

Perth and Kinross Council  
Development Control Committee – 17 February 2010  
Report of Handling by Development Quality Manager

**Change of Use From Function Room to Night Club, Brennan's, 46 St John Street/35 Watergate, Perth PH1 5SP**

Ref: No: 09/01190/FLL  
Ward No: 12 Perth City Centre

**Summary**

This report refers to a planning application for a night club within premises currently operating as a public house and associated function room. A number of objections have been received from local residents but approval is recommended on the basis that the proposal complies with policy.

**BACKGROUND AND DESCRIPTION**

- 1 The application refers to a large public house with first floor function room occupying premises in Perth City centre which front St John Street and run through to Watergate. Pedestrian access to the function room is from St John Street by means of an internal staircase within the public house. On the Watergate elevation the building is a mix of modern infill and traditional architecture although there is also a void at ground floor level which is used for parking/bin storage. The function room lies on the Watergate side of the building, above the carport and has a 1960's frontage containing three blocked up window openings.
- 2 Adjoining the site on the north is a flatted block which was formerly part of Brennan's (The Windsor at that time) and on the south offices. On the opposite side of Watergate is a church hall and newspaper office. It is worth noting that the existing function suite, which obtained planning consent in 2007(ref 07/00825/FUL), has a floor area of approximately 140 square metres and can accommodate 238 patrons. Under the terms of the previous consent the latest permitted hours of opening are 0130 on Saturday and Sunday morning, 0100 on Friday morning and 2300 Sunday- Wednesday.
- 3 Full consent is now sought to change the use of the first floor function room to a night club. There would be no enlargement of the floor area or increase in the capacity and no alterations affecting the exterior of the building. The night club use would only operate on Fridays and Saturdays but will open until 0230 hours on Saturday and Sunday morning.
- 4 The applicant has stated that the intention is to create a sophisticated facility catering for a niche market of mature patrons in the 25+ age group. In addition it is considered the development would increase the range of leisure/entertainment opportunities in Perth town centre and provide additional employment.

## **NATIONAL POLICY AND GUIDANCE**

### **PAN 56 Planning and Noise**

- 5 Demonstrates the role of the planning system in preventing and limiting the adverse affects of noise without prejudicing investment and enterprise. As regards noise from commercial premises such as night clubs it suggests that the Planning Authority should consider attaching conditions to safeguard residential amenity.

## **DEVELOPMENT PLAN**

- 6 The Development Plan for the area comprises the approved Perth and Kinross Structure Plan 2003 and the adopted Perth Central Area Local Plan 1997.

### **Perth and Kinross Structure Plan 2003**

#### **Sustainable Communities Policy 8**

- 7 Emphasises that town centres will continue to be the main focus for employment in retail, leisure and other services.

### **Perth Central Area Local Plan 1997**

- 8 Under the Local Plan the site lies within an area zoned for secondary business and commercial uses. The principle relevant policies are in summary:
- 9 **Policy 41** states that within areas zoned for secondary business and commercial uses the Council will support business, commercial, retail and other development provided that residential amenity is not adversely affected.

## **SITE HISTORY**

- 10 In June 2007 planning consent was granted for change of use of vacant upper floor accommodation within the public house to a function suite ref 07/00825/FUL. That consent was subject to a number of conditions including those relating to noise control and hours of opening.

## **CONSULTATIONS**

- 11 The Perth and Kinross Archaeologist has no objections to the proposal.
- 12 Scottish Water has no objection to the proposal.
- 13 The Environmental Health Manager has no objections subject to noise control conditions.

## REPRESENTATIONS

14 Nineteen representations have been received from local residents, businesses and Perth Civic Trust. The main points of concern may be summarised as follows:-

- Impact on amenities of adjacent residential property due to increased noise from amplified music and large numbers of people entering or leaving the premises
- The development will generate additional anti-social and criminal behaviour in an area already plagued with such problems.
- There would be an increase in smoking outwith the premises creating pollution, further noise and detritus.
- The proposed use would result in an over-provision of night clubs within Perth city centre.
- A night club would be incompatible with the historic and ecclesiastical character of the surrounding area.

These issues are dealt with in the appraisal section of the report.

