

Perth and Kinross Council
Development Control Committee – 22 May 2013
Report of Handling by Development Quality Manager

Alterations and change of use of Kinross Town Hall and related buildings to Class 1 (shops) and Class 2 (offices), erection of an apartment block (8 flatted dwellings), formation of access, parking and amenity space, 108-114 High Street land to the rear of 106 High Street Kinross

Ref: No: 13/00462/FLL
Ward No: 8 – Kinross-shire

Summary

This report recommends approval of the application for the alterations and change of use of Kinross Town Hall and the erection of an apartment block as complying with the relevant policies of the local plan.

BACKGROUND AND DESCRIPTION

- 1 This application relates to the complex of buildings at the former Kinross Town Hall located within the Kinross Conservation Area. The building complex comprises of a key group of protected buildings: the Scheduled Monument Clock Tower (also Category B listed); the Old Post Office, 108 High St (Cat. B); the Town Hall, 110 High St (Cat. B); and the fountain (Cat. C(S)).
- 2 The Town Hall buildings have lain vacant for an extended period of time and in 2002 Perth and Kinross Council declared the Town Hall and Library surplus to requirements. Over the last 10 years the buildings have been marketed by the Council and during that time the condition of the buildings has deteriorated resulting in the buildings being entered into the Buildings at Risk Register for Scotland.
- 3 Full planning permission was previously sought by the applicant for a change of use of the Town Hall and related buildings to allow Class 1 (Retail) and Class 2 (Office) uses to operate from the buildings (Planning Ref: 12/00477/FLL). The proposals also included the erection of a residential development comprising of 8 flats on the land to the rear of the Town Hall buildings. Whilst this application was recommended for approval it was refused by the Development Management Committee at its meeting on 24 October 2012 for the following reasons:
 - 1) *'The proposed development is contrary to the developers' requirements of Opportunity 5 of the Kinross Area Local Plan 2004 as it fails to provide a sympathetic scheme for the restoration and re-use of the Listed Buildings and an enhancement scheme for public space in front of the buildings.'*

- 2) *'The proposed development is contrary to Policy 31 of the Kinross Area Local Plan 2004 in that the works will be detrimental to the essential character of the Listed Buildings.'*
- 4 At that same Committee a separate application for Listed Building Consent for the demolition of the Billiard Hall to the rear of the Carnegie Library (Planning Ref: 12/00478/LBC) was approved by the Members and was subsequently approved by Historic Scotland.
- 5 Full planning permission is again being sought for the change of use of the existing Town Hall buildings and the erection of the flatted development to the rear. The change of use remains the same as previously sought, with the proposals seeking consent to allow Class 1 (Retail) and Class 2 (office) uses to operate from the Town Hall and related buildings. The proposed residential development on the land to the rear of the Town Hall is also identical to the previous plans, comprising of 8 flats (1 two bed unit and 7 one bed units) within a large two storey building with additional accommodation providing a third storey within the roof space. The external finishing materials are again not fully detailed on the plans but the applicant has advised that the walls will be finished in natural stone and the roof clad with natural slate. The proposed flats would be served by 9 parking spaces and access taken directly from the High Street.
- 6 It is noted that the applicant has described the proposed residential units as retirement apartments but no specific details have been submitted in regards to how the units would be marketed or how future occupation of the apartments would be controlled. As such, for the purposes of this application the residential element of the proposals are assessed as open market residential accommodation.
- 7 As stated above, the proposals and associated plans are identical to those submitted under the previous application. The applicant has however updated the supporting statement in light of the concerns raised during the previous application. In addition, further additional supporting information to address the concerns raised by Members in relation to the estimated costs of the proposed works to the listed Town Hall buildings have been submitted but the applicant has requested that this document is not made public due to the commercial sensitivity of the information.

NATIONAL POLICY AND GUIDANCE

Scottish Planning Policy (February 2010)

- 8 This SPP is a statement of Scottish Government policy on land use planning and contains:
- the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,

- statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
- concise subject planning policies, including the implications for development planning and development management and,
- The Scottish Government's expectations of the intended outcomes of the planning system.

9 Of relevance to this application are:

- Paragraphs 110 -124 : Historic Environment
- Paragraphs 113 -114: Listed Buildings

Scottish Historic Environment Policy December 2011 (SHEP)

10 This document sets out Scottish Ministers' policies for the historic environment, provides greater policy direction for Historic Scotland and provides a framework that informs the day-to-day work of a range of organisations that have a role and interest in managing the historic environment.

DEVELOPMENT PLAN

11 The Development Plan for the area comprises the Approved TAYplan June 2012 and the Adopted Kinross Area Local Plan 2004.

TAYplan June 2012

12 The principal relevant policies are in summary: -

Policy 3: Managing TAYplan's Assets

13 This recognises the importance of historic buildings and townscapes and identifies the importance of only allowing development where it does not adversely impact upon or preferably enhances these assets.

