

## **AGENDA ITEM 3**

### **FALKIRK COUNCIL**

#### **PLANNING COMMITTEE**

#### **SITE INSPECTION PROCEDURE FOR PLANNING APPLICATIONS**

1. **The Convener will introduce the Committee to those present and, will explain that the procedures to be followed will be those already intimated to both the applicant and any objectors/supporters. The Convener will ask all parties who participate to formally identify themselves to the Committee and for the purposes of the record.**
2. The Planning Officer will give a factual summary of the proposal.
3. The applicant(s) or agent(s) will be invited to speak in support of the proposal.
4. The objector(s), supporter(s) or agent(s) will be invited to speak to the terms of their representation(s) submitted to the Director of Development Services. Each objector will be permitted to address the committee once.
5. The applicant(s) or agent(s) will have a right to reply to any points raised by the objector(s)/ supporters(s) or agent(s).
6. The Members of the Committee will be invited to question the applicant(s)/agent(s) or the objector(s)/supporters(s)/ agent(s) or to seek guidance on factual or legal matters from the Officers.
7. The Local Member will be invited to speak in relation to the application.

#### **NOTE:**

**UNDER NO CIRCUMSTANCES WILL APPLICANTS BE ALLOWED TO QUESTION OBJECTORS SUPPORTERS DIRECT OR VICE VERSA. ALL REMARKS MUST BE DIRECTED TO THE CONVENER, WHOSE DECISION ON ANY MATTERS OF ORDER WILL BE FINAL.**



The background of the page features a large, light blue crest of Falkirk Council. The crest includes a crown at the top with four thistles, a shield in the center containing a castle and a stag, and a banner at the bottom with the motto 'AWE FOR A'.

# **AGENDA ITEM**

**4**

**CHANGE OF USE FROM BEAUTY  
SALON TO HOTEL ANNEX  
(RETROSPECTIVE) AT 21A  
ORCHARD STREET, FALKIRK, FK1  
1RF, FOR MR STUART CRAWFORD  
- P/16/0214/FUL**

**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM BEAUTY SALON TO HOTEL ANNEX  
(RETROSPECTIVE) AT 21A ORCHARD STREET, FALKIRK,  
FK1 1RF, FOR MR STUART CRAWFORD - P/16/0214/FUL  
**Meeting:** PLANNING COMMITTEE  
**Date:** 17 August 2016  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk North

Provost Pat Reid  
Councillor David Alexander  
Councillor Dr C R Martin  
Councillor Cecil Meiklejohn

**Community Council:** No Community Council

**Case Officer:** Stephen McClure (Planning Officer), Ext. 4702

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

1. The site consists of a former large stone-built semi-detached dwelling, which was in the past used as an office and then sub-divided into flatbed dwellings. The ground floor flat was then subsequently changed for use as a Beauty Salon, with this commercial use operating for many years. The property is located adjacent to The Orchard Hotel, with the neighbouring attached property being used as an office. The remainder of the immediate surrounding area is seen to contain residential properties.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been referred to Committee at the request of Provost Reid, the reason for the call in being given as the applicant's constant retrospective applications.

**3. SITE HISTORY**

- 3.1 ENF/2014/0123 - 03.10.2014 - Enforcement Enquiry
- 3.2 ENF/2016/0012 - Pending Consideration - Enforcement Enquiry
- 3.3 F/2000/0278 - Conditional Temporary Consent - 02.03.2001 - Display of Non-Illuminated Advertisements

**4. CONSULTATIONS**

- 4.1 The following responses to consultation were received:

- 4.2 The Roads Development Unit has no objection to the proposal. It is noted that three parking spaces are available and in this instance considered by the Roads Development Unit to be acceptable.
- 4.3 The Environmental Protection Unit has no objection to the proposal.

## **5. COMMUNITY COUNCIL**

- 5.1 There is no Community Council active in this area at present.

## **6. PUBLIC REPRESENTATION**

- 6.1 In the course of the application, 3 contributor(s) submitted letter(s) to the Council. The salient issues are summarised below:
- What are the proposed parking arrangements for the site?
  - The Orchard Hotel has again submitted a retrospective application for works that should have required planning permission.
  - Initially it was noted to residents and the Council that the property would only be used for office purposes by the hotel.
  - There is a chalked blackboard sign placed in the front grounds of the property relating to The Orchard Hotel. It is not considered that this is suitable for a residential area.
  - An extension of use of this property as part of The Orchard Hotel has a detrimental effect on traffic and parking.
  - Why is the applicant looking to extend facilities of the main hotel, but not include rooms?
  - The Planning Authority was informed that there was a change of use to the property in December 2015, but only visited the site in April 2016.
  - Vehicles using the site are often double parked on Orchard Street or block driveways on the street.
  - Those staying within the rooms are generating a lot of noise in the late evening and/or early morning, disturbing residents in the adjacent residential dwellings.
  - It should be questioned whether the building meets the relevant minimum requirements to lease out rooms and operate as an office.
  - Staff should enter at the rear of the property, but are using the main entrance door at the front, which especially at night causes a security light to activate, disturbing residents in the adjacent properties.
  - There is already inadequate parking at the hotel.

- The existing plans submitted are not considered to be accurate, as the works have already been completed on-site.

## **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**

- 7a.1 The Falkirk Local Development Plan was adopted on 16 July 2015. It replaces the previous Structure Plan and Local Plan and includes a number of Supplementary Guidance documents which now have statutory status. The proposed development was assessed against the following policy or policies:

#### ***Local Plan Policies***

- 7a.2 Policy HSG06 – ‘Non-Residential Uses in Residential Areas’ states:-

*“Within established residential areas, the introduction of uses which would be incompatible with the residential character and amenity of the area will generally not be permitted. Proposals for appropriate community services (e.g. surgeries, day nurseries and neighbourhood shops), homeworking or other compatible business uses (e.g. guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided.”*

- 7a.3 The property is within an area containing mainly residential properties, but is also adjacent to commercial uses and the Falkirk Town Centre boundary. The property itself has been in commercial use for many years, previously being used as a beauty salon, and the neighbouring property is also in commercial use. The Orchard Hotel is now leasing three rooms to guests with the remainder of the building being used as office space for the hotel staff. The provision of guest rooms is considered similar to the operation of a single guest house. The office element is seen to be compatible with the area, and ancillary to the use as an annex to the hotel. The uses within the property have seen no external alterations to the building that would affect its appearance, with the access continuing to be maintained through the front entrance door. Parking is also seen to be satisfactory in this particular location, taking into account restrictions that operate within the area, and the nature of the use involved. It is therefore considered that the proposal accords with Policy HSG06.

### **7b Material Considerations**

- 7b.1 The material considerations to be assessed are assessment of public representations and consideration of the site in relation to coal mining legacy.

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

- 7b.2 The site has use of three parking spaces in the front property grounds, which the Roads Development Unit have noted would be acceptable.
- 7b.3 Development has been carried out without the benefit of planning permission. It is at the property owner's own risk if works continue without planning permission, but it is also allowed within the planning system to submit a retrospective application to seek to regularise matters. The retrospective nature of an application does not prejudice its determination.
- 7b.4 It was initially noted that The Orchard Hotel wished to use the building as offices, but this was subsequently altered by the business owner, and has therefore been included within the current application.
- 7b.5 The chalked board would be seen to be allowed within the property grounds of the property, as it is removable and not permanent.
- 7b.6 The Roads Development Unit have assessed the proposal and do not consider that the use would create any additional traffic or parking that would be to an unacceptable level.
- 7b.7 It is not a matter for the Council as planning authority to inform a business/land owner how to run their business.
- 7b.8 The site was visited in January 2016 after information was received in relation to on-going works. A further visit took place in April 2016 with the applicant's agent and discussions have been ongoing since January 2016.
- 7b.9 Any dangerous or unauthorised parking requires to be reported to the Police.
- 7b.10 Noise created by individuals using the property is not a material planning consideration. Noise complaints would be appropriately dealt with by the Police or the Environmental Protection Unit.
- 7b.11 The use of the property in relation to it meeting the relevant requirements for letting and office is not a material planning consideration. It is noted that a Building Warrant application has been submitted.
- 7b.12 Control of the use of the main door to the property by staff is not a material planning consideration. Anti-social behaviour / disturbance would be appropriately dealt with by the Police.
- 7b.13 The Roads Development Unit have assessed the proposal and, based on the situation and location, consider that the parking provided is adequate at the site. The current hotel's parking is not under assessment in this application, however it is noted that although limited, it lies within the town centre, with various parking options being available.
- 7b.14 Plans are required as part of a retrospective application showing the situation prior to any works commencing on-site. The plans provided are considered to be accurate.

## ***Consideration of the Site in relation to Coal Mining Legacy***

- 7b.15 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. It is recognised that flexibility and discretion are necessary parts of the planning system and as such there may be exemptions to the requirement for a desk based Coal Mining Risk Assessment within the Development High Risk Area.
- 7b.16 Exemption can be on the grounds of the type of application or the nature of development. Only one of these needs to be met to exempt the need for a desk based Coal Mining Risk Assessment and also the consequential need for the Council to consult the Coal Authority. This proposal is considered to fall into one of these exempt groups, but ground conditions should still be considered as part of the Building Standards process, if relevant.
- 7b.17 If planning permission is granted, an appropriate informative note would appear on the Decision Notice.

