

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

**Alterations and Change of use from retail (Class 1) to betting office (Class 2)
Unit 1, St John's Shopping Centre, King Edward Street, Perth, PH1 5UX**

Ref. No: 13/00555/FLL
Ward No: 12– Perth City Centre

Summary

This report recommends approval of the application for change of use from Class 1 retail to Class 2 (betting office) as the development is considered to comply with the relevant provisions of the Development Plan.

Background and Description

- 1 Full planning consent is sought for the change of use of Unit 1 of the St John's Shopping Centre in Perth from Class 1 Retail to Class 2 betting office. Unit 1 sits to the west of the main entrance into the shopping centre from South Street and is currently vacant. The premises have a long standing history of vacancy and the unit has been marketed since it originally became vacant in 2008. The unit was occupied for a temporary period by a Christmas trader in 2011. The submission indicates that the premises have been marketed with no serious interest from Class 1 (retail) operators. It goes on to state that they have seen a further deterioration in demand for Class 1 retailers in general and specifically in Perth. It should be noted that there are a number of vacant units in this rear section of the St John's Shopping Centre (South Street Mall) and that there has been very little interest from any Class 1 retailers for units 1, 2 or 3 in this section of the centre. The vacancy of the unit is a material consideration in the assessment of an alternative use within the premises.
- 2 Currently the unit has an access from within the St John's Shopping Centre but this proposal involves forming a new access directly onto South Street.
- 3 There is a separate application for Display of Advertisement Consent (13/00555/ADV) which is also under consideration at this Committee.

NATIONAL POLICY AND GUIDANCE

Scottish Planning Policy 2010

- 4 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.

5 The most relevant paragraphs are as follows:

- Paragraphs 45 - 51 : Economic Development
- Paragraphs 52 - 65 : Town Centres and Retailing
- Paragraphs 115 - 117 : Conservation Areas

DEVELOPMENT PLAN

6 The Development Plan for the area consists of the Approved Tayplan: Strategic Development Plan 2012-2032 and the Adopted Perth Central Area Local Plan 1997.

Tayplan: Strategic Development Plan 2012-2032

7 There are no strategic policies of relevance to this application.

Perth Central Area Local Plan 1997

8 Under the Local Plan the application site is located within an area designated for Primary Business and Retail Uses and the principal relevant policy is:-

Policy 38

9 Uses within Class 2 and 3 of the Use Class Order will only be permitted in ground floor premises within the area zoned for Primary Business and Retail Uses where it can be shown that (i) it will not result in bunching of three or more such uses being located on one street block (ii) the amenity of the surrounding area will not be adversely affected by the uses (iii) there is a high and continuous degree of public contact involved in day to day operations (iv) an adequate, attractive window display can be provided or (v) within specific areas where the concentration of such uses is considered desirable.

PERTH AND KINROSS PROPOSED LOCAL DEVELOPMENT PLAN 2012

10 On 30 January 2012 the Proposed Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading up to adoption. It has recently undergone a period of representation; the Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. This means that it is not expected that the

Council will be in a position to adopt the Local Development Plan before December 2014. It is therefore a material consideration in the determination of this application, reflecting a more up to date view of the Council.

- 11 The site is located within an area designated for the Perth Prime Retail Core.
- 12 The principal relevant policy of this plan is:

Policy RC1 Town and Neighbourhood Centres

- 13 Within the areas identified as Town and Neighbourhood Centres, the Council will encourage uses within Class 1 (retail) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and will support development where larger retail floorplates are created and/or which creates additional retail floor space. The Council will also encourage ground floor uses within Classes 2 & 3 (building societies, estate agents, restaurants and cafes etc) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 providing they contribute to the character, vitality and viability of the retail area and satisfy all the following criteria:
 - (a) There is a high and continuous degree of public contact involved in the normal day to day running of the use.
 - (b) Changes of use away from the above uses on the ground floor will be discouraged unless it can be demonstrated that the proposal would not be detrimental to the character, vitality and viability of the centre and it can be demonstrated that there is no commercial demand for the existing use.
 - (c) An attractive shop frontage treatment is provided which is appropriate to the prime retail location.
 - (d) Residential amenity is protected. The use of pavement areas for restaurant/café/bar uses will also be acceptable in the prime retail area provided such uses do not adversely affect pedestrian flows and fit with design guidance. On the upper floors, particularly where property is under-utilised, the Council will encourage the retention and development of housing and other uses complementary to towns.

Perth Central Conservation Area Appraisal

Site History

- 14 13/00555/ADV - Display of Advertisement Consent.