Policy 7: Town Centres

14 This outlines that strategies, plans, programmes and development proposals should focus comparison retail development within the town and commercial centres specified in this retail hierarchy (table 2 below), with the largest scale of activity in the largest town centres, to protect and enhance their vitality and viability.

Kinross Area Local Plan 2004

15 Under the Local Plan the site lies within the settlement boundary for Kinross and is identified as an development opportunity site (Op 5). The principal relevant policies are in summary: -

Policy 28: Archaeology

- 16 The Council will safeguard the site, settings and archaeological landscapes associated with Scheduled Ancient Monuments (protected under the Ancient Monuments and Archaeological Areas Act 1979) from potential adverse development unless there are exceptional circumstances.

Policy 31: Listed Buildings

- 17 There will be a presumption against the demolition of Listed Buildings and against works detrimental to their essential character. There will be a presumption in favour of consent for development involving the sympathetic restoration of a Listed Building, or other buildings of architectural value. The setting of Listed Buildings will also be safeguarded.

Policy 32: Listed Buildings

- 18 The Council will encourage the restoration, correct maintenance and sensitive enhancement of Listed Buildings by the use of the powers available to them under the Planning Acts.

Policy 67: General Residential and Background Policies

- 19 Inset Map 2 identifies areas of residential and compatible uses where existing residential amenity will be retained and where possible improved. Where sites become available for development, housing will generally be the most obvious alternative use. Some scope may exist for infill development, but only where this will not have a significant adverse affect on the density, character or amenity of the area concerned. Small areas of private and public open space will be retained where they are of recreational or amenity value.

Policy 68: General Residential and Background Policies

- 20 Ancillary development such as neighbourhood shops and community facilities will be permitted in residential areas provided the character or amenity of the area is not damaged by the development.

Policy 74: Kinross Conservation Area

- 21 There will be a presumption against developments within the Conservation Area which do not preserve or enhance the area. The Council will review the possibility of introducing an Article 4 Direction within the Conservation Area. Applications for outline consent within the Conservation Area are unlikely to be acceptable without detailed plans of the development including elevations which show the new building in its setting.

Perth and Kinross Proposed Local Development Plan 2012

- 22 Members will be aware that on 30 January 2012 the Proposed Local Development Plan was published. The adopted Local Plan will eventually be

replaced by the Proposed Local Development Plan (LDP). The LDP has recently undergone a period of public consultation. The Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. It is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. The Plan may be regarded as a material consideration in the determination of this application, reflecting a more up to date view of the Council.

23 The principal relevant policies are in summary.

Policy RD1: Residential Areas

24 The Plan identifies areas of residential and compatible uses where existing 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 away from ancillary uses such as employment land, local shops and community facilities will be resisted unless there is demonstrable market evidence that the existing use is no longer viable.

25 Generally encouragement will be given to proposals which fall into one or more of the following categories of development and which are compatible with the amenity and character of the area:

- (a) Infill residential development of a similar density to its environs.
- (b) Improvements to shopping facilities where it can be shown that they would serve local needs of the area.
- (c) Proposals which will improve the character and environment of the area or village.
- (d) Business, home working, tourism or leisure activities.
- (e) Proposals for improvements to community and educational facilities.

Policy HE1: Scheduled Monuments and Non-Designated Archaeology

Policy HE1A: Scheduled Monuments

26 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

Policy HE1B: Non-Designated Archaeology

27 The Council will seek to protect areas or sites of known archaeological interest and their settings. Where development is proposed in such areas, there will be a strong presumption in favour of preservation in situ. Where, in exceptional circumstances, preservation of the archaeological features is not feasible, the developer, if necessary through appropriate conditions attached to the granting of planning permission, will be required to make provision for the survey, excavation, recording and analysis of threatened features prior to development commencing.

- 28 If discoveries are made during any development, work should be suspended, the local planning authority should be informed immediately and mitigation measures should be agreed.

Policy HE2: Listed Buildings

- 29 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, and any proposed alterations or adaptations to help sustain or enhance a building's beneficial use should not adversely affect its special interest.
- 30 Encouragement will be given to proposals to improve the energy efficiency of listed buildings within Perth and Kinross, providing such improvements do not impact detrimentally on the special interest of the building.
- 31 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 buildings character, appearance and setting.

Policy HE3: Conservation Areas

Policy HE3A: New Development

- 32 There is a presumption in favour of development within a Conservation Area that preserves or enhances its character or appearance. The design, materials, scale and siting of 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.
- 33 Where a Conservation Area Appraisal has been undertaken for the area, the details contained in that appraisal should be used to guide the form and design of new development proposals.
- 34 Applications for Planning Permission in Principle in Conservation Areas will not be considered acceptable without detailed plans, including elevations, which show the development in its setting.

