AGENDA ITEM 7

FALKIRK COUNCIL

Subject: **MIXED USE DEVELOPMENT COMPRISING 54 FLATS AND RETAIL UNITS AT LAND TO THE SOUTH EAST OF 1 WILLIAMSON STREET, WILLIAMSON STREET, FALKIRK FOR PALISADE ESTATES (P/08/0799/FUL)**
Meeting: **PLANNING COMMITTEE**
Date: **22 April 2009**
Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Member: **Councillor David Alexander**
Councillor Craig R. Martin
Councillor Cecil Meiklejohn
Councillor Pat Reid

Community Council: Falkirk Central

Case Officer: Allan Finlayson (Senior Planning Officer) ext 4706

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that the above application was originally considered at the meeting of the Planning Committee on 25 March 2009 (copy of previous report appended), when it was agreed to continue the application and to undertake a site visit. This site visit was undertaken on 6 April 2009.

2. At the site meeting, the applicant was heard in support of the proposal. The applicant claimed that the request for a financial contribution to mitigate education impacts and car parking shortfall as a result of the proposed development was not justified. This view proceeded on the basis that the proposed one and two bedroom flats and site location adjacent to Williamson Street car park were not considered to impact on education capacity or result in a parking deficiency.

3. Members expressed concern that, should no contribution be made to mitigate development impacts on education capacity and car parking provision, the cost of any future improvements would have to be met by Falkirk Council.

4. Members sought clarification of how calculations are made with regards to education capacity issues for proposed developments in particular areas. Members requested that a representative of Education Services be in attendance at Planning Committee on 22 April 2009 to address any educational issues that may arise.

5. RECOMMENDATION

5.1 It is recommended that Members indicate they are minded to grant planning permission subject to the successful completion of an appropriate Legal Agreement requiring the payment of £102,600 and £97,500 to mitigate development impacts on education provision and car parking respectively.

5.2 On completion of the Legal Agreement referred to in paragraph 5.1 above, Members remit to the Director of Development Services to grant planning permission subject to the following conditions:

(1) The development to which this permission relates must be begun within five years from the date of this permission.

(2) Development shall not commence until a written scheme of archaeological investigation and programme of work has been submitted to and approved in writing by the Planning Authority.

(3) Development shall not begin until details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

(4) Development shall not commence until additional contaminated land remediation information has been submitted to and approved in writing by the Planning Authority. The additional information sought is in the memorandum from Falkirk Council's Environmental Protection Unit (Ref: 85055) dated 28 October 2008.

(5) Development shall not commence until details of all hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:-

- **i. Location and design, including materials, of walls, fences and gates.**
- **ii. Soft and hard landscaping works.**
- **iii. Other artefacts and garden structures.**
- **iv. A programme for completion and subsequent maintenance.**

(6) Development shall not commence until details of the phasing of the development have been submitted to and approved in writing by the Planning Authority. Following approval, the development shall be implemented in accordance with the approved scheme.

Reason(s):

(1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.

(2) To ensure that any archaeological remains are safeguarded.

(3) To safeguard the interests of the users of the highway.

(4, 6) To safeguard the environmental amenity of the area.

(5) To safeguard the visual amenity of the area.

Informative

(1) All drainage should comply with the requirements of the Scottish Environment Protection Agency and Scottish Water.

.....……
For Director of Development Services

Date: 15 April 2009

APPENDIX

FALKIRK COUNCIL

Subject: **MIXED USE DEVELOPMENT COMPRISING 54 FLATS AND RETAIL UNITS AT LAND TO THE SOUTH EAST OF 1 WILLIAMSON STREET, WILLIAMSON STREET, FALKIRK FOR PALISADE ESTATES (P/08/0799/FUL)**
Meeting: **PLANNING COMMITTEE**
Date: **25 March 2009**
Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Member: **Councillor David Alexander**
Councillor Craig R. Martin
Councillor Cecil Meiklejohn
Councillor Pat Reid

Community Council: Falkirk Central

Case Officer: Allan Finlayson (Senior Planning Officer) 4706

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

1.1 The site of the application lies within Falkirk Town Centre and comprises the former Mathiesons Bakery and associated ground at Williamson Street, Falkirk, all of which have lain vacant for a number of years.

