

Perth and Kinross Council  
Planning and Placemaking Committee – 1 June 2022  
Report of Handling by Head of Planning & Development  
(Report No. 22/114)

<b>PROPOSAL:</b>	Change of use from retail unit (Class 1) to hot food takeaway (Class 3) and installation of flue
<b>LOCATION:</b>	96 Glengarry Road, Perth, PH2 0AB

Ref. No: [21/01488/FLL](#)

Ward No: P10 - Perth City South

### **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 This application relates to ground floor retail unit at 96 Glengarry Road, within the Moncreiffe area of Perth. The retail unit is presently vacant and is part of terraced row of four ground floor units that form a small local shopping area for the immediate residential area. The existing row of units presently hosts a convenience store and two existing hot-food takeaways. Above the units there is an upper floor that contains private flatted dwellings.
- 2 Planning permission is being sought for the change of use the existing shop unit (class 1) to form a hot food takeaway and the installation of an extraction flue. The proposals seek to use the existing window and door openings with little change to the building asides from the replacement of the existing glass panes on the front elevation and the erection of an extraction flue on the rear. The proposed flue will be a galvanised steel structure, similar to the existing neighbouring flue, that will extend from the existing rear flat roofed extension, terminating above eaves level. The proposed operating hours of the takeaway will be Monday to Thursday 1600 – 2200, Friday and Saturday 1600 – 2300, and Sunday 1600 – 2200.

## **NATIONAL POLICY AND GUIDANCE**

- 3 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 2014**

- 4 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. This is a statutory document and material consideration in any planning application. It 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**

- 5 The Scottish Planning Policy (SPP) 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 The following sections of the SPP will be of particular importance in the assessment of this proposal:
  - Sustainability: 24 – 35
  - Placemaking: 36 – 57
  - Supporting Business and Employment: paragraphs 32 – 108

## **Planning Advice Notes**

- 7 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
  - PAN 40 Development Management
  - PAN 75 Planning for Transport
  - PAN 1/2011: Planning and Noise

## **Creating Places 2013**

- 8 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.

## **National Roads Development Guide 2014**

- 9 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

## **DEVELOPMENT PLAN**

- 10 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2019.

### **TAYplan Strategic Development Plan 2016-2036**

- 11 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:

*“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.”*

- 12 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application;
- Policy 2: Shaping Better Quality Places
  - Policy 3: A First Choice for Investment

### **Perth and Kinross Local Development Plan 2**

- 13 The Local Development Plan 2 (2019) (LDP2) 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.
- 14 The principal relevant policies are, in summary;
- Policy 1A: Placemaking
  - Policy 1B: Placemaking
  - Policy 17: Residential Areas
  - Policy 54: Health and Safety Consultation Zones
  - Policy 56: Noise Pollution
  - Policy 60B: Transport Standards and Accessibility Requirements

## **OTHER POLICIES**

- 15 None

## **RELEVANT SITE HISTORY**

- 16 No recent planning history

## **CONSULTATIONS**

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

## **External**

- 18 **Scottish Water** – No objection.
- 19 **Health and Safety Executive** – No objection.

## **Internal**

- 20 **Transport Planning** – No objection
- 21 **Environmental Health** – No objection subject to conditions
- 22 **Contributions Officer** – No contributions required.
- 23 **Structures And Flooding** – No objection.

## **REPRESENTATIONS**

- 24 Thirteen letters of representations have been received. The objections can be summarised as follows:
- Lack of need for additional hot food takeaway in local area
  - Impact on residential amenity – noise/odour
  - Anti-social behaviour / littering
  - Increase in traffic and impact on existing parking facilities

## **ADDITIONAL STATEMENTS**

25	Screening Opinion	EIA not required
	Environmental Impact Assessment (EIA): Environmental Report	Not applicable
	Appropriate Assessment	Not applicable
	Design Statement or Design and Access Statement	Supporting Statement provided
	Report on Impact or Potential Impact	None required

## **APPRAISAL**

- 26 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 2019 (LDP2).
- 27 The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

## **Policy Appraisal**

- 28 The principal policy of relevance is Policy 17 '*Residential Areas*'. This policy seeks, amongst other things, to ensure that all new developments do not compromise residential amenity. This policy will be applied in addition to the Placemaking Policies 1A and 1B, which seek to ensure that all new developments contribute positively to the quality of place.
- 29 As there is the potential for noise disturbance from the proposed development, Policy 56 '*Noise Pollution*' will also be applied. This policy will ensure that there is no adverse noise pollution from the proposed change of use.
- 30 For reasons discussed throughout this report, the proposed development is considered to be compliant with the relevant provisions of the aforementioned Local Development Plan. The use is considered to be compatible with neighbouring uses without compromising the amenity of the area, subject to conditional control.

