

**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM SHOP (CLASS 1) TO HOT FOOD TAKE-AWAY AT THE VILLAGE SHOP, REDHOUSE INDUSTRIAL ESTATE, SHIELDHILL ROAD, REDDINGMUIRHEAD, FALKIRK, FK2 0DT FOR MR MARIO MORROCCO - P/11/0500/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 5 December 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Lower Braes  
Councillor Steven Jackson  
Councillor Malcolm Nicol  
Councillor Alan Nimmo

**Community Council:** Reddingmuirhead and Wallacestone

**Case Officer:** Alan Scott (Assistant Planning Officer), Ext. 4880

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

- 1.1 The application site is located within a row of commercial units on the south side of Shieldhill Road in Reddingmuirhead. It is proposed to change the use of the existing premises from a shop to a hot food takeaway. The existing shop use falls within Class 1 of the Town and Country Planning (Use Classes) Order. The proposed use does not fall within any class. The premises are currently vacant, having most recently been occupied as a newsagent.
- 1.2 The proposed operating hours are 11:30 - 13:30 (Monday - Friday) and 16:00 - 22:00 (Monday - Sunday). Following submission of the information provided by agent, application revised plans have been submitted which include details of the extraction system and noise control.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to Committee by Councillor Malcolm Nicol.

**3. SITE HISTORY**

- 3.1 No relevant planning history.

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit have stated that the proposal may generate more on-street parking at this relatively busy section of road, and may cause additional parking pressure in the surrounding residential area, and that this would be a concern from a roads point of view.
- 4.2 Following receipt of additional information providing details of noise and odour control measures the Environmental Protection Unit has raised no objections but recommends an informative concerning potential contaminated land should permission be granted.

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

- 5.1 Reddingmuirhead and Wallacestone Community Council stated that whilst it was preferable to have an occupied unit, it was felt that there wasn't the need for another hot food outlet. The Community Council comment that resultant problems, in particular parking, would outweigh the benefits to this community.

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

- 6.1 During the course of the application, nine letters of objection were received. The salient issues are summarised below:
- Adverse impact on existing business of similar nature
  - Limited parking available
  - No provision for parking
  - No provision for improved drainage
  - Potential for additional traffic, noise and smell, poor hygiene
  - Negative impact on property prices
  - Exacerbate existing litter problems
  - Proposal could result in job losses at existing business
  - Rise in anti-social behaviour

#### **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 relevant to this proposal contained in the Structure Plan.

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

7a.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.”*

7a.3 Policy EQ11 Shopfronts seeks to ensure that shopfront design contributes to the environmental quality of shopping areas. The proposal involves minor alterations to the shopfront to minimise the high level advertising and proposes retention of the existing shop windows and recessed doorway. It is considered that retention of the existing shopfront arrangement would ensure that the property would preserve the appearance of an active frontage. The application accords with Policy EQ11.

7a.4 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.5 Policy EP9 Food and Drink provides criteria for judging the acceptability of Class 3 uses, hot food take-away shops and public houses, where such uses are encouraged to locate within centres in association with other neighbourhood shops or services. It is not considered that the proposal would result in an adverse impact on the amenity of adjacent residential properties by virtue of noise, disturbance, litter or odours. It is considered that the current permitted retail use could have a similar impact on the surrounding area as a hot food take-away in terms of traffic generation. The proposal is located adjacent to other similar neighbourhood services and while the Roads and Development Unit have expressed concern regarding on-street parking it is not considered that there would be a significant increase in traffic. The application accords with Policy EP9.

7a.6 Accordingly, the proposal accords with the Development Plan.

## **7b Material Considerations**

- 7b.1 Material considerations of relevance to the proposal are Falkirk Council's Supplementary Planning Guidance, the consultation responses and the public representations.

### ***Falkirk Council's Supplementary Planning Guidance***

- 7b.2 The application accords with the advice contained within the Supplementary Planning Guidance Note on Shopfronts, in particular in relation to the elevational composition, material finishes and recessed door.