Consultations

- 15 None.

Representations

- 16 No representations have been received in relation to this proposal.

ADDITIONAL STATEMENTS

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

APPRAISAL

Policy

- 17 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by Planning Etc (Scotland) Act 2006 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. 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. The most relevant policies of the Perth Central Area Local Plan are identified in the policy section above. The Council's Proposed Local Development Plan 2012 is a relevant material consideration in this instance.

Principle

- 18 Policy 38 of the Perth Central Area Local Plan and Policy RC1 of the Proposed Local Development Plan both state that Class 2 uses in the city centre will be permitted subject to certain criteria.
- 19 Policy 38 states that there should be no "bunching" of three or more similar uses in one street block. In this particular block from King Edward Street to the Meal Vennel there are currently two similar uses at William Hill on King Edward Street and The Tavern public house which is next door. It could therefore be argued that there are a total of 3 uses on this street block. This street block is however dissected by various openings and access to the shopping centre. The William Hill is a considerable distance away from the application site and I am satisfied that a Class 2 use in this area will not detrimentally affect the vitality or viability of the city centre. It should also be noted that the Proposed Local Development Plan 2012, which provides a more up to date position of Council policy, does not refer to the "bunching" of similar uses in a street block but instead seeks to ensure that the character, vitality and viability of the city centre is not detrimentally affected by the use and requires the applicant to demonstrate that there is no commercial demand for the existing use.
- 20 In this case the submission indicates that the unit has been marketed by Reith Lambert from 2008 and then by Cushman & Wakefield from 2011 with no serious interest from Class 1 (Retail) operators. The premises have a long standing history of vacancy, with the only occupancy being from a temporary Christmas trader in 2011. The marketing of the unit for retail purposes for such

a significant length of time without any serious interest is considered to be strong material consideration in the assessment of whether a Class 2 use is suitable for this unit.

- 21 The vitality of the city centre has been detrimentally affected by this unit being vacant for such a significant period of time and the introduction of a betting office will ensure there is a high and continuous degree of public contact as required by the policy. The introduction of a use with a high degree of public contact will also result in potential additional trade to retail uses in the area creating “spin off” trade which is welcomed.
- 22 The submission also states that since 1994, when betting and gaming legislation changed, there is now no longer a requirement for betting office frontages to be closed in the sense that one cannot see in or out of them. The proposed unit uses the existing glazing and will have an “active frontage” onto both South Street and from within St Johns Centre. This will help to add activity to the street scene which will contribute to improving the vitality of the city centre as required by policy.
- 23 The proposed design of the shopfront is considered to be attractive and suitable for the Conservation Area location. The size of the signage in relation to the fascia is considered appropriate and relates to other signage on South Street.
- 24 Overall the proposed Class 2 use is considered to comply with both Policy 38 of the Perth Central Area Local Plan and Policy RC1 of the Proposed Local Development Plan and the occupancy of this unit will help to revitalise the South Street frontage of the St John’s Shopping Centre which has suffered in recent years due to the prolonged vacancy of this unit.

Residential Amenity

- 25 Policy 38 and RC1 both require any Class 2 use not to impact detrimentally on residential amenity. The proposed opening hours of the betting office are 0800 to 2200 seven days a week. Having spoken with the applicant’s agent, he has indicated that the offices main trading hours will be during the day and that operations later in the evening are normally associated with individuals collecting winnings. It is therefore likely that the office will be relatively quiet during evening hours. Nevertheless the submission indicates that the standard practice for Ladbrokes betting offices is for the unit to be sound proofed which will help to protect residential amenity. Furthermore Environmental Health have been consulted on the proposal and offered no objections subject to conditions which will control noise escape from any plant or equipment associated with the use and to control delivery times. Having spoken with the agent he has confirmed that these conditions can be complied with. Whilst there will be activity and noise associated with the operations of the betting office, in my view, given the nature of this area within the Perth retail core there is an expectation that commercial and residential uses require to operate together and therefore any individual who lives in this type of area must have some

expectation that the neighbouring commercial uses may result in some form of disturbance.

- 26 I am satisfied that this Class 2 use will not have a significant detrimental impact on the residential amenity of the nearby residential properties given the mix of uses in the area.

Planning Authority with an Interest in the Land

- 27 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

- 28 None required.

Direction by Scottish Ministers

- 29 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

- 30 In conclusion, the application must be determined in accordance with the adopted Development Plans unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the adopted Perth Central Area Local Plan and Tayplan 2012. I have taken account of material considerations, including the Proposed Local Development Plan 2012 and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

Recommendation

A Approve the application subject to the following conditions:

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.
- 2 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.

