

FALKIRK COUNCIL

Subject: MIXED USE DEVELOPMENT COMPRISING CHANGE OF USE OF SHOP / STORE TO HOT FOOD TAKEAWAY, AND EXTENSION TO REAR OVER TWO FLOORS TO PROVIDE TWO MAISONETTE FLATS AT 234 GRAHAMS ROAD, FALKIRK, FK2 7BH FOR MR J AKTHAR - P/09/0214/FUL

Meeting: PLANNING COMMITTEE

Date: 27 January 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Provost Pat Reid
Councillor David Alexander
Councillor Craig R. Martin
Councillor Cecil Meiklejohn

Community Council: Grahamston, Westfield and Middlefield

Case Officer: Stephen McClure (Planning Officer), ext 4702

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 2 December 2009 (copy of previous report appended), when it was agreed to continue the application and to undertake a site visit. This visit took place on 12 January 2010.
2. At the site visit it was highlighted by Provost Reid and Councillor Meiklejohn that lack of parking provision was an issue at the site and in the residential estate adjacent. It was considered that the introduction of the proposed hot food takeaway, as well as two flatted dwellings without dedicated parking, would exacerbate the present situation.
3. The Roads Development Unit has confirmed that the recommended parking spaces for the flatted dwellings could not be achieved on-site. However, given the location of the site this would be acceptable to the Roads Development Unit, as there are accessible public transport links along Grahams Road and on-street parking available to address the issue.
4. The on-street parking at this section of Grahams Road was also not considered to be a problem for the Roads Development Unit, with parking being available at all times of the day. The availability of parking at the time of the site visit was noted.
5. It was also pointed out that this site is established as a retail unit and, although currently vacant, it could re-open for certain uses without the benefit of planning consent. These uses would potentially generate as much traffic as the business proposed, which the Roads Development Unit has taken into consideration.

6. With regard to parking issues highlighted within the adjacent residential estate, it was explained that this would not be taken into consideration when assessing the current application. The adjacent residential estate is an established estate, with parking designed into the layout. The parking issues directly related to the application site were seen to be satisfactory and it was not considered by officers that this proposal would exacerbate any parking difficulties in the residential estate.
7. With regard to the proposed use of the unit as a hot food takeaway, it was advised that the applicant has co-operated with the Council during the application period and the Environmental Protection Unit is satisfied with the proposal. The control of the hours of operation is a matter which the licensing board could consider.
8. The issue raised of the potential for anti-social behaviour at the proposed hot food takeaway was also discussed. It was explained that this was not a material planning consideration, as the actions of individuals who may use the proposed hot food takeaway, or any premises on Grahams Road, cannot be controlled through planning legislation. The use as a hot food takeaway would not introduce a new use to this area of Graham's Road, as it already contains a mixture of commercial premises, including hot food takeaway premises.
9. With regard to the building itself, as an older property, it was explained that the property is not listed and the area is not a Conservation Area. The building façade has in the past had security measures installed, which are unsympathetic to the original design. However, the proposed design would retain the existing façade and is sympathetic to the original design. It would also meet the requirements of the Council's Shopfront Guidance, and bring this currently vacant section of retail frontage back into use.

RECOMMENDATION

10. **It is recommended that detailed planning permission be granted subject to the following conditions:**
 - (1) **The development to which this permission relates must be begun within three years of the date of this permission.**
 - (2)
 - (i) **Unless otherwise agreed in writing no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.**
 - (ii) **Where contamination (as defined by Part 11A of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.**

- (iii) Prior to the commencement of development the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.
- (3) Development shall not begin until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority.
- (4) Before any work is commenced on site, details of the height, location and construction of all fences, walls and other means of enclosure shall be submitted to and approved by the Planning Authority.
- (5) Before any work is commenced on site, details of all materials to be used on the exterior of the building, including roof shall be submitted to and approved by the Planning Authority.

Reason(s):

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To ensure the ground is suitable for the proposed development.
- (3 -5) To safeguard the visual amenity of the area.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our reference numbers 01, 02, 03, 04 and 06.

.....
For Director of Development Services

Date: 20 January 2010

LIST OF BACKGROUND PAPERS

1. Falkirk Local Plan.
2. Falkirk Council Local Plan Finalised Draft (Deposit Version).
3. Letter of objection dated 13 May 2009 from Mrs Jessie Woods, 8 Castings Avenue, Falkirk, FK2 7BJ.
4. Letter of objection dated 23 April 2009 from Mr Kenny Murray, 250 Grahams Road, Falkirk, FK2 7BH.
5. Letter of objection dated 23 April 2009 from Helen McCabe, 2 Castings Avenue, Falkirk, FK2 7BJ.
6. Letter of objection dated 06 May 2009 from William Thompson, 23 Ewing Avenue, Falkirk, FK2 7LS.
7. Letter of objection dated 15 April 2009 from J I Bian, 226 Grahams Road, Falkirk, FK2 7BH.
8. Letter of objection dated 30 April 2009 from Dhillon's, 264 - 266 Grahams Road, Falkirk, FK2 7BH.
9. Letter of objection dated 24 April 2009 from Mr Scott Murray, 19 Ewing Avenue, Falkirk, FK2 7LS.