## **Design and Layout**

- 31 The proposals will not result in any significant alterations to the existing public facing elements of the building. The external appearance of the building will remain largely unchanged with the only changes to the shop front being the replacement of the existing glass panes on the front elevation and the introduction of a small air vent.
- 32 In addition to the above, the proposals also propose to install a single extraction flue on the rear of the building, projecting up from the flat roof extension and terminated 1 metre above eaves level. This flue will be of a similar scale and design to that of the existing extraction flues on the adjacent hot food takeaways. The flue is also located on the rear of the building and will not be visible from Glengarry Road.
- 33 As such, it is considered that the scale and design is acceptable and meets with the requirements of Policy 1A and 1B of LDP2.

## **Residential Amenity**

- 34 The site is located within a residential area and there are flatted properties directly above the proposed takeaway. As such, it is important that the amenity of the area is not compromised from the proposed development, with particular regard to both noise and odours which are normally associated with this type of use.
- 35 In this regard, the applicant has submitted details of the proposed extraction equipment that will comprise of a single external flue on the east (rear) elevation that will terminate 1 metre above eaves level. The extraction system will feature an acoustic attenuator and carbon pre-filters and filters to ensure that odour and noise are adequately controlled. Environmental Health have reviewed the proposals for the ventilation/extraction equipment and are

satisfied that the development should not impact on the neighbouring residential properties subject to conditional control in relation to hours of operation, noise and odours (Conditions 2, 3 & 4).

- 36 It is also noted that concerns have been expressed regarding anti-social behaviour resulting from the proposed use. Anti-social behaviour from patrons of the takeaway is a matter controlled via other legislation, a matter for the police and is not considered to be a material consideration in the assessment of this planning application. Likewise, members of the public littering falls into the same category, of seeing other legislative controls which should not be considered or replicated by the planning system.

### **Roads and Access**

- 37 Transport Planning have reviewed the proposal and have no objection to the proposed development. Whilst it is noted that concerns have been expressed regarding parking and traffic, it is considered that there is adequate parking outside the proposed unit and there is also a bus stop for members of public travelling by bus. It is also considered that the level of traffic generated by the proposed use will not unacceptably impact on the local transport network.
- 38 As such, it is considered that the proposed development will not have any adverse impact on road safety and the requirements of policy 60B are met.

### **Lack of demand**

- 39 Whilst there may be a number of other existing nearby hot food takeaways, the perceived lack of need for additional hot food takeaways within immediate area is not a material consideration in the assessment of this planning application. It is not uncommon for hot food takeaways to be located within small local shopping area, as demonstrated by the two existing takeaways within the neighbouring units. There are also no policy restrictions within LDP2 that seek to limit the number of such uses in any given area.

### **Drainage and Flooding**

- 40 The proposed site is not at risk to flooding and there are no known issues or concerns in relation to drainage.

### **Hazardous Pipeline**

- 41 The site is located within the HSE consultation zone for the Morris Young (Perth) Ltd, that lies within the harbour area. The proposed site lies on the edge of the outer zone and HSE's online consultation service has concluded that they do not advise against the development.
- 42 On that basis, the proposals comply with the requirements of Policy 54 of LDP2.

### **Developer Contributions**

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

### **Economic Impact**

- 44 The proposal will bring a vacant unit back into use which will have a positive economic impact on the local economy. There will also be some economic gain from the conversion stage of the development.

### **VARIATION OF APPLICATION UNDER SECTION 32A**

- 45 This application was varied prior to determination, in accordance with the terms of section 32A of the Town and Country Planning (Scotland) Act 1997, as amended. The variations incorporate changes to the internal layout and proposed ventilation system.

### **PLANNING OBLIGATIONS AND LEGAL AGREEMENTS**

- 46 None required.

### **DIRECTION BY SCOTTISH MINISTERS**

- 47 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**

- 48 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2016 and the adopted Local Development Plan 2 (2019). Account has been taken account of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan.
- 49 Accordingly, the proposal is recommended for approval subject to the following direction and conditions.

### **A RECOMMENDATION**

#### **Approve 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. 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 safeguard the neighbouring residential amenity in the area.

3. 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.

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

4. 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. Thereafter the system shall be maintained.

Reason - In order to safeguard the amenity of occupants of nearby premises and to ensure the provision of a satisfactory ventilation system for the premises.

## **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 required.

## **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. The applicant should be mindful of the need for regular cleaning and maintenance of the extract system to ensure that odour and/or noise is adequately controlled. DEFRA guidance advises that cleaning is undertaken every 2-6 months, dependant on daily usages and carbon filters are changed every 4-6 months. The applicant should ensure that the manufacturers/DEFRA guidance is followed at all times.

Background Papers: None

Contact Officer: David Niven

Date: 19 May 2022

**DAVID LITTLEJOHN  
HEAD OF PLANNING & DEVELOPMENT**

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