

Perth and Kinross Council
Development Management Committee – 13 August 2014
Report of Handling by Development Quality Manager

**Alterations and change of use from retail units to warehouse and bottling line
at Eaglesgate Retail Village, Moray Street, Blackford**

Ref. No: 13/02339/FLL
Ward No: 7– Strathallan

Summary

This report recommends approval of the application for alterations and change of use from retail units to warehouse and bottling line as the development is considered to comply with the relevant provisions of the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The site lies within the village of Blackford immediately north of the A9 at the southwest end of the village. To the north on the other side of the B8081 is existing housing, the Tullibardine Distillery lies to the east with existing housing beyond that and the A9 trunk road and junction is to the south and west.
- 2 This application relates to the units known as Eaglesgate Retail Village and although extensively marketed for retail uses the units have never been fully occupied. It should be noted that the application site does not include the distillery and ancillary buildings.
- 3 The proposal is to change the use from retail to warehousing and bottling line to allow expansion of the distillery. The proposals also involve alterations to the elevations and revisions to the car parking.
- 4 The vehicular access is via the existing junction on Moray Street.

NATIONAL POLICY AND GUIDANCE

- 5 The Scottish Government expresses its planning policies through the National Planning Framework 3, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

National Planning Framework

- 6 The third National Planning Framework for Scotland (NPF) was published in June 2014, setting out a strategy for Scotland's spatial development for the next 20 – 30 years. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

Scottish Planning Policy 2014

- 7 The Scottish Planning Policy (SPP) was published on 23 June 2014. It 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.
- 8 The following sections of SPP (2014) are of particular importance in the assessment of this application:-
- Paragraphs 92 - 105: Supporting Business and Employment
 - Paragraphs 269 - 291: Promoting Sustainable Transport and Active Travel

DEVELOPMENT PLAN

- 9 The Development Plan for the area consists of the TAYPlan: Strategic Development Plan 2012-2032 and the Adopted Local Development Plan 2014.

TAYPlan: Strategic Development Plan 2012-2032

- 10 The principal relevant policies are in summary:-

11 Policy 1: Location Priorities

Focuses the majority of development in the region's principal settlements and (b) and prioritise land release for all principal settlements using the sequential approach in this Policy; and prioritise within each category, as appropriate, the reuse of previously developed land and buildings.

12 Policy 2: Shaping Better Quality Places

Seeking to shape better quality places through requiring new development to be fit for place, supporting more sustainable ways of life for people and businesses.

Perth and Kinross Local Development Plan 2014 – Adopted February 2014

- 13 The Local Development Plan 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.
- 14 The principal policies are, in summary:
- #### **15 Policy PM1A - Placemaking**

Development must contribute positively to the quality of the surrounding built and natural environment. All development should be planned and designed with reference to climate change mitigation and adaptation. The design, density and siting of development should respect the character and amenity of the place.

16 Policy ED1A - Employment and Mixed Use Areas

Areas identified for employment uses should be retained for such uses. Any proposed development must be compatible with surrounding land uses and all six of the policy criteria. In particular, (a) proposals should not detract from the amenity of adjoining, especially residential, areas, and (b) the local road network should be suitable for the traffic generated by the proposals.

17 Policy TA1B - Transport Standards and Accessibility Requirements

Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

18 Policy EP8 - Noise Pollution

There will be a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the locating of noise sensitive uses near to sources of noise generation.

OTHER POLICIES

19 None specific to this proposal.

SITE HISTORY

20 01/01594/FUL Planning permission for the recommissioning of existing distillery, partial demolition of warehouses and erection of ancillary visitor centre, restaurant and shops, approved June 2002 but not issued until June 2003 following the completion of a Section 75 agreement to control the provision and maintenance of a tourist information facility and to control the form and nature of the retailing element.

21 03/01840/FUL Modification of Planning Permission 01/01594/FUL to permit change of use of tourist information centre to retail unit – Approved December 2003

22 04/00264/MOD Modification of existing permission to sub-divide retail unit to form two retail units – Approved April 2004

23 05/00125/FUL Proposed alterations to unit – Approved March 2005

24 05/00406/FUL Formation of children's play area – Approved May 2005

25 Various signage applications approved from 2003 - 2010

CONSULTATIONS

26 **Transport Scotland** - No objection but request that existing retail signage is removed.