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

FALKIRK COUNCIL

Subject: MIXED USE DEVELOPMENT COMPRISING CHANGE OF USE OF SHOP / STORE TO HOT FOOD TAKEAWAY, AND EXTENSION TO REAR OVER TWO FLOORS TO PROVIDE TWO MAISONETTE FLATS AT 234 GRAHAMS ROAD, FALKIRK, FK2 7BH FOR MR J AKTHAR - P/09/0214/FUL

Meeting: PLANNING COMMITTEE

Date: 2 December 2009

Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Grahamston, Westfield and Middlefield

Case Officer: Stephen McClure (Planning Officer), ext 4702

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site comprises a shop unit located on Grahams Road with a large yard to the rear. The unit is currently vacant and the yard is overgrown and disused. It is proposed to renovate and extend the existing premises to accommodate a hot food takeaway at street level with two flats above.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in by Provost Pat Reid.

3. SITE HISTORY

- 3.1 Planning Application ref: P/08/0969/FUL comprising a Hot Food Takeaway and Flatted Dwellings, was withdrawn.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has stated that there is no scope to provide any parking. Therefore, there would be no roads conditions to be attached to any permission to be granted.
- 4.2 Scottish Water has no objection to the proposal.

- 4.3 The Environmental Protection Unit is satisfied that the applicant provided further detailed specifications in regards to odour and noise. This now satisfies the requirements. A site investigation to establish if contamination (as defined by Part 11a of the Environmental Protection Act 1990) is present on site is required.

5. COMMUNITY COUNCIL

- 5.1 Grahamston, Westfield and Middlefield Community Council did not comment.

6. PUBLIC REPRESENTATION

- 6.1 7 letters of objection have been received. The salient issues are summarised below.

- Will affect neighbouring hot food takeaway businesses by taking away customers.
- Too many hot food takeaways already exist on Grahams Road.
- Will add to the existing smells that come from Hot Food Takeaways.
- Will cause more noise.
- Will create extra litter on the streets.
- Will attract intoxicated persons.
- The street is not suitable for parking.
- Will attract more people to the area late at night.
- The unit in question would benefit from being used for another business not related to food.

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 There are no relevant policies within the Falkirk Structure Plan.

Falkirk Local Plan

7a.2 The relevant policies against which assessment was made are:

7a.3 Policy FAL 3.7 'Shopfront Design' states:

"The design of new or altered shopfronts should be well-proportioned and sympathetic to the character of the building of which they are part. Where possible, the preservation or restoration of existing traditional shopfront features such as stallrisers, pilasters, cornices, friezes and mouldings will be encouraged."

7a.4 The proposed shop front is well-proportioned and sympathetic to the character of the building of which it is part. Where possible, existing features are being preserved and/or restored. It is therefore considered that the proposal accords with Policy FAL 3.7.

7a.5 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.6 The proposed flatted dwellings are surrounded by residential dwellings, including flatted dwellings. The properties have been designed to allow a satisfactory level of residential amenity to be achieved, by both being adequately sound-proofed against exterior noise at this location, and from any odours created by the proposed ground floor use as a hot food takeaway. The proposed properties would not have dedicated parking but, due to the location near the town centre and on main bus routes, the Roads Unit has not asked for parking spaces. There are parking spaces available on the road to the front of the properties. All other infrastructure proposed is to an adequate standard. Due to the central location, the properties will have access to a range of community services and public transport options. It is therefore considered that the proposal accords with Policy FAL 5.1.

7a.7 Policy FAL 7.8 ‘Food and Drink Outlets’ states:

“Proposals for food and drink outlets (Class 3 as defined by the Town and Country Planning (Use Classes)(Scotland) Order 1997), public houses and hot food takeaways will only be permitted where:

- (i) there will be no adverse impact on the amenity of adjacent residential properties, or the surrounding area generally, by virtue of noise, disturbance, litter or odours;*
- (ii) the proposal meets the terms of Policy FAL 7.9 on protected shopping frontages; and*
- (iii) the proposal is satisfactory in terms of parking, access and traffic generation.”*

7a.8 The proposed hot food takeaway would not be introducing a new use to this area. Grahams Road is a main access into the Town Centre and contains a mix of commercial uses, including existing hot food takeaways. It is not considered that this further proposal would have an adverse impact on the amenity of the surrounding area or adjacent residential properties. The Environmental Protection Unit is satisfied that odour and noise attenuation has been adequately addressed nor would there be any significant additional disturbance, noise or litter, as the street is already a busy thoroughfare. The proposal would not exacerbate parking, access and traffic generation issues. It is therefore considered that the proposal accords with Policy FAL 7.8.