### **7c Conclusion**

- 7c.1 It is considered that the proposal is acceptable development and is in accordance with Policy HSG06 of the Falkirk Local Development Plan. There are no material planning considerations which would justify a refusal of planning permission.

## **8. RECOMMENDATION**

- 8.1 It is therefore recommended that the Committee grant planning permission.**

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

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

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**pp Director of Development Services**

**Date: 8 August 2016**



### **LIST OF BACKGROUND PAPERS**

1. The Falkirk Local Development Plan.
2. Objection received from Mr Craig Lumsden, 16 Princes Street, Falkirk, FK1 1NE, on 5 May 2016.
3. Representation received from Mr Fraser Houston, 20 Orchard Street, Falkirk, FK1 1RF on 19 April 2016.
4. Objection received from Mr John Muir, 18 Orchard Street, Falkirk, FK1 1RF on 4 May 2016.

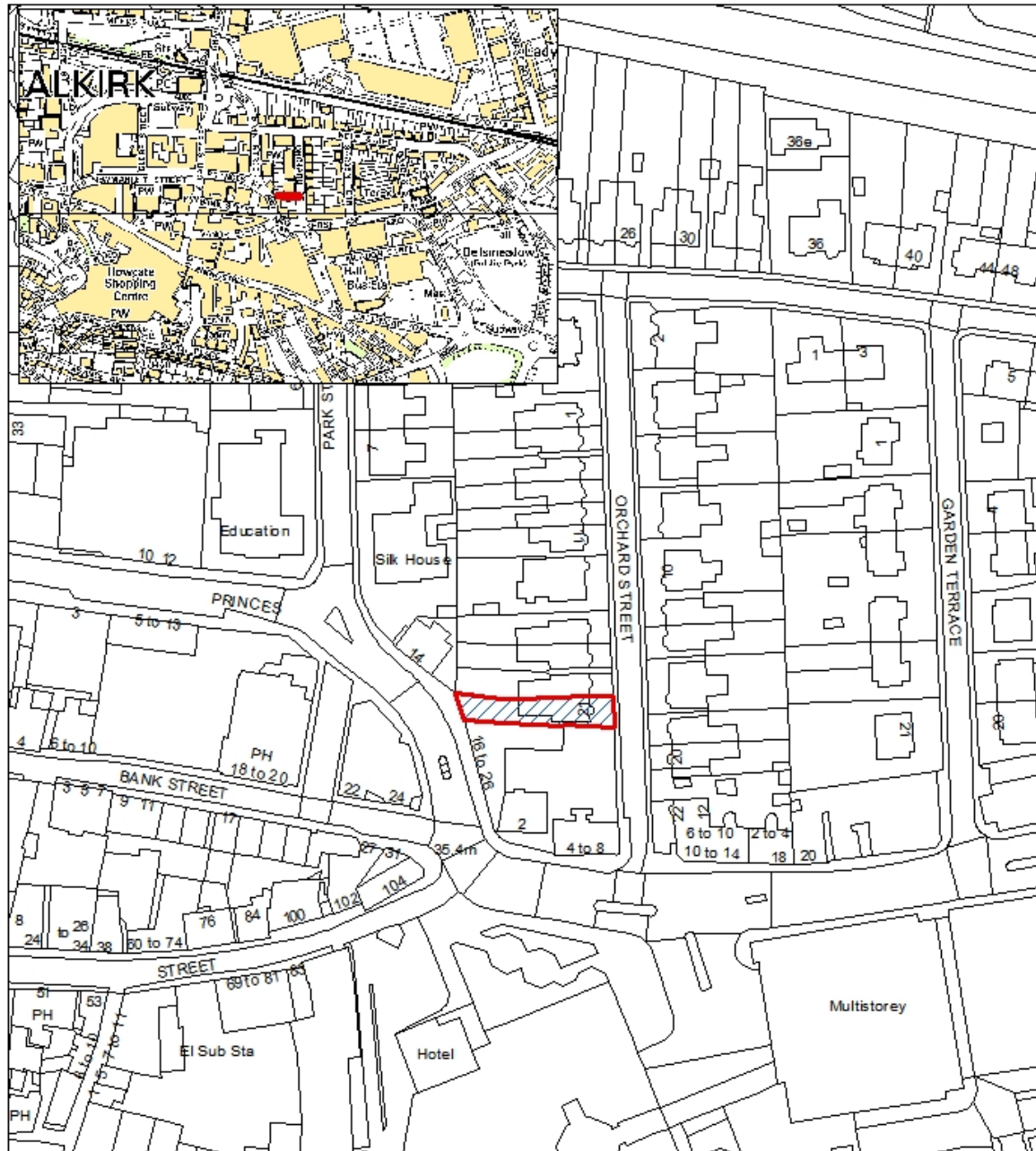
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/16/0214/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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The background of the slide features the Falkirk Council Crest, which is a shield-shaped emblem. At the top is a crown with four fleur-de-lis. The shield itself is divided into four quarters. The top-left quarter contains a saltire (X-shaped cross). The top-right quarter contains a castle tower. The bottom-left quarter contains a lion passant guardant. The bottom-right quarter contains a stag's head. A banner at the bottom of the shield contains the motto 'A'NE FOR A'.

## **AGENDA ITEM**

**5**

**ALTERATIONS & CHANGE OF USE  
FROM RETAIL/OFFICES TO HOTEL  
AND ALTERATIONS, EXTENSION AND  
CHANGE OF USE FROM OFFICE &  
HAIRDRESSERS TO HOTEL  
(PARTIALLY RETROSPECTIVE) AT 22  
& 26 PRINCESSTREET, FALKIRK FK1  
1NE, & 2, 4 & 6 KERSE LANE  
FALKIRK FK1 1RG FOR  
MR STUART CRAWFORD  
-P/16/0162/FUL**

**FALKIRK COUNCIL**

**Subject:** ALTERATIONS & CHANGE OF USE FROM RETAIL/OFFICES TO HOTEL AND ALTERATIONS, EXTENSION AND CHANGE OF USE FROM OFFICE & HAIRDRESSERS TO HOTEL (PARTIALLY RETROSPECTIVE) AT 22 & 26 PRINCES STREET, FALKIRK FK1 1NE, & 2, 4 & 6 KERSE LANE FALKIRK FK1 1RG FOR MR STUART CRAWFORD - P/16/0162/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 17 August 2016

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk North

Provost Pat Reid  
Councillor David Alexander  
Councillor Dr C R Martin  
Councillor Cecil Meiklejohn

**Community Council:** No Community Council

**Case Officer:** Stephen McClure (Planning Officer), Ext. 4702

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

- 1.1 The site consists of a hotel located within Falkirk Town Centre and within the Falkirk Town Centre Conservation Area. The hotel is made up of several buildings, with the main building being category B listed. It fronts onto both Kerse Lane and Princes Street, with a small car park located to the rear. The site is surrounded by a mixture of both commercial and residential properties. It is proposed to change the use of two units which are adjoining the hotel on Kerse Lane, and bring them into use as part of the hotel. This would also see an extension added to the two units at the rear and new frontages added. The shop frontages on Kerse Lane are retrospective, having been installed without the benefit of planning permission. There is also a unit on Princes Street which has been absorbed into the hotel and the front of the property altered, also without the benefit of planning permission, and is included within the application.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been referred to the Planning Committee at the request of Provost Reid. The reasons for the call in are given as being the applicant's constant retrospective applications.

### **3. SITE HISTORY**

- 3.1 P/13/0057/FUL - Detail - Granted - 24.04.2013 - Change of Use from Shop Units (Class 1) to Coffee Shop / Bistro Area (Class 3) and Alterations to Façade
- 3.2 P/13/0146/LBC - Listed Building Consent Granted - 10.05.2013 - Internal Alterations
- 3.3 P/14/0370/FUL - Detail - Granted - 29.08.2014 - Change of Use from Shop (Class 1) to Extend Hotel (Class 7)
- 3.4 P/15/0543/FUL - Application Withdrawn - 05.11.2015 - Alterations & Change of Use from Offices to Hotel and Alterations, Extension and Change of Use from Office & Hairdressers to Hotel (Partially Retrospective)
- 3.5 P/13/0057/FUL - Detail - Granted - 24.04.2013 - Change of Use from Shop Units (Class 1) to Coffee Shop / Bistro Area (Class 3) and Alterations to Façade
- 3.6 P/13/0146/LBC - Listed Building Consent Granted - 10.05.2013 - Internal Alterations
- 3.7 P/14/0370/FUL - Detail - Granted - 29.08.2014 - Change of Use from Shop (Class 1) to Extend Hotel (Class 7)
- 3.8 P/15/0543/FUL - Application Withdrawn - 05.11.2015 Alterations & Change of Use from Offices to Hotel and Alterations, Extension and Change of Use from Office & Hairdressers to Hotel (Partially Retrospective)
- 3.9 P/07/0554/FUL - Detail - Granted - 26.07.2007 - Change of Use of Premises to Class 2 Office Use
- 3.10 P/08/0124/ADV - Advertisement Consent Granted - 06.03.2008 - Display of Non-illuminated Advertisement
- 3.11 06/0786/FUL - Detail - Granted - 30.11.2006 - Erection of External Smoking Shelter and Change of Use of Land to Form External Drinking Areas
- 3.12 06/0787/LBC - Listed Building Consent Granted - 17.10.2006 - Erection of External Smoking Shelter
- 3.13 P/08/0793/FUL - Detail Refused - 18.12.2008 - Erection of Temporary Marquee
- 3.14 P/11/0832/FUL - Detail - Granted - 06.06.2012 - (Partially Retrospective) Formation of External Seating Area, Formation of Vehicular Access and Erection of Stone Boundary Wall
- 3.15 P/11/0833/LBC - Listed Building Consent Granted -06.06.2012 (Partially Retrospective) Formation of External Seating Area, Formation of Vehicular Access and Erection of Stone Boundary Wall
- 3.16 P/11/0834/ADV - Advertisement Consent Granted - 04.05.2012 - Display of Non-Illuminated Advertisements (Retrospective)
- 3.17 P/12/0040/LBC - Listed Building Consent Granted - 18.05.2012 - Display of Non-Illuminated Advertisements (Retrospective)

