

FALKIRK COUNCIL

Subject: **INSTALLATION OF REPLACEMENT WINDOWS (RETROSPECTIVE) AT MARKET HOUSE, 84 NORTH STREET, BO'NESS, EH51 9NF FOR CIVIL & STRUCTURAL PARTNERSHIP - P/09/0395/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **2 December 2009**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Councillor John Constable
Councillor Adrian Mahoney
Councillor Ann Ritchie**

Community Council: **Bo'ness**

Case Officer: Julie Seidel (Planning Officer), ext 4880

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 4 November 2009 (copy of previous report appended), when it was agreed to continue consideration to allow a site visit to be carried out. This visit took place on 23 November 2009.
2. Following an overview by the case officer, a brief summary of the Bo'ness Townscape Heritage Initiative (THI) was given by George Paterson, THI Project Officer. The THI comprises Falkirk Council and partners actively progressing a regeneration project within the Bo'ness Town Centre Outstanding Conservation Area. The applicant spoke in support of the proposal, citing reasons of poor condition of existing windows, health and safety and energy efficiency.
3. It should be noted that the applicant was made fully aware of the obligations prior to the installment of the windows, given substantial advice and assistance by the THI Project Officer and an indication of level of grant available. In response to the concerns raised by the applicant that the timber sash and case windows can be difficult to operate in terms of opening, there would not be an issue if they are properly fitted and maintained. Equally, adaptations can be made to timber sash and case windows such as double glazed units and draught proofing to meet energy efficiency standards.
4. It should also be noted that the Heritage Lottery Fund (HLF) has provided substantial grant assistance to the Bo'ness THI. They have recently indicated their concerns in terms of the appropriate planning control and enforcement in relation to THI grants. The HLF has noted this particular case and has sought reassurances that appropriate standards are met to reflect the THI, including a commitment to enforcement action.

5. RECOMMENDATION

5.1 It is recommended that detailed planning permission is (i) refused and (ii) enforcement action taken for the following reasons: -

- (1) The works undertaken are contrary to Policy ENV5 'Built Environment and Heritage' of the approved Falkirk Council Structure Plan, as the retrospective development by virtue of the design, appearance and use of UPVC frames, relates to an inappropriate development within the setting of the Bo'ness Town Centre Outstanding Conservation Area.**
- (2) The works undertaken are contrary to Policy BNS39 'Conservation Areas' and BNS40 'Bo'ness Town Centre Conservation Area' of the Falkirk Council Local Plan Finalised Draft (Deposit Version) as the replacement window frames do not preserve or enhance the character or appearance of the Bo'ness Town Centre Outstanding Conservation Area in terms of appearance, detailing and materials.**
- (3) The application is contrary to Scottish Planning Policy 23 'Planning and the Historic Environment' and Historic Scotland's Managing Change in the Historic Environment Guidance Notes as the replacement windows do not match the original windows in terms of appearance, detailing and materials and fail to preserve or enhance the character or appearance of the Bo'ness Town Centre Outstanding Conservation Area.**

.....
For Director of Development Services

Date: 25 November 2009

LIST OF BACKGROUND PAPERS

1. File Ref P/09/0395/FUL
2. File Ref ENF/2006/0149
3. Falkirk Council Structure Plan
4. Bo'ness Local Plan
5. Falkirk Council Local Plan Finalised Draft (Deposit Version)
6. The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
7. SPP 23 'Planning and the Historic Environment'
8. Historic Scotland's Managing Change in the Historic Environment Guidance Notes
9. Letter from Heritage Lottery Fund dated 29 May 2009 regarding Bo'ness THI .

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

FALKIRK COUNCIL

Subject: **INSTALLATION OF REPLACEMENT WINDOWS (RETROSPECTIVE) AT
MARKET HOUSE, 84 NORTH STREET, BO'NESS, EH51 9NF –
P/09/0395/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **4 November 2009**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Member: **Councillor John Constable
 Councillor Adrian Mahoney**

Community Council: Bo'ness

Case Officer: Julie Seidel (Planning Officer), ext 4880

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This retrospective application relates to the replacement of timber sash and case windows with UPVC windows at 84 North Street, Bo'ness. The application site is an unlisted building within the Bo'ness Town Centre Outstanding Conservation area.
- 1.2 The site is situated within the Bo'ness Town Centre Outstanding Conservation Area. With the assistance of Townscape Heritage Initiative (THI) funding, Falkirk Council and partners are actively progressing a regeneration project within the Bo'ness Town Centre Outstanding Conservation Area. THI grants are available for a range of projects to repair the external fabric of buildings and enhance the town centre and a number of projects are being progressed, including the replacement of UPVC windows with timber sash and case windows and alterations to shopfronts.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application is referred for determination by the Planning Committee at the request of Councillor John Constable.