7a.9 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

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

- Falkirk Council Local Plan Finalised Draft (Deposit Version).
- Public Representations.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.2 Policy EQ11 ‘Shopfronts’ states:

- “(1) The design of new or altered shopfronts should be well-proportioned and sympathetic to the character of the building of which they are part. The retention and restoration of existing traditional shopfront features such as stallrisers, pilasters, cornices, friezes and mouldings will be required; and*
- (2) External security measures should not detract from the character of the building or the area in general. Where such measures are necessary, there will a presumption in favour of perforated shutters and grilles, as opposed to solid roller shutters.”*

7b.3 Policy SC2 - ‘Windfall Housing Development Within The Urban / Village Limit’ states:

“Housing development within the Urban and Village Limits, in addition to proposals identified within the Local Plan, will be supported where the following criteria are met:

- (1) The site is a brownfield one, or comprises urban open space whose loss can be justified in terms of Policy SC12;*
- (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, water supply, 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 SC11;*
- (5) *In the case of small gap sites and sub-divided plots, Policy SC8 is satisfied; and*
- (6) *There is no conflict with any other Local Plan policy or proposal.”*

7b.4 Policy SC8 ‘Infill Development and Subdivision of Plots’ states:

“Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:

- (1) *the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) *adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) *adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) *the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) *the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) *the proposal complies with other Local Plan policies.”*

7b.5 Policy EP9 – 'Food And Drink' states:

“Proposals for Class 3 uses, hot food takeaways and public houses will be encouraged to locate within centres, in association with other neighbourhood shops or services, or in other locations where they are capable of serving a tourism function. It must also be demonstrated that:

- (1) *There will be no adverse impact on the amenity of adjacent residential properties, or the surrounding area generally, by virtue of noise, disturbance, litter or odours;*
- (2) *In the case of proposals within a centre, the proposal is consistent with the specific policies covering the relevant centre, particularly with regard to safeguarding the centre’s retail function; and*
- (3) *Parking, access and traffic generation requirements are satisfied.”*

7b.6 The relevant policies contained within the Falkirk Council Local Plan – Finalised Draft (Deposit Version), reinforce and affirm policies FAL 3.7, 5.1, 7.8. The proposed shop front is well - proportioned and sympathetic to the character of the building, and the housing element is compatible with neighbouring uses. It is also considered that a satisfactory level of residential amenity can be achieved and the site is well served by community facilities as well as good access to public transport. All other physical infrastructure is in-place at the site and it satisfies Policy SC8 for Infill Developments and Sub-division of Plots. The proposed hot food takeaway element would also be satisfactory, as there will be no adverse impact on the amenity of surrounding residential properties, including those proposed above or the surrounding area in general by virtue of noise, disturbance, litter and odour. The Roads Unit is satisfied with the parking, access and traffic generation at the location. It is therefore considered that the proposal accords with Policy EQ11, SC2, SC8 and EP9.

7b.7 Accordingly the proposal accords with the provisions of the Falkirk Council Local Plan Finalised Draft (Deposit Version).

Summary of Public Representations

- The increased competition to existing hot food takeaways in the vicinity is not a material planning consideration.
- Grahams Road is not a protected retail (shop frontage) location. There are several other similar businesses on Grahams Road, but due to the amount of units and variety of uses, it would not be considered that there is an accumulation of this use.
- The proposed hot food takeaway has satisfied Environmental Protection in relation to odour control, especially as there are proposed flatted dwellings above the unit.
- It is not considered that the addition of this establishment would exacerbate noise at this location. There are already similar businesses nearby in the Grahams Road area. There is no evidence to show that the addition of this establishment would increase traffic, both pedestrian and vehicular to any great degree at this location, therefore not increasing existing noise levels. The Environmental Protection Unit is satisfied that the proposed noise measures in relation to equipment are adequate.
- There is no evidence to show that litter would increase at this location due to the proposed hot food takeaway. It is already a busy street that contains existing hot food units and therefore this would not be a new use to the area. In any case, this is not a material planning consideration.
- Anti-social behaviour arising from the proposed hot food takeaway is not a material planning consideration.
- There are already existing parking opportunities to the front of the proposed hot food takeaway on Grahams Road and the Roads Unit are satisfied with this proposal.