- 3.18 P/12/0471/FUL - Application Withdrawn - 30.11.2012 - Extension to Hotel (2 Storey to Rear)
- 3.19 P/12/0472/LBC - Application Withdrawn - 30.11.2012 - Extension to Hotel (2 Storey to Rear)
- 3.20 P/15/0543/FUL - Application Withdrawn - 05.11.2015 - Alterations & Change of Use from Offices to Hotel and Alterations, Extension and Change of Use from Office & Hairdressers to Hotel (Partially Retrospective)
- 3.21 F/94/0872 - Listed Building Consent Granted - 30.05.1995 - Internal and External Alterations (Listed Building)
- 3.22 F/99/0591 - Withdrawn - 11.04.2001 - Alterations and Extension to Building (Listed Building)
- 3.23 F/99/0590 - Withdrawn - 11.04.2001 - Extension to Hotel [Conservatory] (Detailed)
- 3.24 F/95/0026 - Detail - Granted - 07.04.1995 - Alterations to Premises (Detailed)
- 3.25 ENF/2015/0066 - 16.10.2015 - Enforcement Enquiry
- 3.26 ENF/2005/0011 - 04.02.2005 - Enforcement Enquiry
- 3.27 ENF/2016/0058 - Pending Consideration - Enforcement Enquiry
- 3.28 ENF/2016/0058 - Pending Consideration - Enforcement Enquiry
- 3.29 ENF/2006/0013 - 01.01.2012 - Enforcement Enquiry
- 3.30 ENF/2008/0077 - 19.02.2009 - Enforcement Enquiry
- 3.31 ENF/2009/0085 - 15.09.2009 - Enforcement Enquiry
- 3.32 ENF/2011/0076 - 06.06.2012 - Enforcement Enquiry
- 3.33 ENF/2015/0173 - 28.10.2015 - Enforcement Enquiry
- 3.34 ENF/2015/0174 - 13.08.2015 - Enforcement Enquiry
- 3.35 38/24/0254 - 01.01.2012 - Enforcement Enquiry

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit have no objection to the proposal.
- 4.2 The Environmental Protection Unit have no objection to the proposal and recommend a condition that all noise generated from musical entertainment within the premises shall be inaudible within nearby properties.

## **5. COMMUNITY COUNCIL**

5.1 There is no Community Council active in this area at present.

## **6. PUBLIC REPRESENTATION**

6.1 In the course of the application, two contributors submitted letters to the Council. The salient issues are summarised below: -

- The proposed plans for the extension to the hotel appear to show two rear windows and a fire door. It is anticipated this will lead to excessive noise nuisance as the windows and doors could be left open.
- There is an on-going noise issue relating to The Orchard Hotel.
- Due to the proposed extension of the hotel, there is concern that there will be a larger number of people gathering and loitering around the access areas to the rear.
- There are on-going issues with parking in Orchard Street which is due to overspill from The Orchard Hotel. Reduction in spaces on-site will not be seen to help this situation.
- It should be considered that The Orchard Hotel has expanded enough within the current site.
- It is disappointing that the applicant has been given the opportunity to submit an application for the works proposed and the works already completed on-site.
- Why is a further bar area being created rather than additional hotel accommodation?
- There are still outstanding issues with the unit absorbed into the hotel on Princes Street.
- Those using the facilities or staying in the hotel are causing noise issues in the rear parking area at present, further development will only add to this issue.
- Existing plans do not accurately show what is now on-site, as certain works have already been completed.
- A ramp was required at the Princes Street entrance for access, this is being stored against the railings in the street, and is not planned to be an integral part of the entrance.
- Several windows that face onto the car park were replaced with UPVC windows without planning permission.
- Works have already taken place to the units on Kerse Lane.
- The proposed extension to the hotel would cause overlooking to dwellings on Orchard Street, especially in relation to the proposed roof windows.

- The proposed extension would create a visually intrusive design into the area, as it would not match the neighbouring sandstone villas.
- The rear access will not be for emergency use only, it will be used for staff and hotel guests, and could be used by smokers.
- The proposed roof windows in the rear extension will cause overlooking of properties in Orchard Street.

## 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

The Falkirk Local Development Plan was adopted on 16 July 2015. The proposed development was assessed against the following policy or policies:

#### 7a.1 Policy 'TC02 - Development and Changes of Use in Centres' states:

*“Within the defined boundaries of centres, a mix of retail, business, leisure, community and residential uses will be promoted consistent with maintaining the vitality and viability of these centres and their role in the network of centres. Proposals for development or changes of use for these uses will be supported subject to the following:*

- 1. Within the core area of Falkirk Town Centre, ground floor premises should be retained in retail use, or non-retail use which actively supports the shopping or tourism function of the Town Centre;*
- 2. Within established shopping streets elsewhere in Falkirk Town Centre and in the District and Local Centres, ground floor premises should, where possible, retain an active frontage;*
- 3. The re-use of upper storeys in shopping streets for residential use will be supported; and*
- 4. Within Central Retail Park and the retail element of the Falkirk Gateway, development proposals and changes of use should comply with any relevant Section 75 Obligations covering these shopping areas.*

*Outwith centres, proposals involving the loss of neighbourhood and rural shops (Class 1) and services (Class 2) which serve an important community function will only be permitted where the Council is satisfied the premises are no longer viable for such uses.”*



7a.2 It is considered that the proposed change of use to the shop unit on Princes Street and the change of use and extension to the units on Kerse Lane, would allow a mix of uses to be maintained within the town centre area. This would maintain the vitality and viability of the centre, and be seen to expand a non-retail use which actively supports the shopping and tourism function of the town centre. It is therefore considered that the proposal accords with Policy TC02.

7a.3 Policy 'D06 – Shopfronts' 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, as specified within Supplementary Guidance SG04 'Shopfronts'."*

7a.4 It is considered that the proposed alterations on Princes Street and to the units on Kerse Lane would create frontages that would be well-proportioned and sympathetic to the character of the building. The Princes Street elevation has seen the recessed shop front altered due to the internal requirements, although the design proposed would result in the frontage being mainly glazed, to allow for a minimal approach and a symmetrical appearance to the frontage. The Kerse Lane shop frontages have seen two new traditional style frontages installed although used internally as a single space. This would ensure that the streetscape is maintained, and result in an overall improvement to appearance and design of the premises. It is therefore considered that the proposal accords with Policy D06.

7a.5 Policy 'D10 - Conservation Areas' states:

*"The Council will protect the historic character and visual amenity of each Conservation Area. Accordingly:*

- 1. New development in Conservation Areas should preserve or enhance the character and appearance of the Conservation 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.*
- 2. The layout, design, materials, scale, siting and use of any development affecting an unlisted building in a Conservation Area, including extensions, replacement windows, doors, roofs, rainwater goods, boundary treatments and other features, should respect the character and appearance of the original building, and should conform to Supplementary Guidance SG16 'Design Guidance for Listed Buildings and Non-Listed Buildings in Conservation Areas'.*
- 3. Demolition of unlisted buildings within Conservation Areas which make a positive contribution to the special character and appearance of the area will only be supported where:*
  - the existing building is incapable of physical repair and re-use, as shown by the submission and verification of a thorough structural condition report; or*

- *the costs of repair and re-use are such that it is not economically viable. Supporting evidence should include a full economic appraisal, evidence that grant aid is not able to meet any funding deficit, and evidence that the building has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a restoring purchaser; or*
- *the demolition of the building is essential for the delivery of significant economic benefits for the local or wider community; and*
- *proposals for redevelopment of the site contribute to the character and appearance of the conservation Area.*

*Existing buildings shall be retained on site until the redevelopment commences.*

7a.6 It is considered that the proposals would preserve and enhance the character and appearance of the Conservation Area. The proposal would see improved frontages installed at Princes Street and Kerse Lane, which would return the units to a more appropriate design for the Conservation Area. The proposed materials to be used within the frontages are also considered to be suitable as are the materials proposed for the extension to the Kerse Lane units. This would see the main extension formed from a brick matching that of an existing rear extension within the hotel car park, and the roofs would be finished in slate. It is therefore considered that the proposal where relevant would accord with Policy D10.