Policy HE3B: Demolition within Conservation Areas

- 35 When assessing applications for the demolition of unlisted buildings in Conservation Areas, the Council will give careful consideration to the merits of the building and its contribution to the character and appearance of the Conservation Area. Where a building is considered to be of value, either in itself or as part of a group, there will be a presumption in favour of its retention, restoration for the current or another appropriate use.
- 36 In those exceptional circumstances where demolition is considered acceptable and is to be followed by the redevelopment of the site, the application for proposed demolition should be accompanied by a detailed application for the

replacement development. This is to allow for their consideration in parallel, and to ensure that the replacement scheme will enhance or preserve the character of the area and avoid the formation of gap sites.

- 37 **Note:** The Council has produced a series of Conservation Area Appraisals for a number of the Conservation Areas within Perth and Kinross. These Appraisals serve as Supplementary Guidance to the Plan, and will assist decision-making in development management.

OTHER POLICIES:

Affordable Housing Policy

- 38 This policy is applicable to all new housing sites (even ones identified in the local plans) with the exception of those with existing consents or an approved development brief. This policy seeks a 25% allocation of affordable housing; preferably on site however for developments of less than 10 units commuted payments maybe acceptable.

Development Contributions 2012 – Primary Education and New Housing Development

- 39 This guidance sets out the basis on which Perth and Kinross Council will seek to secure contributions from developers of new homes towards the cost of meeting primary education infrastructure improvements necessary as a consequence of development. All new housing from the date of adoption including those on sites identified in adopted Local Plans will have the policy applied.

SITE HISTORY

- 40 97/01605/FUL: Demolition of three garages and erection of 2 dwellinghouses on land to the rear of 106 High Street, Kinross – APPROVED
- 41 99/01755/PPLB: Alterations and extension and formation of new access at Kinross Town Hall, 110 High Street, Kinross – APPROVED
- 42 01/01506/FUL: Demolition of existing lock-ups and erection of house and garage on land to the rear of 106 High Street, Kinross – WITHDRAWN
- 43 03/00541/FUL: Renewal of planning consent (97/01605/FUL) for the demolition of three garages and erection of 2 dwellinghouses on land to the rear of 106 High Street, Kinross – APPROVED
- 44 07/02781/FUL: Renewal of planning consent (03/00541/FUL) for the erection of two dwellinghouses on land to the rear of 106 High Street, Kinross – APPROVED
- 45 12/00478/LBC: Alterations and partial demolition, 108-114 High Street, Kinross – APPROVED

- 46 12/00477/FLL: Alterations and change of use of Kinross Town Hall and related buildings to Class 1 (shops) and Class 2 (offices), Erection of an apartment block (9 dwellings), formation of access, parking and amenity space, 108-114 High Street And Land To The Rear Of 106 High Street Kinross – REFUSED
- 47 12/01977/FLL: Renewal of existing consent (07/02781/FUL) for the erection of two dwellinghouses on land to the rear of 106 High Street, Kinross – APPROVED

CONSULTATIONS

Kinross Community Council

- 48 No comments received.

Historic Scotland

- 49 Historic Scotland has advised that they have no objection in terms of the proposed development and its potential impact on the scheduled Kinross Clock Tower.

Waste Services

- 50 Waste Services have advised of the Council's standard specifications for waste and recycling services and recommend that the applicant contact the Community Waste Advisor to discuss the provision of adequate storage, access and/or infrastructure.

Scottish Water

- 51 In terms of planning consent, Scottish Water does not object to this planning application. However, they advise that any planning approval granted by the Local Authority does not guarantee a connection to their infrastructure. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received.

Perth and Kinross Heritage Trust

- 52 PKHT recommends that a standing building recording survey be carried out, prior to the commencement of development works, to ensure that an appropriate record of the historic character of the Billiard Hall extension is made.

REPRESENTATIONS

- 53 7 letters of representation have been received. The grounds of the objection can be summarised as follows:
- Impact on character of listed buildings
 - Impact on setting of conservation area

- Inappropriate land use
- Does not fulfil the developer requirement in Opportunity 5 of the local plan
- No guarantee that repair works or renovation works to the listed buildings will be undertaken
- Loss of trees
- Impact on visual amenity
- Overlooking
- Overdevelopment
- Unacceptable design
- Impact on street parking
- Lack of sufficient parking for flats
- Lack of parking for proposed retail and office uses
- Loss of traditional 'Rigg' garden space
- Inaccurate plans
- Insufficient detail regarding proposed works to listed buildings

54 These issues are addressed in the appraisal section of this report.

ADDITIONAL STATEMENTS

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| 55 | Environment Statement | Not required |
| | Screening Opinion | Not required |
| | Environmental Impact Assessment | Not required |
| | Appropriate Assessment | Not required |
| | Design Statement / Design and Access Statement | Yes |
| | Business Plan | No |

APPRAISAL

Policy

- 56 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended by the 2006 act) requires the determination of the planning application to be made in accordance with the provisions of the Development Plan, unless other material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYPlan 2012 and the adopted Kinross Area Local Plan 2004.
- 57 The determining issues in this case are whether: - the proposal complies with development plan policy; the proposal complies with supplementary planning guidance; or if there are any other material considerations which justify a departure from policy.
- 58 The Town Hall buildings are located on the edge of the principal central shopping area of Kinross as identified within the Local Plan under Policy 70 'Shopping'. This policy outlines that non-retail uses will not be permitted to dominate the ground floors to an extent that they may undermine the retail

function or adversely affect residential amenity. In this regard, the proposed change of use states that only retail uses will be operated from the ground floor.

