

Perth and Kinross Council  
Development Control Committee – 8 September 2010  
Report of Handling by Development Quality Manager

**Alterations and change of use from baker/coffee shop to hot food shop at 68  
Main Street, Methven**

Ref: No: 10/00670/FLL  
Ward No: N9 – Almond and Earn

**Summary**

This report recommends approval of the application for the alterations and change of use from baker/coffee shop to a hot food shop as complying with the relevant policies of the local plan.

**BACKGROUND AND DESCRIPTION**

- 1 This application relates to the ground floor shop unit at 68 Main Street, Methven. At the time of visiting the premise it was operating as a coffee shop selling hot food with sit in facilities. The kitchen to the existing unit is accommodated within a small flat roof extension to the rear of the building. There is a small rear courtyard area which is overlooked by a number of residential flatted properties.
- 2 Full planning permission is being sought for a change of use to operate a hot food takeaway from the premises. The proposals will involve a number of alterations to the interior layout with a new kitchen and food counter being installed. There will be no sit in facilities for the consumption of food within the premises. The proposals also involve the installation of a new extraction system that shall be vented out the rear through an extraction duct mounted on the rear wall.

**NATIONAL POLICY AND GUIDANCE**

**Scottish Planning Policy (February 2010)**

- 3 This SPP is a statement of Scottish Government policy on land use planning and contains:
  - the Scottish Government's view of the purpose of planning,
  - the core principles for the operation of the system and the objectives for key parts of the system,
  - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
  - concise subject planning policies, including the implications for development planning and development management and,
  - the Scottish Government's expectations of the intended outcomes of the planning system.

Of relevance to this application are:

- Paragraphs 45 - 48 which relate to Economic Development

#### **Planning Advice Note 56: Planning and Noise**

- 4 Provides advice on good practice and other relevant information relating to noise.

#### **Scottish Government Circular 10/1999 Planning and Noise**

- 5 This Circular sets out Government policy on the role of the planning system in controlling noise.

#### **DEVELOPMENT PLAN**

- 6 The Development Plan for the area comprises the Approved Perth and Kinross Structure Plan 2003 and the Adopted Perth Area Local Plan 1995.

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

- 7 There are no strategic issues of relevance raised by the Perth and Kinross Structure Plan, 2003.

#### **Perth Area Local Plan 1995**

- 8 Under the Local Plan the site lies within the village settlement boundary of Methven.

- 9 The principal relevant policies are in summary: -

#### **Policy 71: General Villages Policy**

- 10 This policy outlines that within village areas and small settlements residential amenity and village character will be retained and, if possible, improved. Some scope may exist for infill development but only where this will not adversely affect the density, character or amenity of the village. Generally encouragement will be given to:-

- Improvements of existing village shopping facilities where it can be shown that they would serve the needs of the village.
- Proposals which will improve the character and environment of the village.
- Small scale business activities where they are compatible with the amenity and character of the village.
- Proposals for the provision of small scale tourism and leisure facilities in villages.

## SITE HISTORY

11 None

## CONSULTATIONS

12 The Head of Environmental and Consumer Services has advised that they have no objection to the proposed use subject to conditions to ensure the installation of a ventilation system capable of eliminating all cooking odours and that any noise from plant or equipment does not unduly impact on neighbouring amenity. The details of this system will be agreed prior to the commencement of the development.

## REPRESENTATIONS

13 8 letters of representation have been received from 7 neighbouring households. The grounds of the objections can be summarised as follows:

- Cooking odours
- Noise
- Traffic generation/insufficient vehicular access
- Hours of operation
- Impact on character of Listed Building
- Litter/Refuse disposal
- Anti-social behaviour
- Over provision of hot food takeaways
- Fire Hazard

## ADDITIONAL STATEMENTS

14	Environment Statement	Not required
	Screening Opinion	Not required
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	Not required
	Business Plan	Not required

## APPRAISAL

15 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The adopted Development Plans that are applicable to this area are the Perth and Kinross Structure Plan 2003 and the Perth Area Local Plan 1995.

16 The determining issues in this case are whether: - the proposal complies with Development Plan policy; or if there are any other material considerations which justify a departure from policy.

- 17 The relevant policy in this particular case is the General Village Uses Policy 71. This policy outlines that within village areas and small settlements residential amenity and village character will be retained and, if possible, improved. As such, the main issue to consider in the assessment of this application is the potential impact on neighbouring amenity.

