

Perth and Kinross Council
Development Management Committee – 19 November 2014
Report of Handling by Development Quality Manager

Erection of a shop and flat at Former Brewlands Quarry, Inchtute

Ref. No: 14/00844/FLL
Ward No: 1 - Carse

Summary

This report recommends approval of a detailed planning application for the erection of a local shop with a flat above in the centre of the Carse of Gowrie village of Inchtute as the development is considered to comply with the relevant provisions of the Development Plan, and there are no material considerations apparent which would outweigh the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The application site relates to an infill site located in the centre of Inchtute on Main Street. The site lies within the village's Conservation Area and is located opposite the Inchtute Hotel - which is a listed building. The 0.08 ha site is roughly triangular shaped with a road frontage of approx. 50m. The site is generally flat, and has several mature trees along its frontage with Main Street. On both sides of the site are existing residential properties, with the Inchtute Hotel and its associated parking area directly opposite. To the rear of the site is a small area of openspace / landscaping which is associated with a now completed residential development.
- 2 Detailed planning consent already exists on the site for the erection of a detached dwelling, which offered living accommodation over two levels with the upper level contained within the roofspace. That consent was part of a two dwelling development, with the other dwelling now constructed.
- 3 This planning application seeks to secure detailed planning permission for the erection of shop premises with a flat above. The building will be over two floors with the shop and an associated store located on the ground floor with the residential unit located within the roofspace via the use of dormer windows. The applicant has not specifically applied for the flat to be tied to the shop premises, however considering the proposed arrangement it is likely that this will be the case. The proposed building will be slightly higher than the approved house type, but will generally be located in the same position and cover the same footprint.
- 4 As part of the proposal, five off street parking spaces are provided for both the shop users (and workers) and also the residents of the residential flat. In addition to this, a public path linking Main Street to Quarryknowne Crescent is proposed.

NATIONAL POLICY AND GUIDANCE

- 5 The Scottish Government expresses its planning policies through the National Planning Frameworks, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN). Of specific relevance to this planning application is:

Scottish Planning Policy 2014

- 6 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. 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.

- 7 Of relevance to this application are:

- Paragraphs 109 – 134, which relates to Enabling Delivery of New Homes
- Paragraphs 92 – 108, which relates to Supporting Business & Employment
- Paragraphs 135 – 151, which relates to Valuing the Historic Environment

DEVELOPMENT PLAN

- 8 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012

- 9 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

- 10 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.
- 11 Within the Local Development Plan, the site lies within the settlement boundary of Inchtute, within the village's Conservation Area where the following policies are directly applicable.

Policy RD1 - Residential Areas

- 12 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private open space will be retained and 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 PM1A - Placemaking

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

Policy PM3 – Contributions

- 14 Where the cumulative impact of new developments will exacerbate a current or generate a future need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured. In calculating the impact of new developments the Council will look at the cumulative long-term effect of new development. Contributions will be sought for:
- (a) the provision of on-site facilities necessary in the interests of comprehensive planning; and/or
 - (b) the provision, or improvement of, off-site facilities and infrastructure where existing facilities or infrastructure will be placed under additional pressure.
- 15 Wherever possible, the requirements of this policy will be secured by planning condition. Where a legal agreement is required, the possibility of using an agreement under other legislation such as the Local Government (Scotland) Act 1973 will be considered. Only where successors in title need to be bound will a planning obligation be required. In all cases, the Council will consider the economic viability of proposals alongside options of phasing or staging payments.

Policy HE2 - Listed Buildings

- 16 The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

Policy HE3A - Conservation Areas

- 17 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.

OTHER COUNCIL POLICIES

Developer Contributions 2014

- 18 This supplementary guidance sets out the Council's policy towards obtaining developer contributions in relation to Primary Education and A9 junction upgrades. This Supplementary Guidance should be read in conjunction with Local Development Plan Policy PM3: Infrastructure Contributions and the Developer Contributions Supplementary Guidance.

Developer Contributions, Transport Infrastructure 2014

- 19 This supplementary guidance is about facilitating development. It sets out the basis on which the Council will seek contributions from developments in and around Perth towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites and to support the growth of Perth and Kinross.
- 20 This Supplementary Guidance should be read in conjunction with Local Development Plan Policy PM3: Infrastructure Contributions and the Developer Contributions Supplementary Guidance.

OTHER LEGISLATION

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (PLBCA)

- 21 *Section 64* of the PLBCA requires the Council, when considering applications that affect the character and appearance of Conservation Areas, to have special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, whilst *section 59* requires the Council, when considering applications which potentially affect the setting of a listed building, to have special regard to the desirability of preserving the setting of the affected listed building.