- 59 In addition to the above, the Town Hall buildings are identified in the local plan as an opportunity site (Op 5) where it is suggested that the buildings may be suitable for conversion to accommodate Community Use/Retail/Office/Hotel/Restaurant/Houses/Flats provided it ensures a sympathetic scheme for the restoration and reuse of the listed buildings.
- 60 It is again therefore considered that the proposed change of use to allow the buildings to be used for retail and office space would be entirely consistent with local plan policy provided that any future detailed proposals for internal or external alterations are sympathetic to the special character of the listed buildings.
- 61 In regards to the proposed new build flatted development on the land directly to the rear of the Town Hall, this area of the ground is identified within the local plan as an area suitable for residential uses where housing development may be acceptable provided that it will not have a significant adverse affect on the density, character and amenity of the area concerned. It is also important to note that this area of land already has detailed planning consent for the erection of two houses which is still extant (Planning Ref: 07/02781/FUL).
- 62 As such the principle of residential development on the area of ground to the rear of the Town Hall is in accordance with the adopted local plan and has already been established under the previous consent. Therefore the main issues to consider in relation to proposed new build flatted development relate to the impact on the character/setting of the listed Town Hall and the density, character and amenity of the surrounding area.

Repair/Reinstatement Works to Town Hall

- 63 The former Town Hall buildings have lain vacant for an extended period of time since the Council declared them surplus to requirements. Over time the buildings have gradually deteriorated and are now identified on the Buildings at Risk Register for Scotland. It is therefore important that a suitable scheme is achieved that will allow these important listed buildings to be fully restored and brought back into productive use.
- 64 As outlined above, the current applicant is seeking to use the building for retail (ground floor) and office use (first floor) and this is still considered to be entirely appropriate in principle given the nature of the buildings and their central local within Kinross. However it is acknowledged that a significant factor in the refusal by Members of the previous application related to the lack of detail relating to both the short term works to stabilise the condition of the building and the subsequent future plans for internal and external restoration works associated with the eventual reuse of the building. In addition, concerns were also raised in regards to the potential timescale of such works.

- 65 In response to these concerns the applicant has reaffirmed their commitment to ensuring that the Town Hall buildings are repaired and restored in an appropriate manner. They acknowledge that there will undoubtedly need to be alterations to both the internal and external fabric of the building to accommodate the proposed uses but this present application is viewed as being the first step in the eventual future re-use of the building. Nevertheless, as per the previous application, they again accept that the buildings will require immediate action to ensure that the condition of the buildings are stabilised and they have confirmed if this application is approved a full condition survey of the structures internally and externally will be undertaken in order to identify any repair work that requires immediate attention in order to stem the deterioration of the buildings. At present it is anticipated that works to the roof, guttering and downpipes, and to secure windows openings will be the minimum required. The applicant also has further stated that all works will be undertaken in discussion with both Perth and Kinross Council and Historic Scotland.
- 66 However in response to the concerns regarding the lack of detail relating to the repair of the listed buildings, a separate report has now been submitted which provides some additional information relating to the extent of repair works required to secure the condition of the listed buildings and the estimated costs. This report is quite brief and provides only a generalised assessment of the anticipated works and their associated costs. Nevertheless, it does identify the basic areas where immediate attention is likely to be required and it is accepted that there will be significant cost involved in simply ensuring that the building is made wind and water tight. In summary the anticipated works are as follows:
- Extensive repairs to the existing roofs including the repair and replacement of cast iron downpipes and gutters
 - Repair and replacement of windows and external doors
 - Demolition of Billiard Hall and restoration of building fabric (approved as per Planning Ref: 12/00478/LBC)
- 67 It should be highlighted that much of the repair work will be subject to a further application for listed building consent. As such the applicant will be required to submit further details of the repair works for the approval of the Planning Authority prior to any repair work taking place.
- 68 In addition to the above, the applicant has also confirmed that he is prepared to accept a planning condition that ensures that all the agreed works to the building will be undertaken prior to the occupation of any unit within the proposed new apartment block. Whilst this still does not provide a definitive answer to the concerns relating to the exact extent of works or the timescales, it does confirm the applicant's commitment to ensuring that all required repair works will be undertaken.

