

Perth and Kinross Council
Development Management Committee – 13 July 2016
Report of Handling by Development Quality Manager

Change of use of ground floor from storage to mixed uses (including retail, pool hall, crèche and tearoom) at Ainslie's Antiques, 113-119 Glover Street, Perth, PH2 0JF

Ref. No: 16/00461/FLL
Ward No: N10 –Perth City South

Summary

This report recommends approval of a detailed planning application for a mixed use development (including retail, a pool hall, crèche and tearoom) on Glover Street, Perth 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 This planning application seeks to obtain detailed planning permission for the change of use of the ground floor of 113-117 Glover Street, Perth to a number of non-residential uses including a pool hall, crèche, retail and a small tea room. The Glover Street area and the surrounding streets are largely residential in character, although there are some other non-residential uses present within the area. The existing building is category B listed, and retains a number of its historic features including very attractive windows and cast iron pillars within the internal space. The building was last used as a store associated with a local antiques business, however this business no longer uses the ground floor part of the building for its business interests and the ground floor is currently vacant pending the outcome of this planning application. Above the ground floor is vacant attic space; however no proposed use changes are proposed within this area.
- 2 Some minor internal alterations are proposed as part of this application, and listed building consent has recently been granted for the proposed alterations, and works are currently underway in line with the listed building consent. The site has had some previous planning history, insofar as a detailed planning consent (14/01025/FLL) was approved in 2014 for the partial change of use from a storage building (class 6) to a mixed use including fitness studio (class 11), shop/hairdressers (class 1) and tearoom (class 3) however those uses have never been implemented.
- 3 Limited additional information has been lodged in support of this planning application, however the applicant has indicated that the proposed pool hall is not to be licenced.

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). Of specific relevance to this planning application is,

Scottish Planning Policy 2014

- 5 The Scottish Planning Policy (SPP) was published in 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.
- 6 Of relevance to this application are:
- Paragraphs 92 – 108, which relates to Supporting Business & Employment
 - Paragraphs 135 – 151, which relates to Valuing the Historic Environment

DEVELOPMENT PLAN

- 7 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

- 8 Whilst there are no specific strategies 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.”*
- 9 **Policy 3** (Managing Tay Plan's Assets) seeks to ensure that our cultural heritage assets are protected from inappropriate new developments.

Perth and Kinross Local Development Plan 2014

- 10 The Local Development Plan (LDP) 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 LDP, the site lies within the city boundary of Perth, outwith the town centre where the following policies are 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 RD2 - Pubs and Clubs in Residential Areas

- 13 Pubs, clubs and other leisure uses which support the evening economy are best located in town centres except where they serve a local market. There will be a general presumption against the siting of these below existing residential property, and there will be a presumption against the siting of these in the midst of other (particularly residential) uses where problems of noise or disturbance cannot be satisfactorily addressed.

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 PM3 – Contributions

- 15 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.

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 EP8 – Noise Pollution

- 17 There will be a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing or proposed noise sensitive land uses and similarly against the locating of noise sensitive uses near to sources of noise generation.

OTHER COUNCIL POLICIES

Developer Contributions and Affordable Housing, April 2016

- 18 This supplementary guidance is about facilitating development. It sets out the basis on which the Council will seek developer contributions and affordable housing provision for new developments. 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 & Conservation Areas) (Scotland) Act 1997 (PLBCA)

- 19 *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 historic character of the affected listed building.

SITE HISTORY

- 20 Detailed planning consent was approved on the site in 2014 (14/01025/FLL) for a partial change of use of the ground floor area from a storage use (class 6) to a mixed use including fitness studio (class 11), shop/hairdressers (class 1) and tearoom (class 3).
- 21 Since that approval was granted, the site has been subject to a series of enforcement enquiries relating to unauthorised works taking place within the building, and also an alleged change of use of part of the building to a residential use. Following an inspection of the building in early 2016, the ongoing unauthorised physical works to the building subsequently ceased, and a listed building consent application for the works already undertaken and new proposed alteration – which were to facilitate the uses proposed under this planning application was thereafter submitted and subsequently approved by the Council.
- 22 In relation to the alleged change of use of part of the upper floor of the building above the area subject of this planning application, there is currently no outstanding enforcement interest at this time and the applicant has been made aware that any residential use of this area would require a formal planning permission.

CONSULTATIONS

EXTERNAL

- 23 **Scottish Water** – Have made no specific comment.

INTERNAL

- 24 **Environmental Health** - In terms of noise and odour nuisance issues, they have raised no objections subject to a series of conditions being attached to any permission.
- 25 **Transport Planning** - Indicated that if the proposed crèche element was removed from the development then they would have no objections to the remainder of the development.
- 26 **Contributions Officer** – Confirmed that there is no requirement for any Developer Contributions in relation to Transport Infrastructure.