3. SITE HISTORY

- 3.1 The planning authority became aware that original timber sash and case windows were being replaced with UPVC windows, without the benefit of planning permission, on 25 August 2006. It was agreed that the applicant would be allowed 1 year to regularise the situation as grant assistance, in respect of external fabric repair, was being pursued by the applicant under the THI. Ongoing discussion and meetings were held with the THI officer during this period, but no completed application for a THI grant was ever received. The potential THI grant application would have related to the installation of timber sash and case windows at the application site.

A Planning Contravention Notice Ref: ENF/2006/0149 for the unauthorised installation of UPVC windows within an Outstanding Conservation Area was issued on 25 February 2009.

4. CONSULTATIONS

- 4.1 Historic Scotland advise that they have no locus in this particular case.

5. COMMUNITY COUNCIL

- 5.1 Bo'ness Community Council has not submitted any representations.

6. PUBLIC REPRESENTATION

- 6.1 During consideration of the application, no letters of objection or representation were received.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 Policy ENV.5 'Built Environment and Heritage' states:

"Important Archaeological Sites, Scheduled Ancient Monuments, Listed Buildings, Conservation Areas, sites included in the Inventory of Historic Gardens and Designed Landscapes and trees will be protected and enhanced. Local Plans will identify these assets and incorporate policies appropriate to the significance of the area or individual feature, including the following range of measures:

- (1) *Measures to ensure that assets are maintained in a good state of repair.*

- (2) *Promotion of appropriate new uses for buildings.*
- (3) *Promoting sensitive interpretation of heritage assets.*
- (4) *Protection of the assets and their setting from inappropriate development.*
- (5) *Where development would damage, or result in the loss of the asset, that provision is made for adequate recording of the current status of the asset."*
- (6) *Reviewing the boundaries of areas to ensure their continuing relevance."*

7a.2 Policy ENV.5 'Built Environment and Heritage' of the approved Falkirk Council Structure Plan provides protection of important archaeological sites, scheduled ancient monuments, listed buildings and conservation areas and their setting from inappropriate development. It is considered the proposed UPVC windows by reason of the materials, profile, dimensions and appearance are inappropriate. Therefore the proposal is contrary to policy ENV.5.

Bo'ness Local Plan

7a.3 Policy BNS 39 'Conservation Areas' states:

"The visual amenity and character of each Conservation Area including its setting, buildings, open space and trees will be protected. In general, favourable consideration will only be given to proposals which make a positive contribution to the appearance of the Conservation Area and are compatible with the existing character in terms of size, scale and design."

7a.4 Policy BNS 40 'Bo'ness Town Conservation Area' states:

"Within Bo'ness Town Centre Conservation Area, the District Council will seek to preserve and enhance its character through:

- (i) *promoting and supporting an improvement in the condition and appearance of buildings and shopfronts in the terms of the Bo'ness Enhancement Grant Scheme;*
- (ii) *requiring that proposals for the alteration and replacement of any shopfront accord with the Council's guidance note entitled "Design Advice on Shop Fronts in Conservation Areas"; and*
- (iii) *requiring that the design, scale and setting of any advertisement be sympathetic to the character of the building upon which it would be mounted."*

7a.5 Policy BNS39 'Conservation Areas' and policy BNS 40 'Bo'ness Town Centre Conservation Area' advocate favourable consideration to proposals which will make a positive contribution to the appearance of the conservation area and are compatible with the existing character in terms of size, scale and design.

- 7a.6 The works undertaken represent an inappropriate development to the detriment of the setting of the conservation area. Whilst it is acknowledged that the applicant has tried to match the original windows in terms of the method of opening and overall divisions, the use of UPVC within the outstanding conservation area is considered unacceptable and incongruous to the building and wider setting of the area. The replacement windows do not match the original detailing in terms of profile and dimensions and the meeting rail is not in the same position. The random astragal placement of windows on the west elevation has not been replaced. The development fails to accord with the terms of the Development Plan and policies referred to above.

