

REPORT TO: Planning Committee

MEETING DATE: Tuesday 2 December 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 Innes for the following reasons: there was previous public objection to the unauthorised use as a beer garden, and local residents believe an outdoor dining area would have a significant detrimental impact on their amenity and I believe they should have the opportunity to express their concerns to members.

Application No. **14/00615/P**

Proposal Change of use of courtyard area to form outdoor dining area

Location **The Prestoungrange Gothenburg
227 High Street
Prestonpans
East Lothian
EH32 9BE**

Applicant Ms Anne Taylor

RECOMMENDATION Consent Granted

PLANNING PERMISSION

This application relates to The Prestoungrange Gothenburg and its grounds, located on the western end of High Street in Prestonpans. The building is on the south side of High Street and fronts onto the street. It is a detached Category B listed building and is in use as a public house with microbrewery and function/ dining areas.

The Prestoungrange Gothenburg and its grounds are bound to the north by High Street, to the east by Redburn Road North and to the south and west by residential properties.

The site is within an area identified by The Coal Authority as potentially being at risk from unrecorded mining related hazards.

Planning permission is sought for the change of use of the courtyard area to the east side of the building to form an outdoor dining area.

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) and the adopted East Lothian Local Plan 2008.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of the application.

Relevant to the determination of the application are Policies ENV1 (Residential Character and Amenity) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Two written objections to the application have been received. They are from occupiers of neighbouring residential properties. The grounds of objection are:

- (i) The courtyard area is already used as an outdoor smoking area and as patrons become more intoxicated; their raised voices reverberate off boundary walls and rise into neighbouring gardens;
- (ii) The use of area for smoking and drinking by patrons continues during functions until late at night, and;
- (iii) An application for a beer garden was previously sought and refused and this proposal is just another way of getting a beer garden.

There is no record of planning permission having been sought or granted for a beer garden to be established at The Prestongrange Gothenburg.

The control of the consumption of alcohol within the proposed outdoor dining area is controllable under separate licensing legislation.

Policy ENV1 of the adopted East Lothian Local Plan 2008 states that the predominantly residential character and amenity of existing or proposed housing areas will be safeguarded from the adverse impacts of uses other than housing. Development incompatible with the residential character and amenity of an area will not be permitted.

The proposed outdoor dining area use of the courtyard is a use that would be associated with the existing public house use of the premises of The Prestongrange Gothenburg, which is a well-established authorised licensed premises use within Prestonpans.

The area of courtyard to be used as an outdoor dining area is part of a much larger area of courtyard to the east and south of the licensed premises. The courtyard is enclosed on its east sides by a high stone wall. An area of courtyard and landscaping is to the south of it with a high stone wall beyond, separating it from the neighbouring residential property of 2a Redburn Road North.

Access from the licensed premises to the proposed outdoor dining area would be taken from doors formed in the re-entrant east elevation of the building. Otherwise access would be taken from High Street from a pedestrian access gate which encloses the north end of the courtyard and from Redburn Road North from two leaf gates formed in the east boundary wall of the site.

The outdoor dining area is to be used as an extension of the existing public house use of the premises. A material consideration in the determination of this application is whether or not this outdoor dining area use of the courtyard is acceptable relative to its relationship with the neighbouring residential properties.

The Council's Environmental Protection Manager raises no objection to the outdoor dining use of the area of the courtyard subject to the following planning controls being

imposed by conditions of the grant of planning permission: (i) any doors providing access to the outdoor dining area from the licensed premises shall be fitted with a self-closing mechanism; (ii) the outdoor dining area shall not be used by patrons other than between the hours of 1100 and 2100 on any day; and (iii) no amplified music and/or amplified speech shall be permitted in the outdoor dining area.

Subject to these controls the Council Environmental Protection Manager is satisfied that use of the outdoor dining area would not cause unacceptable harm to the amenity of the neighbouring residential properties as a consequence of noise nuisance and disturbance.

In the submitted application form, the applicant states that the proposed outdoor dining area would only operate between the hours of 1100 and 1800. However, as stated above, the Council's Environmental Protection Manager recommends that the outdoor dining area could operate without causing unacceptable harm to the amenity of the neighbouring residential properties provided that it operated between the hours of 1100 and 2100 on any day. Given this, there would be no justifiable necessity in restricting the hours of operation to between 1100 and 1800. Rather a condition should be imposed to restrict the hours of operation to between the hours of 1100 and 2100 on any day.

Use of the outdoor dining area would not allow for harmful overlooking of neighbouring residential properties.

On each of the foregoing considerations of privacy and amenity the use of the outdoor dining area does not conflict with Policy ENV1 of the adopted East Lothian Local Plan 2008.

There is no evidence to suggest that the use of the area of courtyard as an outdoor dining area would give rise to additional demand for on-street vehicle parking or be harmful to road safety. The Council's Road Services raise no objection to the application. Accordingly the proposal does not conflict with Policy T2 of the adopted East Lothian Local Plan 2008.

The application site is within an area identified by The Coal Authority as potentially being at risk from unrecorded mining related hazards and as such is within the defined Development Risk Area. However, the type and nature of the development proposed in this application is listed as exempt from the requirement (under Section 3.3 of The Coal Authority's Resources for Local Planning Authorities, version 3, 2014) to provide a Coal Mining Risk Assessment or for The Coal Authority to be consulted on it. However, in the interests of public safety an Informative Note regarding development within coalfield areas can be issued with the grant of planning permission.

CONDITIONS:

- 1 The outdoor dining area use approved by this grant of planning permission shall only be used by patrons and staff of the licensed premises between the hours of 1100 and 2100 any day of the week.

Reason:
To ensure that the use of the outdoor dining area does not harm the residential amenity of neighbouring or nearby residential properties.
- 2 There shall be no public entertainment, amplified music, amplified vocals or live music played in the outdoor dining area hereby approved and no amplified music, amplified vocals or live music played inside the premises shall be audible in the outdoor dining area.

Reason:

To ensure that the use of the outdoor dining area does not cause noise breakout from it harmful to the amenity of the neighbouring residential properties.

- 3 The outdoor dining area hereby approved shall not be used unless the existing doors in re-entrant east elevation of the building that are to be used to access the outdoor dining area have been made self closing. These doors shall remain self closing thereafter unless otherwise approved by the Planning Authority.

Reason:

To protect the amenity of neighbouring residential properties.