

FALKIRK COUNCIL

Subject: CHANGE OF USE FROM CLASS 2 (FINANCIAL, PROFESSIONAL AND OTHER SERVICES) TO HOT FOOD TAKEAWAY (SUI GENERIS) AND INSTALLATION OF FAN AT 6 WAGGON ROAD, BRIGHTONS, FALKIRK FK2 0ES FOR NEW YORK PIZZA CO. INC - P/12/0611/FUL

Meeting: PLANNING COMMITTEE

Date: 27 February 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Upper Braes

Councillor Gordon Hughes
Councillor John McLuckie
Councillor Rosie Murray

Community Council: Brightons

Case Officer: Julie Seidel, (Planning Officer), Ext. 4880

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was considered at the meeting of the Planning Committee on 30th January 2013 (copy of report appended), when it was agreed to continue the application for a site visit. This visit took place on Friday 15th February 2013.
2. The proposal was summarised by the case officer and Members were advised that a number of letters of support that had been received had been withdrawn and allegations made that some of those letters had been submitted without the knowledge of the person named. Discussions on site then focused on the traffic impacts of the proposal and existing problems in the area associated with the movement of vehicles and lack of parking.
3. The applicants advised Members that although hot food sales directly from the premises to the visiting public are proposed it is intended that the majority of sales would be for delivery rather than collection. The applicants intend to encourage the public to use an online system to order hot food for delivery rather than visit the premises. Deliveries would be made by staff working from the premises. The applicant advised that he lived locally and he would encourage staff to park within his driveway or at the local community centre. Staff would use motorcycles to provide the deliveries. In response to questions from Members of the Committee, the applicants advised that it is proposed that the premises would be open for collection and deliveries of hot food between 5pm and 12pm. Staff would enter the premises to start food preparation at approximately 3pm.

4. The Convener read out a letter of objection from Mrs Fiona Dryburgh. The concerns raised included parking problems, smells and litter. A letter of support from Angus MacDonald MSP was read out and the Committee also heard representations from a local Member in support of the proposal with reference to the creation of local employment and regeneration of empty premises.
5. Objections on behalf of the operator of a nearby hot food shop were heard from a planning consultant. The consultant advised Members that his client did not have any concerns regarding potential competition on the grounds that people visiting the premises to buy pizza may also wish to visit his own premises to buy Chinese food but he does have traffic/ parking concerns. The consultant highlighted that if planning permission is granted for the proposal the Council can not prevent the public visiting the premises to collect hot food. Although the applicants have commented that the majority of sales would be for home delivery this can not be controlled by the Council and use of the premises by another hot food takeaway business would not require further planning permission. If this permission is granted any hot food facility could use these premises and not the online business proposal the applicant has before Committee.
6. Supporters who spoke at the site visit raised issues regarding the need to encourage regeneration of the area and commented that a class 1 retail use would generate the same traffic and need for parking as the proposed development.
7. The Council's Roads Officer advised that the proposed use would exacerbate existing parking issues in the area and the Council has no proposals to provide a car park in the area to serve the proposed development. A Member of the Planning Committee queried why double yellow lines directly in front of the application site had recently been removed and noted that vehicles were parking on the pavement restricting pedestrian access. The Council's Roads Officer confirmed that this work had been carried out recently because there is no traffic regulation order in place to allow the police to enforce parking restrictions on this part of the road. The Roads Officer also advised that prevention of parking on the pavement and obstruction of the footway is a matter for the police to enforce.
8. No matters arose at the site visit that would alter the original recommendation to refuse planning permission.

9. RECOMMENDATION

- 9.1 **It is therefore recommended that Committee refuse planning permission for the following reasons:-**

- (1) The proposed hot food takeaway would lead to an unacceptable intensification of the current class 2 use, that is considered to have a limited impact on traffic generation and parking demand in the local area. The resulting increase in staff numbers, customers and vehicles visiting the premises associated with the proposal would result in an unacceptable increase in traffic generation and parking demand, to the detriment of road safety. The application site is located in an area which is not served by any public car parks, has extremely limited access to on-street parking and is located on a narrow one way street with parking restrictions. It is considered that the surrounding road network could not absorb the proposal and the use and the increased demand for on-street parking could have an adverse impact on the residential amenity of the surrounding residential area, contrary to the terms of policy EP9 'Food and Drink' of the Falkirk Council Local Plan.
- (2) The proposed hot food takeaway is unable to achieve any off-street parking, contrary to the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".

