



Agenda Item 6

**ALTERATION AND CHANGE OF USE OF
WOMEN'S REFUGE (CLASS 7) TO
FORM 3 FLATTED DWELLINGHOUSES
AT 1 - 3 SEAVIEW PLACE, BO'NESS
FOR HAZELDEAN PROPERTIES LTD -
P/18/0710/FUL**

FALKIRK COUNCIL

Subject: ALTERATION AND CHANGE OF USE OF WOMEN'S
REFUGE (CLASS 7) TO FORM 3 FLATTED
DWELLINGHOUSES AT 1 - 3 SEAVIEW PLACE, BO'NESS
FOR HAZELDEAN PROPERTIES LTD - P/18/0710/FUL

Meeting: PLANNING COMMITTEE

Date: 19 March 2019

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bo'ness and Blackness

Councillor David Aitchison
Councillor Lynn Munro
Councillor Ann Ritchie

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 woman's refuge at Seaview Place to form 3 flats. The application includes replacement windows and lintels.
- 1.2 The building is located within the Bo'ness Town Centre Outstanding Conservation Area and is a Category 'C' listed building. The building is the former 'Seaview Hotel' by Matthew Steele Architect.

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 A Listed Building Consent application (Ref: P/18/0711/LBC) for the alteration and change of use of the building to form 3 flats is pending decision.

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 Health and Safety Executive (HSE) WebApp advises against development on safety grounds.
- 4.4 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, no letters of representation were submitted

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 to 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' states:-

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 The development of 3 new flatted dwellinghouses would not create or exacerbate deficiencies in existing community infrastructure. The application accords with policy INF02 'Developer Contributions to Community Infrastructure'.

7a.6 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.7 The application site is located within the middle zone of the Forties Pipeline Consultation Zone. The application site relates to the development of 3 flats over 3 storeys in an existing building. 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 former 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, including the reuse of a listed building of local architectural significance. The building has been vacant for some time and is 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.8 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.9 The reuse of the buildings for residential use is supported by policy TC02 'Development and Changes of Use in Centres'. Policy TC02 encourages an active frontage to the ground floor, however, it is noted that the building was formerly a hostel and residential use on the ground floor is considered acceptable.

7a.10 Policy D02 'Sustainable Design Principles' states:-

New development will be required to achieve a high standard of design quality and compliance with principles of sustainable development. Proposals should accord with the following principles:

- 1. Natural and Built Heritage. Existing natural, built or cultural heritage features should be identified, conserved, enhanced and integrated sensitively into development;*
- 2. Urban and Landscape Design. The scale, siting and design of new development should respond positively and sympathetically to the site's surroundings, and create buildings and spaces that are attractive, distinctive, welcoming, adaptable, safe and easy to use;*
- 3. Accessibility. Development should be designed to encourage the use of sustainable, integrated transport and to provide safe access for all users;*
- 4. Climate Change & Resource Use. Development should promote the efficient use of natural resources and the minimisation of greenhouse gas emissions through energy efficient design, choice and sourcing of materials, reduction of waste, recycling of materials and exploitation of renewable energy;*
- 5. Infrastructure. Infrastructure needs and their impacts should be identified and addressed by sustainable mitigation techniques, with particular regard to drainage, surface water management, flooding, traffic, road safety and noise; and*
- 6. Maintenance. Proposals should demonstrate that provision will be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure.*

Masterplans will be required for significant development proposals requiring a co-ordinated approach to design and infrastructure, and should demonstrate how the above principles have been incorporated into the proposals.

Masterplans should be informed by a development framework or brief where relevant.

7a.11 The proposal would conserve and enhance an existing built heritage asset. The proposed development would respond positively and sympathetically to the site's surroundings and would encourage the use of sustainable integrated transport, being located in a town centre location with good transportation links. The application is supported by policy D02 'Sustainable Design Principles'.

