



**REPORT BY DEPUTE CHIEF EXECUTIVE AND
DIRECTOR OF DEVELOPMENT, SAFETY AND REGULATION**

REGULATORY PANEL: 31 JANUARY 2008

SUBJECT:	PLANNING APPLICATION REPORT
06/01546/COU & 06/01550/LBC	PRESTWICK – The Broadway, 80 Main Street
DESCRIPTION:	Change of use, alterations and extension of leisure/amusement facility to form nightclub, hotel and restaurant
REPRESENTATIONS:	Eighteen letters of objection One letter of support
RECOMMENDATION:	Refusal

APPLICATION REPORT

1. **Proposal:**

Planning permission is sought for the change of use, alterations and extension of the former Broadway Cinema, 80 Main Street, Prestwick to form a 35 bedroom hotel, restaurant and nightclub. In 2004 the building was designated by Historic Scotland, as a category C(S) listed building, of particular note is the Art Deco design of the main frontage. An application for listed building consent for the development proposal has also been submitted.

The premises were most recently used as an amusement arcade and squash courts, but are now currently vacant. The main entrance to the site is from the Main Street. In addition, there are two existing access points from Kyle Street to the rear of the premises. Vehicular and pedestrian access to the rear service/ parking area is obtained by way of an existing private road leading to and from Kyle Street. This vehicular and pedestrian access is also shared with a number of commercial properties and the existing residential properties at Midton Road, Prestwick. There is also an access lane to the rear of the properties at 66 – 74 Main Street. There are a number of residential properties adjacent to, or sited within close proximity to the application site at; Main Street, Kyle Street and Midton Road.

The existing structure forming the original frontage is to be retained. However, it is proposed to demolish the rear auditorium section of the building and to erect a four storey flat roofed rear extension covering a footprint of approximately 446 square metres. The nightclub element of the proposal would be accommodated in the basement and would extend to approximately 224 square metres. The ground floor of the building would accommodate the main entrance to the hotel, restaurant and bar area, ancillary kitchen and service facilities would also be provided on this level. Eleven double bedrooms, linen store, gym and two treatment rooms would be accommodated on the first floor. A further twelve double bedrooms and a linen store would be provided on both the second and third floors of the building. Following inspection of the drawings submitted it was noted that there are discrepancies in the scale of some of the submitted drawings.

The submitted plans indicate that the main access to the hotel, restaurant, bar and nightclub would be taken from Main Street, while deliveries would be via an existing lane accessed from Kyle Street. Twenty off road parking spaces, including 5 disabled spaces would be provided to the rear of the premises, to which access would be obtained from Kyle Street.

The development proposal has received eighteen letters of objection, one of which is from Prestwick North Community Council. Accordingly, the application requires to be reported to the Regulatory Panel in accordance with the Council's approved procedures for handling planning applications.

2. **Consultations:**

Historic Scotland has advised that the Planning Authority should be satisfied that an alternative use in keeping with the original fabric and form of the building cannot be found. In particular, Historic Scotland notes that the cinema has a "*remarkably intact interior with a wealth of original features*". Historic Scotland has advised if the auditorium is to be demolished all efforts to retain the existing character in the remainder of the interior of the building should be made. With regard to the exterior of the building Historic Scotland is of the view that the existing frontage should be carefully restored and that further details should be submitted in relation to the method of treatment, and the proposed materials and finishes.

Scottish Civic Trust has been consulted and is of the view that a survey of the interior of the building is required with a view to establishing which features could be retained.

Architectural Heritage Society has indicated that all materials used in the alterations should be undertaken using traditional materials.

Scottish Water offers no objections and advises that the Bradan Water Treatment Works and Meadowhead Waste Water Treatment Works currently have sufficient capacity to service this proposed development.

Glasgow Prestwick Airport has advised that there is no safeguarding conflict with the development proposal.

West of Scotland Archaeology Service has been consulted and has advised that there is the potential to recover archaeological evidence associated with the historic settlement of Prestwick. In accordance with the Planning Advice Note 42 an initial assessment, followed by an archaeological field evaluation should be carried out by the developer to determine the character and extent of any archaeological remains within the proposed development area. The results of the assessment and field evaluation should be submitted to the Planning Authority prior to the determination of the application.

The **Council's Environmental Health Service** has assessed the acoustic consultants report that has been submitted in support of the development and has concluded that the development is acceptable.

The **Council's Buildings Standards' Engineer** concurs with the submitted structural report that the rear of the building is in a poor condition. It was noted that the south elevation shows signs of severe corrosion to the steelwork, which has caused cracking on the brick piers which has resulted in some movement in the piers and brick panels. On the north elevation the brick piers have been removed and the exposed steelwork has been the subject of extensive corrosion.