27 **Environmental Health** – No objection in principle but recommend conditions.

REPRESENTATIONS

28 A total of 9 letters of representation have been received, including 1 letter of support.

29 The representations have raised the following relevant issues: -

- Loss of retail
- Operating hours
- Light Pollution
- Noise
- Traffic impact/access
- Ongoing pollution
- Smells
- Loss of jobs
- Loss of parking

These issues are all raised in the Appraisal section of this report.

ADDITIONAL STATEMENTS

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

APPRAISAL

Policy

31 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material

considerations, which justify a departure from policy. The most relevant policies of the Development Plan are listed in the policy section above.

- 32 Consideration requires to be given as to whether the proposed development accords with National Policy and Development Plan policies.
- 33 SPP 2014 identifies that Planning Authorities need to adopt a flexible approach to ensure that changing circumstances are accommodated for new economic opportunities to be realised and that the development plan needs to create an environment where existing businesses can grow and that most sites should be located within existing settlements.
- 34 The application site lies within an area zoned under policy ED1A which identifies areas or employment uses which should be retained as such. The policy also states that proposed development must be compatible with surrounding land uses and in particular to this development, should not detract from the amenity of adjoining residential areas and that the local road network is suitable for the traffic generated.
- 35 The Local Development Plan policy and zoning does not stipulate that the area should be retained as retail and therefore the change of use in principle complies with policy subject to other criteria which are considered in more detail in the other sections of this report.

Design and Layout

- 36 The proposal involves minor internal and external alterations. Externally, some existing windows and doors are to be replaced with fire escape doors, roller shutters and infill panels finished to match the existing. The plans show that some of the larger sections of glazing are to be retained which is welcomed.
- 37 Internally, the space will be altered to provide storage areas, bottling area and area for tanks. No new plant or machinery is proposed out with the building.
- 38 A new fence around the perimeter of the site was included on the plans, however, this was not considered to be appropriate in this location as it would have been detrimental to the visual amenity of the area. This element has been removed from the proposal with amended plans now received.

Roads and Access

- 39 The application site boundary includes the retail units, the existing access and the parking area to the northwest of the site.
- 40 The considerations are therefore the servicing, deliveries and access to and from this building and not the distillery which is outwith the application site and cannot be controlled by any conditions related to this permission.
- 41 The proposal details that the application site will be serviced via the existing access to the retail park from Moray Street. An area of the existing car park will

be retained for visitor and staff parking with the remaining area to function as a service yard for HGVs.

- 42 Loss of car parking has been raised as an issue, however, the existing car park is not a public facility. The car park to be retained as part of this proposal would be used for distillery visitors and staff parking.
- 43 The proposal will create additional traffic movements and particularly HGV movements (although retail traffic movement will be lost). This area of Blackford is a particularly sensitive area with regards to HGV movements therefore whilst Transport Planning do not object, a Traffic Management Plan is required by condition.

Residential Amenity

- 44 The site is located within an area characterised by a mix of residential and commercial properties. The effect on residential amenity therefore forms part of the consideration of this proposal.
- 45 A Noise Impact Assessment (NIA) has been submitted by the applicant at the request of Environmental Health. The assessment has also been supplemented to address deficiencies of the original and whilst there are still some issues with this NIA, Environmental Health do not object as long as conditions are attached to any consent.
- 46 The applicant has predicted external levels of LAeq 36dB at the closest property which is 90 metres away; however, this is based on using an internal level of 85dBA which is from Health and Safety legislation rather than the actual levels likely to be created. The applicant has also not quantified the fork lift truck movements stating they will operate “relatively infrequently”. Environmental Health would prefer more accurate quantification of these noise levels, but in the absence of this have recommended a condition based on measured background levels which should protect residential amenity here.
- 47 There were also concerns regarding the possibility of extra external plant equipment to service the bottling plant and storage areas, however, the applicant has confirmed that this will not be required as the current system will be sufficient for the new use of the building. A condition to cover this is recommended.
- 48 The main control mechanism for noise here is through the operating hours and the applicant has stated it could operate anytime between 08.00 to 20.00 Monday to Friday. Environmental Health would be more comfortable limiting these hours to 19.00.
- 49 External lighting will be required to comply with current Health & Safety standards and to protect the staff. The agent has confirmed that a review of current lighting against what would be required would be undertaken if approval is granted. A condition can be added to ensure the details are approved should permission be granted.