REPRESENTATIONS

- 27 394 letters of representations have been received of which 55 are letters of objections, and the remainder are letters which are offering support for the proposal. The main issues raised by the objectors are,
- Proposal is contrary to the Local Development Plan
 - Impact on residential amenity, in terms of noise / odour nuisance
 - Parking Issues
 - Impact on listed building
 - Uncertainty over further, future developments on the site
 - History of Enforcement Interest
 - Probability of compliance with any restrictive conditions, bearing in mind previous enforcement involvement
- 28 In terms of the letters of support, the majority of these offer support for the proposal in respect of the benefits that the pool hall would bring to Perth. It is noted that a number of the letters of support make reference to other potential uses such as bowling alleys and darts arenas which are not proposed as part of this planning application.
- 29 These issues are addressed in the main 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	None
Report on Impact or Potential Impact	None

APPRAISAL

- 30 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.
- 31 The Development Plan for the area comprises the approved Tay Plan 2012 and the adopted Perth and Kinross Local Development Plan 2014 (LDP). In terms of other material considerations, this involves considerations of the Council's other approved policies, namely those which relate to developer contributions, the sites previous planning history and consideration of the PLBCA Act.

Policy

- 32 The key land use policies are contained within the LDP, where the site lies wholly within the city boundary of Perth where *Policies RD1, RD2, PM1A and EP5* are all directly applicable.
- 33 *Policy RD1* of the LDP seeks to ensure that all new developments are compatible with existing land uses and that the character and amenity (visual and residential) of the area concerned is not adversely affected by the development proposed.
- 34 *Policy RD2* relates to new commercial, leisure uses within residential areas, and states that leisure uses (as well as pubs and clubs), which support the evening economy are best located in the town centres except where they serve a local market. This policy goes on to state that there will be a general presumption against the siting of these below existing residential property, and there will be a presumption against the siting of these in the midst of other (particularly residential) uses where problems of noise or disturbance cannot be satisfactorily addressed.
- 35 *Policy PM1A* is also applicable to this proposal, and this policy 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, whilst *Policy EP5* of the LDP looks to protect existing residential amenity by ensuring that new sources of noise are suitably controlled so that they do not affect residential amenity.

- 36 Lastly, both the Tay Plan (*Policy 3*) and the Local Development Plan (*Policy HE2*) seek to ensure that the historic character of listed buildings are not adversely affected by inappropriate new developments.
- 37 For reasons stated below, I consider the proposal to be consistent with the aforementioned policies.

Land Use Acceptability

- 38 In terms of land use acceptability, there are several uses which are proposed which all have different issues. It is also a matter of fact that the proposed tea room and also the small retail element have already been considered acceptable by the Council (in a slightly different configuration) via the terms of the extant detailed planning permission. This remains the case, and I do not consider it necessary to revisit the acceptability of these two uses in land use terms.
- 39 It is therefore ultimately the acceptability of the pool hall use and crèche element which are the key considerations for this current planning application, and I shall consider these two in turn.

Pool Hall

- 40 Within the LDP, *Policy RD2* of the LDP is specifically relevant to new commercial, leisure uses within residential areas and states that new leisure uses (as well as pubs and clubs), which support the evening economy are best located in the town centres except where they serve a local market. The policy goes on to state that there will be a general presumption against the siting of these below existing residential property, and there will be a presumption against the siting of these uses in the midst of other (particularly residential) uses where problems of noise or disturbance cannot be satisfactorily addressed. *Policy RD1* of the LDP, also seeks to ensure that new development within residential areas do not adversely affect existing amenity and this is echoed through *Policy EP5* of the LDP in relation to controlling potential sources of noise nuisance.
- 41 Whilst the site is located within walking distance from the town centre, the site is not within the town centre as defined within the LDP so therefore the acceptability of the pool hall element would be largely dependent on whether or not noise and disturbance can be suitably controlled so that (existing) residential amenity is not adversely affected.
- 42 The vast majority of the objections highlight residential amenity issues as a significant area of concern for them, and question whether the proposed uses (in particular the proposed pool hall) are compatible with the surrounding residential uses. There are a number of residential properties in the area, and some which are within 10 metres of the site, which means that there is a clear potential for noise to become an issue if the development is not properly managed. Environmental Health have considered the proposal and have indicated that they are unconcerned regarding potential noise nuisance arising

from the proposed crèche or tearoom elements, but do have concerns regarding potential for noise nuisance to occur from activities associated with the proposed pool hall. It is the case that the game of pool (or snooker) is in itself not a particularly noisy sport, however if large number of people congregate either externally or internally there is the potential that neighbours could be disturbed by anti-social behaviour and their residential amenity affected. For this site, controlling noise coming from inside the premises is a particular issue bearing in mind that the existing windows are single glazed, which would typically allow more noise to escape than if the windows were double or triple glazed.