### **Impact of Noise and Odours**

- 18 Due to the nature of the proposed use odour and noise can be a significant issue, particularly where there are nearby residential properties. In this instance a number of neighbouring residents have raised concerns in relation to the potential impact of noise and odours from the cooking of food on the premises.
- 19 Environmental Health has acknowledged that the site is surrounded by flatted dwellings and it has been noted that a number of these residents have raised concerns in relation to potential impact of cooking odours. In their assessment it is considered that the proposed use would be acceptable provided that an appropriate ventilation system that removes any cooking odours is installed. The Environmental Health Officer has discussed the ventilation system with the applicant's agent and they are agreeable to the installation of an electrostatic precipitator or other similar equipment in order to eliminate odour.
- 20 In relation to the concerns raised regarding the potential impact of noise, Environmental Health has advised that that a condition should be imposed to ensure that any noise from the ventilation system does not impact on the amenity of the neighbouring properties.
- 21 In addition to the above it should be noted that the premises has until recently been operated as a baker/coffee shop serving hot foods to sit in customers. At present the kitchen is located within the small flat roof extension to the rear of the building and a ventilation system ducts out through a small flue on the roof of the extension. According to Environmental Health no complaints have been received relating to noise or odours in the past by any neighbouring properties.

### **Traffic Generation/Access**

- 22 The Roads Authority has been consulted and they have advised that they have no objection to the proposed use. It is not considered that parking and vehicular access is an issue in this particular case. Furthermore, it is unlikely that the proposed use shall generate any greater amount of traffic than was generated by the coffee shop.
- 23 It is therefore considered that the proposed use will not have any impact on traffic levels or road safety.

### **Hours of Operation**

- 24 Environmental Health has not recommended any condition restricting the operating hours of the proposed use as it is considered that all noise and odour can be suitably controlled by condition. Nevertheless, if the applicant wishes to operate later than 2300 they will need to apply to the Licensing Committee for a late hours catering licence which Environmental Health would be unlikely to support.

### **Impact on character of Listed Building**

- 25 The Conservation Team has been consulted and whilst they acknowledge that the building forms part of a Category C(S) Listed Group, they have no comment to make on the merits of the proposals. This is due to the significant amount of the unsympathetic alterations that have been undertaken on the Listed Group over time.
- 26 It is therefore considered that the proposed use and associated ventilation system will not have a significant impact on the character of the Listed Building.

### **Litter/Refuse Disposal**

- 27 A number of objectors have raised concerns in relation to the disposal of waste on the premises. The storage and disposal of commercial waste on a premise is matter that is assessed by the Council's Food Law Enforcement Officer and it is covered by separate EC legislation.
- 28 The disposal of waste on the premise is therefore not a consideration of this planning application.

### **Anti-Social Behaviour**

- 29 The potential impact of anti-social behaviour from youths frequenting the takeaway has been raised as an objection to the proposed use. This issue is not a material planning consideration in relation to the determination of this application. Any issues relating to anti-social behaviour are a concern for the police.

### **Existing Provision of Takeaways**

- 30 A number of objectors have advised that the village is already well catered for by takeaway establishments and that there is no need for a further hot food takeaway outlet. Whilst it is understood that there is already a Chinese takeaway, an Indian restaurant and local bars that serve food, it is not considered that the proposed use would result in an over supply of hot food takeaway. Nevertheless, the existing provision of hot food takeaway outlets is not a relevant matter in the consideration of this planning application.

- 31 The other concerns relating to obesity and healthy eating are similarly not a material consideration in planning terms..

### **Fire Hazard**

- 32 Concerns have been raised in relation to the potential fire hazard of operating a hot food takeaway within close proximity of residential flats. This is not a material consideration in the assessment of this planning application. Any issues relating to fire hazard and details in relation to any fire prevention safeguards are matters for Building Standards to consider during the assessment of a building warrant.

### **LEGAL AGREEMENTS REQUIRED**

- 33 A legal agreement is not required for this development proposal.

### **DIRECTION BY SCOTTISH MINISTERS**

- 34 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**

- 35 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, it is considered the proposal complies with the Adopted Perth Area Local Plan 1995, in particular Policy 71. There are no material considerations that would justify refusing the application. On that basis the application is recommended for approval subject to conditions.

### **RECOMMENDATION**

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

- 1 The development shall be begun within a period of three years from the date of this consent
- 2 The proposed development must be carried out in accordance with the approved plans herewith, unless otherwise provided for by conditions imposed on the planning consent.
- 3 Prior to the opening of the premises details of the proposed ventilation system shall be submitted and agreed in writing by the Council as Planning Authority. The system shall incorporate odour control, and shall be installed, operated and maintained to ensure that no cooking odours associated with operation of the development are emitted or exhausted into any neighbouring residential property.

- 4 The ventilation system shall discharge at a point at least 1 metre above eaves level or 1 metre above any openable windows or nearby properties, whichever is higher.
- 5 All plant or equipment including any ventilation system associated with operation of commercial areas shall be so enclosed, attenuated and/or maintained such that any noise shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and/or calculated and plotted on a curve chart.