### ***Supplementary Guidance forming part of Local Development Plan***

#### ***Falkirk Council Supplementary Guidance SG16 Listed Buildings and Unlisted Properties in Conservation Areas***

7a.7 It is considered that the works proposed to the frontages on Princes Street and Kerse Lane, as well as the proposed extension to the Kerse Lane units, are appropriate to the buildings and to the Conservation Area. The design and materials of the proposed alterations and extension would respect and complement the design, character and appearance of the existing buildings. The proposed materials are considered to be acceptable. The proposed extension to the Kerse Lane units would result in an appropriate roof form. If the application were to be granted permission, a condition could be applied in relation to final external materials. It is therefore considered that the proposal accords with the Falkirk Council Supplementary Guidance SG16 Listed Buildings and Unlisted Properties in Conservation Areas.

#### ***Falkirk Council Supplementary Guidance SG04 Shopfronts -***

7a.8 It is considered that the proposed shop frontages would be well-proportioned alterations, replacing less sympathetic frontages. It is therefore considered that the proposals would accord with Falkirk Council Supplementary Guidance SG04 Shopfronts.

### ***Consultation Replies***

7a.9 The views of the Roads Development Unit are noted. In relation to the request from the Environmental Health Unit for a condition relating to noise it is considered that this would not be appropriate as it would not be measurable, or enforceable.

## **7b Material Considerations**

- 7b.1 The material considerations to be assessed are consideration of the site in relation to coal mining legacy, assessment of public representations and consultation replies.

### ***Consideration of the Site in relation to Coal Mining Legacy***

- 7b.2 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. Any development proposal not exempt on grounds of type or nature, which would intersect with the ground requires the submission of a desk based Coal Mining Risk Assessment and Consultation with the Coal Authority.

The process recognises the need for flexibility and in cases where a further application (Matters Specified in Conditions) is necessary, the Coal Mining Risk Assessment may be deferred until that stage. If an assessment has been received and the views of the Coal Authority sought, these are summarised within the consultation responses above and appropriate conditions and/or informatives have been applied.

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

- 7b.3 The rear windows which were to be placed in the proposed extension to the hotel have now been removed from the design. An access door to the rear would remain, which is not intended for general access. It is not possible to control the specific use of the access, or the door being left open.
- 7b.4 The on-going noise issues at The Orchard Hotel are being dealt with under Environmental Protection legislation and is not a material Planning consideration.
- 7b.5 It is not anticipated that the proposed extension would create any issues with persons accessing the hotel. If any anti-social behaviour did occur, this would be a matter for the Police.
- 7b.6 The Roads Development Unit have no objections. It is also noted that given the layout of the parking area to the rear of The Orchard Hotel, it is not anticipated that there would be a reduction in car parking spaces.
- 7b.7 Each application for planning permission requires to be assessed on its own merits and not be influenced by site history, or who the applicant is.
- 7b.8 The retrospective nature of an application for planning permission does not prejudice its determination. If permission were to be refused enforcement action could be instigated to remove or amend unauthorised works, this being dependant on the outcome of any appeal made against the decision.
- 7b.9 How a hotel business is run in relation to their floor area requirements is not a material planning consideration.
- 7b.10 The outstanding issues in relation to the Princes Street elevation have been included within the current application.
- 7b.11 Control of those using the premises is not a material planning consideration. If used as intended, there should be no issue to neighbouring properties. However, if there are on-going issues with noise or anti-social behaviour, this would best be addressed by the Environmental Protection Unit and/or the Police.

- 7b.12 The submitted plans marked as "Existing Plans", require to show the site prior to any development taking place, including retrospective works. As such, the submitted plans are considered to be accurate.
- 7b.13 It is not a requirement in terms of Planning that a ramp be included into the design.
- 7b.14 The removal of windows is at the time of writing this report being investigated.
- 7b.15 The rear windows previously proposed have now been deleted. A rear access door which is not intended for general access would remain. The use of the access, or control the door being left open is not a material planning consideration.
- 7b.16 The on-going noise issues at The Orchard Hotel are being dealt with under Environmental Protection legislation.
- 7b.17 It is not anticipated that the proposed extension would create any issues with those accessing the hotel. If any anti-social behaviour did occur, this would be a matter for the police.
- 7b.18 The Roads Development Unit have no objections to the proposal. It is also noted that given the layout of the parking area to the rear of The Orchard Hotel, it is not anticipated that there would be a reduction in car parking spaces.

## **7c Conclusion**

- 7c.1 It is considered that the proposal is acceptable development and is in accordance with Policy TC02, D06 and D10 of the Falkirk Local Development Plan. There are no material planning considerations which would justify a refusal of planning permission.

## **8. RECOMMENDATION**

- 8.1 It is therefore recommended that Committee grant planning permission subject to the following condition(s):-**
- 1. The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**

2. Prior to works commencing on the shop frontages and rear extension to the units on Kerse Lane, details of the materials to be used on the external surfaces of the building, shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

**Reason(s):-**

1. As these drawings and details constitute the approved development.
2. To enable the Planning Authority to consider this/these aspect(s) in detail.

**Informative(s):-**

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02A, 03A, 04A, 05A, 06A, 07A, 08A and 09.
2. All noise generated from musical entertainment within the premises shall be inaudible within nearby properties to the satisfaction of Falkirk Council Environmental Health.
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.
4. 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.

5. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at [www.coal.gov.uk](http://www.coal.gov.uk)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at [www.groundstability.com](http://www.groundstability.com)

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website [www.coal.gov.uk](http://www.coal.gov.uk)

.....  
pp Director of Development Services

Date: 8 August 2016

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

1. Falkirk Council Local Development Plan.
2. Falkirk Council Supplementary Guidance SG04 Shopfronts.
3. Falkirk Council Supplementary Guidance SG16 Listed Buildings and Unlisted Properties in Conservation Areas.
4. Objection received from Mr and Mrs Lumsden, 16 Orchard Street, Falkirk, FK1 1RF on 3 May 2016.
5. Objection received from Mr John Muir, 18 Orchard Street, Falkirk, FK1 1RF on 27 April 2016.

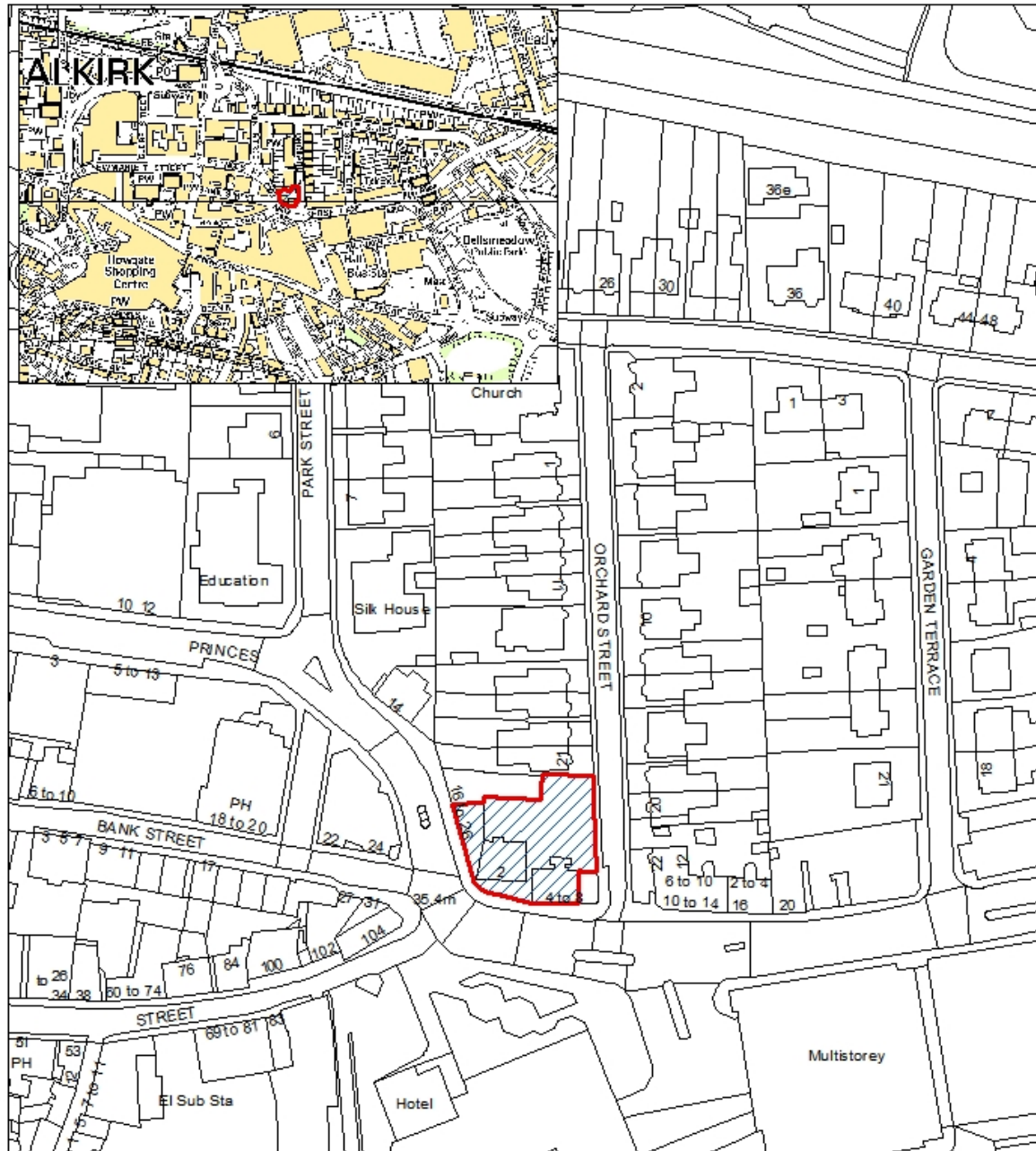
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/16/0162/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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# **AGENDA ITEM**