7a.12 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.13 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.14 Policy D09 'Listed Buildings' states:-

The Council supports the sustainable re-use and management of the historic built environment, and on that basis there is a presumption against demolition or any other works that would adversely affect the special interest or setting of a listed building. The Council recognises, however, that listed buildings will require alteration, extension and adaptation from time to time to remain in beneficial use and encourages creative and sensitive development where there are no such adverse effects. Accordingly:

1. *The layout, design, materials, scale, siting and use of any development affecting a listed building, or its setting, including extensions, replacement windows, doors, roofs, rainwater goods, boundary treatments and other features, shall be appropriate to the character and appearance of the building and its setting, and should conform to Supplementary Guidance SG16 'Design Guidance for Listed Buildings and Non-Listed Buildings in Conservation Areas'.*

2. *Proposals for the total or substantial demolition of a listed building will only be supported where it is demonstrated beyond reasonable doubt that every effort has been made by all concerned to find practical ways of keeping it. In particular it should be demonstrated that:*
 - *the existing building is no longer of special interest;*
 - *the existing building is incapable of physical repair and re-use, as shown by the submission and verification of a thorough structural condition report;*
 - *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.*
3. *RCAHMS will be formally notified of all proposals to demolish listed buildings to enable features to be recorded.*

7a.15 The building is a Category 'C' Listed building, designed by Matthew Steele. The building is of local architectural interest being the 'Seaview Hotel' designed for Captain Miller. It is considered that the re-use of the building is supported by policy D09 'Listed Buildings'. The proposed replacement windows would replicate the original 'crittal' windows and preserve and enhance the character of the building.

7a.16 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.17 The alteration and change of use of the building to 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.18 The application accords with the guidance contained in SG16 'Listed Buildings and Unlisted Properties in Conservation Areas'.

7a.19 Accordingly, the application accords with the Falkirk Local Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the Falkirk Local Development Plan 2 (Proposed Plan), assessment of consultation responses and the consideration of the site in relation to coal mining legacy.

Falkirk Local Development Plan 2 (Proposed Plan)

7b.2 The Proposed Falkirk Local Development Plan 2 (LDP2) has been approved by the Council for consultation. The consultation period runs from 27 September 2018 to 23 November 2018. Following consideration by Scottish Ministers of representations received it is expected that LDP2 will be adopted in 2020, at which point it will replace the current Falkirk Local Development Plan. LDP2 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 There are no changes to policy in the LDP2 which would affect the assessment of this planning application.

Consultation Responses

7b.4 The application site lies within the middle zone of the Forties Pipeline Consultation Zone. The Health and Safety Executive (HSE) were consulted using the WebApp. HSE advise that there are sufficient reasons on safety grounds, for advising against the granting of planning permission.

- 7b.5 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.6 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 to 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/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.7 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.8 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 existing building within a town centre location, with a small area of associated land (i.e. garden ground / landscaping to the rear of the site).
- 7b.9 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, which is an established hostel, within a town centre location. The proposal relates to the development of 3 small flats. It is noted that the number of people present in the former use of the building, including staff and residents, would be significantly higher than for the three 2-bedroom flats that is now proposed.
- 7b.10 The Falkirk Local Development Plan supports the redevelopment of the building to residential use. It is noted that the redevelopment of the building would have regeneration benefits, as the building is currently 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 previous/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.11 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.12 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.13 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.14 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.

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 that 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; and
- (b) 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. For the avoidance of doubt, the replacement lintels shall match the existing lintels in terms of material, texture, colour and appearance.

Reason(s):-

1. As these drawings and details constitute the approved development.
2. The preserve and enhance the character of the listed building.

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) 01 - 07, 08A, 09, 10, 11A and Supporting Documents.
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: 7 March 2019

LIST OF BACKGROUND PAPERS

1. Falkirk Local Development Plan.
2. The Health and Safety Executive's Land Use Planning Methodology.
3. Falkirk Local Development Plan 2 (Proposed Plan).