Enhancement scheme for public space in front of the buildings

- 69 In response to the concerns raised by Committee relating to the enhancement of the public area in front of the Town Hall, the applicant has outlined in their supporting statement that the final details of an enhancement scheme remains

to be agreed with and approved by Perth and Kinross Council, potentially as part of wider improvements within Kinross town centre. The intention is to re-locate the bus shelter and re-pave the area in front of the Town Hall in more “sympathetic/natural materials”.

- 70 It is considered that public space in front of the building forms an important element of the redevelopment of the site and the character of the wider conservation area. As such it is considered that in the absence of any specific detail, a condition is required to ensure the submission of a full detailed scheme for the approval of the Planning Authority prior to the commencement of any works to the buildings.

Scale/Design of Residential Development

- 71 A number of objections have been received in relation to the scale and design of the proposed flatted development to the rear of the Town Hall buildings. Under the previous application, the initial proposals for the flatted development comprised of a three storey block with a ridge height considerably higher than the listed Town Hall buildings immediately adjacent. This raised significant concerns in relation to its impact on the setting of the listed buildings and on the character and appearance of the conservation area. The Conservation Officer also raised concerns in relation to the scale and massing of the proposed apartment block and its relationship with the listed Town Hall buildings.
- 72 In response to the concerns raised, the applicant amended the scale of the proposed flatted block, removing one apartment and reducing its ridge height by 2 metres. The proposals for the additional block under the current application are the same as the previous submission and this reduction in maximum height allows the block to read deferentially when viewed in perspective behind the listed buildings in key views from the south and east. The reduction in bulk also allows the scheduled Clock Tower to remain the focal point of the group, particularly in key views from the south-west. The generally traditional approach to form, detailing and materials will relate sympathetically to its surroundings, subject to conditions for approval of details and samples of finishing materials, windows and doors, boundary treatments and landscaping. The block, although involving 2 stories does nevertheless incorporate a third level of accommodation in the roof space.
- 73 However the Conservation Officer has advised that proposed entrance gate and piers detailing are not appropriate in the surrounding built context. It is therefore recommended that a further amendment to this detail is covered by condition.

Residential Amenity – Overlooking

- 74 The initial plans for the proposed flatted development presented a number of concerns in relation to the overlooking, particularly in relation to the neighbouring gardens immediately to the south and west of the site. Due to the restrictive nature of the plot the proposed flatted are positioned close to the

south and west boundaries resulting in a number of windows directly overlooking the neighbouring gardens.

- 75 In response to these concerns the applicant made a number of amendments to the fenestration at first floor level. On the south elevation, the first floor bedroom window on the south elevation nearest the neighbouring boundary has been omitted and the dining room window reduced in size to a high level window. On the west elevation a kitchen window has been removed and opaque glazing will be installed in the dining room window. In addition, the amendment to the height of the proposed building has assisted in reducing the level of overlooking by removing all but one of the dormer windows.
- 76 It is considered that these alterations to the design of the building reduces the level of overlooking of the neighbouring gardens to the south and west. I am therefore satisfied that the proposals for the flatted development will not have a significant adverse impact on neighbouring amenity.

Residential Amenity – Overshadowing, loss of sunlight and daylight

- 77 The Building Research Establishment (BRE) document ‘Site Layout Planning for Daylight and Sunlight-a guide to good practice 1991’ sets out guidelines on how to assess the potential impact, it should be noted that the standards are not mandatory and should be interpreted flexibly.
- 78 Taking cognisance of the BRE document I consider a reasonable level of daylight and sunlight is maintained to neighbouring properties and the extent of overshadowing of amenity ground does not warrant either refusal or amendment of the application.

Development Viability

- 79 The applicant has again not made any case for the redevelopment of the Town Hall based on the cross funding from the erection of the proposed flatted development. Nevertheless, the applicant has acknowledged that the two proposals are inextricably linked due to the need to remove the Billiard Hall in order to construct the flatted development. However, no case has been put forward that the flatted development is required to fund the restoration and reuse of the Town Hall. In light of this situation, therefore, connection between the 2 applications is in regard to the removal of the billiard hall to facilitate the new development.
- 80 In any case, as previously outlined, the proposed changes of use relating to the Town Hall buildings and the redevelopment of the land to the rear for residential development are considered, separately and in their own right, to be in accordance with the local plan. As such it is considered that there is no requirement for the applicant to demonstrate development viability in this instance.

Economic Development

- 81 The current proposals are simply seeking to secure consent for retail and office use to operate from the Town Hall buildings. At this stage it is difficult to predict the number of jobs that would be generated and the impact that this would have on the local economy as the applicant does not as yet have any prospective tenants for the buildings. Nevertheless, given that the buildings are presently vacant, the reuse of the building will undoubtedly create jobs and revitalise this area of the town centre. The refurbishment and change of use of the Town Hall represents an opportunity to add to the vitality and viability of this part of the centre of Kinross which would have clear, albeit undetermined, economic benefits.

