

Perth and Kinross Council
Planning & Development Management Committee – 6 June 2018
Report of Handling by Interim Development Quality Manager (Report No. 18/190)

PROPOSAL:	Installation of a flue (in retrospect).
LOCATION:	Former David Sands Shop, Main Street, Bridge of Earn, Perth, PH2 9PL.

Ref. No: 18/00533/FLL
Ward No: P9- Almond & Earn

Summary

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The application site is the former David Sands Shop, Main Street, Bridge of Earn. The application seeks detailed planning permission for the erection of a flue and a screening fence.
- 2 The unit was granted permission for a change of use in 2015 under application 15/01848/FLL from a shop (Class1) to a restaurant/tea room (Class 3). The proposed flue is for the operations of this use.
- 3 In early 2018, an application was submitted for the installation of a flue (18/00036/FLL). This application was consequently withdrawn as there were concerns with the visual impact and the impact upon residential amenity from flue proposed.
- 4 To address these issues, the current application was submitted which now includes a 900mm high wood slatted screening fence which will be lined with sound attenuation materials. There will also be 50mm rock wool which is supported by netting around the fan as a further absorbent material. A screening fence is further proposed to reduce the visual impact of the proposed development and reduce operational noise levels. The applicant has now also changed the colouring of the ductwork through this application from silver to a recessive brown.
- 5 The flue itself measures approximately 8.8 metres at maximum length and a maximum of 1 metre in width. The flue will extend from the rear of the unit along the roof of a ground floor extension. There are already a number of smaller ventilation systems present in this area for neighbouring units.

NATIONAL POLICY AND GUIDANCE

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

National Planning Framework

- 7 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

Scottish Planning Policy 2014

- 8 The Scottish Planning Policy (SPP) was published in June 2014 and 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.
- 9 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability : paragraphs 24 – 35
 - Placemaking : paragraphs 36 – 57

Planning Advice Notes

- 10 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 40 Development Management
 - PAN 51 Planning, Environmental Protection and Regulation

Creating Places

- 11 Creating Places is the Scottish Government's policy statement on architecture and place. It sets out the comprehensive value good design can deliver. It notes that successful places can unlock opportunities, build vibrant communities and contribute to a flourishing economy and set out actions that can achieve positive changes in our places.

DEVELOPMENT PLAN

- 12 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2016-2036

- 13 TAYplan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
- 14 *“By 2036 the TAYplan area 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, study and visit, and where businesses choose to invest and create jobs.”*

Perth and Kinross Local Development Plan 2014

- 15 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 16 The principal relevant policies are, in summary:

Policy PM1A - Placemaking

- 17 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

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

Policy RD1 - Residential Areas

- 19 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where they are of recreational or amenity value. 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 EP8 - Noise Pollution

- 20 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.

Proposed Perth and Kinross Local Development Plan 2 (LDP2)

- 21 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 was approved at the Special Council meeting on 22 November 2017. The Proposed LDP2 sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014.
- 22 The Proposed LDP2, as approved by Perth & Kinross Council, was subject of a 9 week period of representation, which ended on 2 February 2018. Any unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 23 The Proposed Plan represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. The Proposed Plan is, however, at a stage in the statutory preparation process where it may be subject to modification. As such limited weight can therefore currently be given to its content and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision. The weight of the Proposed Plan may change following consideration of representation received during consultation, at which time the level of significance of any objection to strategy, policies or proposals within the plan will be known.

SITE HISTORY

- 24 87/01319/FUL Attic alterations at first floor flat. Application Approved. 9th October 1987. Delegated decision.
- 25 98/01108/FUL Display of illuminated projecting sign. Application Approved. 23rd October 1998. Delegated decision.
- 26 00/01722/FUL Alterations and extension to shop, alterations to flat above shop. Application Approved. 23rd January 2001. Committee decision.

