

REPORT TO: Planning Committee

MEETING DATE: Tuesday 6 May 2014

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Berry for the following reasons: this involves what had been a retail unit closing at 5pm possibly opening as a restaurant seven days a week until late (11pm?). Local residents are concerned about related disturbance.

Application No. **14/00083/P**

Proposal Part change of use from retail (class 1) to cafe use (class 3) and re painting of shop front (Retrospective)

Location **91 High Street
North Berwick
East Lothian
EH39 4HD**

Applicant Mr Adam Elder

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The property to which this application relates is a shop that occupies the ground floor of a two storey building located on the south side of High Street, North Berwick. By being within North Berwick Town Centre the shop is within an area of mixed uses as defined by Policy ENV2 of the adopted East Lothian Local Plan 2008. It is also within North Berwick Conservation Area.

The building containing the shop is bounded to the north by the public road and footpath of High Street, to the west by a shop with residential accommodation above, to the east and above by the first floor flats of 89 High Street and to the south by the residential property of 18 St Andrew Street.

Planning permission is sought retrospectively for a part change of use of the shop (Class 1) use to a café (Class 3) use and the repainting of the frontage of the premises a white colour.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) June 2013 and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application is Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013 and Policies ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas), ENV4 (Conservation Areas), DP6 (Extensions and Alterations to Existing Buildings) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development that would have a neutral affect upon the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservation area should be appropriate to the character of the conservation area.

One written objection to the application has been received. It is from the proprietor of a neighbouring café. They object to the application that on the grounds that the café has been operating for several months without the benefit of planning permission and that there are numerous cafes in North Berwick and therefore no need for another to erode the businesses of existing cafes.

The fact that planning permission is sought for the part change of use of the shop to a café and the repainting of the shop front of the premises is in retrospect does not remove the applicant's statutory right to make such application for the part change of use or repainting or for the Council, as Planning Authority to make a determination of the planning merits of them.

Commercial competition is not a material consideration in the determination of an application for planning permission.

Policy ENV2 applies to North Berwick Town Centre, an area it defines as being of mixed uses and one in which uses associated with a town centre will be acceptable in principle. These uses include retailing, business and office use, restaurants, leisure and entertainment. Policy ENV2 states that within town centres changes of use of retail units to other town centre uses will only be acceptable where the Council is satisfied that a retail use is no longer viable or the benefits of the proposed use to the viability and vitality of the area outweigh the loss of the shop.

In this particular case the retail use of the shop has not been lost as it only a part of the shop has been changed in use to a café.

The use of part of the premises as a café (Class 3) is a use typically associated with the

mixed commercial uses of a town centre and would not be incompatible with the particular mixed uses of North Berwick Town Centre.

The intent of Policy ENV2 is to maintain the viability and vitality of town centres ensure the traditional mix of land uses and in particular to prevent a 'creeping' loss of retail units to other commercial and residential uses. In terms of floor space, some 54 square metres of the shop is now in use as café with some 150 square metres of floor space being retained in retail use. The part café use of the shop is significantly less than half of the retail space that has been retained and is ancillary to the retail operation of the shop. The loss of part of the retail space to cafe use does not have a negative impact on the vitality and viability of the town centre, subject to a planning condition restricting the area of Class 3 cafe use to the area set out in the application drawings.

Accordingly, the part change of use of the premises from a shop use (Class 1) use to a café (Class 3) use used in association with the shop does not conflict with Policy ENV2 of the adopted East Lothian Local Plan 2008.

The applicant's advises that food and beverages prepared and sold for consumption in the café are limited to soup, bread, cake and hot and cold beverages.

The Environmental Protection Manager is satisfied that with this limited preparation and sale of food and drinks the cafe use would not have a harmful impact on the amenity of the neighbouring residential properties. To ensure this she recommends that the method of preparation of the products sold in the café be restricted so that no shallow or deep frying would take place within the cafe. This control can be competently and effectively exercised through a condition on the grant of planning permission.

On the consideration of the amenity of nearby residential properties the café use of part of the shop, subject to the above planning control, does not conflict with Policy ENV2 of the adopted East Lothian Local Plan 2008.

The Council's Transportation Service raises no objection to the part cafe use of the shop. They advise that the use of part of the premises for café purposes ancillary to the existing shop use is also regarded as ancillary in transportation terms and does not result in a significant increase for parking demand in the area.

Accordingly the part café use of the premises does not conflict with Policy T2 of the adopted East Lothian Local Plan 2008.

The external walls and windows frames of the frontage of the premises have been painted white in colour. The painting of the frontage of the premises white is not harmful to the character and appearance of the shop front. It does not appear incongruous or at odds with the colours of the other frontages of the buildings of High Street. Thus the painting of the frontage of the premises white is not harmful to the character and appearance of the Conservation Area.

The painting of the frontage of the premises is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policies ENV4 and DP6 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

CONDITIONS:

- 1 The cafe use hereby approved shall be limited to the area outlined in red on drawing no. 11 docketed to this planning permission.

Reason:

To ensure that the cafe use hereby approved remains ancillary to the retail use of the premises, in accordance with Policy ENV2 of the adopted East Lothian Local Plan 2008.

- 2 The preparation, including cooking, and sale of hot food within the cafe hereby approved shall be restricted so that no shallow or deep fat frying of food shall take place on the premises, unless otherwise approved by the Planning Authority.

Reason:

To restrict the operational use of the cafe in accordance with the proposed means of ventilation of that use, in the interests of safeguarding the amenity of the area.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)