**6**

**EXTENSION TO DWELLINGHOUSE  
(AMENDMENT TO PLANNING  
PERMISSION P/15/0706/FUL)  
(PARTLY RETROSPECTIVE) AT  
PRIORSFORD, 75 GRAHAMSDYKE  
ROAD, BO'NESS, EH51 9DZ FOR MR  
DAVID NESS - P/16/0201/FUL**

**FALKIRK COUNCIL**

**Subject:** EXTENSION TO DWELLINGHOUSE (AMENDMENT TO PLANNING PERMISSION P/15/0706/FUL) (PARTLY RETROSPECTIVE) AT PRIORSFORD, 75 GRAHAMSDYKE ROAD, BO'NESS, EH51 9DZ FOR MR DAVID NESS - P/16/0201/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 17 August 2016

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Bo'ness and Blackness

Councillor Adrian Mahoney  
Councillor Ann Ritchie  
Councillor Sandy Turner

**Community Council:** Bo'ness

**Case Officer:** Kirsty Hope (Planning Officer), Ext. 4705

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

- 1.1 This application seeks planning permission for a rear extension at Priorsford, 75 Grahamsdyke Road, Bo'ness. It is proposed to provide a conservatory extension that is split into two levels (internally) as well as a covered raised patio area to the rear. The external finishing materials comprise vertical cedar lining boards, bullnose coursed sandstone and glazing. It is proposed that the rear patio area would have opaque glazing on the east elevation. This proposal is to be considered part retrospective.
- 1.2 The dwelling is a detached two storey dwelling, located within a generous garden plot. The site falls within the Grange Conservation Area and within a Tree Preservation Order Area.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application requires consideration by the Planning Committee as it has been called in by Councillor Turner (because of concerns about development in a conservation area) and Councillor Ritchie (because of concerns about privacy).

**3. SITE HISTORY**

- 3.1 A planning application (reference P/15/0706/FUL) for a similar proposal to extend the dwelling with a rear conservatory was granted on 22 January 2016.

- 3.2 A non-material variation was submitted to amend the existing ground levels on the east elevation and to install a door on the east elevation under the patio. This was agreed on 6 April 2016.
- 3.3 A non-material variation was submitted to omit the 1.8 metre screen on the eastern boundary with opaque glazing on the east elevation to enclose the patio area. This was not agreed as a non-material variation as a planning application would be required, the current proposal was then submitted (P/16/0201/FUL).
- 3.4 P/14/0390/FUL - Extension to Dwellinghouse (Conservatory) was granted planning permission on 5 September 2014.
- 3.5 P/08/0980/FUL - Erection of Sun / Garden Room was granted planning permission on 12 February 2009.
- 3.6 06/0520/FUL - Formation of Access and Installation of Gates was granted planning permission on 1 August 2006.
- 3.7 F/2000/0881 - Development of Land for Residential Purposes [One Dwellinghouse] (Outline) was granted outline planning permission on 2 April 2001.

#### **4. CONSULTATIONS**

- 4.1 The Environmental Protection Unit advise that informatives should be attached in relation to contaminated land and construction hours, if consented.

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

- 5.1 Bo'ness Community Council have made no comment.

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

- 6.1 In the course of the application, one contributor submitted 3 letters to the Council. The salient issues are summarised below: -

- Loss of privacy.
- Contrary to Development Plan.
- Contrary to Supplementary Guidance.
- Detrimental impact on character and appearance of Conversation Area.
- Breach of planning control.
- Drawings misleading.
- No design statement submitted.
- Detrimental impact on setting of listed building.

- Contrary to Grange Conservation Area Management Plan.
- Installation of CCTV.

## 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

7a.1 The Falkirk Local Development Plan was adopted on 16 July 2015. The application site lies within the Grange Conservation Area. The adjoining property, 73 Grahamsdyke Road, is a category B listed building. The following policies are relevant.

7a.2 Policy 'D10 - Conservation Areas' states: -

*"The Council will protect the historic character and visual amenity of each Conservation Area. Accordingly:*

- 1. New development in Conservation Areas should preserve or enhance the character and appearance of the Conservation 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.*
- 2. The layout, design, materials, scale, siting and use of any development affecting an unlisted building in a Conservation Area, including extensions, replacement windows, doors, roofs, rainwater goods, boundary treatments and other features, should respect the character and appearance of the original building, and should conform to Supplementary Guidance SG16 'Design Guidance for Listed Buildings and Non-Listed Buildings in Conservation Areas'.*
- 3. Demolition of unlisted buildings within Conservation Areas which make a positive contribution to the special character and appearance of the area will only be supported where:*
  - the existing building is incapable of physical repair and re-use, as shown by the submission and verification of a thorough structural condition report; or*
  - the costs of repair and re-use are such that it is not economically viable. Supporting evidence should include a full economic appraisal, evidence that grant aid is not able to meet any funding deficit, and evidence that the building has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a restoring purchaser; or*

- *the demolition of the building is essential for the delivery of significant economic benefits for the local or wider community; and*
- *proposals for redevelopment of the site contribute to the character and appearance of the conservation Area.*

*Existing buildings shall be retained on site until the redevelopment commences.”*

7a.3 This policy seeks to ensure that new development within Conservation Areas preserves and/or enhances the character and appearance of the Conservation Area. The proposed extension is to the rear of a large detached dwellinghouse set within a substantial plot within the Grange Conservation Area. It is considered that the proposed extension complies with this Policy. The architectural style, massing and materials of the building complement the existing building and do not detract from the overall character and appearance of the area. Although the rear of the applicant's dwellinghouse can be seen from Grange Loan it is largely screened by trees and shrubs.

7a.4 Policy ‘D09 - Listed Buildings’ states:-

*“The Council supports the sustainable re-use and management of the historic built environment, and on that basis there is a presumption against demolition or any other works that would adversely affect the special interest or setting of a listed building. The Council recognises, however, that listed buildings will require alteration, extension and adaptation from time to time to remain in beneficial use and encourages creative and sensitive development where there are no such adverse effects. Accordingly:*

1. *The layout, design, materials, scale, siting and use of any development affecting a listed building, or its setting, including extensions, replacement windows, doors, roofs, rainwater goods, boundary treatments and other features, shall be appropriate to the character and appearance of the building and its setting, and should conform to Supplementary Guidance SG16 'Design Guidance for Listed Buildings and Non-Listed Buildings in Conservation Areas'.*
2. *Proposals for the total or substantial demolition of a listed building will only be supported where it is demonstrated beyond reasonable doubt that every effort has been made by all concerned to find practical ways of keeping it. In particular it should be demonstrated that:*
  - *the existing building is no longer of special interest;*
  - *the existing building is incapable of physical repair and re-use, as shown by the submission and verification of a thorough structural condition report;*
  - *the costs of repair and re-use are such that it is not economically viable. Supporting evidence should include a full economic appraisal, evidence that grant aid is not able to meet any funding deficit, and evidence that the building has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a restoring purchaser; or*
  - *the demolition of the building is essential for the delivery of significant economic benefits for the local or wider community.*
3. *RCAHMS will be formally notified of all proposals to demolish listed buildings to enable features to be recorded.”*

7a.5 This policy seeks to protect the setting of listed buildings. The property to the west of the application site, no. 73 Grahamsdyke Road, is a category B listed building. It is considered that the proposed extension by reason of siting, architectural style, massing and materials does not detract from the setting of the listed building. The proposal complies with this policy.