- 50 To be consistent with the permission issued for the distillery in 2002 no servicing of the building would be permitted between the hours of 22.00hrs and 08.00hrs.

Distillery Pollution

- 51 The distillery does not form part of the application site and has not been outlined as land within the control of the applicant. This is due to the fact that the application site is owned by a third party.
- 52 Within the letters of representation concerns have been raised about ongoing depositions of black soot within the village. Environmental Health are currently investigating this issue and have engaged the services of a dust consultant 'DustScan' to carry out a 3 month dust survey at local residential properties.
- 53 From the information gathered as part of this survey, Dustscan stated that it was thought that the predominant source contributing dust to three of the most affected properties, positioned at the south-western end of Stirling Street, was Tullibardine Distillery. Dustscan also commented that the dust levels found at these monitoring positions were thought to be higher than expected, compared to properties in similar rural environments.
- 54 Following receipt of the interim findings, the Distillery carried out works on the oil burner/boiler; however, subsequent works are still ongoing. As a result the monitoring survey was extended but has since been suspended until such times as all works to the boiler have been completed.
- 55 These ongoing issues are not considered to be part of this application as they are out with the application site, Planning conditions cannot be added to any consent for this application to address these issues.

Drainage and Flooding

- 56 The proposal does not include any new drainage proposals.

Developer Contributions

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

Economic Impact

- 58 The approval of this application will result in a loss of employment in the closure of the current retail units. However, the change of use would provide opportunities for the distillery to address their current business need in providing storage and bottling for their own whisky. The proposed expansion will therefore give the distillery greater control on all the whisky processes at their site. The application will assist in the continued operation of the business from Blackford.

LEGAL AGREEMENTS

- 59 A Section 75 Legal Agreement is already in place, as described above and this may require to be amended if this current application is approved.

DIRECTION BY SCOTTISH MINISTERS

- 60 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

- 61 In conclusion, 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 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations 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 with 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.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 Prior to the occupation and use of the approved development a Traffic Management Plan (TMP) shall be put in place that will control traffic movements into and out of the site. The TMP should show the level of HGV traffic that the site is expected to generate and the means of mitigating their impact on the wider transport network within the vicinity of the site. The TMP should also try to co-ordinate their ideas with other major traffic generators within the immediate vicinity of the site. The plan shall be submitted in writing for the prior approval of the Council as Roads Authority, to the satisfaction of the Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 3 Prior to the occupation or use of the development all existing retail signage shall be removed from the building, to the satisfaction of the Council as Planning Authority.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

- 4 There shall be no servicing of the site between the hours of 22.00hrs and 08.00hrs, daily.

Reason - In order to safeguard the residential amenity of the area.

- 5 The operating hours of the bottling plant shall be limited to 08.00 to 19.00 Monday – Friday.

Reason - In order to safeguard the residential amenity of the area.

- 6 No external plant equipment shall be installed without prior approval of the Council as Planning Authority.

Reason - In order to safeguard the residential amenity of the area.

- 7 All entrances into the building are to remain closed at all times unless loading and unloading to delivery vehicles is underway.

Reason - In order to safeguard the residential amenity of the area.

- 8 Noise levels arising from this development shall be limited to a rating level of 48dB at any noise sensitive property when measured in accordance with BS4142:1997 – Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas.

Reason - In order to safeguard the residential amenity of the area.

- 9 All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised. All to the prior approval in writing by this Council as Planning Authority.

Reason - In order to safeguard the residential amenity of the area.

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

There may be a requirement for the existing Section 75 Leal Agreement to be amended to reflect the decision on the application.

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 aware that there may be a requirement to seek an amendment to the existing Section 75 legal Agreement.