1.2 The site extends to 0.307 hectares and lies between Williamson Street and Burnhead Lane, Falkirk. The site slopes gradually from north to south.

1.3 The application site is bounded on all sides by mixed uses including residential, commercial and the Williamson Street car park.

1.4 The application under consideration is for a mixed commercial and residential development comprising 54 flats of 1 and 2 bedrooms. The proposed development incorporates:

- Ground floor retail units with residential units arranged over a further 3 storeys. 54 car parking spaces for residential use are provided to the rear of the ground floor retail units. An open space and communal garden is provided over a 1st floor decked area.

2. REASON FOR COMMITTEE CONSIDERATION

2.1 The application is contrary to the Development Plan in the absence of commuted sums towards the off setting of parking provision and education capacity issues.

3. SITE HISTORY

3.1 Planning application (Ref: P/07/0918/FUL) - the same proposal - was withdrawn on 22 January 2008. The application was withdrawn following concerns over architectural design.

4. CONSULTATIONS

4.1 The Roads and Development Unit has no objections to the proposed development subject to a financial contribution and conditions. The financial contribution relates to a parking shortfall with a mitigating commuted sum being directed towards public transport and pedestrian improvements in the surrounding Town Centre area. The required contribution is £97,500.00.

4.2 The Transport Planning Unit has reiterated the requirement for commuted sums in lieu of required parking.

4.3 The Environmental Protection Unit has requested further information relating to potential ground contamination. The submission of this information can be required by planning condition.

4.4 Education Services has objected to the proposed development on the grounds that it would increase the risk of children not being able to attend their catchment school, these being Comely Park Primary, St Andrew's RC Primary, Falkirk High School and St Mungo's RC High School, and secondly that additional accommodation may be required at these schools. Education Services request that the applicant provide a pro-rata contribution of £102,600 (£1900 per flat) to address the potential impact on schools within the catchment area.

4.5 Community Services (Archaeology) has advised that the site lies a short distance to the north of the remains of the Antonine Wall, a scheduled Ancient Monument and World Heritage Site. A condition requiring archaeological investigation before work commences is requested.

4.6 Scottish Water has no objection to the proposed development.

4.7 Central Scotland Police has provided guidance in relation to safety and crime prevention.

5. COMMUNITY COUNCIL

5.1 No consultation sent or requested.

6. PUBLIC REPRESENTATION

6.1 No representations have been received.

7. DETAILED APPRAISAL

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

> *"the determination shall be made in accordance with the plan unless material considerations indicate otherwise".*

Accordingly,

7a The Development Plan

7a.1 The Falkirk Council Structure Plan 1st Alteration was approved by Scottish Ministers on 29 January 2007.

7a.2 Policy COM.5 'Developer Contributions' states:

> *"The Council will ensure that proper provision is made to meet the physical and social infrastructure needs of new development and to mitigate the impact of such development on the locality. Where it is required to make a proposal acceptable in land use planning terms, serve a planning purpose and is directly related to the proposed development, developer funding for on- or off-site works will be sought in respect of:*
>
> *(1) environmental enhancement required to mitigate, or compensate for landscape, townscape or ecological impacts;*
>
> *(2) physical infrastructure required to make the development acceptable, particularly transport provision required to ensure that the development meets sustainability criteria;*
>
> *(3) community and recreational facilities required to meet demand generated by the development.*
>
> *The required provision will be reasonable and related to the scale and nature of the proposed development, taking into account the relevant Council standards and will be specified within Local Plans and development briefs as appropriate. Examples of the range of matters which developers may be asked to address are provided in Schedule COM.5."*

7a.3 Policy COM.5 recognises the need for the provision of physical infrastructure to mitigate local impacts arising from development. In this instance a proposal is being considered which fails to achieve normal parking levels required by Falkirk Council's established standards. In addition the development would result in capacity increases in local schools. A financial contribution has therefore been sought to mitigate the potential impacts arising from reduced parking levels and impact on education capacity. The applicant has not agreed to make financial contribution. The failure to provide contributions towards impacts on car parking provision and education capacity results in the proposal being contrary to Policy COM.5.