Informatives:

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

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Director of Development Services

Date: 19 February 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Local Plan.
2. Letter of Objection received from Wholeness Through Christ, 51 Maddiston Road Brightons, Falkirk, FK2 0JR on 15 October 2012.
3. Letter of Representation received from Mr Ian McLuckie, Dunvegan, Park Avenue, Brightons, FK2 0JE on 16 October 2012.
4. 7.Letter of Objection received from Mr Michael Smith, Woodside Cottage, Waggon Road, Brightons, FK2 0ES on 17 October 2012.
5. Letter of Representation received from Mr Ian Mcluckie, Dunvegan, Park Avenue, Brightons, Falkirk, FK2 0JE on 27 October 2012.
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29. Letter of Support from Ian Hennaway, 9 Salmon Inn Park, Polmont, Falkirk, FK2 0JQ on 29 November 2012.
30. Letter of Support from Yvonne Kerry, 4 Glendale, Brightons, Falkirk FK2 0TW on 29 November 2012.
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33. Letter of Support from David Thomson, Beechwood Cottage, Redding Road, Brightons, Falkirk, FK2 0HG on 29 November 2012.
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35. Letter of Support from Owner/Occupier, 47 Slamannan Road, Limerigg, Falkirk, FK1 3BN on 29 November 2012.
36. Letter of Support from Janine Lamont, 15 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
37. Letter of Support from J Webster, 24 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
38. Letter of Support from Sylvia Fiddler, 27 Stanley Gardens, Maddiston, Falkirk, FK2 0LN on 29 November 2012.
39. Letter of Support from Hair and Beauty, Waggon Road, Brightons, Falkirk FK2 0ES, on 29 November 2012.
40. Letter of Support from Stuart and Lee McNeil , The Spar, Maddiston Road, Brightons, Falkirk on 29 November 2012.
41. Letter of Support from David Blelloch, 22 Greenlithe Drive, Rumford, Falkirk on 29 November 2012.
42. Letter of Support from Chris Thom, 52 Sunnyside Road, Brightons, Falkirk on 29 November 2012.
43. Letter of Support from Lisa Hunter, 11 Maddiston Road, Brightons, Falkirk, FK2 0ESon 29 November 2012.
44. Letter of Support from David Simmond, no address, on 29 November 2012.

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

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Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Upper Braes

Councillor Gordon Hughes
Councillor John McLuckie
Councillor Rosie Murray

Community Council: Brightons

Case Officer: Julie Seidel, (Planning Officer), Ext. 4880

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to the change of use from a class 2, financial, professional and other services, to a sui generis, hot food takeaway use. The applicant has provided a sketch that shows how the internal layout of the hot food shop could be arranged, the drawing is not to scale and is therefore indicative only. The applicant has also submitted a specification for a proposed extraction fan, although the applicant has not shown where the proposed fan outlet would be located on the building.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called to Committee by Councillor John McLuckie.

3. SITE HISTORY

- 3.1 P/07/0523/FUL - change of use of shop (class 1) to estate agent (class 2) - granted on 9 August 2007, planning permission implemented. The most recent use of the application site was as a barber shop.

4. CONSULTATIONS

- 4.1 The Roads Development Unit advise that the application site is located on a one-way street with parking restrictions. The application site is also within 25 metres of the junction with Maddiston Road at Brightons Cross, a busy, awkward shaped junction with poor forward visibility and parking restrictions. The proposed shop would have an approximate gross floor area of 33 square metres and as such 3 off-street vehicular parking spaces would be required to serve the proposed change of use. The parking requirements cannot be achieved and on street parking is heavily used. The Unit advise against the proposed development on the basis that the proposal could add to the difficult parking situation and road safety concerns in the overall location.
- 4.2 The Environmental Protection Unit advise that the information submitted in relation to odour and noise control is insufficient to fully consider the proposals. Given the close proximity of the application site to adjacent dwellings, a detailed specification of the proposed cooking odour extraction system, including its proposed location on the building, measures to control odour emissions and noise emissions are required.
- 4.3 Central Scotland Police have not responded to consultation.

