building within a town centre location), a commuted payment is sought. The applicant has accepted the proposed commuted payment of £6,688.50 (7 x £955.50), in accordance with policies INF02 'Developer Contributions to Community Infrastructure' and INF04 'Open Space and New Residential Development'. There are numerous opportunities to spend the open space contribution within the Bo'ness area including the Bo'ness foreshore, Victoria Park and the John Muir Way.

7a.7 Policy BUS05 - Major Hazards and Pipelines states:

1. *Proposals within Major Hazard and Pipeline Consultation Zones as defined by the HSE and shown on the Proposals Map will be assessed in relation to the following factors:*
  - *The increase in the number of people exposed to risk in the area;*
  - *The existing permitted use of the site or buildings;*

- *The extent to which the proposal may achieve regeneration benefits, which cannot be secured by any other means; and*
  - *The potential impact on existing chemical and petrochemical sites and pipelines.*
2. *The Council will give careful consideration to applications for hazardous substances consent (HSC) that would extend major hazard distances within the urban area, to balance the desirability of growth and development at nationally important clusters of industries handling hazardous substances with the possibility of prejudice to the development of sites allocated in the LDP. Applications for HSC should demonstrate that off-site constraints have been minimised as far as possible through the optimum location and method of storage, and by ensuring that the quantity/type of materials applied for is specifically related to operational needs.*
  3. *The revocation of HSC consents where the use on the site has ceased will be pursued.*
  4. *The preferred location for new pipelines will be in existing Pipeline Consultation Zones.*

7a.8 The application site is located within the middle zone of the Forties pipeline. The application site relates to the development of 7 flats in the upper floor of a retail building, which was used for office accommodation and storage. It is considered that the proposed development would not result in a net increase in the number of people exposed to risk in the area, taking into account the existing use of the building and its location within an established and historic town centre. It is also considered that the redevelopment of the building would achieve a notable regeneration benefit for the town centre and conservation area. The upper floor of the building has been vacant for some time and that together with a recent fire, has left the building in a dilapidated condition. It is not considered that the proposed development would impact on existing chemical and petrochemical sites or pipelines. The application accords with policy BUS05 'Major Hazards and Pipelines'.

7a.9 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.10 The reuse of the upper storeys of buildings for residential use within town centre locations, is supported by policy TC02 'Development and Changes of Use in Centres'.

7a.11 Policy D04 - Low and Zero Carbon Development states:

1. *All new buildings should incorporate on-site low and zero carbon-generating technologies (LZCGT) to meet a proportion of the overall energy requirements. Applicants must demonstrate that 10% of the overall reduction in CO2 emissions as required by Building Standards has been achieved via on-site LZCGT. This proportion will be increased as part of subsequent reviews of the LDP. All proposals must be accompanied by an Energy Statement which demonstrates compliance with this policy. Should proposals not include LZCGT, the Energy Statement must set out the technical or practical constraints which limit the application of LZCGT. Further guidance will be contained in Supplementary Guidance SG15 'Low and Zero Carbon Development'. Exclusions from the requirements of this policy are:*
  - *Proposals for change of use or conversion of buildings;*
  - *Alterations and extensions to buildings;*
  - *Stand-alone buildings that are ancillary and have an area less than 50 square metres;*
  - *Buildings which will not be heated or cooled other than by heating provided solely for the purpose of frost protection;*
  - *Temporary buildings with consent for 2 years or less; and*
  - *Where implementation of the requirement would have an adverse impact on the historic environment as detailed in the Energy Statement or accompanying Design Statement.*
2. *The design and layout of development should, as far as possible, seek to minimise energy requirements through harnessing solar gain and shelter;*
3. *Decentralised energy generation with heat recycling schemes (combined heat and power and district heating) will be encouraged in major new developments, subject to the satisfactory location and design of associated plant. Energy Statements for major developments should include an assessment of the potential for such schemes.*

7a.12 The application is exempt from requiring the incorporation of low and zero carbon development as the development relates to the conversion of an existing building, in accordance with policy D04 'Low and Zero Carbon Development'.

7a.13 Policy D10 - Conservation Areas states:

*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.14 The alteration and change of use of the upper floor for residential use, would preserve and enhance the historic character and vibrancy of the conservation area. The proposed windows and other external alterations would respect the character and appearance of the original building. The application is supported by policy D10 'Conservation Areas'.



## **Supplementary Guidance Forming Part of Local Development Plan**

- 7a.15 The applicant has agreed contributions of £6,688.50 (7 x £955.50) towards open space, in accordance with Supplementary Guidance SG13 'Open Space and New Development'. The application accords with SG13. There are numerous opportunities to invest the open space contributions within the Bo'ness area, including the Bo'ness foreshore, Victoria Park and the John Muir Way.
- 7a.16 The application accords with the guidance contained in SG16 'Listed Buildings and Unlisted Properties in Conservation Areas'.
- 7a.17 Accordingly, the application accords with the Falkirk Local Development Plan.