7b Material Considerations

- 7b.1 The following matters are considered to be material in the consideration of the application:

- Falkirk Council Local Plan Finalised Draft (Deposit Version)
- National Planning Policies and Guidance
- Information Submitted in Support of the Proposal

Falkirk Council Local Plan Finalised Draft (Deposit Version)

- 7b.2 Policy EQ12 'Conservation Areas' of the above plan reinforces Policy BNS 39 'Conservation Areas' and Policy BNS 40 'Bo'ness Town Centre Conservation Areas' of the adopted Bo'ness Local Plan. Policy EQ12 sets out the general policy approach to the protection and enhancement of Conservation Areas. In relation to the replacement of windows on unlisted buildings within Conservation Areas policy EQ12(4) advises that this should be permitted where the development would preserve or enhance the character of the Conservation Area in terms of the appearance, detailing and materials.

The replacement windows do not match the original windows in terms of the appearance, detailing and materials. The application does not preserve or enhance the appearance of the conservation area and as such fails to accord with the terms of the above policies.

National Planning Policies and Guidance

- 7b.3 The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 advises that, with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.
- 7b.4 Scottish Planning Policy 23 'Planning and the Historic Environment' advises that conservation areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. In considering applications for planning permission within conservation areas, planning authorities should have regard to the following:
- Proposed development that fails to preserve or enhance the character or appearance of the area should normally be refused planning permission.
 - Proposed development that would have a neutral effect upon the character or appearance of the area (i.e. does no harm) should be treated as being one which preserves the area's character or appearance.

- Proposed development that would have negative and positive impacts should be weighed against each other and the proposals considered as a whole.

7b.5 Historic Scotland's Managing Change in the Historic Environment Guidance Notes, Appendix 1 'Guidelines for the Detailed Consideration of Listed Building and Conservation Area Consent Cases' advises that the appearance and character of any building depends to a great extent upon the design and detailing of two of the building's principal elements, its walls and windows. Any alteration to the form of one or the other will have a considerable impact upon the appearance of the building as a whole. The guidance states:

"The damage which may be caused by the replacement of any window which is historically or architecturally correct with a modern unit made from a different material, to a different design or with a different method of opening is potentially immense. The impact of such inappropriate regeneration may, in the case of a building within a conservation area, be felt well beyond the building itself. Any proposal which would result in a diminution of architectural quality, no matter how small, should be refused. Where a traditional timber sash and case window has to be replaced, it is not sufficient that the new unit opens the same way. The replacement must match the original unit exactly in all respects."

7b.6 The replacement windows do not match the originals in every respect and most notably are constructed from UPVC, considered inappropriate within the context of the Bo'ness Outstanding Conservation Area. As such the retrospective development fails to preserve or enhance the character or appearance of the area and the application fails to accord with the National Planning Policies and Guidance.

Information Submitted in Support of the Proposal

7b.7 A letter of support was received with the application raising the following issues:

- The existing timber sash and case windows were in a poor state, vandalised and smashed;
- Concern that vibrations from vehicles and other works within the town centre could cause glass to drop onto people walking below; and
- The C energy rating of the windows have a CO2 reduction of 10-12 tonnes in 10 years.

7b.8 The above points are noted. It is accepted that the original windows needed repair or replacement, however it is considered that the replacement windows should be timber sash and case to match the characteristics of the original windows and to preserve and enhance the character and appearance of the Outstanding Conservation Area. Advice was given to the applicant by officers of the Council before and during development of the unauthorised replacement windows. The applicant chose to ignore advice and continue with the development.

7c Conclusion

7c.1 It is considered that the proposals do not accord with Development Plan, emerging District wide Local Plan and National Planning Policies and Guidance. There are no material considerations which would merit approval of this application.

8. RECOMMENDATION

8.1 It is recommended that detailed planning permission is (i) refused and (ii) enforcement action taken for the following reasons: -

- (1) The works undertaken are contrary to Policy ENV5 'Built Environment and Heritage' of the approved Falkirk Council Structure Plan, as the retrospective development by virtue of the design, appearance and use of UPVC frames, relates to an inappropriate development within the setting of the Bo'ness Town Centre Outstanding Conservation Area.**
- (2) The works undertaken are contrary to Policy BNS39 'Conservation Areas' and BNS40 'Bo'ness Town Centre Conservation Area' of the Falkirk Council Local Plan Finalised Draft (Deposit Version) as the replacement window frames do not preserve or enhance the character or appearance of the Bo'ness Town Centre Outstanding Conservation Area in terms of appearance, detailing and materials.**
- (3) The application is contrary to Scottish Planning Policy 23 'Planning and the Historic Environment' and Historic Scotland's Managing Change in the Historic Environment Guidance Notes as the replacement windows do not match the original windows in terms of appearance, detailing and materials and fail to preserve or enhance the character or appearance of the Bo'ness Town Centre Outstanding Conservation Area.**