7a.6 Policy 'HSG07 - Residential Extensions and Alterations' states:-

*"Extensions and alterations to residential properties will be permitted where:*

- 1. The scale, design and materials are sympathetic to the existing building;*
- 2. The location and scale of the extension or alterations will not significantly affect the degree of amenity, daylight or privacy enjoyed by neighbouring properties; and*
- 3. It will not result in overdevelopment of the plot, thereby giving rise to adverse impacts on the functioning of garden ground, unacceptable loss of off-street parking, or road safety issues.*

*Proposals should comply with the detailed guidance on these criteria set out in the Supplementary Guidance SG03 'Residential Extensions and Alterations'"*

7a.7 The proposal complies with this policy. The scale, design and materials are sympathetic to the existing building. The proposal does not significantly affect the degree of amenity or daylight enjoyed by neighbouring properties. Taking into account the ground levels, distances between windows, angles of buildings and obscure glazed screening that are proposed it is considered that the extension would not have an impact on the privacy of neighbours to an extent that a refusal of planning permission would be justified. The proposal is not an overdevelopment of the plot. A large garden area is retained and remains in keeping with the overall spacious character of this part of the conservation area. The proposal does not cause any road safety or parking concerns.

7a.8 Policy 'GN04 - Trees, Woodland and Hedgerows' states: -

*"The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:*

- 1. Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- 2. In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- 3. Development which is likely to affect trees should comply with Supplementary Guidance SG06 'Trees and Development', including the preparation where appropriate of a Tree Survey, Constraints Plan, and Tree Protection Plan. Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*

4. *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare and implement an appropriate Management Plan; and*
5. *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character.”*

7a.9 The application site is within an area covered by a Tree Preservation Order and a conservation area. This policy seeks to ensure that new development will not adversely affect the longevity, stability or appearance of the trees within the area. The proposal complies with this policy. The proposed development is far enough away from the trees that it will not have an adverse impact on them.

### ***Supplementary Guidance Forming Part of the Local Development Plan***

7a.10 Supplementary guidance SG16, 'Listed Buildings and Unlisted Properties in Conservation Areas' and SG03, 'Residential Extensions and Alterations' are relevant.

7a.11 SG16 provides guidance on the Council's approach to the conservation and enhancement of the historic environment. SG03 provides guidance on the design of residential extensions. Both documents set out the general principles that are considered important in achieving good design. It is considered that the proposed development does not conflict with the supplementary guidance.

7a.12 Having assessed the proposals against the relevant policies in the Falkirk Local Development Plan and against the associated supplementary guidance it is considered that the proposed development is in accordance with the Falkirk Local Development Plan.

### **7b Material Considerations**

7b.1 The material considerations to be assessed are consultation response, the Grange Conservation Area Management Plan, the site history, the representations received, coal mining legacy issues.

### ***Responses to Consultation***

7b.2 No issues of concern have been raised by consultees. The Environmental Protection Unit recommend that if planning permission is granted, informatives are attached to the decision notice relating to the timing of construction activities and ground conditions.

## ***The Grange Conservation Area Management Plan***

- 7b.3 The Grange Conservation Area Management Plan was published in 2011 and pre-dates the Falkirk Local Development Plan and SG16. Some of its content, for example, comments in relation to the submission of design statements have been superseded by the Falkirk Local Development Plan and SG16. The Conservation Area Management Plan stated a requirement for any planning application to be supported by a Conservation Design Statement as set out in supplementary guidance current at that time relating to 'Design Statements'. The 'Design Statement' guidance set a threshold for applications requiring a design statement with regard to sensitivity and scale. Although the proposed extension meets the threshold with regard to sensitivity in that it is within a conservation area, it does not meet the threshold regarding scale. The current policy position as set out in SG16 clarifies the position making it clear that a Design Statement will not be required in every case. Accordingly, with reference to the Grange Conservation Area Management Plan the submission of a design statement is not required.
- 7b.4 The overall purpose of the Grange Conservation Area Management Plan is to provide guidance to property owners, occupiers and their agents on policies and procedures and design standards expected. It is considered that the proposed development does not conflict with this guidance.

## ***The Site History***

- 7b.5 Planning permission, reference P/15/0706/FUL, has already been granted for an extension to the rear of the dwellinghouse and construction of the extension is well advanced. The current application is for a proposal that is substantially the same. The main difference is that the existing planning permission includes a requirement to install a 1.8 metre high obscure glazed screen on the east elevation, at the top of the external stairway leading from the covered raised patio area to the garden. It is a condition of planning permission, reference P/15/0706/FUL, that this screen be installed and maintained. The current planning application, reference P/16/0201/FUL, proposes to enclose the east elevation of the raised patio area with a 2.6 metre high obscure glazed wall and doorway in place of the 1.8 metre screen and to leave the balustrade stairway to the garden open. The revised proposal does not comply with the condition imposed on the earlier planning permission and therefore a further planning application was required.
- 7b.6 The reason for imposing a condition on planning permission, reference P/15/0706/FUL, requiring the 1.8 metre obscure glazed screen was to safeguard the privacy of the occupants of adjacent properties. It is considered the amended proposal will also provide a suitable privacy screen and is an acceptable alternative. If planning permission is granted a condition can be imposed requiring the screen wall and doorway to be installed and thereafter retained.

## ***Representations Received***

- 7b.7 It is considered, as set out in paragraphs 7a.2 – 7a.13, that the proposed development would not have a significant impact on the privacy of the neighbours or of the applicants.
- 7b.8 The proposal complies with the Development Plan and supplementary guidance as set out paragraphs 7a.2 – 7a.13.



- 7b.9 It is considered that the architectural style, massing and materials proposed are appropriate and the proposal would not have a detrimental impact on the character and/or appearance of the Grange Conservation Area or the setting of the listed building at 73 Grahamsdyke Road.
- 7b.10 There has been a breach of planning control in that changes were made to the approved east elevation of the extension without first seeking permission. These changes, such as installing a small door to the void beneath the raised patio and detailing of the external stairs are minor and have been agreed as non-material variations of planning permission reference P/15/0706/FUL. The applicants have installed CCTV on the property which requires planning permission within a conservation area. The applicants have been advised of the need for permission and a planning application has been requested. In the meantime the applicant has provided details of the field of vision of cameras to confirm that the 5 cameras installed around the dwellinghouse do not infringe neighbours' privacy.

### ***Consideration of the Site in Relation to Coal Mining Legacy***

- 7b.11 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. It is recognised that flexibility and discretion are necessary parts of the planning system and as such there may be exemptions to the requirement for a desk based Coal Mining Risk Assessment within the Development High Risk Area.
- 7b.12 Exemption can be on the grounds of the type of application or the nature of development. Only one of these needs to be met to exempt the need for a desk based Coal Mining Risk Assessment and also the consequential need for the Council to consult the Coal Authority. This proposal is considered to fall into one of these exempt groups, but ground conditions should still be considered as part of the Building Standards process, if relevant.
- 7b.13 If planning permission is granted, an appropriate informative note would appear on the Decision Notice.

### **7c Conclusion**

- 7c.1 The proposed development has been assessed against the Falkirk Local Development Plan and against all relevant material planning considerations. The proposal complies with the Development Plan and there are no material considerations to justify refusing planning permission for the amended proposals to extend this dwellinghouse.

## **8. RECOMMENDATION**

- 8.1 It is recommended that the Planning Committee grant planning permission subject to the following condition(s):-**

- 1. The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**

2. Prior to occupation of the extension hereby approved, the east elevation of the raised patio area, facing the boundary of 77 Grahamsdyke Road, (as shown hatched on the approved east elevation drawing 04B) shall be fitted with fixed obscure glazed windows and an obscure glazed door in accordance with details to be submitted to and approved in writing by this Planning Authority. Thereafter, the obscure glazing shall be retained and maintained at all times.

**Reason(s):-**

1. As these drawings and details constitute the approved development.
2. To safeguard the privacy of the occupants of adjacent properties.

**Informative(s):-**

1. In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
2. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03, 04B, 05B, 06B, 07, 08, 09 and 10.
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.
4. 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.

.....  
pp Director of Development Services

Date: 8 August 2016

### **LIST OF BACKGROUND PAPERS**

1. The Falkirk Local Development Plan.
2. The Grange Conservation Area Management Plan.
3. Objection received from Mr Pacitti, c/o Euan Pearson, Pearson Planning, PO Box 28606, Edinburgh, EH4 9BQ on 9 June 2016
4. Objection received from Mr & Mrs Pacitti, C/O Euan FS Pearson MRTPI MRICS, Pearson Planning, PO Box 28606, Edinburgh, EH4 9BQ, on 3 May 2016
5. Objection received from Mr Pacitti, C/O Euan FS Pearson MRTPI MRICS, Pearson Planning, PO Box 28606, Edinburgh, EH4 9BQ, on 1 May 2016