SITE HISTORY

- 22 The most recent planning history on the site was a detailed planning application for the erection of two dwellings (11/01607/FLL) which was approved in January 2012. under Delegated powers. One of the two approved dwellings has been built and this planning application relates to the site of the second dwelling. The extant consent for the second dwelling related to a dwelling which offered living accommodation over two levels, with the upper level contained within the roofspace.

EXTERNAL CONSULTATIONS

- 23 **Scottish Water** have commented on the planning application and raised no concerns.

INTERNAL CONSULTATIONS

- 24 **Environmental Health** have commented on the planning application and raised no concerns regarding noise or odours.
- 25 **Education and Children Services** have commented on the planning application and indicated that the local primary school is operating at over 80% capacity.
- 26 **Transport Planning** have commented on the planning application in terms of the proposed parking provision and also the vehicular access and have raised no objections.

REPRESENTATIONS

- 27 Nine letters of representations have been received from local residents, all of which are objecting to the proposal. The main issues raised by the objectors are,
- Visual impact
 - Impact on residential amenity, in terms of overlooking and noise
 - Impact on existing trees
 - Road safety issues, in terms of an increase in on-street parking.
 - Impact on the existing shop, in terms of loss of business

These issues are addressed in the main section of the 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

APPRAISAL

- 28 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the application to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 29 The Development Plan for the area comprises the approved Tay Plan 2012 and the adopted Perth and Kinross Local Development Plan 2014. In terms of other material considerations, this involves considerations of the Councils other approved policies, namely those which relate to developer contributions and the site previous planning history and also consideration of the PLBCA act and its requirements in terms of protecting the historic setting of listed buildings and the

character of Conservation Areas. The sites previous planning history, and the terms of the extant consent are also a significant material consideration.

Policy

- 30 In terms of the Development Plan, the key land use policies are contained within the Local Development Plan 2014. Within that Plan, the site lies within the settlement boundary of Inchtute where *Policies RD1 and PM1A* are directly relevant. *Policy RD1* identifies areas of residential and compatible uses where new development will only be acceptable where the use proposed is compatible with existing (residential uses) and will not adversely affect the character or amenity of the existing area.
- 31 *PM1A* is applicable to all new proposals within the area and seeks to ensure that the quality of the surrounding built and natural environment is maintained and that all new development respects the existing character and amenity of the existing areas
- 32 In addition to this both the Tay Plan (*Policy 3*) and the Local Development Plan (*Policies HE2 and HE3*) seek to protect our cultural assets from inappropriate new developments.
- 33 For reasons stated elsewhere, I consider the principle of a residential development on this site to be in line with the aforementioned policies.

Land Use

- 34 In terms of land use issues, the site is located within an area identified in the Local Development Plan as being residential with compatible uses, where the amenity and character of the existing area should be protected. The creation of a shop with a flat above is in my view entirely compatible with the neighbouring uses and will not (subject to conditions) have an adverse impact on the amenity of the area. Whilst there is already a smaller local shop in the area which is set slightly off the Main Street through Inchtute, it is nevertheless perfectly common within small villages to have a local shop located within the main residential street that runs through the village or town. To this end, I have issues with the principle of a shop (with flat above) in this location and consider the key issues to be design and siting matters.

Layout

- 35 The proposed building is located in the same location as the approved dwelling, and will be of a similar footprint. To this end I have no particular difficulty with the proposed siting of the building on the site. In terms of the layout of the parking provision associated with both the shop unit and the private flat, this is arranged in two parts. The first is a single parking space to the front of the site, with another four spaces aligned side by side at the front of the building. In front of the proposed parking, the area will be surfaced with a gravel to provide for suitable turning area for those using the parking bays or providing deliveries to the shop. In the centre of a Conservation Area, I would have some concerns if

the parking and / or turning area was to be surfaced in a bitmac or similar harsh and monotonous surface, so precise details of the proposed surfacing will be sought from the applicant prior to any works commencing. In addition to the retention of the existing trees, new landscaping is proposed within the site which is considered to be suitable in this location – precise details of which will be sought prior to the commencement of any works.

- 36 It is noted that one of the single parking bays is located slightly under the canopy spread of one of the smaller existing trees which is perhaps not ideal. However, it is not uncommon for parking spaces to be provided part of the canopies of trees if soft surfaces are used for the formation of the formal parking area. Again, subject to this detail being agreed I have no objection to the proposed parking arrangements and ultimately consider the layout proposed to be acceptable.