Falkirk Local Plan

7a.4 There are no site specific policies for the application site. The site lies within the established settlement boundary of the adopted Falkirk Local Plan.

7a.5 The following policies of the Falkirk Local Plan are relevant:-

7a.6 Policy FAL 2.2 'Urban Limit' states:

> *"The Urban Limit, as indicated on the Policies, Proposals and Opportunities Map, is regarded as the desirable limit to the growth of Falkirk for the period of the Plan. Accordingly, there will be a general presumption against development proposals which would extend the urban area beyond this limit."*

7a.7 The application site lies within the established urban limit.

7a.8 Policy FAL 3.1 'Design and Townscape' states:

> *"New development will be required to achieve a high standard of design and amenity, and should contribute positively to the visual quality of the built environment. Proposals should accord with the following principles:*
>
> *(i) the siting, layout and density of new development should create an attractive and coherent structure of spaces and built forms which integrates well with the pattern of the local townscape/landscape, and fosters a sense of place;*
> *(ii) the design of new buildings should blend with that of the surrounding urban fabric in terms of scale, height, massing, building line, architectural style and detailing;*
> *(iii) building materials and finishes should be chosen to reflect those prevailing in, or traditional to, the local area;*
> *(iv) opportunities should be taken within the development to incorporate new public spaces, enhance existing ones or create other focal points;*
> *(v) existing buildings or natural features which contribute to the local townscape should be retained, where possible, and incorporated as an integral part of the design; and*
> *(vi) the contribution to the townscape of important landmarks, skylines and views should be respected."*

7a.9 Policy FAL 3.1 addresses the creation of a coherent townscape with the successful integration of new development within the existing pattern of development through scale, massing, building line, architectural style and detailing. In addition, building materials and finishes should complement the surroundings.

7a.10 The applicant has submitted a supporting design statement addressing Policy FAL 3.1. The proposals will introduce an imaginative modern design in keeping with the scale and mass of the surrounding area. Design techniques such as the staggered block pattern has mitigated any potential design or visual conflicts. In addition the design of the development has been improved following the earlier withdrawn planning application P/07/0918/FUL. Design changes now provide an improved architectural relationship with the surrounding buildings.

7a.11 Policy FAL 5.1 'New Residential Development' states:

> *"The Council will support residential development on sites H1 to H28 as identified in the Policies, Proposals and Opportunities Map. Other brownfield sites which become available within the Urban Limit will also be considered favourably for housing, subject to other Local Plan policies and proposals, provided that:*
>
> *(i) the proposed housing use is compatible with neighbouring uses;*
> *(ii) a satisfactory level of residential amenity can be achieved;*

(iii) access, parking, drainage and other infrastructure can be provided to a standard acceptable to the Council; and

(iv) essential community services such as schools, shops and public transport are available and easily accessible.

The reuse of upper floors in Falkirk Town Centre for residential purposes will be encouraged, subject to access and amenity considerations."

7a.12 The principle of residential development at this location is supported. The housing use is compatible with surrounding uses and proposed residential amenity is acceptable. The level of parking proposed is acceptable for the number of housing units proposed.

7a.13 The proposed development provides no car parking provision for the commercial floor space proposed. The parking shortfall for this floor space amounts to 39 spaces. The applicant has declined to provide a contribution to mitigate this shortfall.

7a.14 The applicant has also declined to provide a contribution to the school capacity increases which the development will necessitate.

7a.15 The failure to provide contributions towards impacts on car parking and education capacity requirements results in the proposal being contrary to Policy FAL 5.1.

7a.16 Policy FAL 8.6 'Parking' states:

"The Council will seek to manage car parking demand and meet car parking needs in and around Falkirk Town Centre through a combination of the following:

(i) safeguarding, enhancing and improving the efficiency of existing Town Centre car parks with particular emphasis on short-term parking for shoppers;

(ii) parking management measures including the use of charging policies, on-street parking restrictions, residents' parking zones where appropriate and variable message signing; and encouraging public transport improvements (see Policy FAL 8.3) and the development of park & ride facilities.