5. COMMUNITY COUNCIL

- 5.1 The Brightons Community Council comments that any proposal should be fully investigated to determine and ensure there would be no negative effects on existing business viability, traffic flow, congestion and parking and the storage of bins. The Community Council also recommends the implementation of a robust litter management scheme as a condition of any planning permission. The regeneration of the commercial property is welcomed in the village if a positive well managed plan can be made to enhance the diversity and amenity of the village.

6. PUBLIC REPRESENTATION

- 6.1 43 third party comments were received in relation to the proposed development. This included 5 objections and 2 representations raising the following issues:
- The proposed development would exacerbate current parking, access and traffic generation problems at Waggon Road and impact on road safety;
 - Waggon Road is in a poor state of repair, with pot holes and damage to the pavement;
 - There is already a hot food shop in the area;
 - Submitted plans are poor quality and make it difficult to fully assess the proposals;
 - The applicant has not addressed litter or noise issues;
 - The proposal is in the 'wrong' location; and

- Two representations raised issues in relation to neighbour notification. However, this was clarified with the representee at the application stage to his satisfaction.

6.2 36 letters of support to the proposed development were received, raising the following issues:

- There are no other ‘quality’ food delivery operation in the area and the proposed development would offer a choice;
- The application would be a benefit to the local community;
- Local jobs would be created; and
- The proposal would result in a decrease in traffic generation as it would be primarily a delivery service.

6.3 Members should note that the Service have received letters and phone calls from various parties withdrawing support for the application, claiming that a letter was submitted without permission in their name, or a with different name at their address. To date these letters of support have been formally withdrawn.

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 Local Plan

7a.1 Policy EQ13 ‘Areas of Townscape Value’ states:

“The Council recognises the architectural and historic merit and potential of the additional areas of townscape value identified on the Proposals Map, which do not currently have Conservation Area status. Within these areas:

- (1) The Council will undertake Character Appraisals to determine whether the areas merit designation as Conservation Areas, either as new Conservation Areas, or as extensions to existing ones; and*
- (2) Development proposals will be required to fit with the distinctive character of the area with particular reference to the historic pattern and density of development; its setting; the architectural style, massing and materials of buildings; landscape treatments; and boundary features.”*

7a.2 The application site is located in an area of townscape value, as identified on the policies and proposals map of the Falkirk Council Local Plan. The proposal relates to the change of use of an existing class 2 use to a hot food takeaway. The application does not include any significant alteration to the external fabric of the building and any proposed advertisements would form a separate application for advertisement consent. It is, therefore, considered that the distinctive character and historic setting of the surrounding area would not be significantly affected by the proposals, in accordance with policy EQ13 'Areas of Townscape Value'.

7a.3 Policy EQ15 'Re-Use of Buildings' states:

"The Council will generally support the re-use or conversion of existing vacant buildings of architectural and townscape merit, provided that the building is structurally sound and capable of beneficial conversion, and an acceptable internal layout and level of amenity can be provided."

7a.4 Policy EQ15 'Re-use of Buildings', gives general support for the re-use of the vacant property.

7a.5 Policy POL1 'Local Centres in Polmont' states:

"The Council will seek to promote the role of Polmont, Brightons, and Laurieston as Local Centres, with a new Local Centre to be established at Redding Road. Changes of use which would reduce the range of shops and services available will not be permitted unless it can be clearly demonstrated that there is no demand for such uses."

7a.6 The application site is located within the local town centre of Brightons. It is considered that the proposed change of use would reduce the range of services available in the local centre through the loss of a class 2 use. The applicant has not demonstrated that there is no demand for a class 1 or 2 use and as such the application fails to accord with policy POL1 'Local Centres in Polmont'.

7a.7 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.8 It is considered that the proposal would be unlikely to cause a significant impact on the amenity of surrounding residential properties by virtue of noise, disturbance, litter or odours, given the local town centre designation of the application site and surrounding uses in close proximity to the application site including public house, hot food takeaway, convenience store and shops. The proposal is in accordance with the general thrust of town centre policies. It is considered that the proposed change of use would result in an intensification of the existing building with no off-street parking to serve the proposal and extremely limited on street parking, resulting in an unacceptable increase in traffic generation on a narrow one way street with parking restrictions. On balance the application fails to accord with policy EP9 'Food and Drink'.