Pp

.....
Director of Development Services

Date: 27 October 2009

LIST OF BACKGROUND PAPERS

1. File Ref P/09/0395/FUL
2. File Ref ENF/2006/0149
3. Falkirk Council Structure Plan
4. Bo'ness Local Plan
5. Falkirk Council Local Plan Finalised Draft (Deposit Version)
6. The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
7. SPP 23 'Planning and the Historic Environment'
8. Historic Scotland's Managing Change in the Historic Environment Guidance Notes

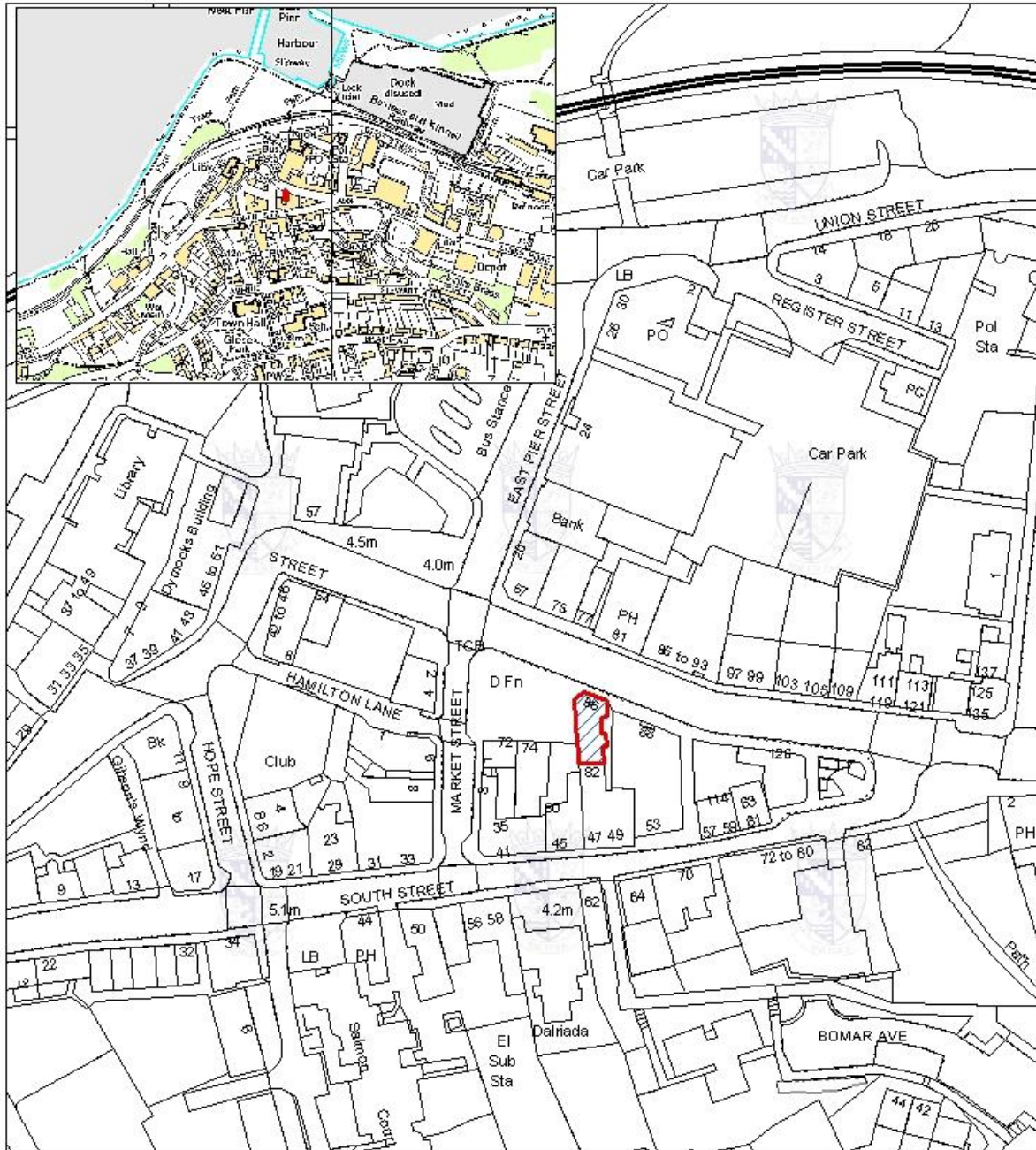
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel (Planning Officer).

Regulatory Committee

Planning Application Location Plan

P/09/0395/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Reproduced by permission of Ordnance Survey on behalf of HMSO.
© Crown copyright and database right 2009. All rights reserved.
Ordnance Survey Licence number 100023384