### 15 **Additional Statements Received**

Environmental Statement:	Not required
Screening Opinion:	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment:	Not required
Design Statement or Design and Access Statement:	Not required
Report on Impact or Potential Impact i.e. Flood	Not required
Risk Assessment:	

## APPRAISAL

16 This application raises the following issues:-

### **Policy**

17 National and local planning policy aims to reinforce the role of the town centre as a focus for shopping, work and leisure, as well as being a place for people to live. Such a mix of activities within a relatively small area can lead to land use conflict and the available guidance seeks to reconcile this. The site lies within an area zoned for secondary business and commercial uses on the Perth Central Area Local Plan which, by implication, means that these will be the predominant uses. However, Policy 41 of the Plan requires that they co-exist with housing in such a way that residential amenity is not adversely affected. There is no particular policy guidance on the number of night clubs which is considered adequate, but there are three at present, which is not a particularly large number for a city of 45,000, and these are evenly distributed throughout the city centre.

## **Residential Amenity**

- 18 As previously noted the premises are adjoined by residential properties and there are other flats in the vicinity. A number of local residents are concerned at the potential noise level from the night club which they feel would exacerbate an unsatisfactory situation, namely the impact of the existing function suite. Clearly, it must be expected that the quality of residential environment in the town centre will be lower than elsewhere since housing is part of a land use mix which includes assembly and leisure activities. Nevertheless a balance needs to be struck between the needs and aspirations of the various land users, and, as such, a minimum level of residential amenity should be maintained. It is my view that, with appropriate noise controls, including that there is no access/egress on Watergate, this is attainable at the development site. The premises already operate as a function room on seven nights a week, including until 1.30am on Friday and Saturday, and the proposal does not represent a major intensification or change in the character of the usage.

## **Conservation Area**

- 19 The site lies within the Perth Central Conservation Area but the proposal will have no impact on its appearance. There is a suggestion that a night club would detract from the character of the St John's Kirk precinct. Given the site is already occupied by a large public house with others in the immediate vicinity; I consider that any perceived detriment to the setting of the church would be minimal.

## **Anti-Social Behaviour**

- 20 This is not an issue for the Planning Authority but rather a matter for the Licensing Board to consider in consultation with the police.

## **LEGAL AGREEMENTS**

- 21 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 22 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 23 Under the Town and Country Planning Acts, all planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Perth Central Area Local Plan 1997 places the site within an area zoned for secondary business and commercial

uses. This means that a night club will be supported provided it would not detract from the residential amenities of the area. Given that the premises are already used as function suite, and that the only significant change is to the hours of opening at weekends, I am of the view that the proposal is capable of complying with the relevant policy subject to robust control over noise emissions.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

- 1 The development shall be commenced within a period of five years from the date of this consent
- 2 The proposed development shall be carried out in accordance with the approved plans herewith unless provided for by conditions imposed on the planning consent.
- 3 The sound insulation and sound transmission properties of the structures and finishes shall be such that no airborne noise from operations within the premises is audible within any neighbouring residential property.
- 4 All doors shall be fitted with self-closing hinges.
- 5 All fixed plant and machinery to be installed or operated within the proposed night club shall be so enclosed attenuated operated and maintained such that noise therefrom shall not exceed International Standards Organisation (ISO) Noise Rating 35 between 0700 and 2300 hours or Noise Rating 25 between 2300 and 0700 hours within any neighbouring residential premises, to the satisfaction of the Planning Authority.
- 6 Prior to the change of use being implemented a noise limiter shall be installed and operated to control the maximum level of amplified speech and music and shall at all times be set at 90dB @ 135Hz @1m.
- 7 The primary entrance to and exit from the night club shall be St John Street through Brennan's public house and the exit onto Watergate shall only be used as an emergency fire exit.
- 8 The change of use hereby approved shall operate on Friday and Saturday nights only and shall be limited to 0230 hours on Saturday and Sunday morning, to the satisfaction of the Planning Authority.

### **Reasons**

- 1 In accordance with the terms of Section 58 of the Town and Country Planning(Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland)Act 2006.

- 2 To ensure the development is carried out in accordance with the approved plans.
- 3-7 In order to safeguard the residential amenities of the area.