### **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 that the development is carried out in accordance with the plans approved.
- 3 To ensure there are measures in place to safeguard the amenities of nearby properties.
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### **B JUSTIFICATION**

- 1 The proposal is considered to comply with the Development Plan and there are no other material considerations which would justify a departure therefrom.

### **C PROCEDURAL NOTES**

None

### **D INFORMATIVES**

- 1 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 2 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management

Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.

Background Papers: 8 letters of objection  
Contact Officer: David Niven – Ext 75345  
Date: 18 August 2010

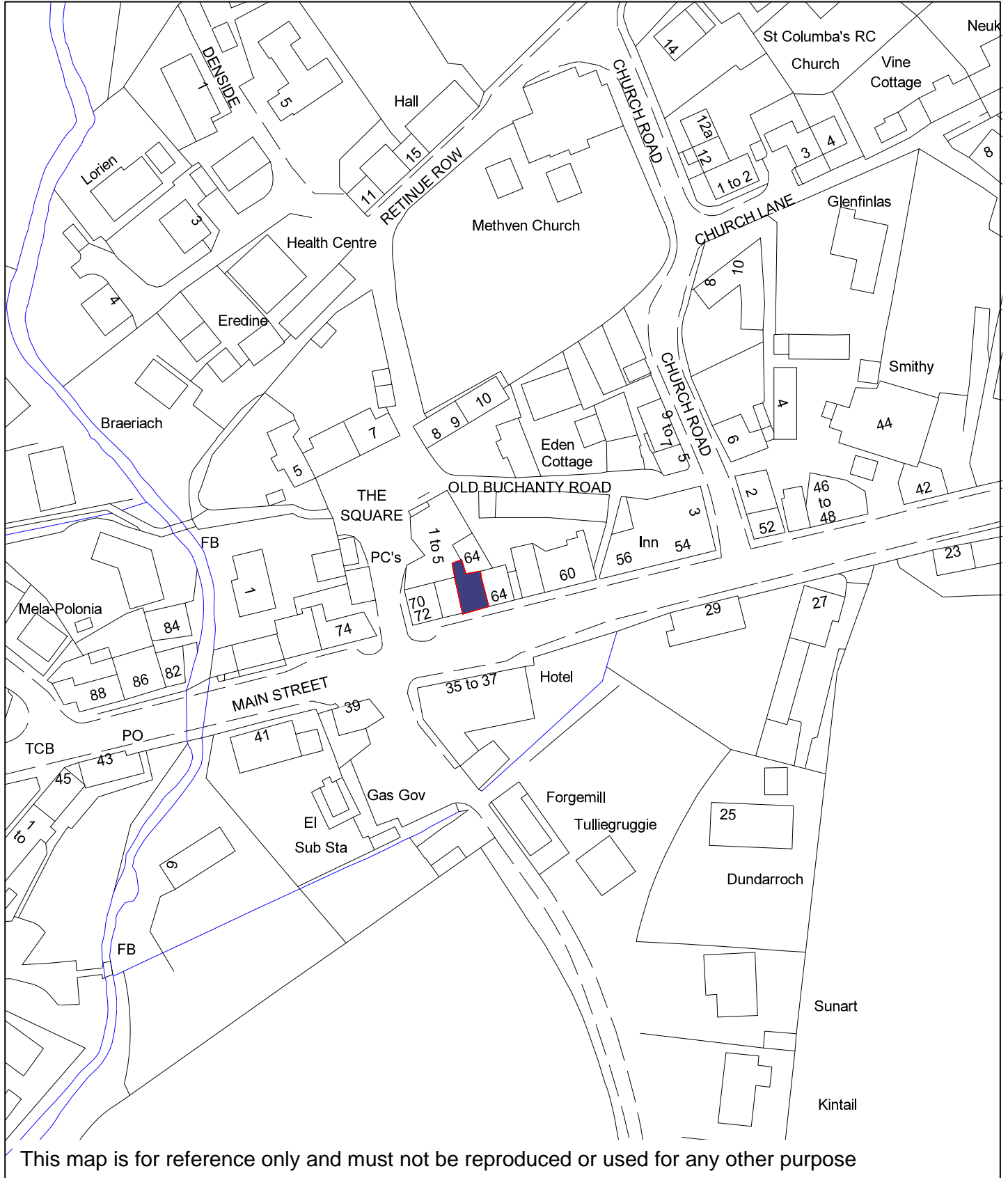
**Nick Brian**  
**Development Quality Manager**

# Perth & Kinross Council

10/00670/FLL

68 Main Street. Methven

Alterations & change of use from baker/coffee shop to hot food shop



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↑ Scale  
1:1250