- 43 Nevertheless, the applicant has indicated within this submission that it not his intention to licence the premise for the sale of alcohol. Alcohol consumption may not be the only contributor to noise nuisance but it is a significant contributor in most cases and in this case the fact that the premises will not be licenced is a significant material consideration.
- 44 After much consideration it is the settled view of Environmental Health that subject to a number of conditions relating to hours of operation, delivery times and strict controls over the use of amplified music noise can be adequately controlled as to not adversely neighbours. Whilst it would be appropriate in this case to have these individual matters covered by specific, individual restrictive conditions, their collective implementation and how they are to be achieved and monitored in practice, would also be subject of the further approval of a robust noise management plan. This plan would be required to be submitted prior to the opening of the facility, and would have to demonstrate fully how the premises would be run (in accordance with all the recommended conditions) to ensure that the potential for disturbance at nearby residential receptors is minimised.
- 45 A number of concerns have also been raised within the representations that the pool hall would generate a significant level of car movements, which in turn would have an adverse impact on the parking provision in the local area, which in turn would also affect residential amenity. The site is located within a reasonable walkable distance from the centre of Perth and is currently well served by public transport. I therefore consider the location to be one which does not necessary require the users of the facility to be limited to travelling by car, and any approval would not necessarily add to any existing on street parking issues.
- 46 I therefore consider the pool hall use to be acceptable in this location in terms of its compatibility with existing uses, and (subject to conditions) to be in accordance with the requirements of *Policies RD1, RD2 and EP5* of the LDP.

Crèche

- 47 The pure nature of a crèche facility is such that it would ordinarily require good parking provision as the users of the facility would in the majority of most cases be driving to and from the facility to pick up or drop off children. As outlined in more detail below, the lack of onsite parking would increase pressure on the

already limited on-street parking within the area which is ultimately unacceptable to Transport Planning. I therefore consider the proposed crèche to be unacceptable in this location for this reason alone. However, as the crèche element is not the principal use proposed, I intend to condition the removal of this element from my recommendation of approval which would allow for the other (acceptable) uses to progress.

Road Related Issues

- 48 In terms of road relates matters, I note that a number of concerns have been raised regarding the lack of onsite parking and the lack of on street parking. It is unlikely that either the retail element or the tea room would generate significant traffic movement which would have an impact on the parking provision on the area.
- 49 In terms of the pool hall element, whilst the site is technically outwith the town centre in terms of the LDP, it is nevertheless very close to the centre of Perth and is both within walkable distance and well served by public transport – both of which reduce the need for car usage.
- 50 However, in terms of the proposed crèche, this would have implications for parking provision as the users of the facility would be arriving and departing from the crèche largely by car. With limited scope to offer any parking onsite, and on street parking in the area limited at peak times (when usage of the crèche may be most popular), the introduction of this use to the area would have the potential to adversely impact on parking provision in the area. The applicant has indicated that the crèche is not a priority in terms of his long term plans, and has indicated that he would be open to a restrictive condition which removed this use from any approval, and to this end, this is what I propose. By conditioning 'out' the crèche element and for the space to remain as storage, the applicant would then be free to implement and advance the other acceptable elements.

Noise

- 51 In terms of the proposed crèche, tea room and shop these are unlikely to cause any degree of noise nuisance. However, as previously discussed the pool hall element does have the potential to cause noise nuisance if not suitably controlled. Environmental Health have been consulted on the planning application and are confident that the combination of sensible opening / delivery times, a restriction on amplified music and the non-licenced nature of the premises will ensure that adjacent residential properties are not adversely affected by this proposal.

Odours

- 52 No details have been submitted by the applicant in relation to the means of proposed ventilation of cooking equipment associated with the proposed kitchen. To ensure that odours do not adversely affect the amenity of any adjacent residential property, a standard condition will be attached to this

permission which requires further details to be submitted in relation to the proposed cooking ventilation system. Subject to this, Environmental Health have no concerns in terms of odour issues.

Visual Impact / Impact on Listed Building

- 53 Listed building consent has been granted for works to the internal fabric of the building to help facilitate the proposed uses and works have been progressing. No external changes are proposed to the fabric of the building, and particularly no works are proposed to the attractive windows which face onto Glover Street. From a visual amenity point of view I have no concerns over the proposal.