Access/Parking

- 82 The Council's Transport Planning Team has advised that the plans appear to indicate that the present bus shelter that is positioned to the front of the Town Hall is to be relocated; however no alternative location is suggested or shown on the plans. The supporting statement also makes reference to the removal or relocation of the bus shelter. Therefore, until a suitable location for the bus shelter and stop is agreed with both the Council's Public Transport Unit and the shelter owner (Clear Channel), the Transport Planning Team would wish to see the current facility retained.
- 83 However in regards to the proposed development the Transport Planning Team have advised that they have no objection to the proposals subject to conditions relating to the specification of the access detail, turning facilities and provision of parking spaces.

Tree Removal

- 84 There are a number of mature trees within the land to the rear of the Town Hall buildings. However the submitted plans do not provide any detail in regards to the position of all existing trees within the site and which specific trees are to be retained or felled.
- 85 The applicant has outlined in the supporting statement that two of the mature trees directly to the rear of the existing buildings are to be removed as they are too close to the existing structures and are impacting on the building fabric.
- 86 Having visited the site, at least one of the mature trees is visible from both High Street and the car park off Montgomery Street to the south. It is also considered that the trees do contribute to some extent to the character of the Conservation Area. However it is agreed that a number of mature trees are too close to the rear elevation of the existing buildings and will need to be removed in order to redevelop the buildings and to prevent any future damage. Furthermore, the existing consent for two dwellings on the land to the rear of the existing buildings already permits the removal of the mature trees (Planning Ref: 12/01977/FUL).

- 87 Nevertheless, it is considered that prior to the commencement of any works the applicant should undertake a tree survey on the site and provide further detailed plans that accurately identify which trees are to be removed or retained on the site. In addition, it is also considered that the removal of any trees should only be undertaken outwith the bird breeding season. These matters have been conditioned accordingly.

Landscaping

- 88 The site plans do not provide any specific detail in regards to the proposed soft landscaping within site. Whilst it is accepted that the relatively restrictive nature of the site would make it difficult to achieve any substantial landscaping within the site, it is considered that some low level soft landscaping would be appropriate. As such a condition has been applied requiring further detailed information regarding landscaping.

Bats

- 89 The applicant previously submitted a supporting statement from an ecologist regarding the potential existence of bats within the existing buildings. The ecologist advised that the likelihood of bats is very low given that the building has lain vacant and unheated for a number of years. It was also highlighted that previous intrusive works to the building would normally have revealed signs of bats.
- 90 The Council's Biodiversity Officer has assessed the advice contained in the ecologist's statement and he agrees that a full bat survey is not required in this instance. However it is recommended that a standard informative note providing advice regarding the protection of bats during construction works is added to any consent.

Affordable Housing

- 91 Whilst the applicant is proposing that the apartments will be retirement apartments, the Affordable Housing Officer has advised that the proposed accommodation is not exempt from the Council's Affordable Housing Policy. The Policy requires 25% on site provision for schemes of 5 or more housing units.
- 92 As consent is still extant on the site for the erection of two houses the affordable housing contribution is only applicable to 6 of the proposed apartments. Therefore the affordable housing provision equates 25% of the 6 applicable units which in this case will amount to 1.5 affordable units. In consultation with Housing & Community Care, it is agreed the most appropriate form of contribution in this case is a commuted sum. The commuted sum stated in the Affordable Housing Guide (August 2007, updated 2010) for the Kinross HMA is £15,000 per unit; therefore the applicable figure is £22,500 (1.5 affordable units x £15,000).

Education Contribution

- 93 Again, whilst the applicant is proposing that the apartments will be retirement apartments, the proposed accommodation is not exempt from the Council's Education Contribution Policy.
- 94 Kinross Primary School is currently considered to be at capacity by Education and Children's Services. Therefore the Council's recently approved Planning Guidance Note on Primary Education and New Housing Development will apply. Under the new policy, as it applies to education infrastructure, the developer will be required to make a contribution of £6,395 per two bed unit.
- 95 In this instance the applicant is proposing a development comprising of 7 one bedroom units and 1 two bedroom unit. As such the policy is only applicable to one of the proposed units. However, as the applicant already has detailed planning consent for the erection of 2 houses on the site, there is no requirement of an education contribution on this occasion.

Waste Collection

- 96 Waste Services have advised of the Council's standard specifications for waste and recycling services and recommend that the applicant contact the Community Waste Advisor to discuss the provision of adequate storage, access and/or infrastructure. This has been highlighted as an informative note.

PLANNING AUTHORITY WITH AN INTEREST IN THE LAND

- 97 The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 advises on the procedure for notification of planning applications to the Scottish Ministers for developments in which planning authorities have an interest in. The Direction states that notification to the Ministers is only required where the proposal involves a significant departure from the authority's own Development Plan. As the recommendation of approval is not a significant departure from the Development Plan, a notification to the Ministers is not required.