The **Council's Roads and Transportation section** advises that suitable service arrangements should be provided to enable vehicles to enter and leave in forward gear. The Principal Engineer concludes that the off road parking provision does not comply with the Roads Development Guide and therefore recommends refusal.

Prestwick North Community Council has objected to the proposal viz; impact of development proposal on the town, potential for increased noise nuisance and the impact of the development on cleansing and policing services.

3. **Representations:**

Eighteen letters of objection have been submitted in relation to the development proposal. Objections have been received from Prestwick North Community Council and also from a number of local residents. Copies of the letters of objection are appended to this report. In summary, the objectors have raised a number of concerns in relation to the proposal, relating to;

- a. **Impact on residential amenity;** proximity of residential properties, potential noise nuisance from; nightclub, patrons entering and leaving the premises, deliveries, taxis, security lights, and further over-shadowing of neighbouring properties.
- b. **Traffic issues;** potential for increased parking and congestion in existing residential area, lack of parking provision, no provision for deliveries.
- c. **Land use issues;** impact on Prestwick town centre, proximity of other licensed premises, need for another licensed premises.
- d. **Miscellaneous;** impact of existing drainage infrastructure, impact on property values, restricted access to rear of neighbouring properties, impact on local police resources, increased potential for litter and criminal activity/ anti-social behaviour.

One letter of support has been submitted in relation to the proposed development viz; appropriate use of building, economic benefit, job creation, provision of quality accommodation.

4. **Assessment:**

The assessment of the application is considered against the provisions of the Approved Ayrshire Joint Structure Plan and the Adopted South Ayrshire Local Plan, Government Guidance, the impact on the listed building, the planning history of the site, consultation responses, representations received, and the impact on the amenity of the area.

i. Development Plan

The development plan for this proposal comprises the approved Ayrshire Structure Plan and the Adopted South Ayrshire Local Plan.

Policy ENV6 of the Approved Ayrshire Joint Structure Plan states that development proposals considered to have an adverse effect on listed buildings of architectural and historic interest shall not conform to the structure plan. I have concerns in relation to the lack of information submitted regarding the treatment of the exterior of the building and the restoration of the interior of this category C(S) listed former cinema. My detailed assessment of the impact of the development on the listed building is set out below.

The policies of the Adopted South Ayrshire Local Plan that are considered to be relevant in the consideration of this development proposal are; Strategic Policy STRAT5, RET4, BE1, BE2, TOUR5 and SERV10.

The application site is defined as being located within Prestwick town centre where policies RET4 and TOUR5 operate. Policy TOUR5 directs large scale commercial and leisure developments to existing town centres, while Policy RET4 seeks to ensure the continued vitality and viability of town centres by providing for a range of town centre uses, subject to criteria. In particular, Strategic Policy STRAT5(e), Policy RET4(e) and Policy BE1(6) seek to ensure that the amenity of the surrounding area will not be adversely affected by the use. Town centre uses are defined in the accompanying note as those permitted by classes 1, 2, 3, 7, and 11 of the Use Class Order (Scotland) 1997. As noted below, planning permission has previously been granted in 2003 for the change of use and alterations of premises to provide a 21 bedroom hotel and restaurant accommodation. This proposal has not been implemented and the building has lain vacant for over a year. The current development proposal is for the mixed use redevelopment of the premises, including the provision of a 35 bedroom hotel, restaurant, bar and nightclub.

It is noted that there are a number of residential properties sited adjacent to, and within close proximity of the application site at Main Street, Kyle Street and Midton Road. I have significant concerns in relation to the impact of a nightclub and consider that this element of the development proposal would adversely affect the character and amenity of the neighbouring residential area and is therefore contrary to Strategic Policy STRAT5 (e), Policy RET4(e) and BE1(6) of the adopted local plan. My detailed assessment in relation to the impact of the development on the amenity of the area is set out below.

As noted above, the property is a C(S) listed building and is therefore considered to be of local importance. Policy BE2 of the local plan presumes in favour of protecting listed buildings and their settings, especially from inappropriate development and will actively encourage the sensitive maintenance, restoration and re-use of all such properties. The accompanying note advises “*proposals affecting a listed building shall be expected to be of a quality commensurate with that of the original building*”. As part of the assessment of the proposal, the applicants were requested to demonstrate that they have endeavoured to secure a use for the existing building that would preserve its original features. The agent has advised that the building has been vacant for approximately 15 months and has been advertised for a “considerable time”, but that due to the poor condition of the building a new occupier or user has not been found. However, no details of any marketing strategy or statement have been submitted to demonstrate this to the Planning Authority.

