

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

16/00613/FLL Change of use of pavement to form outdoor seating area 5 High Street Blairgowrie PH10 6ET

Ref. No: 16/00613/FLL
Ward No: N3- Blairgowrie And Glens

Summary

This report recommends approval of the application for the change of use of pavement to form outdoor seating area as it 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 Full planning permission is sought for the change of use of pavement to form outdoor seating area on an area of pavement close to the CATERAN Café at 5 High Street, Blairgowrie. 5 High Street is a Category C listed building and located within the Blairgowrie Conservation Area.
- 2 This area of pavement has previously been used for pavement seating. The current owners wish to regularise the position with regard to the requirement for planning permission.

NATIONAL POLICY AND GUIDANCE

- 3 The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

DEVELOPMENT PLAN

- 4 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 – 2032 - Approved June 2012

- 5 The overall vision of the Tay Plan 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.”*

- 6 The principal policy, in summary is:

Policy 3: Managing Tayplan's Assets

- 7 Understanding and respecting the regional distinctiveness and scenic value of the TAYplan area through amongst other things:
- Safeguarding habitats, sensitive green spaces, forestry, wetlands, floodplains (in-line with the water framework directive), carbon sinks, species and wildlife corridors, geodiversity, landscapes, parks, townscapes, archaeology, historic buildings and monuments and allow development where it does not adversely impact upon or preferably enhances these assets.

Perth and Kinross Local Development Plan 2014

- 8 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.
- 9 The site is located within the Aberfeldy settlement boundary. The principal policies are, in summary:

Policy PM1A - Placemaking

- 10 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

Policy PM1B - Placemaking

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

Policy PM2 - Design Statements

- 12 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

Policy RC1 - Town and Neighbourhood Centres

- 13 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 HE2 - Listed Buildings

- 14 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. 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

- 15 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 EP8 - Noise Pollution

- 16 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

OTHER POLICIES

- 17 Historic Environment Scotland - Policy Statement June 2016
Blairgowrie Conservation Area Appraisal

SITE HISTORY

- 18 10/00745/FLL Change of use from shop (Class 1) to Cafe (Class 3) including internal and external alterations. Application permitted under delegated powers in July 2010

10/00746/LBC Change of use from shop (class 1) to Cafe (Class 3) including internal and external alterations. Application permitted under delegated powers in July 2010

10/00747/ADV Display of signs. Application permitted under delegated powers in June 2010

CONSULTATIONS

EXTERNAL

- 19 None.

INTERNAL

- 20 **Transport Planning** has no objections subject to a condition requiring a 2 metre wide path between the building and seating area. The seating area is to be 1.5m from the edge of the carriageway, and a barrier is required between the carriageway and seating area.
- 21 **Environmental Health** has no adverse comments to make. This application has the potential to lead to noise complaints at nearby residential receptors from customers sitting outside. This is usually much more of an issue in the evening. It is noted that the café closes at 17.00 so Environmental Health has few concerns with this.

REPRESENTATIONS

- 22 A total of ten letters of representations have been received in respect of this application. Three of these letters of representations are in support of the proposal.
- 23 Blairgowrie and Rattray Community Council has expressed support for the application and comment that following the recently completed Blairgowrie and Rattray charrette, the results recommended that the town needed to become more pedestrian and cyclist friendly and become more people focused. This included the need to make much better use of public spaces to encourage more social interaction, and enhance the spaces that could be developed into informal meeting/gathering spaces. One such space identified was that outside the Catheran Café, where there is a pavement wide enough to accommodate this. The Community Council consider this small area of outside seating as an asset to the town as well as the business and are in full support of this application.
- 24 The representations in objection have raised the following issues: -
- Health and safety – lack of space, seating causes an obstruction that people have to walk round. Conflict with pedestrians and vehicles as not enough space on the pavement. Injury from hot drinks being carried across the pavement. Trip hazard from dog leads tied to tables. Danger to old, young, disabled, prams and pushchairs.
 - Road safety - danger from car doors opening close by. Space left over would be too small for a busy High Street. Not enough space to get past the tables and people are forced on to the road due to the small size of the area.
 - Litter and noise nuisance – detrimental effect on the surrounding area. Would encourage seagulls and vermin from unwanted food.

- 25 All the material planning issues which have been raised are covered in the Appraisal section of this report.

ADDITIONAL STATEMENTS

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| Environment Statement | Not required |
| Screening Opinion | Not required |
| Environmental Impact Assessment | Not required |
| Appropriate Assessment | Not required |
| Design Statement / Design and Access Statement | Not submitted |
| Reports on Impact or Potential Impact | Not required |

APPRAISAL

Policy Appraisal

- 26 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires 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. The most relevant policy considerations are outlined in the policy section above and will be considered in more detail below.

Principle

- 27 The site is located within the Blairgowrie Conservation Area in area designated under policy RC1 as a Town or Neighbourhood Centre. This supports town centre uses and in particular states that the use of pavement areas for restaurant/café/bars is acceptable in the prime retail area. Policy HE2 seeks to protect a listed building's setting. For reasons set out below I consider that the proposed development is acceptable and in accordance with the Development Plan.