Drainage

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

Concern over the future development / Compliance with Conditions

- 55 It is noted within the representations that there is some concern regarding potential, future uses which have been suggested in the local press. In terms of this planning permission, and to ensure that the Council has control over the uses within the building I propose to attach restrictive conditions on the permission to avoid any ambiguity over future uses of the building. It has also been suggested within the letters of representations that due to the enforcement history attached to the site, there is a likelihood that any restrictive conditions placed on any permission will not be adhered too. It would be unreasonable for the Council to take the view that conditions could not be implemented simply because there have been previous breaches of planning control in the past on the site, and involving the same applicant. The conditions which are recommended to be attached to the planning permission have been discussed with the applicant, and he has indicated that he has no issues or concerns in relation to their content and workability, and that he would be able to comply with them fully.

Neighbour Notification

- 56 Within the representations, concerns have been raised that the neighbour notification process has not been carried out correctly. In terms of the planning act, neighbour notification in relation to this planning application has been undertaken correctly. It is also the case that as 55 letters of representations have been received objecting to the proposal from local residents all the interested parties appear to have been aware of this planning application and have had an opportunity to make comment.

DEVELOPER CONTRIBUTIONS

Primary Education

- 57 Due to the nature of the proposal, there is no requirement for any Developer Contribution in relation to Primary Education.

Transport Infrastructure

- 58 There is no requirement for any Transport Infrastructure Developer Contribution.

ECOMONIC IMPACT

- 59 The proposal has the potential to have a positive impact on the local economy; however its exact impact is unquantified at this stage.

LEGAL AGREEMENTS

- 60 None required.

DIRECTION BY SCOTTISH MINISTERS

- 61 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, 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

- 62 The proposal is considered to be in accordance with the relevant land use policies contained in the Local Development Plan 2014. I do appreciate the concerns from the local residents of the area which relate to residential amenity issues, however I am satisfied that subject to conditions the uses proposed (in particular the pool hall) can function without compromising existing residential amenity.

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 The hours of operation of all uses shall be limited to Monday to Sunday 07.00 to 23.00 only.

Reason – In order to protect existing residential amenity

- 3 Prior to the commencement of any works on site, precise details of the proposed means of ventilation system must be submitted for the approval in writing by the Council as Planning Authority. The details must demonstrate an effective ventilation system commensurate with the nature and scale of cooking to be undertaken, and shall be installed, operated and maintained, within the commercial areas, such that cooking odours are not exhausted into or escape into any neighbouring dwellings all to the satisfaction of the Council as Planning Authority.

Reason – In order to protect existing residential amenity

- 4 All plant or equipment shall 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 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart, to the satisfaction of the Council as Planning Authority.

Reason – In order to protect existing residential amenity

- 5 The delivery of goods to the premises shall take place between 7am to 7pm Mondays to Saturdays and at no other time.

Reason – In order to protect existing residential amenity

- 6 No amplified music will be permitted on the premises.

Reason – In order to protect existing residential amenity

- 7 Prior to the opening this facility, the applicant shall submit a noise management plan to minimise the potential for disturbance at nearby residential receptors. The approved plan shall thereafter be implemented in full, to the satisfaction of the Council as Planning Authority.

Reason – In order to protect existing residential amenity

- 8 For the avoidance of doubt, this permission relates to the ground floor area only.

Reason – In order to clarify the terms of this permission.

- 9 Notwithstanding the terms of conditions 1, the crèche area is not hereby approved and shall remain in its current use (storage), to the satisfaction of the Council as Planning Authority. Within 1 month of the date of the decision note an amended layout plan which reflects this position must be submitted for the approval in writing by the Council as Planning Authority.

Reason – In order to ensure that road and pedestrian safety is not compromised by the permission.

- 10 No changes away from the uses approved uses (pool hall, tea room and retail/shop) will be permitted unless subject to a further planning application.

Reason – In order to retain control of the use of the building to ensure that residential amenity is protected.

- 11 For the avoidance of doubt, the pool hall area shall be unlicensed and any change would require to be the subject to a further planning application.

Reason – In order to protect 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

None

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 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.
- 3 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.
- 4 No work shall be commenced until an application for a building warrant has been approved.
- 5 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 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. In accordance with Regulation 41 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.
- 6 This is approval relates to a planning permission. It does not include any approval of works to a listed building. If any additional physical works to the building (from those already consented under 16/00327/LBC) are required to comply with the attached conditions, early contact with the Council must be made to ascertain whether or not any further permission(s) are necessary before works commence.
- 7 The applicant must have all the necessary entertainment / trading licences in place prior to any use commencing.

Background Papers: 394 letters of representation

Contact Officer: Andy Baxter – Ext 5339

Date: 29 June 2016

Nick Brian
Development Quality Manager

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