I have significant concerns that the development proposal has the potential to adversely affect the listed building and its setting due to the lack of information submitted with regard to; i. the retention and restoration of the original interior and internal fixtures and fittings, and ii. the method of restoration of the frontage, materials and finishes. It is therefore considered that the proposal does not accord with Policy ENV6 of the Approved Ayrshire Joint Structure Plan and Policy BE2 of the Adopted South Ayrshire Local Plan. My detailed assessment of the impact of the development on the listed building is set out below.

With regard to parking, Policy SERV10 seeks to ensure that appropriate parking standards are achieved as an integral element of development proposals. In all cases, the amount of parking to be provided should reflect the role of the development, the location in which it is situated and the projected capability of existing parking facilities. The Council’s Roads and Transportation section has concluded that the number of off road parking spaces proposed is insufficient and does not comply with the Roads Development Guide. It is therefore considered that the proposal contrary to Policy SERV10 of the local plan.

ii. Government Guidance

Historic Scotland’s Memorandum of Guidance on Listed Buildings and Conservation Areas sets out the government’s policy in relation to alterations to, and development affecting listed buildings, and is therefore considered to be relevant in the consideration of this application. Specifically paragraph 2.21 advises that “*where application is made for the alteration or extension of any listed building, authorities should always seek to preserve the architectural integrity of the building and, where some of that integrity has been lost, encourage its restoration*”. Furthermore, the guidance recognises in paragraph 2.21 that just because a building “*is listed in Category C(S) does not mean that a wide range of alterations should be accepted without question.*”

As noted above, I have significant concerns that the development proposal may have the potential to adversely affect the listed building and there is a lack of information submitted with regard to; i. the retention and restoration of the original interior and internal fixtures and fittings, and ii. the method of restoration of the frontage, materials and finishes. It is therefore considered that the proposal does not accord with Historic Scotland’s Memorandum of Guidance on Listed Buildings and Conservation Areas. My detailed assessment of the impact of the development on the listed building is set out in the following section.

iii. Impact on listed building

The development proposal involves the demolition of a substantial amount of the existing building and the erection of a four storey flat roofed rear extension. In accordance with the advice of Historic Scotland, I have advised the applicants if the Planning Authority is minded to support the demolition of the auditorium there is a need for the existing exterior of the building to be carefully restored and that all efforts to retain the existing character in the remainder of the interior of the building should be made. As part of the assessment of the application the agent acting on behalf of the applicant was requested to provide additional information viz;

- i. an inventory of all original interior features, including internal fixtures and fittings and a statement of how these will be incorporated in the proposal;
- ii. details to ensure that the method of restoration of the frontage, materials and finishes are appropriate, and
- iii. street perspectives of the frontage of the building in relation to neighbouring properties.

With regard to the additional information requested from the agent I would comment as follows;

- i. photographs of the interior of the building have been submitted. The information provided merely forms a series of uncaptioned photographs of the interior of the building that give no indication of which elements are recoverable or whether any of these features could be replicated in the proposed layout. I am therefore concerned that the information submitted is not sufficient to ensure the proper retention and restoration of the original interior features and internal fixtures and fittings. Accordingly, it is considered that the proposal is contrary to Historic Scotland's Memorandum of Guidance, the provisions of the Approved Ayrshire Joint Structure Plan, and the Adopted South Ayrshire Local Plan as it would not protect the listed building or its setting.
- ii. on behalf of the applicant, the agent has expressed a commitment to the restoration of the façade of the building, however no details of the method of restoration of the frontage, materials and finishes have been submitted. I do not consider that the use of a planning condition in relation to alterations to the frontage is acceptable. In order to assess the proposed alterations, and to ensure that the works would not adversely affect this category C(S) listed building, I would expect details to be submitted for consideration by the Planning Authority and Historic Scotland as part of the planning application and listed building application process;
- iii. no streetscape elevations have been submitted.

I therefore have significant concerns that the development proposal has the potential to adversely affect this category C(S) listed building and its setting and there is a lack of information submitted with regard to; i. the retention and restoration of the original interior and internal fixtures and fittings, and ii. the method of restoration of the frontage, materials and finishes.

iv. *Planning History of the Site*

Planning permission (03/01043/COU) was granted in December 2003 for the change of use and alterations of leisure facility to form hotel and restaurant. The proposal involved the conversion of the ground floor into a restaurant, coffee shop, cocktail bar, kitchen, stores and toilets. At the upper floor level it was proposed to accommodate 21 bedrooms and ancillary facilities. It is noted that this planning permission has not been implemented.