LEGAL AGREEMENTS

- 98 A legal agreement may be required for the delivery of the appropriate Affordable Housing Contributions.

DIRECTION BY SCOTTISH MINISTERS

- 99 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

100 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, it is considered the proposal complies with the Adopted Kinross Area Local Plan 2004. There are no material considerations that would justify refusing the application. 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 plans, unless otherwise provided for by conditions imposed on the planning consent.
- 2 Prior to the commencement of development works, a full condition survey of the Town Hall and associated buildings shall be undertaken by the applicant and submitted to the Planning Authority for approval.
- 3 Prior to the occupation of the first residential unit, all repair and maintenance works required to make the existing Town Hall and associated buildings wind and water tight shall be undertaken and thereafter maintained to the satisfaction of the Planning Authority.
- 4 Prior to the commencement of development works samples of all the external finishing materials relating to the proposed apartment block shall be submitted for the approval of the Planning Authority.
- 5 Prior to the occupation or use of the approved development the vehicular access shall be formed in accordance with specification Type B, Fig 5.6 access detail to the satisfaction of the Planning Authority.
- 6 Prior to the occupation or use of the approved development turning facilities shall be provided within the site, in accordance with the approved plans, to enable all vehicles to enter and leave in a forward gear.
- 7 Prior to the occupation or use of the approved development a minimum of 9 No. car parking spaces shall be provided in accordance with the approved plans within the site.
- 8 No trees shall be cut down or removed during the breeding season for birds. Any tree or shrub removal shall only be permitted between 1 September and 1 March unless otherwise agreed in writing with the Planning Authority.
- 9 Prior to the commencement of development work a full survey of all trees on the site shall be undertaken by the applicant and submitted for the approval of the Planning Authority unless otherwise agreed in writing.

- 10 A detailed landscaping and planting scheme for the site shall be submitted for the further approval of this Planning Authority prior to the commencement of the development. The scheme shall include details of the any trees and shrubs to be planted and the scheme as subsequently approved shall be carried out and completed during the development of the site and thereafter maintained unless otherwise agreed in writing with this Planning Authority.
- 11 Prior to the commencement of any development works on site, full details of the proposed boundary treatments shall be submitted for the approval of the Planning Authority.
- 12 The proposed entrance gate and piers are not approved by this consent. Further details regarding the proposed entrance gate and piers shall be submitted for the approval of the Planning Authority.
- 13 The existing bus shelter that is positioned to the front of the Town Hall shall not be removed without the prior written agreement of the Council as Roads Authority.
- 14 Prior to development commencing, the developer shall secure the implementation of an archaeological standing building survey of the extant structures, to be carried out by an archaeological organisation acceptable to the Planning Authority. The scope of the archaeological standing building survey will be set by Perth and Kinross Heritage Trust on behalf of the Planning Authority. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the Perth and Kinross Heritage Trust in writing not less than 14 days before development commences. Copies of the resulting survey shall be deposited in the National Monuments Record for Scotland and with Perth and Kinross Heritage Trust upon completion.

Reasons

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 In order to assess the condition of the existing listed buildings and identify suitable works for the purposes of repair and maintenance.
- 3 In order to ensure that all necessary repair works are undertaken to the listed buildings.
- 4 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 5 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 6 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 7 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 8 In order to prevent the destruction of occupied nests or the disturbance of birds during the breeding season.
- 9 In order to accurately indentify all existing trees on the site and to identify trees are to be removed or retained as part of the development of the site.
- 10 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 11 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 12 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 13 In order to ensure the suitable relocated of the existing bus shelter.
- 14 To ensure a record of the building prior to any demolition works.

B JUSTIFICATION

- 1 The proposal is considered to comply with the listed building legislation and with the contents of the Local Plan and no material considerations are apparent that would outweigh the contents of the Development Plan.

C PROCEDURAL NOTE

- 1 Consent shall not be issued until such time as the applicant has made the necessary affordable housing contribution either in the form of an up front payment or through a deferred payment by means of a Section 75 Legal Agreement. In the event of the upfront payment not being paid in a reasonable timescale or the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reasons that the proposal would fail to comply with the Council's agreed policy on Affordable Housing.

D INFORMATIVES

- 1 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.
- 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 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).
- 4 The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
- 5 Due to the nature of the proposed work it is important to keep in mind the possibility of finding bats when doing work on the existing roof. If bats are found during works, the work should stop immediately and you should contact SNH at Battleby immediately for advice. Building and demolition works should avoid the times of year when bats are most vulnerable to disturbance. The summer months, when bats are in maternity roosts, and the winter months when bats are hibernating, should be avoided. Typically early spring and autumn months are the best times to do work that may affect bats. If you suspect, or discover, that bats are present you should consult SNH for advice. For further information visit the Bat Conservation Trust website <http://www.bats.org.uk/>
- 6 Before any tree work is undertaken, the appointed contractor should take adequate precautions to ensure their activities will not damage or disturb protected wildlife species and in particular: birds' nests, bats and bat-roosts. If in any doubt consult SNH or a qualified Ecologist prior to any works being carried out.
- 7 No work shall be commenced until an application for building warrant has been submitted and approved.

