

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 6 December 2016

**BY:** Depute Chief Executive  
(Partnerships and Community Services)

**SUBJECT:** Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor McNeil for the following reason: The area at present is a car park with disabled parking at rear of building. Members of Planning Committee may not be familiar with this public house and area in question. I feel that members should be allowed to consider the recommendations at a Planning Committee in the best interest of the wider community.*

Application No. **16/00037/P**

Proposal Change of use of car park area to outdoor dining area, alterations to building, erection of wall and gate

Location **The Ship Inn  
184 North High Street  
Musselburgh  
East Lothian  
EH21 6BH**

Applicant Caledonian Heritable

Per Planning & Building Design Ltd

RECOMMENDATION Application Refused

#### PLANNING ASSESSMENT

This application relates to the Ship Inn public house and its associated car park which occupy a prominent position at the junction of North High Street with Market Street, Musselburgh. It is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

Planning permission is sought for: (i) the change of use of part of the car park of the premises to form an outdoor dining area, (ii) alterations to the public house building and (iii) the erection of a wall and gate within the southern part of the car park of the premises.

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

Relevant to the determination of the application are Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development

Plan (SESplan) and Policies ENV1 (Residential Character and Amenity), DP1 (Landscape and Streetscape Character), DP2 (Design), DP6 (Extensions and Alterations to Existing Buildings), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

One written objection to the application has been received. It is from a member of the public. The objector considers the loss of the function room of the public house will change the character of it and the Council should do all in its power to retain the existing facilities within it.

It is indicated on the planning application drawings the intention of the applicant to undertake internal alterations to the premises that would result in a change to its internal layout and thus the loss of the function space of the premises. The loss of the function room of the premises and the use of the space as a larger public bar area does not constitute a material change of use and as such is not development. Nor do the internal alterations to the premises constitute development. In which circumstance the loss of the function room and internal alterations do not require planning permission and do not form part of this application. They are not therefore material planning considerations in the determination of this application.

The proposed alterations to the premises comprise: (i) the formation of three large window openings in its north elevation and the installation within those new window openings of timber framed windows, (ii) the enlargement of an existing window opening in its south elevation to form a door opening and the installation within that new door opening of a solid timber door and, (iii) the enlargement of four existing window openings in the east (rear) elevation to form four new door openings and the installation within those new door openings of bi-folding doors.

The proposed alterations to the building in the form of new window and door openings are subservient to and in keeping with the building and would be well integrated into their surroundings. They would not be harmful to the character and appearance of the building or the character and appearance of the area.

The proposed new window and door openings would not allow for a harmful loss of privacy and amenity to any neighbouring residential property.

On the foregoing considerations the proposed alterations to the building are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DP6 of the adopted East Lothian Local Plan 2008.

The proposed wall and gate would be erected between the west elevation of a storage building within the southeast corner of the rear curtilage of the building and the east elevation of the public house building. In their position they would be set back some 5.8 metres from the south building line of storage and public house buildings. Two car parking spaces would be formed in front of them on the area of car park to be retained. The wall would be some 2.2 metres high, finished in roughcast render and topped with a concrete cope. The gate to be formed in a part of the wall would be of metal construction painted black.

Provided the proposed wall is finished to match the exterior wall finish of the public house building and the other lengths of wall it would be seen in relation to, a matter that could be controlled by a condition of a grant of planning permission, the proposed wall and the gate to be formed in a part of it, would be in keeping with their surroundings and well integrated in their streetscape setting. They would not be harmful to the character and appearance of the area.

In occupying the majority of the existing car park to the rear of the premises, the proposed outdoor dining area would have capacity to accommodate 183 patrons. It would be accessed from the new doors to be formed in the rear of the public house building and from Market Street to the south via the proposed pedestrian access gate. It would be enclosed by existing walling on its east and north sides and by the proposed new wall and existing storage building on its south side. Views of it would be taken from North High Street. However it is indicated on the planning application drawings the intention of the applicant to provide a visual screen to the north boundary of the outdoor dining area by planting a hedge. There is no planning justification to provide the proposed hedge. In its location the proposed outdoor dining area would be seen from North High Street as an acceptable adjunct to the existing public house premises with which it would be functionally related. It would not appear harmfully intrusive or incongruous in its setting.

On the foregoing considerations the proposed development does not, where applicable, conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) or Policies DP1 and DP2 of the adopted East Lothian Local Plan 2008.

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.

A number of tenement, flatted and terraced residential properties exist to the north of the application site comprising the north side of North High Street.

A material consideration in the determination of this application is whether or not the proposed outdoor dining area is acceptable relative to its relationship with those neighbouring residential properties.

In order to protect the amenity of neighbouring residential properties from noise associated with the use of the outdoor dining area the Council's Environmental Health Manager recommends that: (i) the outdoor dining area only be used between the hours of 09:00am and 23:00pm on any day and at no other time and, (ii) that there be no amplified music or speech permitted within the outdoor dining area. These controls could be imposed on a grant of planning permission. Subject to these controls the proposed outdoor dining area would not adversely impact on the amenity of neighbouring residential properties or be incompatible with the residential character and amenity of the area. Accordingly, the use of car park as an outdoor dining area does not conflict with Policy ENV1 of the adopted East Lothian Local Plan 2008.

The Council's Road Services advise the existing public house has a public floor area of some 240 square metres with an existing car park providing 7 car parking spaces. The internal floor area will be reduced to some 180 square metres with an additional external area of up to 190 square metres.

The current contemporary parking standards specify rates for a public house of 1 space per 7 square metres and 1 space per 10 square metres for function rooms. This equates to a requirement to provide between 24 to 34 car parking spaces for the premises as it currently exists. The existing premises are presently served by 7 car parking spaces, a shortfall of between 17 and 27 spaces.

The Council's Road Services further advises that in applying the contemporary parking standards to the proposal, the parking requirement for the premises would increase to between 37 to 53 car parking spaces. However, only 2 car parking spaces are proposed

to be provided, a shortfall of between 35 and 51 spaces.

There is therefore a requirement to provide between 13 and 19 additional car parking spaces to service the premises including the proposed outdoor dining area. As 7 spaces would be lost to the outdoor dining area and 2 spaces are proposed to be provided, there is an overall shortfall of between 18 to 24 spaces to serve the premises.

Road Services consider the shortfall in car parking will compound an already existing shortfall of car parking and as such recommend refusal of the application.

In addition to the considered shortfall of parking the principle of changing the use of car parking to other alternative uses, including outdoor dining areas and the resultant loss of parking provision would set an undesirable precedent for other licensed premises within the locality with similar car parking facilities to do the same. The cumulative effect of which would be to increase on-street parking demand to the detriment of the amenity of the area.

In that the proposed outdoor dining area would result in the loss of existing car parking and compound a shortfall in car parking to serve the premises and set a precedent for others to follow, the proposed change of use of the car park to an outdoor dining area is contrary to Policies DP22 and T2 of the adopted East Lothian Local Plan 2008.

#### REASONS FOR REFUSAL:

- 1 The proposed change of use of the car park to form an outdoor dining area would result in the loss of on-site parking provision and would compound an existing shortfall of parking on the site, contrary to Policies DP22 and T2 of the adopted East Lothian Local Plan 2008.
- 2 To grant planning permission for the change of use of the car parking area of the premises to an outdoor dining area would establish a precedent whereby it would be difficult for the Council, as Planning Authority, to refuse to grant planning permission for other changes of use of car parks to outdoor dining areas that conflict with the Council's planning policies for private parking and general transport impact, Policies DP22 and T2, including the Council's Parking Standards.