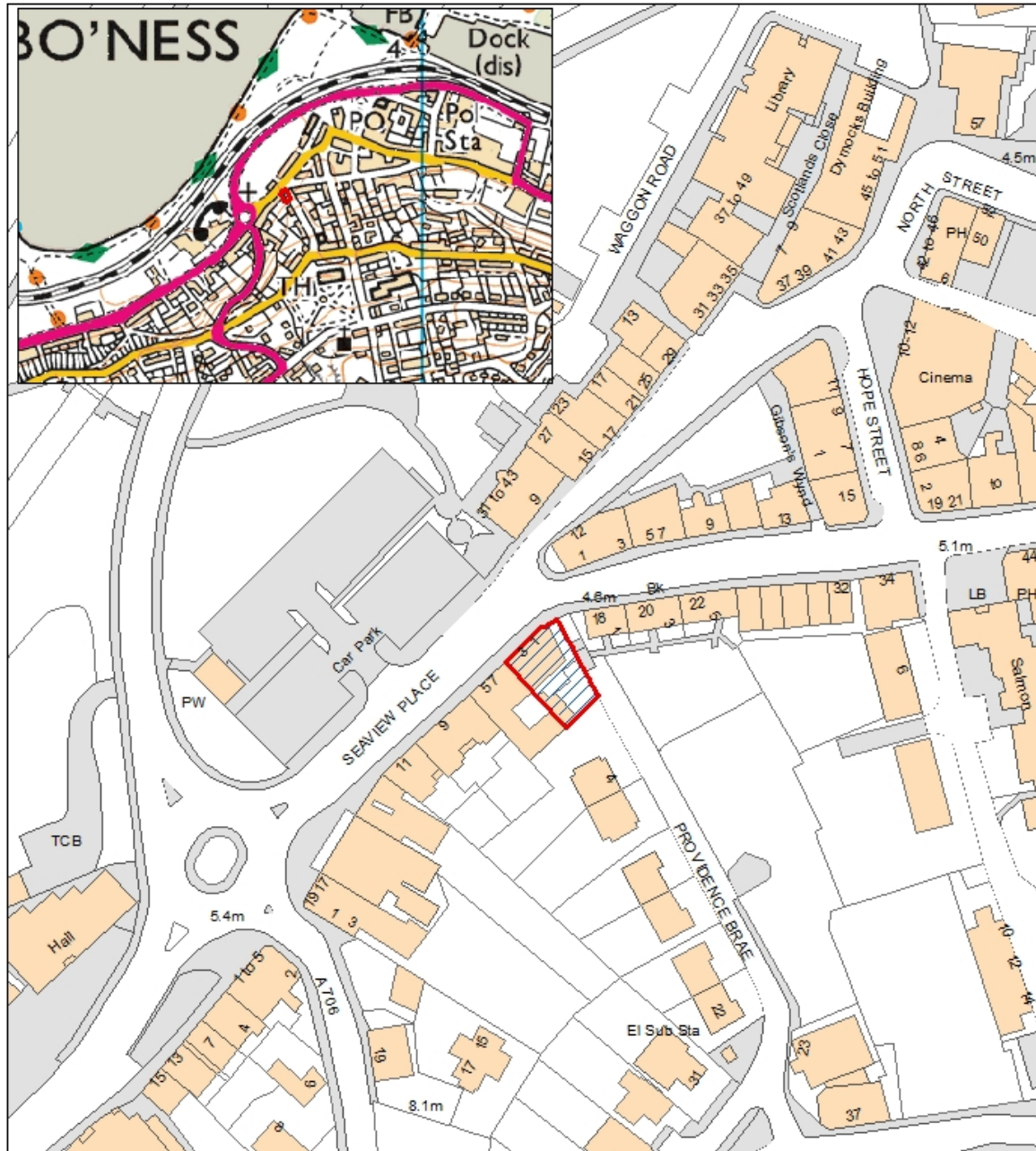
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan

P/18/0710/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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