7a.9 Accordingly, on balance, the proposal does not accord with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the responses to consultation, information submitted in support of the proposal and the assessment of public representations.

Responses to Consultation

7b.2 The impact of hot food takeaways on traffic flow and road safety are an important material consideration. These types of establishment tend to attract a high proportion of car borne and short stay customers. Often in the vicinity of hot food takeaways, there is an increased occurrence of obstructed parking and interruption to the flow of traffic on the roads adjacent to these premises. Customers are often tempted to park for short periods to quickly pop in and out of the premises, jeopardising the safety of other road users. Insufficient parking facilities in and around hot food takeaways can also have an adverse impact on the amenity of the immediate and surrounding area. The increased demand for on-street parking, particularly in the evenings and weekends when demand can be highest, often inconveniences adjacent residents.

7b.3 The application site is located within the local town centre of Brightons, but there are no public car parks in the area and extremely limited opportunities to park on street. Waggon Road is accessed off Maddiston Road and is in close proximity to Brightons Cross. The area is very busy with traffic and pedestrians and has parking restrictions, difficult junctions, a traffic crossing and a number of shops, public house and convenience store in close proximity to the site.

7b.4 On Waggon Road, and directly adjacent to the application site, there are parking restrictions in the form of double yellow lines. There is evidence that people generally ignore the parking restrictions and park on the pavement which can cause other road safety concerns. The one way system and restricted width of Waggon Road and Holmlea Avenue exacerbate the situation and reduce even further, opportunities to park or stop a vehicle.

- 7b.5 The application site is a modest building which if used for a class 1 or 2 use, is considered would generate a low number of staff and customers visiting the site (this is considered as a result of the limited floor size and functionality of the building). As such the existing use of the building is considered to have a limited impact on traffic generation and parking demand in the local area. The proposed change of use to a hot food takeaway would result in an unacceptable intensification of use. The increase in staff numbers (the applicant states in his supporting documents that he hopes to employ 10 people) and customers, deliveries and delivery drivers associated with a hot food use would result in an unacceptable level of traffic generation and parking demand to the detriment of road safety in the vicinity.
- 7b.6 The application site is located in an area with no public car parks and extremely limited access to on-street parking. The application site is also located on a narrow one way street with parking restrictions. It is considered that the surrounding road network could not absorb the proposal and as such could lead to an unacceptable impact on road safety and impact on the residential amenity of the wider residential area.
- 7b.7 The Environmental Protection Unit advise that the information submitted in relation to odour and noise emissions is inadequate. It is considered that the submission of a detailed specification could be the subject of a suitably worded planning condition should the Planning Committee decide to grant the application.

Information Submitted in Support of the Proposal

- 7b.8 The applicant has submitted a supporting statement which was also submitted to Brighton Community Council and a supporting statement in response to third party objections. Where relevant to material planning considerations the applicant raises the following points:
- The premises are a purpose built commercial property built in 1865;
 - The business would be a pizza delivery shop;
 - The opening hours would be 4pm to 12pm. Opening after the busy afternoon period when schools are coming out;
 - The applicant hopes to employ 10 full and part-time local staff;
 - Parking for 2 members of staff could be accommodated at the applicant's home address at Macland Cottage, Maddiston Road (situated adjacent to the Brighton's Inn);
 - The business would primarily offer a delivery service and there would be no increase in the current level of traffic;
 - There are 4 parking spaces beside the application site to serve Waggon Road;
 - The applicant has identified several hot food outlets in the locality with no off-street parking;
 - One or two local residents should not have the influence to prevent an ideal business opportunity;

- The Chinese was only given planning permission on the basis that they moved their door onto Waggon Road;
- Brightons Community Council unanimously agree with the proposal and welcome the opportunity for the new venture; and
- There is considerable support for the application.