- 27 02/00497/MOD Change of use and alterations (in retrospect) to layout. Application Refused. 6th January 2003. Delegated decision.
- 28 03/00128/FUL Alterations. Application Refused. 26th March 2003. Delegated decision.
- 29 03/01245/FUL Alterations to shop and flat, part change of use of residential room within first floor flat to a refrigeration plant room and store in association with the ground floor shop: Application Refused. 17th December 2004. Delegated decision.
- 30 12/00972/ADV Display of advertisement. Application Approved. 10th July 2012. Delegated decision.
- 31 12/01579/FLL Extension to premises. Application Approved. 12th November 2012. Delegated decision.
- 32 15/01848/FLL Change of use from shop (Class1) to restaurant/tea room (Class 3). Application Approved. 16th December 2015. Delegated decision.
- 33 18/00036/FLL Installation of a flue (in retrospect). Application Withdrawn. 8th March 2018.

CONSULTATIONS

- 34 As part of the planning application process the following bodies were consulted:

External

- 35 No external consultations undertaken.

Internal

Environmental Health

- 36 Environmental Health initially requested further information in order to make an accurate assessment of the proposals. This was consequently submitted and Environmental Health now has no objection to the proposed development, subject to conditional control in relation to noise and odour.

REPRESENTATIONS

- 37 10 letters of representation were received objecting to the proposal. In summary, the following concerns were raised in the representations received:
- Noise Pollution
 - Odour Pollution
 - Vibrations
 - Hours of operation

- Over intensive development
- Loss of privacy
- Visual impact / out of character with the area
- Road safety and traffic congestion
- Potential waste being dumped
- No requirement for a flue / concerns with potential change of use

38 These issues are addressed in the Appraisal section of the appraisal with the exception of comments in relation to the change of use as this has already been granted under application 15/01848/FLL.

ADDITIONAL STATEMENTS

39

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

APPRAISAL

40 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 adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance, with the relevant one being the Placemaking Guide.

Principle

41 The installation of a flue and erection of a screening fence to aid a business is considered to be acceptable in principle. Nevertheless, detailed consideration must be given to the scale, form, massing, design, position, proportions and external finishes of any proposals, and whether they would have an adverse impact on visual or residential amenity. In this instance, the proposal is considered to comply with the relevant provisions of the aforementioned Local Development Plan for reasons mentioned within this report.

Design, Layout and Visual Amenity

42 As previously mentioned, the preceding application for a flue (refer to application 18/00036/FLL) was withdrawn as there were concerns with the

design and visual impact of the proposed development. To address this concern, the current application was submitted which now includes a 900mm high wood slatted screening fence. The applicant has also now also changed the colouring of the ductwork through this application from a silver colour to a recessive brown as requested.

- 43 Ventilation systems of this nature very rarely contribute positively to the visual amenity of an area and, where possible, external ventilation systems are not encouraged. However, in this instance, due to the age and design of the building, the only practical solution is an external flue.
- 44 The preference for external flues is to extract from the rear elevation of any buildings with a sensitive approach to the character of the host building. In this instance, the flue has been extracted from the rear elevation on the roof of a ground floor extension. Whilst the location is not ideal, it is considered the most sensitive and practical for the host building. It was recognised in granting the change of use for the restaurant/ tea room that an effective ventilation system would be required to operate the business effectively an assessment of its design and operation is still necessary. The following condition was applied to the application for the change of use (refer to application 15/01848/FLL condition 2):
- 45 *“An effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed, operated and maintained, within the commercial areas, such that cooking odours are not exhausted into or escape into any neighbouring dwellings. This should be in line with the manufacturers recommendations and a record kept of the maintenance.”*
- 46 As an effective ventilation system was conditioned, the applicant has taken measures to reduce the visual impact of the flue by colouring it brown and including a screen fence so that it is not visible from ground level. Furthermore, it can be conditioned on the consent that the colouring of the flue to the said recessive brown and the installation of the screen fence is implemented prior to the use of the flue. This condition has therefore been recommended accordingly (conditions 3).
- 47 Overall, in relation to visual amenity, it is considered that the proposal is acceptable and any adverse concerns can be controlled via planning conditions.