Economic Impact

- 28 The proposal is associated with an existing café business and it is expected that it would generally add to the vitality and viability of the town centre. The Community Council comment that such a proposal would begin to create a more informal atmosphere in Blairgowrie, encouraging locals, tourists and others to spend more time in the town and to enjoy all it has to offer. Overall, therefore, the provision of such additional facilities has the potential to benefit the local economy and the well-being of the town centre by making it more attractive to residents and visitors alike.

Design/Layout

- 29 The proposed seating area is sited to the front of the CATERAN café, on an area of extended pavement, on the north side of the High Street. The seating area is separated from the café by the existing pavement and is close to an existing public seating area.
- 30 Transport Planning has commented on the proposals and has set out dimensions with regard to the positioning of the seating area that would provide sufficient separation between the seating area and the public road which would ensure that sufficient space is left for pedestrian access. The plans first submitted indicated that four sets of tables and chairs would be positioned on the site. Revised plans have since been submitted showing two sets of tables and chairs. This demonstrates that the operation of the seating area would be possible within the parameters set by Transport Planning. Tables and chairs were also set up on a temporary basis in this arrangement but have been removed pending the outcome of the planning application. It is clear that the café can operate in compliance with Transport Planning requirements. I recommend that a condition with regard to this is attached to any planning approval as requested by Transport Planning.

Residential Amenity

- 31 The site is within the centre of Blairgowrie where there are a mix of uses both commercial and residential. Environmental Health comments that there is the potential for noise generation from people seated at the tables but as the café is generally only open until 1700 this is unlikely to be an issue. I would also comment that the small scale of the proposal is unlikely to lead to any adverse impact on residential amenity. I recommend that conditions are attached with regard to times that the seating area can be used and that the chairs and tables are removed at the end of the day. The conditions suggested have been used in relation to similar proposals elsewhere in Perth and Kinross.

Traffic and Transport

- 32 The site is part of an existing pedestrian area adjacent to the High Street. There have been various objections submitted that express concern with the safety of pedestrians should the tables be placed on the existing pavement and that pedestrians will have to walk in the road to get around the tables. The Transport Planner notes these comments and also expresses some concern with the proposals in particular that there is no barrier shown between the seating area and roadway. In order to address this conditions have been requested by the Transport Planner to ensure that sufficient footway width (2m) is still available for free flow of pedestrian movement and also that the site be separated from the roadway by a barrier and that sufficient space (1.5 m) be left between the barrier and the roadway.

- 33 The Community Council highlight the fact that there has been a small area of outside seating operating at 5 High Street for a number of years firstly by the previous café, Bradberry's, and since then by the CATERAN Café. They comment that this has operated without trouble and in their view is an asset to the town.

Waste Collection

- 34 Existing arrangements will be utilised for waste and recycling storage and collection.

Drainage and flooding

- 35 There are no matters of concern with regard to drainage. The site is not in an area identified as being at risk of flooding.

Impact on the setting of the listed building and Conservation Area

- 36 5 High Street is a Category C listed tenement with commercial premises at ground floor level. The property is within the Blairgowrie Conservation Area. The proposal to use part of the pavement as an outdoor seating area would not detract from the historic character and interest of the listed building or its setting.

Developer Contributions

- 37 The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

LEGAL AGREEMENTS

- 38 None required.

DIRECTION BY SCOTTISH MINISTERS

- 39 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

- 40 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 approved TAYplan 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the 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 drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

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 precise details of the extent of the seating area and barrier details shall be submitted for the approval in writing by the Council as Planning Authority. The details shall include a 2 metre wide path between the building and seating area, 1.5 metres between the seating area and the edge of the carriageway and a barrier between the seating area and carriageway. The approved details shall be adhered to at all times when the seating area is in use to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety.

- 3 The tables, chairs and any other related items shall not be affixed to the footway surfaces.

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

- 4 The hours of operation of the outdoor seating area shall be restricted to between 0800 to 1900 hours Monday to Saturday and 0900 to 1800 hours on Sunday.

Reason - In order to safeguard the neighbouring residential amenity in the area.

- 5 All furniture associated with the pavement cafe including tables, chairs and screens shall not be laid out before 0800 hours and shall be removed each day by 2000 hours.

Reason - In order to safeguard the neighbouring residential amenity in the area.

- 6 No music, amplified or otherwise, shall be permitted in the outdoor seating area at any time.

Reason - In the interests of amenity and to prevent undue noise from the outdoor seating area.

B JUSTIFICATION

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

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 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 The applicant should be advised that in terms of Section 59 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to occupy a road or footway prior to the commencement of works. The applicant is therefore strongly advised to contact Transport Planning in order to obtain this consent.
- 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:
 - 6 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.

Background Papers: 10 letters of representation
Contact Officer: Persephone Beer – Ext 75354
Date: 23 June 2016

Nick Brian
Development Quality Manager

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