7b.9 In relation to the supporting statements provided by the applicant, although the applicant intends at this stage to operate a pizza delivery outlet, planning permission would give the premises a permitted Sui Generis hot food use and as such any type of hot food could be prepared for sale from the premises. The applicant also comments that the majority of his customers would use a home delivery service, again this could not be controlled. The use, if granted, would still allow customers to visit the premises. As such it is considered that the proposed use would result in an intensification of the premises and an increase in traffic generation and parking demand. In particular, it should be noted that the applicant hopes to employ 10 people. The applicant's suggestion that 2 staff members could park at his home address is seen as an acknowledgement of the present parking difficulties at the application site. Again, parking for the proposal remote from the application site is not considered acceptable or enforceable.

7b.10 Letters of support for the application are noted, however it is considered that these do not outweigh the concerns in relation to road safety. The comments of Brightons Community Council are detailed in section 5.1 of this report. Each application is assessed on its own merits and whilst it is acknowledged that there are hot food takeaways throughout the Falkirk Council area without the benefit of off-street parking, this does not outweigh the concerns in relation to road safety at the application site. A planning application for the nearby hot food takeaway (Ref: F/2000/0175) for the change of use from a shop to a hot food takeaway was granted by the Planning Committee on 23 August 2000.

Assessment of Public Representations

7b.11 Parking, access, traffic generation and road safety are discussed in detail in paragraph 7b.6 of this report. In relation to other issues raised, the following comments are offered:-

- It is considered the quality of road and pavement surface at Waggon Road is similar to that in the surrounding area;
- It is accepted that there is a hot food takeaway in close proximity to the application site, however this is not a material planning consideration;
- It is accepted that the submitted floor plan is poor quality and not to scale, however this drawing is indicative only, the applicant has submitted the required level of information required to assess the proposed change of use;
- The application site is located in a local town centre location, in close proximity to another hot food takeaway and public house, it is therefore considered that noise generation and litter could be managed; and

- It is not accepted that the proposal is in the 'wrong location' being located within a local town centre, however issues in relation to traffic generation and parking demand are identified and acknowledged.

7b.12 The points raised in support of the application are noted.

7c Conclusion

7c.1 The application has been assessed and on balance is considered to be contrary to the terms of the Development Plan in terms of road safety concerns, high traffic generation and congestion and the lack of suitable parking provision. The points raised through third party representation are addressed in the body of the report and the comments from consultees and the Brightons Community Council are noted. There are no material planning consideration that would warrant a departure from the Development Plan and the application is therefore recommended for refusal of planning permission.

8. RECOMMENDATION

8.1 It is therefore recommended that Committee refuse planning permission for the following reasons:-

- (1) The proposed hot food takeaway would lead to an unacceptable intensification of the current class 2 use, that is considered to have a limited impact on traffic generation and parking demand in the local area. The resulting increase in staff numbers, customers and vehicles visiting the premises associated with the proposal would result in an unacceptable increase in traffic generation and parking demand, to the detriment of road safety. The application site is located in an area which is not served by any public car parks, has extremely limited access to on-street parking and is located on a narrow one way street with parking restrictions. It is considered that the surrounding road network could not absorb the proposal and the use and the increased demand for on-street parking could have an adverse impact on the residential amenity of the surrounding residential area, contrary to the terms of policy EP9 'Food and Drink' of the Falkirk Council Local Plan.
- (2) The proposed hot food takeaway is unable to achieve any off-street parking, contrary to the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".

Informatives:-

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

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Director of Development Services