In respect of new Town Centre developments, the Council may require contributions to park & ride or public transport facilities in lieu of provision of a proportion of on-site parking."

7a.17 The proposed development provides the required number of car parking spaces for the residential element of the proposal in an under croft secured parking area. No car parking spaces are proposed for the commercial elements.

7a.18 As a result, discussions have been undertaken with a view to the provision of a "commuted sum" financial contribution to be used in the surrounding area for the mitigation of parking deficiencies. This approach is consistent with Policy COM.5 of the Falkirk Structure Plan. The financial contribution would be used to fund public transport and pedestrian improvements. The required sum is £97,500.

7a.19 The applicant has declined to provide any contribution to fund public realm improvements and mitigate parking deficiencies.

7a.20 The failure to provide contributions required to address car parking deficiencies and education impacts which would result from the proposed development results in a proposed development which is contrary to policy COM.5 of Falkirk Council Structure Plan and policy FAL 5.1 of the Falkirk Local Plan.

7a.21 Accordingly, the proposal does not accord with the Development Plan**.**

7b Material Considerations

7b.1 The material considerations to be assessed are Scottish Government Policy Guidance, the Falkirk Local Plan Finalised Draft (Deposit Version) and consultation responses.

Scottish Executive Planning Policy Guidance

7b.2 SPP2 "Economic Development" provides guidance on how planning can assist economic development in the context of social and environmental needs. The principle of the proposal currently under assessment accords with the desire to direct development to "brownfield" locations.

7b.3 SPP3 "Planning for Housing" provides guidance on the direction of housing to suitable locations. In the context of the proposed development the regeneration of a "brownfield" site and proximity to public transport are consistent with the aims of SPP3.

7b.4 SPP17 "Planning for Transport" recognises the need to balance land uses with increased sustainable transport modes. In the redevelopment of a vacant site in Falkirk Town Centre, close to bus and rail stations, the proposed development accords with the aims of SPP17.

7b.5 Scottish Government Planning Circular 12/1996 Planning Agreements guides local authorities on the tests to be applied to determine if a planning agreement, in this case for infrastructure improvements, is appropriate. The request for a planning agreement for the current proposal to address identified deficiencies in car parking and education provision pass the tests identified in Circular 12/1996.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.6 The Falkirk Council Local Plan Finalised Draft was approved by the Council in March 2005.

7b.7 The site is covered by site specific proposal/opportunity ED.FAL 2 "Williamson Street".

7b.8 Proposal/opportunity ED.FAL 2 "Williamson Street" recognises the opportunity for the redevelopment of the area comprising the former Mathesons Bakery. The opportunity for site assembly and redevelopment for town centre development is noted as is the requirement to address car parking issues and the production of a planning brief.

7b.9 The proposal is consistent with town centre uses. Car parking issues have not, however, been satisfactorily addressed.

7b.10 The following general policies are also relevant:-

- EQ1 Sustainable Design Principles
- EQ2 Implementation for Sustainable Design Principles
- EQ3 Townscape Design
- EQ5 Design and Community Safety
- ST2 Pedestrian Travel and Cycling

7b.11 The above policies reflect aforementioned policies of the extant Falkirk Local Plan and it is considered, for the stated reasons, that the development would accord with these policies and therefore with the finalised local plan.

7b.12 Policy SC14 'Education and New Housing Development' states:

> *"Where there is insufficient capacity within the catchment school to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council's education policies. The contribution will be a proportionate one , the basis of which will be set out in the SPG Note on 'Developer Contributions; Education and New Housing Development'. In cases where the school cannot be improved in a manner consistent with the Council's education policies, the development will not be permitted."*

7b.13 Consultation with Education Services has identified impacts arising from the development on the existing capacity of schools within the catchment area of the application site. The affected schools are Comely Park Primary School, St Andrews RC primary School, Falkirk High School and St Mungos RC High School. The applicant has declined to make any contribution to education improvements. The proposed development is therefore contrary to Policy SC14.