### **7b Material Considerations**

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

### **Assessment of Public Representations**

- 7b.2 It is noted that the representation that has been received is in support of this proposal. Concern was raised in relation to parking in front of shops in the town centre (presumably within the designated on-street parking bays). However, traffic management for vehicles during construction is not a material planning consideration. It is considered that there is ample public parking provision within the town centre to serve the proposed development, as reflected by the Roads Development Unit consultation response.

### **Consultation Responses**

- 7b.3 The application site is within the middle zone of the Forties pipeline. The Health and Safety Executive (HSE) were consulted using the WebApp and HSE advise that there are sufficient reasons on safety grounds, for advising against the granting of planning permission.
- 7b.4 Following consultation using the WebApp, a more detailed consultation was carried out. HSE were asked if the existing use of the building or information held about the pipeline, would impact the consultation zones affecting the site, or their advice. HSE maintain their objection to the application.
- 7b.5 There is information to suggest that the specification for the pipeline, affecting the proposed development, is different to that which HSE's assessment is based. The existing land use planning zones for the Forties pipeline was set in 1992. HSE reviewed them in 2000 and 2005. However, they have remained unchanged at 110m, 380m and 435m. HSE has in place a planned programme of review and update its risk assessment models, for pipelines carrying hazardous substances. The composition of the fluid transported in the Forties pipeline is complex and it will be some time (months or years) before the results of the review and modelling by HSE will be available. Until the work is undertaken, HSE advise that they will provide advice based on the current consultation zones and will not take the local pipeline specification into account.

7b.6 HSE's advice is usually determined by a combination of:

- the consultation zone in which the development is located, of the 3 zones that make up the consultation distance set by HSE around the major hazard; and
- the 'Sensitivity Level' of the proposed development which is derived from HSE's categorisation system of "Development Types".

7b.7 In this instance the density of development within a middle zone, triggered an advise against development. The density is relatively high, as the application site is an upper floor of an existing building within a town centre location, with no associated land (i.e. garden ground or landscaping).

7b.8 The aim of HSE advice, relating to land use planning, is to mitigate the effects of a major accident on the population in the vicinity of hazardous installations. In this instance the application relates to the redevelopment of an existing building, with an established commercial use, within a town centre location. The proposal relates to the development of 7 small flats (a mixture of bedsit, 1 and 2 bedroom) to the upper storey.

7b.9 The Falkirk Local Development Plan supports the redevelopment of upper storeys, within town centres, to residential use and it is noted that the redevelopment of the building would have regeneration benefits, as the building is dilapidated and in a poor condition. It is also considered that the established use of the building would not result in a net increase in the number of people exposed to risk in the area (in considering the existing use or other similar uses which could operate from the building and its location within an established and historic town centre). Additionally, there is evidence that the specification for the Forties pipeline, is different to that which HSE base their assessment on. However, HSE are not in a position to review and remodel the zones affecting the application site at this time. Members should not assume that the remodelling work would necessarily change the zones or impact the outcome of the HSE advice in relation to this application.

7b.10 It is considered that the town centre location, existing use and regeneration benefits of the development outweigh the HSE objection. Where the Council are minded to grant planning permission, contrary to HSE advice, Scottish Ministers will be notified and can "call in" the application for their determination.

7b.11 There are no other matters raised which cannot be addressed through the imposition of planning conditions and informatives.

### **Consideration of the Site in relation to Coal Mining Legacy**

7b.12 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. It is recognised that flexibility and discretion are necessary parts of the planning system and as such there may be exemptions to the requirement for a desk based Coal Mining Risk Assessment within the Development High Risk Area.

7b.13 Exemption can be on the grounds of the type of application or the nature of development. Only one of these needs to be met to exempt the need for a desk based Coal Mining Risk Assessment and also the consequential need for the Council to consult the Coal Authority. This proposal is considered to fall into one of these exempt groups, but ground conditions should still be considered as part of the Building Standards process, if relevant.

7b.14 Where planning permission is to be granted, an appropriate informative note appears on the Decision Notice.

## **7c Conclusion**

7c.1 The application is assessed as being in accordance with the Falkirk Local Development Plan. The HSE advised against development, however, their concerns are not considered to outweigh the Local Development Plan on the basis of the existing use and location of the building and the potential regeneration benefits.

7c.2 The application is recommended as Minded to Grant, subject to notification of the application to Scottish Ministers on the basis of the HSE objection. Thereafter if Scottish Ministers do not call in the application for their own determination it is recommended, upon the satisfactory conclusion of a Legal Agreement and appropriate conditions, planning permission should be granted.