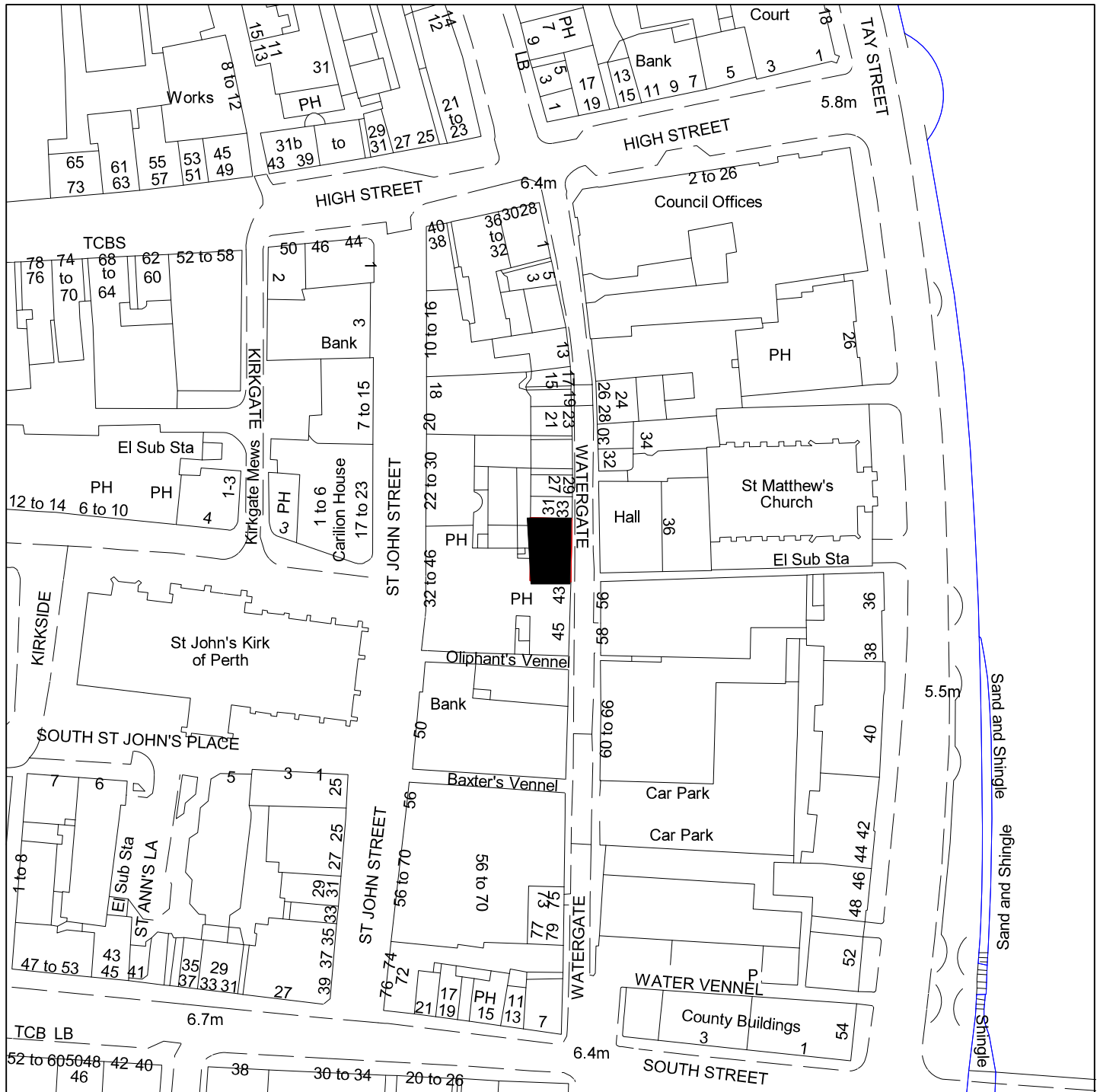
**B JUSTIFICATION**

The application is in accordance with the Development Plan and there are no material considerations to justify a departure.

Background Papers: Nineteen representations have been received  
Contact Officer: Brian Dunkin – Ext 75354  
Date: 26 January 2010

**Nick Brian**  
**Development Quality Manager**

C/U from function room to night club, 35 Watergate, Perth



Scale : 1:1250

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<b>Organisation</b>	Perth & Kinross Council
<b>Department</b>	Planning
<b>Comments</b>	
<b>Date</b>	27 January 2010
<b>SLA Number</b>	100013289

