

**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE OF EXISTING PUBLIC HOUSE TO HOT FOOD TAKEAWAY, ALTERATIONS TO SHOPFRONT AND INSTALLATION OF FLUE AT MAGPIE, MAGGIE WOODS LOAN, FALKIRK, FK1 5HR, FOR OBAN BAY PROPERTIES LIMITED – P/10/0621/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 January 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South  
Councillor Gerry Goldie  
Councillor Joe Lemetti  
Councillor John Patrick  
Councillor Georgie Thomson

**Community Council:** Falkirk Central

**Case Officer:** Gavin Clark, (Assistant Planning Officer) Ext. 4704

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

- 1.1 This planning application proposes the change of use of a public house to a hot food takeaway. The proposed works include alterations to the shop front and the installation of a ventilation flue on the roof of the premises.
- 1.2 The application site forms part of a small retail centre, which includes a hot-food takeaway, mini supermarket, tanning salon and driving test centre.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to Committee by Councillor John Patrick.

**3. SITE HISTORY**

- 3.1 Application F/97/0364 was granted planning permission on 22 January 1998 for alterations and part change of use of public house to form shop (Class 1)

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit has assessed the application in terms of road safety and parking requirements and has no objection to the proposal.
- 4.2 The Environmental Protection Unit has requested further information in relation to the cooking odour extraction system, including the filter and its location, and measures to control noise emissions from any extraction or ventilation systems.

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

- 5.1 The Falkirk Central Community Council has not made comment on the application.

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

- 6.1 Three letters of representation have been received following the neighbour notification process. The issues raised are summarised as follows:
- proliferation of hot-food takeaways in the surrounding area;
  - size of premises;
  - no suitable access for wheelchair users;
  - cooking odours;
  - traffic generation;
  - litter.

#### **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 policies in the Falkirk Council Structure Plan relevant to the determination of this application.

## ***Falkirk Council Local Plan***

7a.2 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.”*

7a.3 The site forms part of a group of uses including neighbourhood shops and services and is considered to be acceptable in land use terms. Detailed specifications of the proposed cooking odour extraction system and information indicating measures employed to control noise emissions from any extraction or ventilation systems can be covered by conditions.

7a.4 The proposal would be acceptable in terms of road safety and parking requirements.

7a.5 Accordingly, the proposed development accords with the Development Plan.

### **7b Material Considerations**

#### ***Representations Received***

7b.1 The number of hot-food takeaways in the surrounding area and the size of the property are not material planning considerations.

7b.2 An amended plan has been submitted showing suitable wheelchair access.

7b.3 The Roads Development Unit have raised no concerns in terms of traffic generation.

7b.4 Noise and smell issues can be covered by planning condition, with further information to be submitted to, and approved by the Planning Authority. However, if complaints were to be received regarding noise and odour nuisances the Environmental Protection Unit would be obliged to investigate and take action as necessary.

### **7c Conclusion**

7c.1 The proposal is considered to be an appropriate form of development in accordance with the provisions of the Development Plan. There are no material planning considerations which would warrant refusal of planning permission.

## **8. RECOMMENDATION**

8.1 It is therefore recommended that Committee grant planning permission 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) Prior to the approved use being open to the public, detailed specifications of the cooking odour extraction system, including its filters and its proposed termination point shall be submitted to the Planning Authority. For the avoidance of doubt, the approved use shall not open to the public until written approval of these details has been given by the Planning Authority and the approved cooking odour extraction system has been installed.
- (3) Prior to the approved use being open to the public, detailed measures employed to control noise emissions from any extraction or ventilation systems shall be submitted to the Planning Authority for approval. For the avoidance of doubt, the approved use shall not open to the public until these details have been submitted 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.
- (2,3) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.

Informative(s):-

- (1) This application was submitted online, and the decision notice is issued without plans. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and 02.
- (2) 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 - 18:00 Hours
Saturday	09:00 - 17:00 Hours
Sunday/Bank Holidays	10:00 - 16:00 Hours

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

- (3) In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.

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Director of Development Services

Date: 18 January 2011

**LIST OF BACKGROUND PAPERS**

1. Structure Plan
2. Falkirk Council Local Plan.
3. Letter of Objection received from Mr Peter Rowe, 16 Dundas Street, Bo'ness, EH51 0DG on 30 September 2010.
4. Letter of objection received from Mr James Baird, 56 Dumyat Drive, Falkirk, FK1 5PA on 19 November 2010.
5. Letter of objection received from Bantaskine Tenants Residents Group, 21 Shannon Drive, Falkirk, FK1 5HU on 3 December 2010.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504704 and ask for Gavin Clark, Assistant Planning Officer.

# Planning Committee

## Planning Application Location Plan **P/10/0621/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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