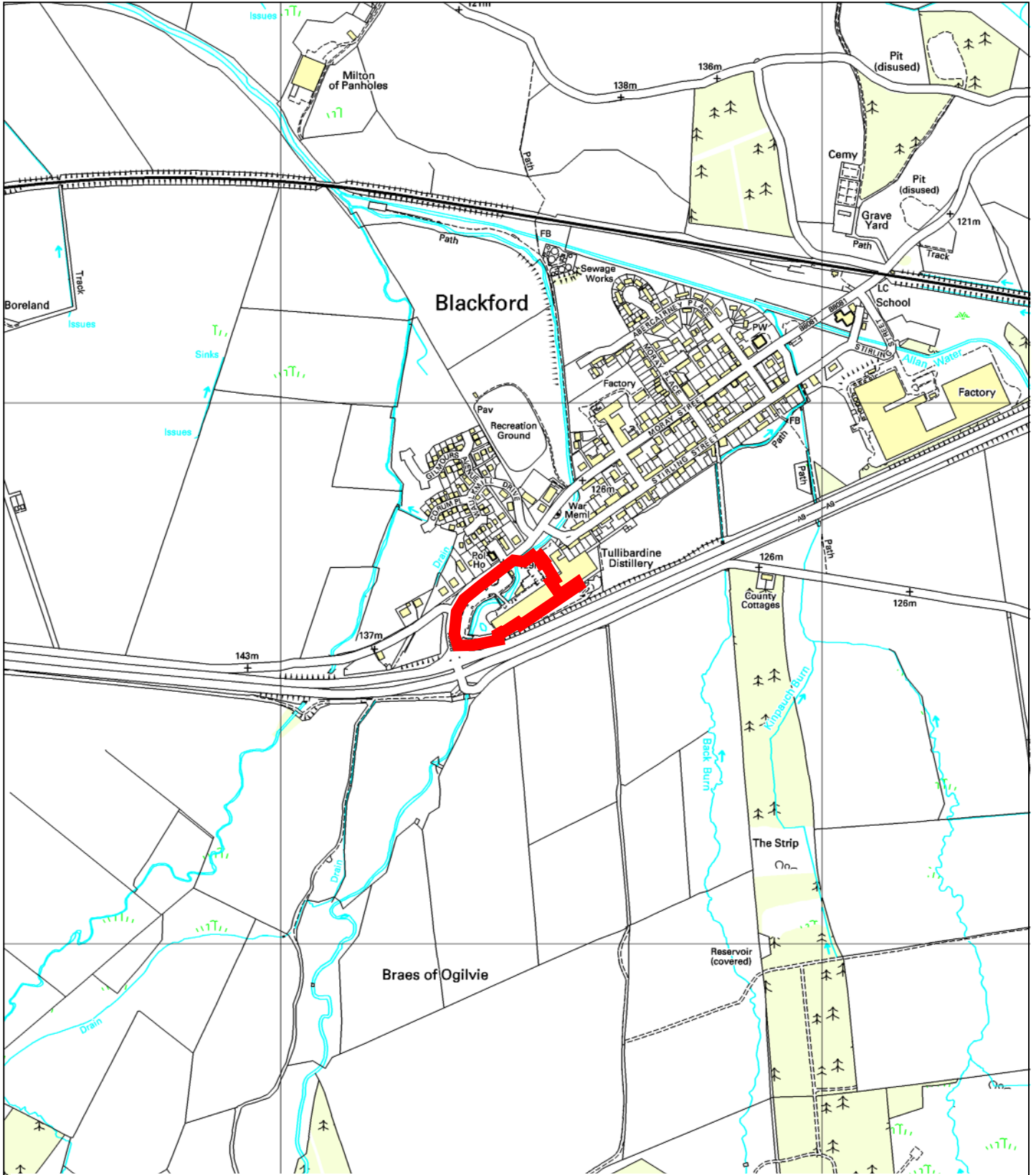
Background Papers: 9 letters of representation
Contact Officer: Joanne Ferguson – Ext 75320
Date: 23/07/14

**NICK BRIAN
DEVELOPMENT QUALITY MANAGER**

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