

Perth and Kinross Council
Development Control Committee – 19 October 2016
Report of Handling by Interim Head of Planning

Part change of use from retail (class 1) to retail (class 1) and cafe/restaurant (class 3) and alterations at 1-3 High Street, Crieff, PH7 3HU

Ref. No : 16/00906/FLL
Ward No: N6 – Strathearn

Summary

This report recommends approval of a detailed planning application for the change of use of an existing building in the centre of Crieff from a predominantly retail premises to a retail (class 1) and café/restaurant (class 3) use, as the development is considered to comply with the relevant provisions of the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The site relates to an existing, fairly modern building which is located on the corner of High Street / James Square in Crieff. The site is located within the town's Conservation Area, and is close to a number of listed buildings. The existing building offers floor space over three levels and was formerly used primarily for retail purposes, but has recently become vacant. The ground floor (as seen from James Square) was the main retail space, whilst the 1st floor level offered some additional retail space as well as associated retail storage. The floor space on the upper level was split between further storage and staff facilities.
- 2 This proposal proposes a new café / restaurant area on the ground floor with approx. 54 covers together with ancillary retail. On the first floor (accessed via the High Street level) a new coffee shop (which will operate separately from the ground floor café), general storage and the catering kitchen for the ground floor café are proposed. No changes are proposed to the upper floors. It should also be noted that due to the levels of surrounding streets, both the ground floor and first floor levels have level street frontages to the north (facing High Street) and to the west (facing James Square).
- 3 As part of the proposals, a new decked area is proposed within an existing covered entrance area on the west elevation facing James Square. This new area is to be enclosed by a new timber rail and is proposed to be used for outside seating associated with the café/restaurant. With the exception of some re-painting of the existing render, the only other external physical change proposed to the building is new signage on the west and north elevations, however this will be controlled under the Control of Advertisement Regulations.

NATIONAL POLICY AND GUIDANCE

- 4 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. Of specific relevance to this proposal is

Scottish Planning Policy 2014

- 5 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
 - The determination of planning applications and appeals.
- 6 Of relevance to this application are:
- Paragraphs 58 – 73, which relate to Promoting Town Centres
 - Paragraphs 135 – 151, which relate to valuing the Historic Environment

DEVELOPMENT PLAN

- 7 The Development Plan for the area consists of the Approved TAYplan Strategic Development Plan 2012 and the Adopted Perth and Kinross Local Development Plan 2014.

TAYplan: Strategic Development Plan 2012-2032

- 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.”* In terms of TAYplan policies, the following policies are applicable to this proposal,

Policy 3 (Managing TAYPlan's assets)

- 9 This Policy seeks to ensure that all new developments do not have an adverse impact on our cultural heritage.

Policy 7 (Town Centres)

- 10 This policy sets out the importance of locating businesses, services and facilities in town centres in order to achieve the Scottish Government's aim to protect and enhance town centre vitality and viability. The application site is within the boundary of Crieff town centre, which is identified in the policy as one of the smaller town centres. The policy directs Local Development Plans to support a mix of uses in town centres that will encourage their vitality and the diversity of economic and social activity in both the day and the evening.

Perth and Kinross Local Development Plan 2014

- 11 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
- 12 Within the LDP, the site lies within the town centre of Crieff and within the Conservation Area where the following policies are applicable,

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. All development should be planned and designed with reference to climate change mitigation and adaption.

Policy PM1B - Placemaking

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

Policy RC1 - Town and Neighbourhood Centres

- 15 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.

Policy HE2 – Listed Buildings

- 16 Seeks to ensure that listed buildings and their settings are not adversely affected by new, inappropriate developments.

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 new development within a conservation area, and development out with an area that will impact upon its special qualities should be appropriate to its appearance, character and setting.

OTHER COUNCIL POLICIES

Developer Contributions and Affordable Housing, April 2016

- 18 This document sets out the level of Developer Contributions in relation to Primary Education, Transport Infrastructure and also A9 Junction Improvements, as well as Affordable Housing provision for new developments.

SITE HISTORY

- 19 An application seeking advertisement consent for the signage (as shown on the drawings submitted) has already been refused permission on the grounds that it was considered to be inappropriate within a Conservation Area and also within the setting of listed buildings.

CONSULTATIONS

EXTERNAL

- 20 **Scottish Water** – No response.