### ***Consultation Responses***

- 7b.3 The Environmental Protection Unit requested additional information relating to the cooking odour extraction system and any measures to be employed to control noise emissions from the ventilation systems. This additional information was submitted by the applicant's agents to the satisfaction of the Environmental Protection Unit. However the Unit stressed that, should any noise or odour complaints be received, the Unit would be obliged to investigate and act as necessary under Statutory Nuisance legislation contained in the Environmental Protection Act.
- 7b.4 The concerns of the Roads and Development Unit are noted in relation to the lack of on-street parking in the vicinity of the premises and the potential to create a road safety hazard. However, it is considered that the proposed use is entirely appropriate for this type of small scale industrial location and would generate a similar level of traffic as the existing permitted use.

### ***Assessment of Public Representations***

- 7b.5 Competition between businesses of a similar nature is not a material planning consideration.
- 7b.6 It is considered that the level of parking directly outside the application site is typical of a small scale industrial location and it should be noted that there is no designated parking for any of the units in the block which currently includes a cafe/hot food take-away and fish processing factory as well as various unoccupied units.
- 7b.7 It is considered that a newsagents and hot food take-away are similar in terms of traffic generation and parking requirements.
- 7b.8 There is a car park to the rear of the premises which could be used for staff parking.
- 7b.9 Drainage has not been raised as a potential problem through consultations with either the Environmental Protection Unit or the Roads Development Unit.
- 7b.10 The proposed odour filtration specification and noise control measures are being assessed by the Environmental Protection Unit and are considered acceptable.
- 7b.11 It is considered that existing parking restrictions outside the application site would prevent indiscriminate parking.
- 7b.12 Property values are not a material planning consideration.

- 7b.13 The issue of littering is not one which could be regulated by planning legislation and would be a matter for Licensing to control/monitor.
- 7b.14 Any issues relating to anti-social behaviour are not a material planning consideration and are a concern for the Police.

## **7c Conclusion**

- 7c.1 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, it is considered the proposal complies with the adopted Falkirk Council Local Plan. There are no material considerations that would justify refusing the application.
- 7c.2 On that basis the application is recommended for approval subject to the following condition.

## **8. RECOMMENDATION**

- 8.1 It is therefore recommended that Committee grant planning permission 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) Details of a litter management scheme to be submitted to and approved by the Planning Authority in writing before the commencement of the use. Thereafter the approved litter management scheme shall be installed and operational before the take-away commences trading.

### **Reason(s):-**

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To safeguard the environmental amenity of the area.

### **Informative(s):**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A.

- (2) 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: 25 November 2011

#### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Falkirk Council's Supplementary Planning Guidance on 'Shopfronts'.
4. Letter of objection from Allison Bergin, Fastsnax, Unit 2, Redhouse Industrial Estate, Shieldhill Road, Reddingmuirhead, FK2 0DT received on 24<sup>th</sup> August 2011.
5. Letter of objection from Mr Ewan Steele, 2 Sandybank, Shieldhill Road, Reddingmuirhead, FK2 0DT received on 26<sup>th</sup> August 2011.
6. Letter of objection from Mr Brian Walker, 4 Sandybanks, Shieldhill Road, Reddingmuirhead, FK2 0DT received on 27<sup>th</sup> August 2011.
7. Letter of objection from Carol Ann Morland, 30 Wesley Place, Shieldhill Road, Reddingmuirhead, FK2 0DS received on 6<sup>th</sup> September 2011.
8. Letter of objection from Mrs Fiona Dunbar, 42 Wesley Place, Shieldhill Road, Reddingmuirhead, FK2 0DS received on 9<sup>th</sup> September 2011.
9. Letter of objection from Mr Alexander Whyte, 9 Nobel View, Reddingmuirhead, FK2 0EF on behalf of Reddingmuirhead and Wallacestone Community Council received on 9<sup>th</sup> September 2011.
10. Letter of objection from Mr & Ms MacLeod, 1 Sandybank, Shieldhill Road, Reddingmuirhead received on 9<sup>th</sup> September 2011.
11. Letter of objection from Mr Jim Cutaia, 46 Wesley Place, Shieldhill Road, Falkirk, FK2 0DS received on 10<sup>th</sup> September 2011.
12. Letter of objection from Mr Bill Wales (No address given) received on 15<sup>th</sup> September 2011.
13. Letter of objection from Frazer Simpson (No address given) received on 15<sup>th</sup> September 2011.