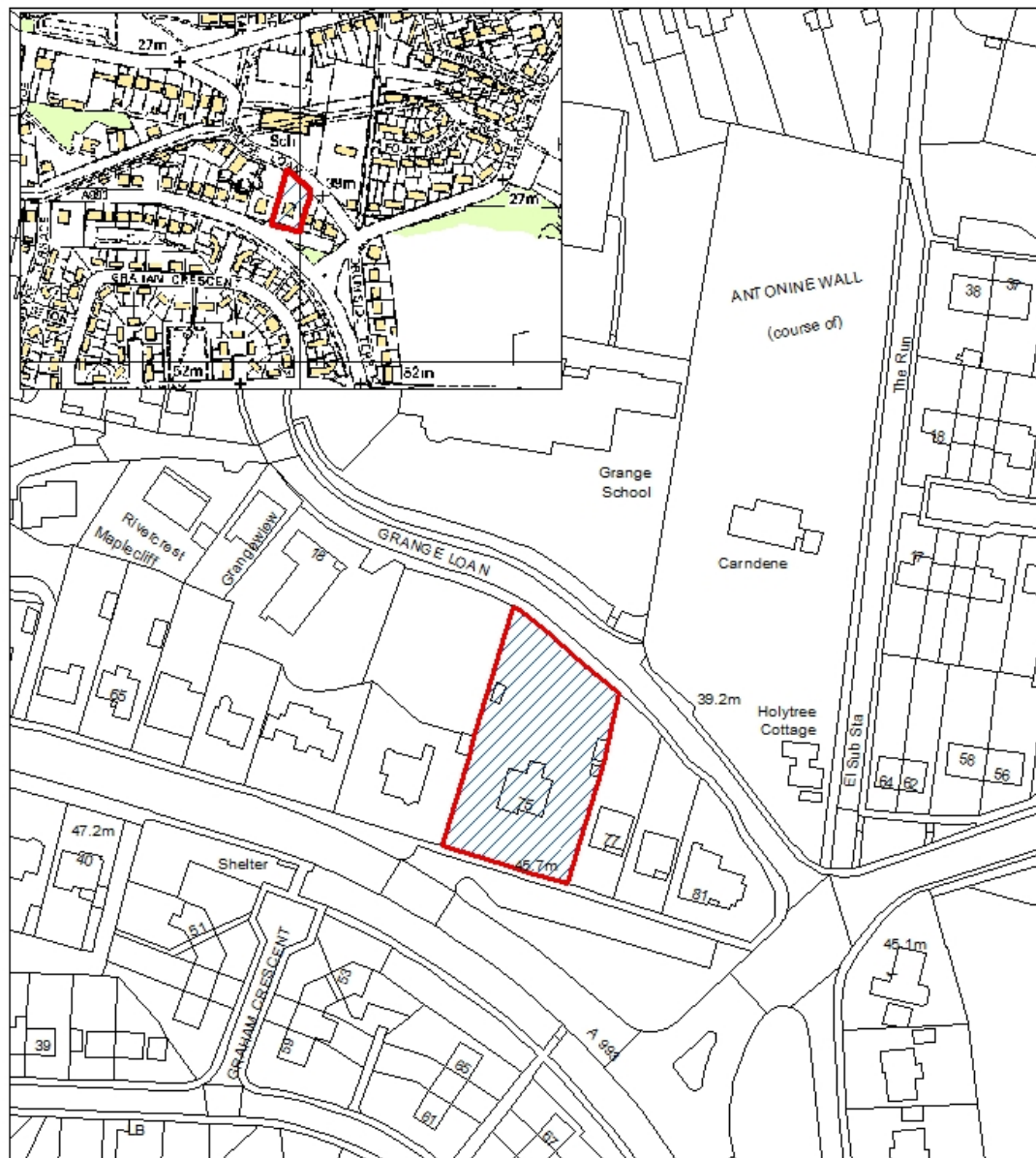
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for Kirsty Hope, Assistant Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/16/0201/FUL**

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# **AGENDA ITEM**

**7**

**CHANGE OF USE OF OPEN SPACE  
TO EXTEND CAR COMPOUND AT  
ADJACENT (CLASS 6) STORAGE  
AND DISTRIBUTION BUSINESS, AND  
ERECTION OF 2.1M BOUNDARY  
FENCE AT D J MANNING  
AUCTIONEERS, BRIDGENESS  
ROAD, BO'NESS, EH51 9SF FOR  
JOHN PYE AUCTIONEER LTD -  
P/16/0127/FUL**

**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE OF OPEN SPACE TO EXTEND CAR COMPOUND AT ADJACENT (CLASS 6) STORAGE AND DISTRIBUTION BUSINESS, AND ERECTION OF 2.1M BOUNDARY FENCE AT D J MANNING AUCTIONEERS, BRIDGENESS ROAD, BO'NESS, EH51 9SF FOR JOHN PYE AUCTIONEER LTD - P/16/0127/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 17 August 2016

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Bo'ness and Blackness

Councillor Adrian Mahoney  
Councillor Ann Ritchie  
Councillor Sandy Turner

**Community Council:** Bo'ness

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

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

- 1.1 The application site is located on the north side of Bridgeness Road, at the junction with Carriden Brae. The application site comprises approximately 748 square metres of open space, forming part of a larger area of open space.
- 1.2 The proposal relates to a car park extension (for existing commercial premises) and includes a 2.1 metre high boundary fence.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application requires consideration by the Planning Committee as it has been called in by Councillor Ritchie for the following reason:
  - Loss of amenity.

**3. SITE HISTORY**

- 3.1 F/92/0764 - Extension to form workshop and showroom - Granted on 2 October 1992.
- 3.2 F/94/0511 - Extension to workshop - Granted on 29 July 1994.
- 3.3 F/98/0873 - Change of use of warehouse and workshop to form auction rooms - Granted on 08 March 1999.

- 3.4 F/2002/0684 - Erection of industrial storage building - Granted on 18 November 2002.
- 3.5 F/2004/0216 - Alterations to provide office accommodation - Granted on 30 April 2004.
- 3.6 P/11/0477/FUL - Change of Use of Open Space to Extend Car Compound at Adjacent Class 6 Storage and Distribution Business, and Erection of 2.1m Boundary Fence - granted on 7 October 2011.

#### **4. CONSULTATIONS**

- 4.1 The Council's Roads Development Unit advise that there are no road safety issues as a result of the proposed development. They request confirmation from SEPA and Scottish Water in relation to drainage discharge from the site.
- 4.2 The Council's Environmental Protection Unit have no objection to the proposal and advise of an informative in relation to ground contamination.

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

- 5.1 Bo'ness Community Council have not made any representations in respect of the application.

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

- 6.1 In the course of the application, three contributors submitted objections to the Council. The salient issues are summarised below.
- There is existing noise nuisance from traffic in the area and the proposed development would allow additional vehicles, including HGVs.
  - The road was never designed to cope with the large volume of traffic associated with surrounding industrial and commercial uses.
  - There have been a number of accidents on Bridgeness Road, at the junction of the application site.
  - The double yellow lines are ignored and the police do not monitor the area.
  - The adjacent commercial premises affect the residential amenity of surrounding residents, who are being pushed out of the area.
  - The proposed development would impact the visual amenity of the area.
  - One objection was received from a Member of Parliament who made comment in relation to traffic generation and road safety.

## 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

7a.1 The Falkirk Local Development Plan was adopted on 16 July 2015. The proposed development was assessed against the following policies:

7a.2 Policy BUS02 – ‘Core Business Areas’ states:

*“The core business areas identified on the Proposals Map will be retained primarily in business and industrial use. Class 4, 5 and 6 uses will be supported in principle within these areas, apart from Callendar Business Park, and Gateway Business Park, Grangemouth, where only Class 4 uses will be appropriate. Other employment uses will be permitted where they are compatible with the business/industrial character of the area and comply with other LDP policies.”*

7a.3 The site lies within a core business area identified in the Local Development Plan. The proposal would not prejudice the future use of the site for Class 4, 5 or 6 use, in accordance with Policy BUS02.

7a.4 Policy INF03 – ‘Protection of Open Space’ states:

*“The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value. Accordingly:*

*1. Development involving the loss of urban open space will only be permitted where:*

- There is no adverse effect on the character or appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
- There will be no significant adverse effect on the overall recreational amenity of the local area, taking account of the Council's open space standards (defined within the Open Space Strategy) and its release for development will be compensated for by qualitative improvements to other parts of the green network in the local area;*
- The area is not of significant ecological value (this can include areas that are not specifically designated for ecological features, but which are important in supporting the qualifying features of Natura 2000 sites); and*
- Connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded.*



2. *Where development would also involve the loss of playing fields or sports pitches, it must additionally be demonstrated that:*

*- The proposed development is ancillary to the principal use of the site as a playing field; or*

*- The proposed development involves a minor part of the playing field which would not affect its use and potential for sport and training; or*

*- The playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area; or*

*- The Council's pitch strategy has shown that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and that the site could be developed without detriment to the overall quality of provision."*

7a.5 The application site, although being an area of open space, forms part of a larger core business area, as identified in the Local Development Plan. Within such areas, business and industry is the primary use and it is noted that the site is not identified as being an area of open space. As such it is considered that the loss of some of the open space area, to allow an extension to the car park, is acceptable.

7a.6 It is noted that a section of open space to the front of the site would be retained to maintain a 'green edge' to the established commercial / industrial area. As such it is considered that there would not be a significant, adverse impact on the character or appearance of the area, that being characterised by commercial / industrial development on the north side of Bridgeness Road.

7a.7 The site is not identified as having ecological value, does not provide connectivity within the wider green network and has no recreational value. It is noted that the Council's Open Space Strategy identifies the area as amenity greenspace and it is not identified as an area of open space for improvement or enhancement. The loss of the area is therefore considered acceptable in accordance with policy INF03 and the wider aims of the Local Development Plan.