7b.14 Policy ST10 - 'Parking' states:

> *"The Council will manage parking provision as an integral part of wider transport planning policy to ensure that road traffic reduction, public transport, walking, cycling and safety objectives are met.*
>
> *(1) There will be a presumption against significant additional public parking in Falkirk Town Centre.*
> *(2) There will be a presumption against the removal of existing parking provision in Falkirk Town Centre where this would adversely affect the vitality and viability of the centre.*
> *(3) Park and ride facilities will be promoted at Westfield, Falkirk. The feasibility of providing facilities on the B902 Stenhousemuir-Falkirk corridor will be investigated.*
> *(4) Parking in District and Local Centres will be managed to promote sustainable travel and the role of the centres.*
> *(5) The maximum parking standards set out in SPP 17 will be applied where relevant, in tandem with the Council's minimum standards. Where the minimum standards cannot be met, then enhanced travel plan resources may be required in compensation."*

7b.15 The proposed development provides acceptable residential car parking spaces for the 54 flats proposed. The lack of provision of commercial parking is considered to have an adverse impact on the capacity of existing car parking and public transport facilities. Whilst additional parking is not preferred, a contribution to improvements to town centre infrastructure is sought to assist the funding of more sustainable travel options to Falkirk Town Centre.

7b.16 Accordingly whilst the proposal complies with land use and design policies, it does not accord with Development Plan policy on developer contribution required to mitigate impacts on car parking and education capacity.

Consultation Responses

7b.17 The views of Education Services are noted. It is considered that, given the residential element comprising flatted dwellings, there are likely to be children generated from the development and a resultant impact on local schools. The requested contribution is therefore considered to be necessary in this instance.

7b.18 The views of the Roads and Development Unit and Transport Planning Unit are noted with regards to inadequate parking provision. In this regard the request for a contribution to mitigate this impact is considered to be necessary.

7b.19 The views and requirements of other consultees can be accommodated through the use of planning conditions and/or a legal agreement.

7c Conclusion

7c.1 The proposed development complies with Development Plan policies with regards to planning policy, land use and architectural design.

7c.2 The development does not however comply with Development Plan policy requiring developer contribution to mitigate environmental and social impacts resulting from the development on the grounds of the failure to address parking and education requirements.

7c.3 The proposed development is, however, considered to be an acceptable departure to the Development Plan on the grounds of the otherwise acceptability of the proposal, the environmental improvement of a currently vacant brownfield site and the provision of valuable housing in Falkirk Town Centre. The proposal is contrary to the Development Plan for reasons local to the application site, would not be a significant departure from the Development Plan and, as a result, would not require to be referred to Scottish Ministers prior to the grant of planning permission.

8. RECOMMENDATION

8.1 It is recommended that Members indicate they are minded to grant planning permission subject to the successful completion of an appropriate Legal Agreement requiring the payment of £102,600 and £97,500 to mitigate development impacts on education and car parking respectively, or any lower sums that may be agreed by the Directors of Education Services and Development Services.

8.2 **On completion of the Legal Agreement referred to in paragraph 8.1 above, Members remit the Director of Development Services to grant planning permission subject to the following conditions:**

(1) The development to which this permission relates must be begun within five years from the date of this permission.

(2) Development shall not commence until a written scheme of archaeological investigation and programme of work has been submitted and approved in writing by the Planning Authority.

(3) Development shall not begin until details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

(4) Development shall cont commence until additional contaminated land remediation information has been submitted to and approved in writing by the Planning Authority. The additional information in the memorandum from Falkirk Council's Environmental Protection Unit (Ref: 85055) dated 28 October 2008.

(5) Development shall not commence until details of all hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:-

i Location and design, including materials, of walls, fences and gates.
ii. Soft and hard landscaping works.
iii. Other artefacts and garden structures.
iv. A programme for completion and subsequent maintenance.

(6) Development shall not commence until details of the phasing of the development have been submitted to and approved in writing by the Planning Authority. Following approval, the development shall be implemented in accordance with the approved scheme.

Reason(s):

(1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.

(2) To ensure that any archaeological remains are safeguarded.

(3) To safeguard the interests of the users of the highway.

(4-6) To safeguard the environmental amenity of the area.

(5) To safeguard the visual amenity of the area.

Informative

(1) All drainage shall comply with the requirements of the Scottish Environment Protection Agency and Scottish Water.