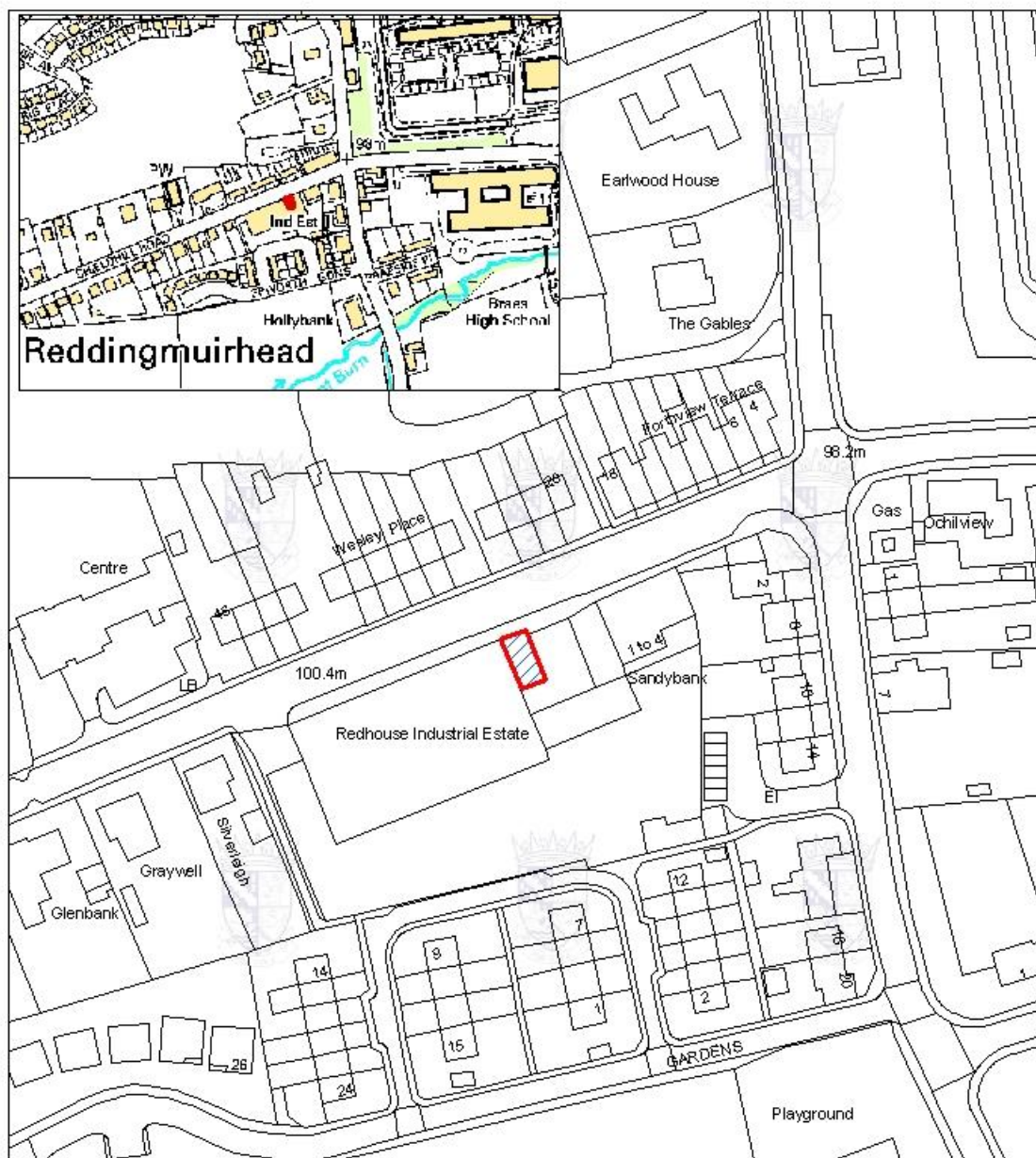
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Alan Scott (Assistant Planning Officer)

# Planning Committee

## Planning Application Location Plan

**P/11/0500/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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