INTERNAL

- 21 **Environmental Health** – No objection to the proposal in terms of noise or odours, subject to standard conditions being attached to the consent.
- 22 **Transport Planning** – No objections in terms of parking provision or the impact in the local road network.
- 23 **Community Waste** – No objection in principle, subject to further details being submitted for approval.
- 24 **Strategy and Policy** – Indicates that the proposal is supported by the Development Plan policies.

REPRESENTATIONS

- 25 Sixteen letters of representations have been received, all of which are objecting to the proposal. The main issues raised within the letters of representations are,
- Loss of openspace
 - Adverse Impact on existing businesses
 - Over intensification of coffee shops in the local area
 - Loss of car parking
 - Insufficient car parking
 - Adverse Impact on traffic congestion
 - Adverse Impact on residential amenity
- 26 These issues are addressed in the Appraisal section of this report.

ADDITIONAL STATEMENTS

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

APPRAISAL

- 28 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the application to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYPlan 2012 and the adopted LDP. In terms of other material considerations, this includes considerations of the Councils other approved policies, namely those which relate to Developer Contributions.

Policy

- 29 The key land use policies are found within the LDP. Within the LDP, the site is located within the settlement of Crieff, within an area identified for town centre uses where *Policy RC1* is directly applicable. In addition to the core town centre uses associated with Class 1 (retail), this policy also encourages (new) ground floor uses that fall within Classes 2 and 3 (building societies, estate agents, restaurants and cafes etc) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and leisure, entertainment, recreation, cultural and community facilities, provided that they contribute to the character, vitality and viability of the retail area.
- 30 In addition to this *Policy PM1A* of the LDP seeks to ensure that all new developments do not have an adverse impact on the character or amenity of the area concerned, whilst *Policies HE3/HE2* of the LDP both seek to protect our cultural heritage assets from inappropriate new developments.

Land Use Acceptability

- 31 In terms of land use acceptability of this proposal, the proposed uses are compatible with the requirements of *Policy RC1* of the LDP which encourages (new) ground floor uses that fall within Classes 1, 2 and 3 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 providing a number of specific criteria can be met.
- 32 However, a number of concerns have been raised within the letters of representations which suggest that this proposal would adversely impact on the economic viability of other existing cafes, restaurants and retail premises in the town centre area. Likewise, some of representations also suggest that the town centre is already adequately catered for by similar establishments, and perhaps over saturated.

- 33 In terms of material considerations when determining planning applications, it is widely recognised that the potential loss of trade or increased competition for a specific product or service are not valid planning considerations as these are typically personal circumstances which the planning system is not designed to protect. What however is a planning issue (for developments within town centres) is the potential impact that new proposals would have on the character, vitality and viability of the town centre area as a whole and whether or not from a land use perspective, the proposal is compatible with the surrounding uses.
- 34 The building at present is currently vacant, and is located within a very prominent location in the town centre. Empty properties within the town centre do not contribute positively towards vitality, and will not encourage public movement or generate footfall to the area. One of the specific criteria for acceptable uses within the town centre is to ensure that there is a high degree of public contact involved in the day to day running of the use proposed. In my opinion, the day to day running of the café/restaurant and coffee shop would result in a high degree of public contact and the footfall of customers, and as such the proposal would contribute positively to the overall vitality of the town centre.
- 35 From a land use point of view I do not consider the proposed development will have an adverse impact on the character, vitality and viability of the town centre/retail area which is the key objective of *Policy RC1* of the LDP. I therefore consider the proposal to be entirely compatible (in land use terms) with the existing town centre uses

Impact on Conservation Area / Listed Buildings

- 36 The site is located within the Crieff Conservation Area, and lies adjacent to a number of listed buildings. Minimal external works are proposed to the existing building, with the most significant proposed addition being new signage. Following the refusal of the signage shown on the submitted drawings (but not forming part of the application under consideration) the applicant is currently looking at an alternative arrangement which would be acceptable within this sensitive location. The revised signage would be subject to a separate advertisement consent application.

Residential Amenity

- 37 The proposal is located within the town centre where there are some residential uses present, largely on the upper floors. Whilst the proposed use of an outdoor area for café/restaurant seating could introduce the potential for conflict with existing residential amenity, I am satisfied that this can be adequately controlled by appropriate conditions covering issues such as general noise, movement of furniture, hours of operation / deliveries and the means of extraction for kitchen equipment. Based on these matters being suitably controlled via pre-commencement conditions, on any consent, I have no concerns over the impact on existing residential amenity.