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For Director of Development Services

Date: 17 March 2009

LIST OF BACKGROUND PAPERS

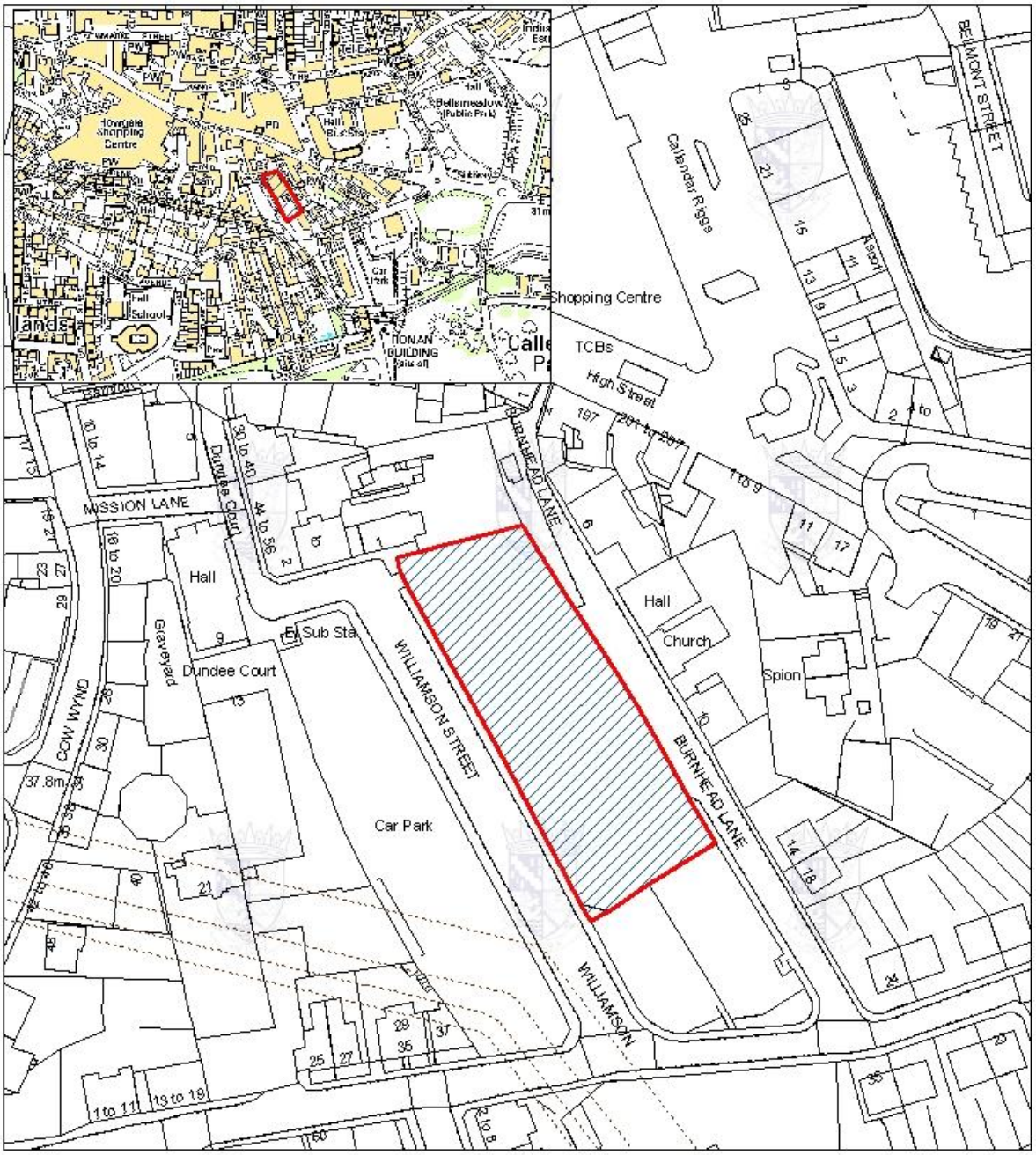
1. Falkirk Council Structure Plan
2. Falkirk Local Plan
3. Falkirk Council Local Plan Finalised Draft (Deposit Version)

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/08/0799/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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