Date: 22 January 2013

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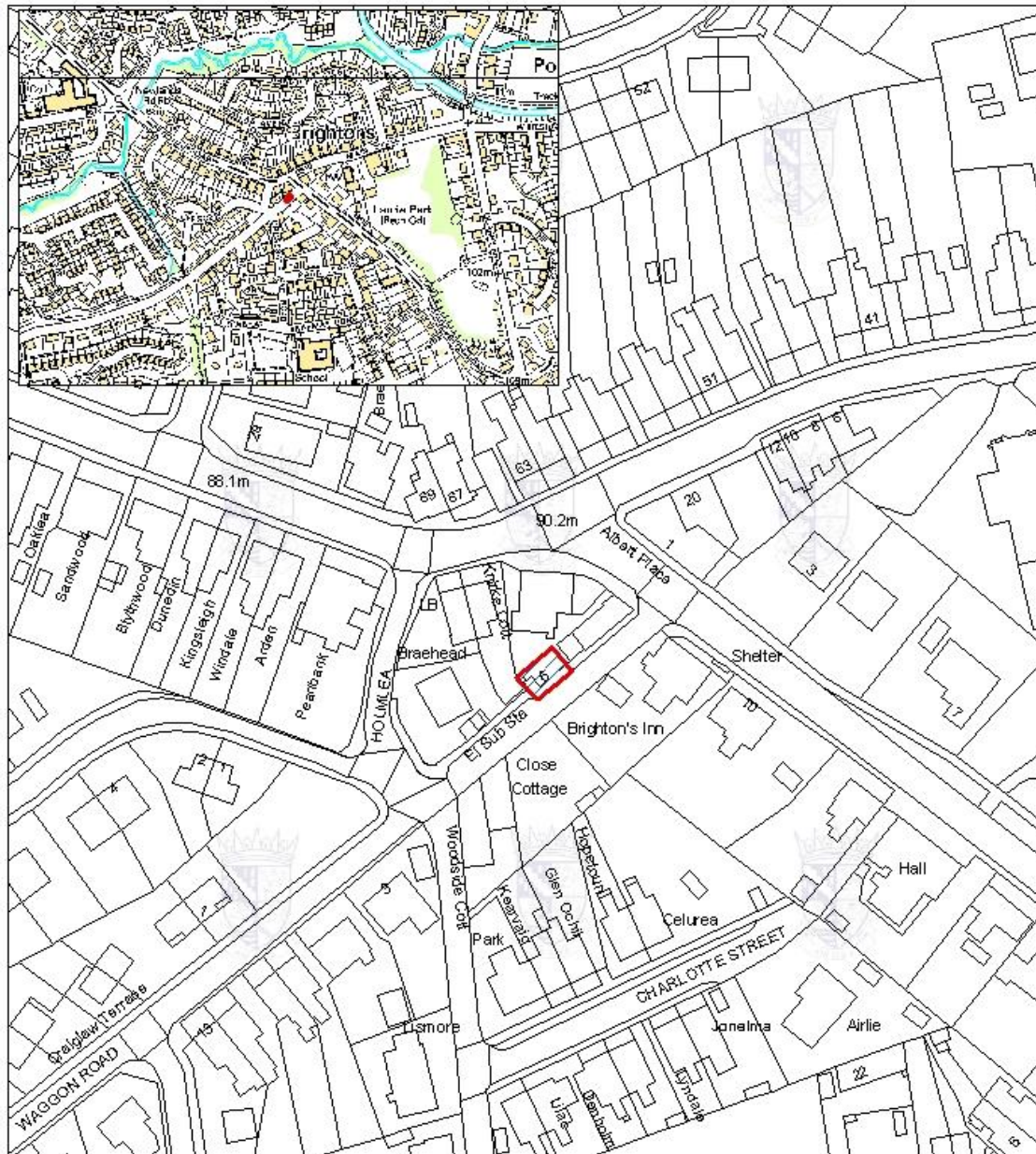
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79. Letter of Support from Owner/Occupier, 47 Slamannan Road, Limerigg, Falkirk, FK1 3BN on 29 November 2012.
80. Letter of Support from Janine Lamont, 15 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
81. Letter of Support from J Webster, 24 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
82. Letter of Support from Sylvia Fiddler, 27 Stanley Gardens, Maddiston, Falkirk, FK2 0LN on 29 November 2012.
83. Letter of Support from Hair and Beauty, Waggon Road, Brightons, Falkirk FK2 0ES, on 29 November 2012.
84. Letter of Support from Stuart and Lee McNeil , The Spar, Maddiston Road, Brightons, Falkirk on 29 November 2012.
85. Letter of Support from David Blelloch, 22 Greenlithe Drive, Rumford, Falkirk on 29 November 2012.
86. Letter of Support from Chris Thom, 52 Sunnyside Road, Brightons, Falkirk on 29 November 2012.
87. Letter of Support from Lisa Hunter, 11 Maddiston Road, Brightons, Falkirk, FK2 0ESon 29 November 2012.
88. Letter of Support from David Simmond, no address, on 29 November 2012.

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

Planning Committee

Planning Application Location Plan **P/12/0611/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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