Planning application (02/00599/COU) for the change of use of amusement arcade and squash courts to a public house was withdrawn on 17 October 2002.

Planning application (01/01430/COU) for the change of use of leisure arcade to form a first floor public house was withdrawn prior to determination.

Planning application (S/96/120) for the change of use from amusement arcade to indoor market was approved on 15 August 1996, however it was not implemented.

v. *Consultation responses*

Section 2 above sets out a summary of the consultation responses received in relation to the development. A number of the responses received seek the submission of additional information. This section summarises the outstanding matters which consultees have advised require to be addressed as part of the determination of this application.

Historic Scotland and the Scottish Civic Trust are of the view that additional information pertaining to the retention and restoration of the original interior and internal fixtures and fittings, and method of restoration of the frontage, materials and finishes is required. The information regarding the interior of the building has not been provided to the satisfaction of the Planning Authority. Furthermore, no details of the proposed external treatment of the building have been submitted. I am therefore concerned that the development proposal has the potential to adversely affect the listed building and its setting.

West of Scotland Archaeology Service has been consulted and has advised that evaluation of the site is required prior to the determination of the application. The agent has been advised of the comments from West of Scotland Archaeology Service, however, no additional information in relation to this aspect has been submitted. Nevertheless, were it considered that planning permission ought to be granted, an appropriate condition could be attached to require this evaluation to be carried out.

The Council's Roads and Transportation section has been consulted and has expressed concerns in relation to; i. the level of off road parking provision which does not comply with the Roads Development Guide, and ii. the proposed service arrangements. The application proposes to form 20 off road parking spaces to the rear of the building to serve the development. Using the Roads Development Guide, the Roads Service has calculated that the development should provide a total of 90 off road parking spaces. The Principal Roads Engineer is of the view that the proposed level of parking is insufficient, and that the proposal will result in increased demand for on-street parking in the vicinity, which will have a detrimental impact on road safety. As such I am concerned that increased parking and congestion in the locality would have an adverse impact on the residential amenity of the area.

With regard to the service arrangements the Roads and Transportation section has advised that service arrangements should be provided to enable vehicles to enter and leave in a forward gear. The agent acting on behalf of the applicant has been advised of this requirement and has indicated that while refuse will be collected to the rear of the premises, it is proposed that delivery vehicles utilise the existing access lane on Kyle Street by making a reversing manoeuvre into the lane and by exiting in forward gear. The Roads and Transportation section has advised that the proposed service arrangement for delivery vehicles are not acceptable and could be prejudicial to road safety.

In view of the above comments from consultees there are clearly a number of concerns in relation to the development proposals. As such I am unable to recommend support for either the planning application or the listed building application.

vi. Representations received

My assessment of the letters of objection summarised above is as follows;

- (a) **Impact on residential amenity;** Impact on amenity is considered in section 4(vii) below. I concur with the objections that the nightclub element of the development proposal will have a detrimental impact on the residential amenity of the residential properties in the vicinity of the application site. In particular, a nightclub would be likely to close in the early hours of the morning. It is considered that patrons leaving the premises and vehicles waiting in the vicinity would create potential for additional noise nuisance and disturbance for residents in the locality late at night and in the early hours of the morning. There are no details of security lighting proposed as part of this application. Should the Council be minded to grant planning permission for the development proposal, further approval would be required for any proposed external alterations.
- (b) **Over-shadowing of neighbouring properties;** The proposed rear extension would be approximately 4 metres wider and would extend to approximately the same height as the apex of the existing auditorium building to the rear of the premises. There are existing flatted properties at Main Street that adjoin the application site, at the closest point the flats at Albyn Court Kyle Street would be sited approximately 10 metres away from the site. As such I do not agree that the proposed rear extension will result in further over-shadowing of neighbouring properties.

- (c) **Traffic issues;** As noted above, the Council's Roads and Transportation section has concluded that the off road parking provision does not comply with the Roads Development Guide and has recommended refusal of the application as the proposal will result in increased demand for on-street parking in the vicinity, which it is considered will have a detrimental impact on road safety. I am also concerned that increased parking and congestion in the locality would have an adverse impact on the residential amenity of the area.
- (d) **Infrastructure concerns;** As noted above, Scottish Water has been consulted and has offered no objections to the development proposal.
- (e) **Impact on Prestwick town centre;** The application site is defined as being within Prestwick town centre where a range of town centre uses are considered acceptable, subject to certain criteria. Nevertheless, I have concerns in relation to the impact of the proposed nightclub on the residential properties in the vicinity.
- (f) **Proximity of other licensed premises, need for another licensed premises;** Licensing is a matter for the Licensing Board. In addition, competition between different commercial concerns is not a relevant material planning consideration.
- (g) **Impact on property values, restricted access to rear of neighbouring properties, impact on police resources;** These issues are not relevant material planning considerations in the consideration of this application.
- (h) **Potential for criminal activity/ anti-social behaviour;** This is a police matter and not a planning matter relevant in the determination of this application.