- 3 The delivery of goods to the premises shall take place between 7am to 9pm Mondays to Saturdays and at no other time unless otherwise agreed in writing with the Planning Authority.

Reasons

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2-3 In the interests of 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 therefrom.

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.

Background Papers: None

Contact Officer: John Williamson – Ext 75360

Date: 26 April 2013

Nick Brian
Development Quality Manager

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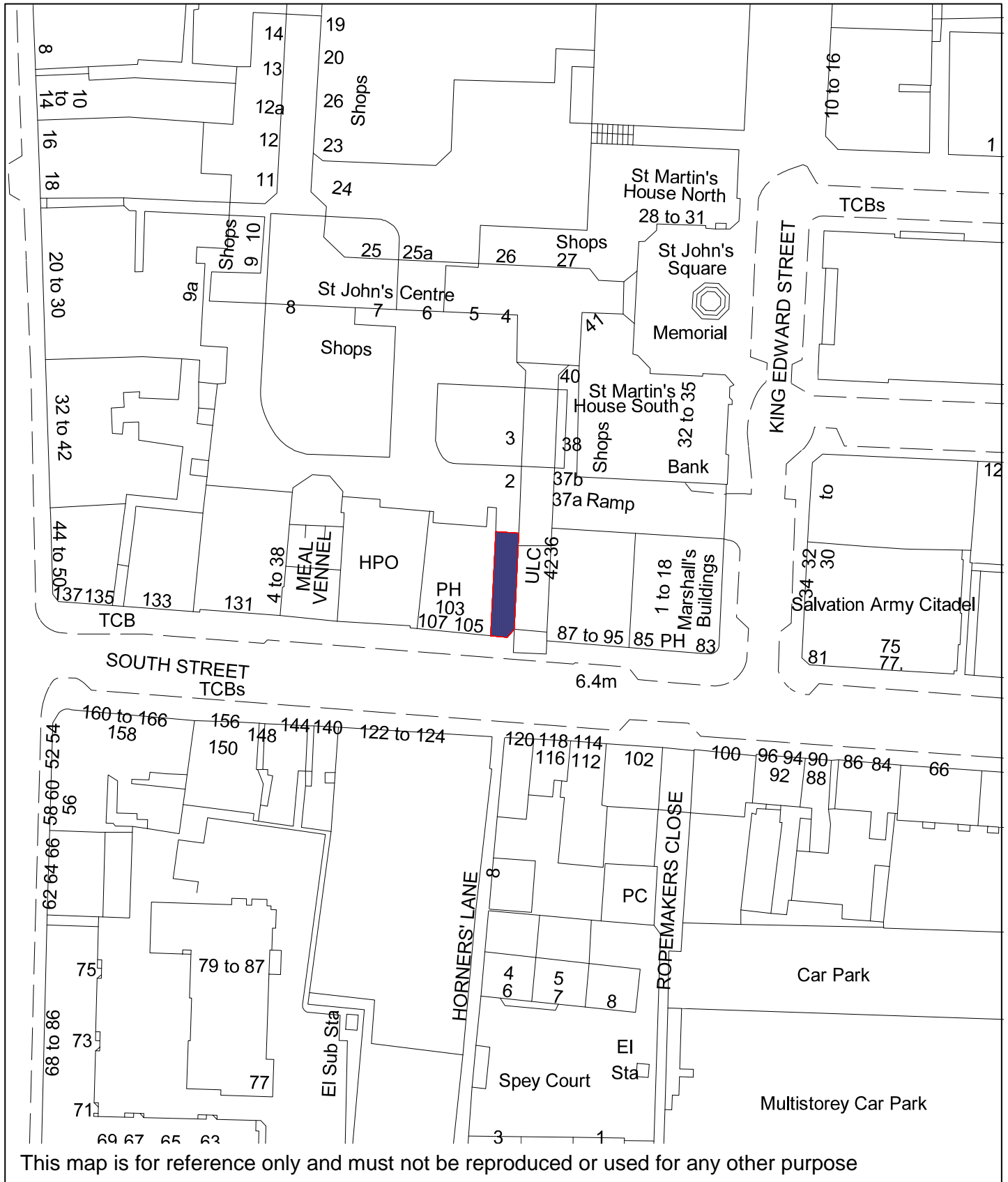
Perth & Kinross Council

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Unit 1, St Johns Shopping Centre, King Edward Street, Perth

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↑ Scale
1:1000

