

**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:** 23 March 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

**UPDATE REPORT FOLLOWING SITE VISIT**

1. Members will recall that this planning application was originally considered at the Planning Committee on 26 January 2011 and 23 February 2011 (copy of previous reports appended), when it was agreed to continue the planning application for a further site visit to undertake an internal inspection. This visit took place on 7 March 2011.
2. At the site visit, the Committee viewed the internal layout of the property.
3. The current tenant's father was heard in support of the application and advised that the current use as a public house was not viable and that the property since it had become vacant it had been the subject of vandalism.
4. Objectors were heard on issues including amendments to the front of the property, parking, opening hours, vandalism, litter and noise.
5. The Roads Officer advised that a hot-food takeaway required fewer parking spaces than that of a public house (10-15 spaces per 100 sq m as opposed to 10-40 spaces per 100 sqm) and that parking counts on Westburn Road in 2009 showed 1500 vehicles northbound and 800 vehicles southbound and advised that this was lower than on a number of streets in the surrounding area.

6. Members sought clarification on the opening hours of the proposed hot food takeaway, highlighted issues about the site history, parking, litter / anti social behaviour and the lack of required information to assess the application.
7. Issues relating to anti-social behaviour and litter are not material planning considerations, the litter being a matter for licensing. It should also be noted that the public house operation could resume from the premises without the need for further planning permission requiring to be sought.
8. No matters were raised which would amend the original recommendation to grant planning permission.

## **9. RECOMMENDATION**

**9.1 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: 15 March 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.

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**Meeting:** PLANNING COMMITTEE

**Date:** 23 February 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

**UPDATE REPORT FOLLOWING SITE VISIT**

1. Members will recall that this planning application was originally considered at the Planning Committee on 26 January 2011 (copy of previous report appended), when it was agreed to continue the planning application for a site visit. This visit took place on 7 February 2011.
2. At the visit, the Committee viewed the application site boundary.
3. Members sought clarification on the opening hours of the proposed hot food takeaway, problems in relation to traffic generation and parking. Clarification was also sought on other hot-food uses in the area, a current planning application for a change of use of DVLA test centre and the layout of the proposed property.
4. An objector was also heard and raised issues in relation to traffic generation, litter and parking facilities.
5. Local Member, Councillor John Patrick was heard in relation to the proposal.

6. In response to issues raised on site Members may wish to note that planning permission (Ref: P/10/0858/FUL) was granted on 7 February, 2011 for a change of use of the driving test centre to a café at 11 Maggie Woods Loan. This permission has not yet been implemented and is dependent on alternative premises in Grangemouth being licensed by the Driving Standards Agency. There is no timescale available at the moment to confirm when this would happen. Planning permission (Ref: F/97/0634) for the part change of use of the Magpie public house to form a shop was granted in January 1998. This permission has been implemented and allows the sale of hot food ancillary to the shop use. With regard to planning application reference P/10/0621/FUL the agent has confirmed verbally, following the site meeting, that the opening hours for the proposed hot food takeaway have not yet been finalised as a lease for the site has not yet been signed. However, he did not expect it to be different to the existing hours of the public house. There are no sit-in facilities proposed; and the proposal is solely for take-away purposes. The issue of litter is not one that can be regulated by planning legislation and would be for Licensing to control/monitor. The issue of traffic generation is not considered to significantly alter the current situation when taking into consideration the existing use of the premises being a public house use.
7. No matters were raised which would amend the original recommendation to grant 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:

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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:** 16 February 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.
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**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.
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Reason(s): -

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Informative(s):-

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Director of Development Services

Date: 18 January 2011

**LIST OF BACKGROUND PAPERS**

1. Structure Plan
2. Falkirk Council Local Plan.
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# 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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