Design, Visual Amenity and Impact on Listed Buildings/Conservation Area

- 37 In terms of design issues, and the impact that the development will have on the visual amenity of the area and on the historic setting of the area I have no concerns. The design of the dwelling is of a quality which you would expect to see on a site that has a road frontage in a prominent location within the streetscene. Whilst I note the concerns raised within some of the representations that the design of the proposed building is out of keeping with the surrounding area, and on character of the conservation area/setting of the listed buildings, I do not agree with this position. There are very minor changes to the overall scale of the building from that of the extant consent with the principal change being the insertion of dormers on the front elevation. The proposed dormers are traditional in their appearance, and are entirely suitable in this location. To this end, I have no issues over the design of the proposed building and consider the proposal not to have an adverse impact on the character of the Conservation Area or on the setting of the adjacent listed building (Inchture Hotel).

Developer Contributions

Primary Education

- 38 In terms of primary educational matters, as the local primary school (Inchture), is operating at more than 80% of its capacity, a financial contribution for this development is required. The applicant has the option of either paying the sum upfront to release the formal planning consent or completing a legal agreement securing the delayed payment. I have no objection to either option.

Transport Infrastructure

- 39 In terms Transport infrastructure contributions, the site lies within the catchment area for contributions in relation to transport infrastructure. As per the education contribution, the applicant has the option of either paying the sum upfront to

release the formal planning consent or completing a legal agreement securing the delayed payment. I have no objection to either option.

Road Related Issues

- 40 In terms of roads related matters I have no concerns. The proposal meets with the Council's standards in terms of onsite parking provision which is required for a local shop of this size, and by virtue of the payment along the sites frontage good visibility can be achieved when leaving the site without the need to removal more trees than are are proposed to be.
- 41 The proposed arrangement for a loading bay behind the formal parking is perhaps not as ideal as it could be, as in the event of all the parking spaces being full the formal parking spaces would restrict movements to and from the loading bay. However, the likelihood of all the parking spaces being full at the time of deliveries, which are routinely early morning, is slim and to this end, the worst case scenario for a delivery person would be that they would have to wait within the forecourt area or on the street for a few minutes for one of the customers to leave the leave car park area before entering the site.
- 42 It is noted that the majority of the concerns raised within the representations relate to the potential for the development to result in a significant increase in on-street parking which would not only be to the detriment to the area, but would also result in a road safety hazard occurring. There is significant on-street parking available along Main Street which is currently used by residents and customers of the local hotel. It is a matter of fact that on-street parking does increase when a function is taking place at the hotel, however the traffic which the proposed shop will generate will not be comparable to that of the level associated with the hotel. In the absence of parking restrictions, on-street parking is legitimately permitted along the frontage adjacent to the site and its likely that some users will park on the street instead of using the onsite provision, however the volume of traffic generated by this proposal is not considered to be a road safety issue and this has been confirmed by the Council's Traffic Safety Team.

Residential Amenity

- 43 Within the representations concerns have been raised that the proposed shop element of the development will have an adverse impact on the residential amenity of the area. Main Street is predominately a residential area, however there are other uses such as the hotel opposite the site which are present. In the centre of a small village, I would not consider the presence of small convenience store to be out of keeping with the character of the area or be a development which would adversely affect the residential amenity enjoyed by existing residents. The shop will be subject to restrictions on both opening hours and also deliveries which are in line with the Council's normal guidance's for shops in areas when there is a potential for noise nuisance to occur. In addition to this, standard compliance conditions regarding odours will be attached to any consent to ensure that the residential amenity of neighbouring residents is not adversely affected by the development proposed.

- 44 In terms of the overlooking and loss of privacy, it is noted that a small balustrade feature is proposed at the first floor level on the rear elevation. This elevation faces onto an area of landscaping / openspace and therefore does not raise any issues in terms of overlooking or loss of privacy. It should be noted that the extant consent for a dwelling offered a similar arrangement with a larger balcony feature at first floor level than what is currently proposed under this application. In terms of the level of private amenity space which will be offered to the occupier of the flat, as the flat is likely to be occupied by someone directly contacted to the shop or retained within same ownership as the shop (by virtue of its location), the relevantly small area to the rear is considered to be acceptable and is comparable to the level which was offered under the terms of the extant consent.

Drainage

- 45 The proposal raises no issues in terms of either surface water or foul drainage.

Trees

- 46 Some small trees and hedging will be removed from along the sites frontage however these are not specimen trees and do not have a high visual amenity value. The trees which have a high amenity value are to be retained and will be protected during the course of construction via appropriately worded conditions. Detailing of the parking and turning areas within the canopy spreads of the trees will also be conditioned to be agreed prior to the commencement of the development to ensure that the trees are not compromised.

Right of Way

- 47 Within the representation it has been raised that the proposal will affect a right of way. There is no right of way associated with this development there was an historic pedestrian linkage through from Main Street to Quarryknowe Crescent. As part of this proposal, the applicant is proposing to formally reinstate this route and this is welcomed by the Council as it will provide improved pedestrian links from the residential area to the rear into Main Street.