Residential Amenity

- 48 The main concern of this application relates to potential impacts upon existing residential amenity. This was also the basis of the majority of the 10 objections received. Environmental Health was consulted on the previous application (18/00036/FLL) and had requested further information with regards to noise and odour. Whilst a new screening fence has been added in the interests of visual amenity, the applicant has also taken the opportunity to line the fence with sound absorbent material, making it an acoustic barrier. There will also be

50mm rock wool which is supported by netting around the fan as a further absorbent material.

- 49 Environmental Health have subsequently assessed the new information received and any potential impacts upon residential amenity. The main concerns in relation to residential amenity arise from noise and odour.

Noise

- 50 Environmental Health had requested at the time of the aforementioned application that the applicant carries out compliance testing of the kitchen extraction fan system to ensure that noise from the fan complied with a standard plant noise condition from previous application 15/01848/FLL for change of use:-
- 51 *“All plant or equipment including any ventilation system associated with operation of the commercial areas 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 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.”*
- 52 The applicant submitted a Noise Impact Assessment (NIA) (reference R18.9974/1/AF); dated 8th March 2018. This NIA concluded there were a number of options available in order to be compliant with the attached planning condition.
- 53 After extensive discussions between the authority and the applicant, Environmental Health have identified that the appropriate mitigation measures would be to construct an acoustically lined barrier near to the fan outlet on all sides and wrap sound absorbing material around the fan unit.
- 54 This would be compliant with the condition attached to the original consent and Environmental Health therefore has no objection to the proposed development with regard to noise, providing a condition is applied to the consent regarding the installation of the acoustic barrier. This is the recommended condition 2 on this report.

Odour

- 55 The applicant proposes to install an odour extraction system.
- 56 Environmental Health considered that the proposed kitchen extraction ventilation system should be adequate for extensive odour removal and are satisfied that Condition 2 of permission 15/01848/FLL achieves appropriate control for this matter.

Cumulative Impact

- 57 There are a number of ventilation systems in close proximity to the site associated with neighbouring commercial units. The NIA mentioned above takes account of these units in the assessment. It is therefore considered that the cumulative impact created by all of the ventilation systems combined is not enough to create a detrimental impact, as assessed by Environmental Health.

Roads and Access

- 58 Although within some of the letters of representation received traffic congestion and road safety were listed as concerns, it is not a relevant consideration for this proposal.

Economic Impact

- 59 The proposal will contribute towards the operation of the business which will assist the local economy, albeit at a small scale.

LEGAL AGREEMENTS

- 60 None.

DIRECTION BY SCOTTISH MINISTERS

- 61 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 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 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 63 Accordingly the proposal is recommended for approval subject to the following conditions.

RECOMMENDATION

Approve the application.

Conditions and Reasons for Recommendation

- 1 The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason: To ensure the development is carried out in accordance with the approved drawings and documents.

- 2 Prior to the commencement of the extraction fan operation, the acoustic barrier enclosure shall be constructed and maintained in line with specifications and plans agreed hereby approved, all to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality; to reserve the rights of the Planning Authority.

- 3 Prior to the commencement of the extraction fan operation, the flue and fence shall be coloured in a brown colour. Details of the colour must be agreed in writing by the Planning Authority prior to its application. Thereafter, the flue and fence must be maintained in this colour for the life of the development, all to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality; to reserve the rights of the Planning Authority.

- 4 The sound insulation and sound transmission properties of the acoustic barrier enclosure structure and finishes shall be such that any airborne noise from the operations of the fan does not constitute a statutory noise nuisance as determined by the Local Planning Authority.

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

B JUSTIFICATION

- 64 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

- 65 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.

- 2 An application for Building Warrant may be required.

Background Papers: 10 letters of representation

Contact Officer: Sean Panton

Date: 24 May 2018

ANNE CONDLIFFE INTERIM DEVELOPMENT QUALITY MANAGER

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