Waste / Recycling Collection Services

- 38 It is the case that the previous use had existing commercial waste collection provision in place. However, for clarification purposes precise details of the proposed new waste and recycling provision would be sought through a condition on any consent prior to any works commencing on site to ensure that it complies with the Council's standards.

Roads and Access

- 39 It is noted that within the letters of representations that a number of concerns have been raised relating to the impact that this proposal would have on the local road network and on the existing parking provision within the centre of Crieff. My colleagues in Transport Planning have reviewed the proposals and raised no concerns in relation to either aspect. I share this view, particularly bearing in mind the previous use which would have generated a similar level of traffic and parking provision.
- 40 Within the letters of representations concerns have been raised that this proposal would result in the loss of car parking provision. However, this proposal will result in no loss of any existing car parking spaces.

Flooding and Drainage

- 41 The proposal raises no issues in terms of flooding or drainage matters.

Loss of Open space

- 42 Within the letters of representations, concerns have been raised regarding the potential loss of the outside canopy area. This area is to be resurfaced (with decking) and enclosed with railings to allow for outside seating. Whilst I accept that this area has in the past been used informally by the local community i.e. to shelter from the adverse weather, I do not regard this as an area of public open space. I therefore do not consider that this proposal will result in the loss of any public open space.

Impact on Air Quality

- 43 The application site is in the Crieff Air Quality Management Area, and Policy EP11 of the LDP presumes against locating development catering for sensitive receptors in these areas, which may result in exposure to elevated pollution levels. However, as the proposed retail and restaurant/café uses are not normally classed as sensitive receptors, I have no concerns in terms compliance with EP11 of the LDP.

Economic Development

- 44 The proposal has the potential to have a positive economic benefit on the local economy through the creation of jobs and provision of services.

DEVELOPER CONTRIBUTIONS

Affordable Housing

- 45 As the proposal does not involve the creation of any new residential units, there is no requirement for any affordable housing provision contributions.

Primary Education

- 46 As the proposal does not involve the creation of any new residential units, there is no requirement for any Developer Contributions in relation to Primary Education.

Transport Infrastructure/A9 Junction Improvements

- 47 The site is located outwith the catchment area for both Transport Infrastructure and A9 Junction Improvements Developer Contributions and therefore no contributions would be required .

LEGAL AGREEMENTS

- 48 None are required

DIRECTION BY SCOTTISH MINISTERS

- 49 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

- 50 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. Despite the level of representation received, the proposal complies with the adopted Perth and Kinross Local Development Plan 2014 and TAYplan 2012. I have taken account of material considerations and find none that would justify overriding the Development Plan, and to this end I recommend the planning application for an 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 proposed means of waste and recycling provision shall be submitted for the approval in writing by the Council as Planning Authority. The approved details shall thereafter be implemented in full prior to the use commencing.

Reason – In order to ensure that the site has adequate waste and recycling provision.

- 3 The hours of operation of all external areas shall be restricted to 0800 hours to 2000 hours daily and any furniture associated with the external pavement café, including all tables, chairs and screens shall not be laid out before 0800 hours and shall be removed each day by 2000 hours to the satisfaction of the Council as Planning authority

Reason – In order to protect existing residential amenity.

- 4 Servicing of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no servicing or deliveries permitted on Sundays.

Reason – In order to protect existing residential amenity.

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

Reason – In order to protect existing residential amenity

- 6 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 20 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.

- 7 Prior to the development hereby approved being completed or brought into use, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed and operated such that cooking odours are not exhausted into or escape into any neighbouring buildings. The system shall be satisfactorily maintained thereafter.

Reason – In order to protect existing residential amenity.

- 8 Prior to its installation, the details of all external lighting shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of light spill, brightness of the lighting and the proposed hours of operation. The agreed lighting scheme shall be implemented and maintained in full accordance with the agreed scheme unless otherwise agreed in writing with the Council as Planning Authority.

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 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 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 For the avoidance of doubt, no signage is approved under this permission. The proposed signage would be controlled separately under the Advertisement Regulations.
- 6 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.

Background Papers: 16 letters of representation
Contact Officer: Andy Baxter – Ext 75339
Date: 2 October 2016

Nick Brian
Interim Head of Planning

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