Impact on Existing Shop

- 48 Inchtore already has an existing shop, and the economic impact that this proposal may have on that business has been raised within the representations. Competition for business and market forces are not routinely considered to be matters that fall within the planning system, so to this end the impact that the proposal may (or may not) have on the existing business is not a material consideration for this application.

ECOMONIC IMPACT

- 49 There will be limited economic impact from the development, and any impact associated with the shop element of the proposal will be extremely localised.

LEGAL AGREEMENTS

- 50 A legal agreement may be required if the applicant wished to delay the payment of the financial contributions. In the event of the up-front payment or the Section 75 Agreement not having been executed by the applicant, landowner and any other relevant party within 2 and 4 months respectively of date of the decision taken on this application, then the application shall be refused.

DIRECTION BY SCOTTISH MINISTERS

- 51 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

- 52 The proposal is in accordance with the relevant land use policies contained in the Local Development Plan 2014, and whilst I acknowledge the road safety concerns raised within the representations which are centred on the possibility of an increase in on street parking, I do not consider this proposal to raise a road safety issue. There is a significant level of on street parking presently available along Main Street, and whilst these spaces may be at a premium when functions occur at the adjacent Hotel, this development will not result in a significant level of on street parking need which will exacerbate any existing parking issues. In terms of other matters such as the impact on the visual and residential amenity of the area I also consider the proposal acceptable and ultimately recommend the application for a conditional approval.

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 Prior to the commencement of any works on site, a detailed landscaping plan which must include the details of the surfacing details of the parking area, shall be submitted for the approval in writing by the Council a Planning Authority. The approved details shall be implemented in full, to the satisfaction of the Council as Planning Authority.

Reason – In the interest of protecting visual and residential amenity

- 3 All plant or equipment including any ventilation system associated with operation of the commercial areas be so enclosed, attenuated and/or maintained such that any noise therefrom 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 rating curve chart, all to the satisfaction of the Council as Planning Authority.

Reason – In the interest of protecting existing residential amenity

- 4 The Hours of operation of the shop are limited to 07:00 to 19:00hrs Monday to Sunday, to the satisfaction of the Council as Planning Authority.

Reason – In the interest of protecting existing residential amenity

- 5 All deliveries shall be between the hours of 07:00 to 17:00hrs Monday to Saturday no deliveries on a Sunday, to the satisfaction of the Council as Planning Authority.

Reason – In the interest of protecting existing residential amenity

- 6 The sound installation and sound transmission properties of the structure and finishes shall be such that no airborne noise from the operations within the premises is perceptible in the flatted property above, to the satisfaction of the Council as Planning Authority.

Reason – In the interest of protecting existing residential amenity

- 7 Prior to the operation of the shop or the occupation of the flat, the proposed public path shall be completed and be available for public use, all to the satisfaction of the Council as Planning Authority.

Reason – In order to ensure that a public walk way is proposed between Main Street and Quarryknowe Crescent is achieved.

- 8 All trees shown on plan 14/00844/2 to be retained, must be retained and adequately protected during the course of construction to the satisfaction of the Council as Planning Authority.

Reason – In the interest of the visual amenity of the area.

- 9 Prior to the occupation of the flat or the opening of the shop, the vehicular access shall be formed (and thereafter retained) in accordance with specification Type B, Fig 5.6 access detail to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 10 Prior to the occupation of the flat or the opening of the shop turning facilities shall be provided (and thereafter retained) within the site to enable all vehicles

to enter and leave in a forward gear, all to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 11 Prior to the occupation of the flat or the opening of the shop a minimum of 5 No. car parking spaces shall be provided (and thereafter retained) within the site, all to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

In the interest of protecting existing residential amenity

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

C PROCEDURAL NOTES

- 1 The formal decision notice must not be issued until such time as the applicant has either paid the required financial contributions or signed a legal agreement securing a delayed payment.
- 2 If an up-front payment is not received within 2 months of the date of the decision, or a legal agreement completed in 4 months, then the application shall be refused for the following reason;-

Without the developer contributions being secured either by an up-front payment or a Section 75 Agreement the proposed development is contrary to the requirements of the approved Developer Contributions 2012 and the Developer Contributions, Transport Infrastructure 2014, both of which require financial contributions to be secured.

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. *(See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).*
- 2 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.

- 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 An application for Building Warrant will be required.
- 5 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.

Nick Brian
Development Quality Manager

Background Papers: Nine letters of representation
Contact Officer: Andy Baxter – Ext 5339
Date: 31 October 2014

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