## **8. RECOMMENDATION**

**8.1 It is therefore recommended that the Committee indicate that it is Minded to Grant Planning Permission subject to:**

- (a) Notification of the application to Scottish Ministers in relation to the HSE objection, in accordance with the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009;**
- (b) Conclusion of a Legal Agreement within 6 months of the date of a Minded to Grant decision and index linked from that date for a sum of £6,688.50 (7 x £955.50) towards open space, to be spent in the Bo'ness area; and**
- (c) Thereafter, remit to the Director of Development Services, to approve the application 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. No development shall commence on site until a detailed specification of the design of all external windows, in the form of drawings at a scale of 1:10, has been submitted to and approved in writing by the Planning Authority. The drawings should include dimensions, materials and cross sections. Thereafter only the approved details shall be implemented, unless otherwise agreed in writing by the Planning Authority.**

### **Reasons:**

- 1. As these drawings and details constitute the approved development.**
- 2. To safeguard the visual amenity of the area and character and appearance of the conservation area.**

**Informatives:**

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) 01 – 06, 07A, 08A, 09 – 11.
3. 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 - 19:00 Hours
Saturday	08:00 - 13:00 Hours
Sunday / Bank Holidays	No noise audible at site boundary

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

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**Director of Development Services**

**Date: 15 January 2018**

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Local Development Plan
2. The Health and Safety Executive's Land Use Planning Methodology
3. Letter of support received from Mrs Lindsay Bell, The baby box, 95 North Street, Bo'ness, EH51 9ND on 19 October 2017

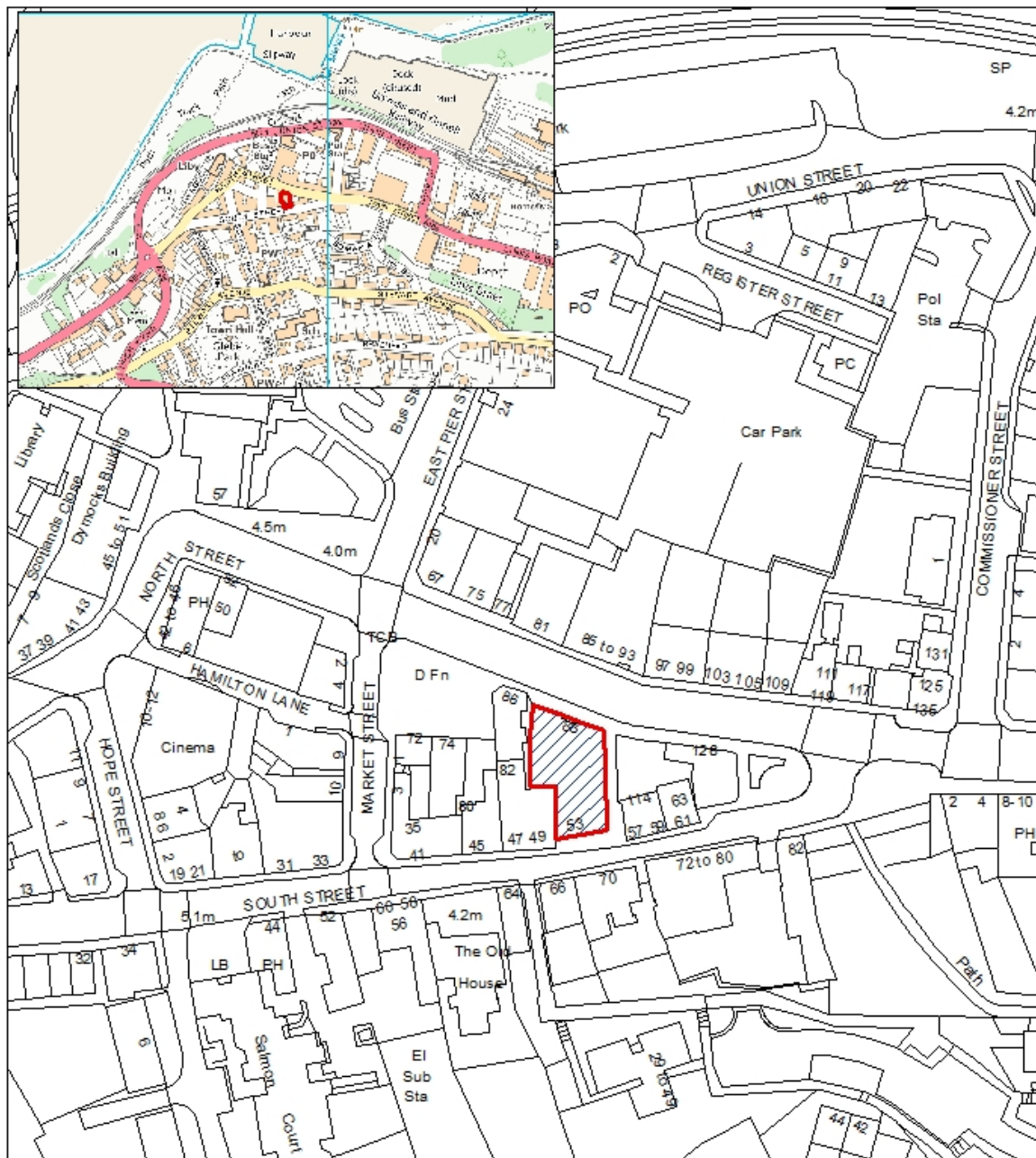
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/17/0637/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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