7c Conclusion

7c.1 It is considered that the proposal is acceptable development, is in accordance with the Development Plan, and the Falkirk Council Local Plan Finalised Draft (Deposit Version). There are no other material planning considerations which would justify a refusal of planning permission.

8. RECOMMENDATION

8.1 It is recommended that planning permission be granted subject to the following condition(s):-

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

- (2) (i) Unless otherwise agreed in writing no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.
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Reason(s):

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Informative(s):

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Director of Development Services

Date: 25th November 2009

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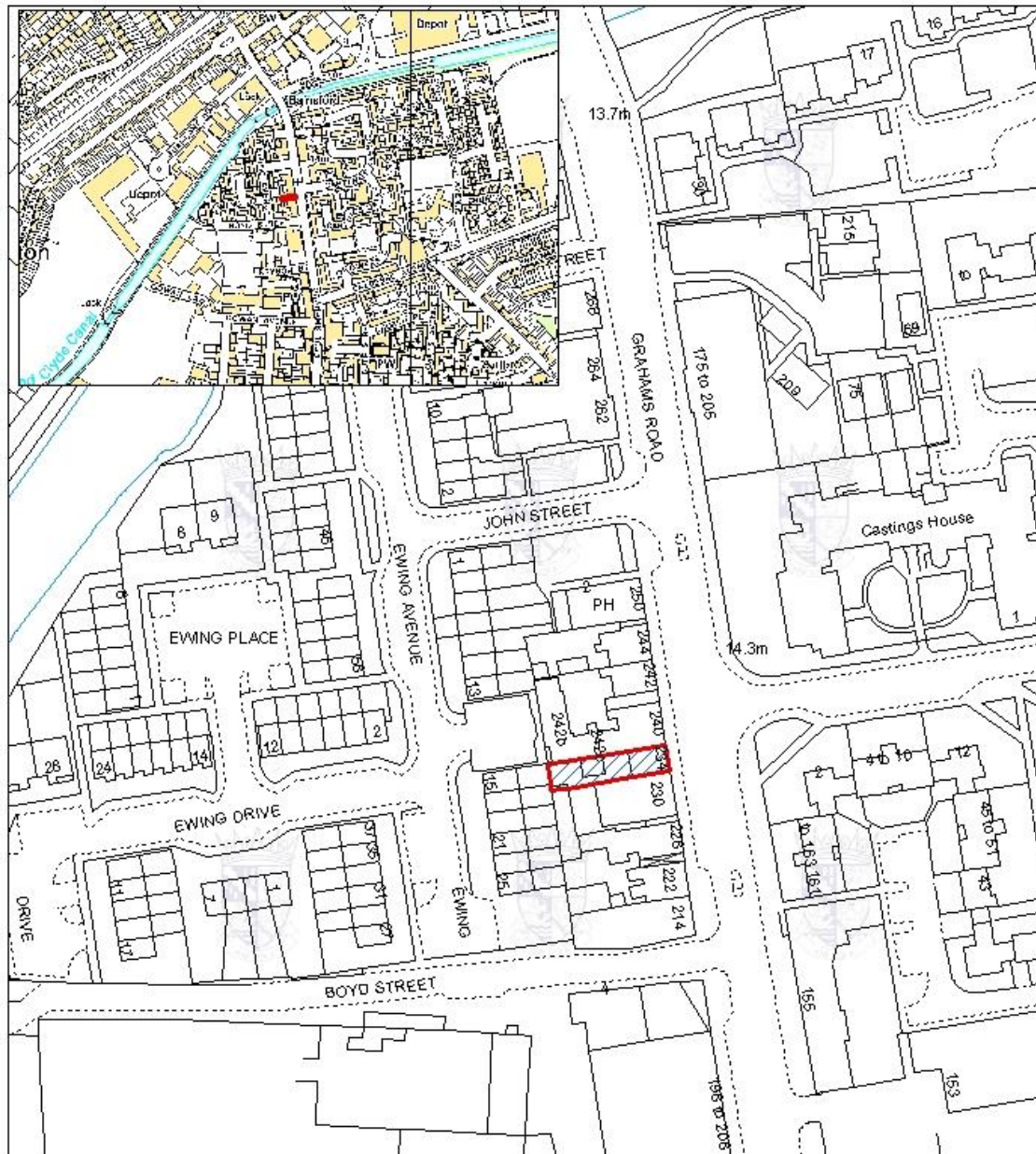
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure (Planning Officer).

Regulatory Committee

Planning Application Location Plan

P/09/0214/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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