### ***Supplementary Guidance forming Part of Local Development Plan***

7a.8 Supplementary Guidance SG13 advises that where the loss of open space is considered acceptable, its release for development needs to be compensated for by qualitative improvements to other parts of the green network. The Bo'ness Foreshore East (directly to the north of the site) has been identified for qualitative improvement in the draft Open Space Strategy.

7a.9 SG13 gives advice on how compensatory planning gain is calculated. In this instance £15,708 (£21 x 748 metre squares of lost amenity space) is sought. The applicant has accepted the commuted payment.

7a.10 Accordingly, the application accords with the Falkirk Local Development Plan.

## **7b Material Considerations**

- 7b.1 The material considerations to be assessed are the representations received, site history, consultation responses and the consideration of the site in relation to coal mining legacy.

### ***Site History***

- 7b.2 This application is a renewal of P/11/0477/FUL, granted on 7 October 2011. It is considered that the previous approval of the same scheme although not extant, supports the application. It is noted that there has been no significant change in circumstances since the previous planning application was assessed and granted.

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

- 7b.3 It is accepted that there is an existing backdrop of commercial / industrial and traffic noise in the area. It is not considered that the proposed car park extension would cause a significant increase in either noise or traffic generation in the area.
- 7b.4 Bridgeness Road is historically a mixed use area, with industrial and commercial premises on the north side of the road, fronting the foreshore and residential properties on the south side of the road. It is acknowledged that there is traffic and HGV's using Bridgeness Road, however this proposed development to extend the car park of an existing commercial premises, would not lead to a significant increase in the number of vehicles in the area or significantly affect the character or appearance of the area. Further it is noted that the Roads Development Unit have no concerns in relation to road safety.
- 7b.5 The policing of traffic restrictions in the area is not a material planning consideration.
- 7b.6 At the time of writing this report accident data for the period from January 1981 to 11 July 2016 (the most recently recorded data) show there are no personal injury accidents within 25 metres of the application site access.

### ***Consultation Responses***

- 7b.7 The Roads Development Unit advise that there are no road safety issues with the proposed development
- 7b.8 The Roads Development Unit make comment in relation to drainage and this can be addressed by condition. The Environmental Protection Unit advise of an informative in relation to ground contamination.

### ***Information Submitted in Support of the Application***

- 7b.9 The applicant has submitted information to support their application including investment in the site, job generation and benefit to the local economy.
- 7b.10 The applicant, although accepting the commuted payment, has expressed disappointment in relation to sum requested, viewing it as unreasonable in relation to the type of development proposed (car park) and commercial character of the area.

## ***Consideration of the Site in relation to Coal Mining Legacy***

- 7b.11 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. It is recognised that flexibility and discretion are necessary parts of the planning system and as such there may be exemptions to the requirement for a desk based Coal Mining Risk Assessment within the Development High Risk Area.
- 7b.12 Exemption can be on the grounds of the type of application or the nature of development. Only one of these needs to be met to exempt the need for a desk based Coal Mining Risk Assessment and also the consequential need for the Council to consult the Coal Authority. This proposal is considered to fall into one of these exempt groups, but ground conditions should still be considered as part of the Building Standards process, if relevant.
- 7b.13 If planning permission is granted, an appropriate informative note would appear on the Decision Notice.

### **7c Conclusion**

- 7c.1 The proposal is assessed as being in accordance with the Falkirk Local Development Plan. The comments received by third parties and consultees are addressed in the body of this report. There are no material planning considerations to warrant refusal of the application and it is recommended for approval subject to condition.

## **8. RECOMMENDATION**

- 8.1 It is therefore recommended that Committee indicate that it is minded to Grant Planning Permission subject to:-**

- (a) The satisfactory completion, within 6 months, of a Planning Obligation within the terms of section 75 of the Town and Country Planning (Scotland) Act 1997 or legal agreement within the terms of Section 69 of the Local Government (Scotland) Act 1973 in terms satisfactory to the Director of Development Services in respect of:-**
  - (i) The payment of a financial contribution towards qualitative improvements in other parts of the green network, to offset the loss of an area of open space, in the sum of £15,708; and**
- (b) And thereafter, on the conclusion of the foregoing matters, remit to the Director of Development Services to grant planning permission subject to the following conditions.**
  - 1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
  - 2) No work shall commence on site until written communication from SEPA and Scottish Water, confirming acceptance of drainage discharge from the site, are submitted to and approved in writing by the Planning Authority.**

- 3) Unless otherwise agreed in writing by the Planning Authority, all approved landscaping works shall be implemented by the end of the first planting and seeding season following the commencement of development on site.

**Reason(s):-**

- 1) As these drawings and details constitute the approved development.
- 2) To ensure the extended car park can be adequately drained.
- 3) To safeguard the visual amenity of the area.

**Informative(s):-**

- 1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- 2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and 02.
- 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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**pp Director of Development Services**

**Date: 8 August 2016**

**LIST OF BACKGROUND PAPERS**

1. The Falkirk Local Development Plan
2. Objection received from Mr John Mullen, 4 Carriden Glade, Bo'ness, EH51 9LU on 9 March 2016.
3. Objection received from James Hunt, 5 Carriden Glade, Bo'ness, EH51 9LU on 31 March 2016.
4. Objection received from Mr Martyn Day (Member of Parliament), 62 Hopetoun Street, Bathgate, EH48 4PD on 13 April 2016.

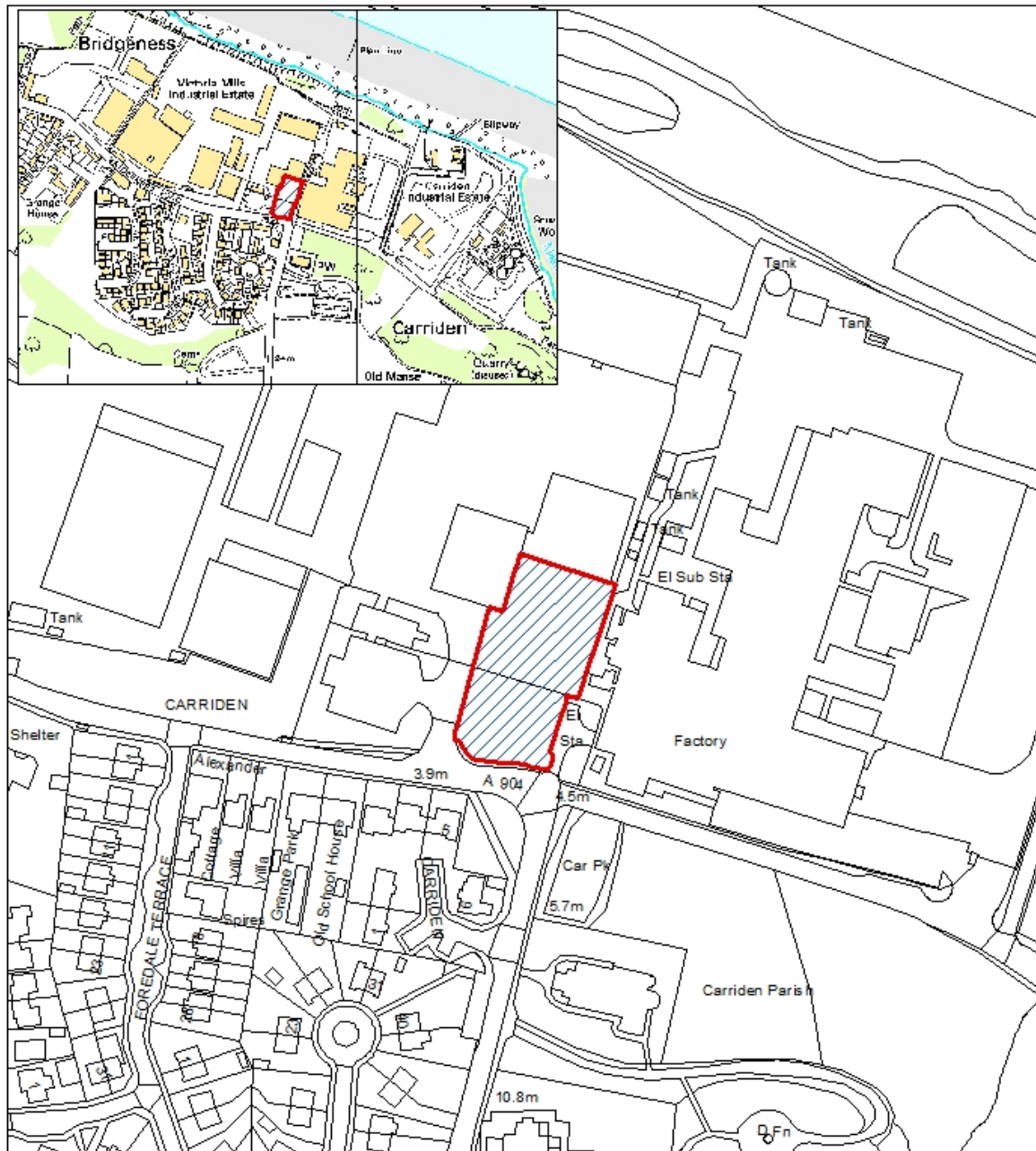
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/16/0127/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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