vii. Impact on the amenity of the area

As noted above, there are a number of flatted residential properties that directly adjoin the application site at Main Street, Prestwick. There are also approximately 20 flatted residential properties located at Albyn Court, Kyle Street, and terraced, semi-detached and detached properties sited within close proximity to the application site at Kyle Street, and Midton Road. The closest residential properties are contained within a block of flatted premises at 76 Main Street, which is immediately adjacent to the application site. At its closest point, the flatted properties at Albyn Court are situated approximately 10 metres away from the proposed rear extension, while the rear gardens of the dwellinghouses at Midton Road would be sited approximately 40 metres away from the rear of the premises. As noted above, I have concerns in relation to the proximity of residential properties to the proposed extended building and consider that the proposed nightclub would have an adverse impact on the amenity of the residential properties in the vicinity of the application site. Although the application site is located within town centre of Prestwick, and residents living nearby may expect that there is a degree of noise at the closing time of public houses, a nightclub would be likely to close later in the evening and it is considered that this would create the potential for additional noise and disturbance for residents in the locality.

The Council's Environmental Health Service has examined the applicants' noise report and is satisfied that subject to a number of conditions relating to the insulation of the building there are no objections to the development proposal. Nevertheless, I have concerns about the impact of a nightclub on the residential amenity of surrounding area which has the potential for noise nuisance and disturbance late at night and in the early hours of the morning.

As noted above, the Council's Roads Engineer has expressed concerns about the proposed delivery arrangements and has concluded that the proposed level of parking is insufficient. He advised that the proposal will result in increased demand for on-street parking in the vicinity, which it is considered will have a detrimental impact on road safety. I am also concerned that increased parking and congestion in the locality would have an adverse impact on the residential amenity of the area.

5. **Conclusion:**

There are policy objections to the development proposal and I have significant concerns about the impact of the proposed development and in particular the impact of a nightclub on the amenity of the surrounding area. Given the above assessment of the proposal and having balanced the applicants' rights against the general interest, it is recommended that both the planning application and the application for listed building consent be refused.

6. **Recommendation:**

I recommend that the planning application be refused for the following reasons;

1. that the nightclub element of the proposed development is contrary to Strategic Policy STRAT5(e) of the Adopted South Ayrshire Local Plan in that it would be detrimental to the character and amenity of the surrounding residential properties due to the activities and noise associated with a nightclub at this location, particularly at concentrated times of the day and/or evening;
2. that the nightclub element of the proposed development is contrary to Policy RET4(e) of the Adopted South Ayrshire Local Plan in that it would be detrimental to the character and amenity of the surrounding residential properties due to the activities and noise associated with a nightclub at this location, particularly at concentrated times of the day and/or evening;
3. that the nightclub element of the proposed development is contrary to Policy BE1(6) of the Adopted South Ayrshire Local Plan in that it would be detrimental to the character and amenity of the surrounding residential properties due to the activities and noise associated with a nightclub at this location, particularly at concentrated times of the day and/or evening;
4. that the development proposal is contrary to Policy SERV10 of the Adopted South Ayrshire Local Plan in that the parking provision does not comply with the Roads Development Guide and would result in increased parking congestion in the vicinity.

I recommend that the application for listed building consent be refused for the following reasons;

1. that the development proposal is contrary to Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas in that sufficient information has not been provided to the satisfaction of the of the planning authority to demonstrate that the architectural integrity of this C(s) listed building shall be preserved or sympathetically and appropriately restored;
2. that the proposal is contrary to Policy ENV6 of the Approved Ayrshire Joint Structure Plan in that sufficient information has not been provided to the satisfaction of the planning authority to demonstrate that the proposal shall not affect the listed building or its setting, and that the proposed internal and external alterations are of a quality commensurate with that of the original C(S) listed building;
3. that the proposal is contrary to Policy BE2 of the Adopted South Ayrshire Local Plan in that sufficient information has not been provided to the satisfaction of the planning authority to demonstrate that the proposal will not affect the listed building or its setting, and that the proposed internal and external alterations are of a quality commensurate with that of the original C(S) listed building.

Background Papers:

1. Planning and Listed Building Application Forms
2. Plans
3. Letters of objection
4. Adopted South Ayrshire Local Plan
5. Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas

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