

Perth and Kinross Council  
Development Management Committee – 10 September 2014  
Report of Handling by Development Quality Manager

**Change of use of outdoor space to beer garden, alterations to form external terrace, relocation of bin store and erection of a fence at 25 Allan Street, Blairgowrie PH10 6AB**

Ref: No: 14/00916/FLL  
 Ward No: 3 Blairgowrie & Glens

**Summary**

This report recommends conditional approval of the application as the proposal is considered to not adversely affect the visual and residential amenity of the area or the setting of Blairgowrie Conservation Area and is considered to comply with the Scottish Planning Policy (2014) and the development plan for the area.

**BACKGROUND AND DESCRIPTION**

- 1 The application relates to the proposed permanent change of use of the remaining rear external space associated with 25 Allan Street in Blairgowrie to beer garden facility with associated terracing and relocation of existing site recycling facilities to a redundant car parking space adjacent to the premises boundary wall on Upper Mill Street.
- 2 This application is in part retrospect with bins already having been moved away from the original location to allow for the extended beer garden area. The additional site area extends to approximately 40 sq m, with 30 sq m being a useable area and 10 sq m being a ramped walkway and stair. Approximately 11 sq m of a redundant parking area immediately adjacent to the stone boundary wall of the premises has been earmarked to operate as a dedicated bin and recycling store, enclosed by a timber screen fence and gates which are 1.8 metres in height.
- 3 The plans have been updated to correctly show the proposed bin store remaining within the perimeter of the existing, redundant parking area and not extending onto the pavement area as was originally incorrectly shown.

**NATIONAL POLICY AND GUIDANCE**

- 4 The Scottish Government expresses its planning policies through the National Planning Frameworks, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

**Scottish Planning Policy 2014**

- 5 The Scottish Planning Policy (SPP) was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land.

- 6 The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- the preparation of development plans;
  - the design of development, from initial concept through to delivery; and
  - the determination of planning applications and appeals.

## **DEVELOPMENT PLAN**

- 7 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012 and the Perth and Kinross Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2012**

- 8 Whilst there are no specific strategies or policies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

## **PERTH AND KINROSS LOCAL DEVELOPMENT PLAN 2014**

- 9 The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 10 Within the Local Development Plan, the site lies on the edge of the designated Town and Neighbourhood Centre and designated conservation area of Blairgowrie, where the following policies are directly applicable.

### **Policy RD1 - Residential Areas**

- 11 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private open space to be retained, changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

### **Policy RC1 - Town and Neighbourhood Centres**

- 12 Class 1 (retail) uses will be supported in identified town and neighbourhood centres commensurate with the role of the centre within the established retail hierarchy. Use Classes 2 & 3, leisure, entertainment, recreation, cultural and community facilities will also be encouraged in ground floor units provided they contribute to the character, vitality and viability of the retail core and satisfy the criteria set out. Use of pavement areas for restaurant/cafes/bars is acceptable

in the prime retail area. Housing and other complementary uses are encouraged on the upper floors.

### **Policy HE3A - Conservation Areas**

- 13 Development within a Conservation Area must preserve or enhance its character or appearance. The design, materials, scale and siting of a new development within a Conservation Area, and development outwith an area that will impact upon its special qualities should be appropriate to its appearance, character and setting. Where a Conservation Area Appraisal has been undertaken the details should be used to guide the form and design of new development proposals.

### **Policy PM1A - Placemaking**

- 14 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.

### **Policy PM1B – Placemaking**

- 15 All proposals should meet all eight of the placemaking criteria.

### **Policy EP5 – Nuisance from Artificial Light and Light Pollution**

- 16 The Council's priority will be to prevent a statutory nuisance from occurring from proposals involving lighting.

## **OTHER POLICIES**

- 17 Blairgowrie Conservation Area Appraisal, 2007

## **SITE HISTORY**

- 18 There is various recent planning history relating to this site, including the original change of use application (planning reference 11/01199/FLL) from retail (Class 1) to a public house (Class 3 - Food and Drink).
- 19 12/00593/FLL – Modification of existing consent (11/01199/FLL) Change to layout and details of the external area.

## **CONSULTATIONS**

- 20 **Environmental Health** – No objections subject to consistent adherence with conditions to ensure no adverse impact on neighbouring residential amenity.

## **REPRESENTATIONS**

- 21 Four letters of representations have been lodged in respect of the application, which have raised the following issues:

- Out of character with the area.
- Over intensive development.
- Overlooking.
- Contrary to Policies RD1 and EP5 of the LDP.
- Blocking neighbouring residential property vehicular access with delivery vehicles.
- Increase in noise pollution from the beer garden.

The aforementioned points are addressed in the Appraisal section of this report.

## ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Submitted.
Report on Impact or Potential Impact	None submitted.

## APPRAISAL

### Policy

- 22 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy.
- 23 The proposals to specifically change the remaining 40 sq m of the external area from use Class 1 to Class 3 at this site is considered to accord with the Development Plan, in particular policy RC1, provided that the proposals do not cause harm to local residential amenity.

### Design and Appearance

- 24 The external appearance through the changes and extension to the beer garden will remain unaltered from the public elevation, being set behind a high boundary wall and gates. Overall, the additional beer garden area remains consistent in design and appearance with the remainder of the external area associated with the public house. The proposed extension of the beer garden area represents an increase in the region of between 40 and 50% to the current useable external floor area.
- 25 The design, appearance and scale of the external bin store are considered appropriate for the area in this context, with the specific finishes controlled by condition. With a screen fence and gates at 1.8 metres in height, the associated

bins shall be fully obscured at street level, with partial obscurity at upper level from affected windows. Overall, in respect of the setting and character of the conservation area and in relation to neighbouring amenity, the design, appearance and scale of the bin storage area is considered appropriate in this context and is not considered to result in any adverse impact.

### **Residential Amenity**

- 26 A number of points have been identified in the letters of representation received, relating to the impact on existing residential amenity. These points have been fully considered as part of the assessment. Environmental Health have also considered the site history and associated relationship with neighbours. Environmental Health noted that they had not received any formal complaints to date about the ongoing operation of the public house and the associated beer garden area. In this context, it is acknowledged that there is a close relationship between town centre uses and residential amenity, which can pose challenges with potential conflicts. In this situation, the impact is considered to be isolated, limited in scale and crucially controllable by conditions and through environmental health legislation.
- 27 The extended beer garden area will sit up on a terrace, as shown on plan 14/00916/ approximately 1 metre above the ground level of the existing beer garden. As a letter of objection has pointed out, noise can travel further from an elevated position. Overall, however, the site remains contained and the scale of the additional terraced area is not considered to result in an adverse impact if appropriately controlled. The entire external area is not consented to operate beyond 22.00 hrs in the interests of respecting and protecting neighbouring amenity. In addition, all external lighting is controlled by condition, in line with the terms of Policy EP5. There should not therefore be any impact on neighbours as a result of external lighting, but this element would be investigated if a formal complaint was received.
- 28 The only direct overlooking is considered to be from neighbours looking down into the beer garden and recycling compound. This is not assessed to result in an adverse impact in this context.
- 29 Provided that the proposed bin store area is maintained in accordance with the existing and proposed conditions of consent, which are set out in this report recommendation, there is not considered to be an adverse impact on residential amenity.
- 30 In summary, the beer garden is not deemed to be over intensive development or out of character within this town centre situation.

### **Light Pollution**

- 31 Previous consents have appropriately included conditions strictly controlling external lighting, consistent with the terms of policy EP5. A condition is recommended to be attached to this consent to ensure all matters relating to external lighting continue to be controlled in this context.

## **Economic Development**

- 32 There is potential for additional footfall in relation to the proposed extension of the beer garden area. This however has limited weighting on the overall recommendation.

## **Traffic Safety/Access**

- 33 No adverse impact is calculated in relation to pedestrian and vehicle movement at this location and that existing arrangements for deliveries would be able to accommodate the proposals.

## **LEGAL AGREEMENTS**

- 34 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 35 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 Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the adopted Local Development Plan 2014 and Tayplan 2012. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

## **RECOMMENDATION**

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

- 1 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 No music amplified or otherwise shall be permitted outside the premises and efforts must be made to minimise the impact of noise from inside the premises so no sound is audible in any nearby residential property.

Reason - To ensure the amenity of nearby premises are adequately safeguarded.

- 3 The external area shall not be operated any later than 2200 hours.

Reason - To ensure the amenity of nearby residential premises are adequately safeguarded.

- 4 The refuse storage area for these premises shall be operated and maintained such that detriment is not caused to the amenity of occupiers or neighbouring premises.

Reason - To ensure the amenity of nearby residential premises are adequately safeguarded.

- 5 All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries is minimised, to the satisfaction of this Council as planning authority.

Reason - To ensure the amenity of nearby residential premises are adequately safeguarded.

- 6 Details of the specification and colour of the proposed timber screen enclosure for the proposed bin area to be used shall be submitted for the approval of the Planning Authority prior to the commencement of this phase of the development. The scheme as approved shall be implemented prior to the occupation and/or use of the development.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality within the designated Conservation Area.

## **B JUSTIFICATION**

The proposal is considered to be in accordance with the Development Plan and there are no overriding material reasons which justify departing from the Plan.

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

- 1 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.

Background Papers: Four letters of representation.  
Contact Officer: Callum Petrie Ext 75353  
Date: 26 August 2014

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

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