Background Papers: 7 letters of objection
Contact Officer: David Niven – Ext (4)75345
Date: 26 April 2013

Nick Brian
Development Quality Manager

If you or someone you know would like a copy of this document in another language or format, (On occasion only, a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000



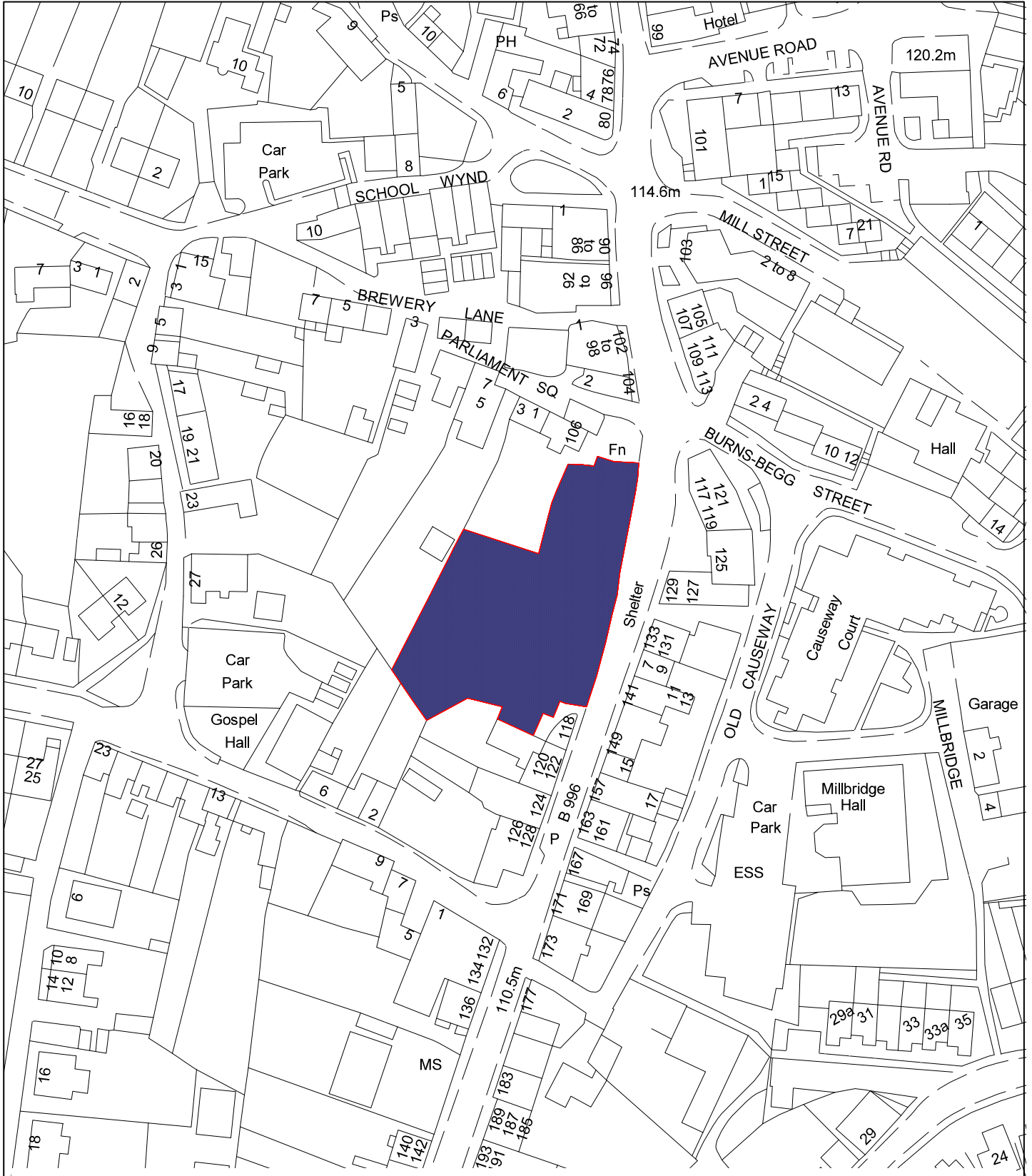
Council Text Phone Number 01738 442573

Perth & Kinross Council

13/00462/FLL

108-114 High St and Land to the rear of 106 High Street, Kinross

Erection of apartment block, alterations and change of use of town hall to class 1+2



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↑ Scale
1:1250

