

REPORT TO: Planning Committee

MEETING DATE: Tuesday 7 February 2017

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 Day for the following reason: This application has generated significant public discussion and debate within the local community, and I therefore think it is appropriate that Elected members have an opportunity to consider the application(s) at committee.

Application No. **16/00963/LBC**

Proposal Erection of freestanding removable canopy

Location **The Harbour
Victoria Road
North Berwick
East Lothian**

Applicant Mr Stirling Stewart

Per Somner Macdonald Architects

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

This application relates to a small irregular shaped area of land, measuring some 50 square metres that is part of the northwest side of North Berwick Harbour.

North Berwick Harbour is listed as being of special architectural or historic interest (Category B).

The part of the harbour that is the application site is hard surfaced. It is bounded to the northwest by the harbour wall, to the northeast, southeast and southwest by other hard surfaced parts of the harbour. There is an existing timber shed to the northeast of the site and there are a number of benches and litter bins sited on the parts of the harbour to the southwest and northeast.

On 13th April 2012 planning permission (Ref: 11/00786/P) was retrospectively granted for the siting on the land of the majority of this current application (Ref: 16/00962/P) of a snack bar, external seating area and a storage cage for gas cylinders for a temporary period of five years and, for each calendar year, only between the months of April to October (inclusive). Outwith those months of each year the snack bar and associated

items have to be entirely removed from the land.

On 9th May 2012 listed building consent (Ref: 11/00786/LBC) was retrospectively granted for the siting of the snack bar, the storage cage and for the erection of signage.

On 15th May 2012 advertisement consent (Ref: 11/00787/ADV) was retrospectively granted for the display of signage on the snack bar and in the form of barriers placed around the seating area.

On 3rd August 2012 planning permission (Ref: 12/00419/P) was granted for the siting on the southwest part of the land of the site of the snack bar of a freestanding retractable removable canopy on steel posts and for its associated fixings. Planning permission 12/00419/P was granted part retrospectively, as the two base plates onto which the steel posts of the canopy would be attached had already been sunk into the surface of the harbour land. The canopy would be positioned to the southwest side of the snack bar approved by the grant of planning permission 11/00786/P.

On 9th August 2012 listed building consent 12/00419/LBC was granted for the erection of the retractable canopy, its support posts and fixings.

Planning permission 12/00419/P and listed building consent 12/00419/LBC grant approval for the erection of the freestanding retractable removable canopy and its supporting posts for a temporary period of time only until the 31st October 2017, after which time no parts of them shall be located within the application site. Planning permission 12/00419/P and listed building consent 12/00419/LBC were also granted subject to a condition requiring that the retractable canopy and its supporting posts only be sited on the application site for the months of April to October, inclusive, each calendar year for the duration of the temporary period of the planning permission granted for them. Outwith those months of each year the retractable canopy and its supporting posts have to be entirely removed from the land.

At the time of this application the retractable canopy, including its support posts, approved by the grants of planning permission 12/00419/P and listed building consent 12/00419/LBC is not in situ on the harbour land.

Listed building consent is now sought for the erection of a different form of freestanding removable canopy, its supporting framework and associated fixings.

The proposed canopy would be positioned to the southwest side of the snack bar approved by the grants of planning permission 11/00786/P and listed building consent 11/00786/LBC.

The proposed canopy would measure some 6.9 metres in length by some 4.0 metres in width. It would be positioned over the footprint of the temporary retractable canopy approved by the grant of listed building consent 12/00419/LBC. The now proposed canopy would be rectangular in shape with a mono-pitched roof that would be some 2.7 metres high at its highest point and some 2.26 metres high at its lowest point.

The proposed canopy would comprise of flexible plastic sheet panels supported on metal channels attached to a galvanised steel post framework that would be attached by fixing bolts to steel base plates that would be sunk into the surface of the harbour land. The upright posts and framework of the canopy would comprise circular 100mm diameter posts on its northwest side, circular 30mm diameters posts on its northeast, southeast and southwest sides and circular 30mm diameters crossbars forming its roof structure. The flexible plastic sheet panels would enclose the roof and the northwest,

southwest and southeast sides of the proposed canopy. Its northeast side would not be enclosed and would remain open.

Since the application was registered an amended drawing has been submitted by the applicant's agent to clarify the dimensions and form of the proposed canopy and to show details of the method of fixing the proposed canopy into the harbour land and of the fixing of the plastic sheets to the framework of the proposed canopy.

Through separate application 16/00962/P planning permission is sought for the erection of the proposed canopy, its steel posts and its associated fixings. A separate report on application 16/00962/P is, at this time, on the Scheme of Delegation List.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that this application for listed building consent 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.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policy ENV3 (Listed Buildings) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building given in Historic Environment Scotland Policy Statement June 2016 and Scottish Planning Policy: June 2014.

The Historic Environment Scotland Policy Statement June 2016 and Scottish Planning Policy echo the statutory requirements of Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant listed building consent for any works to a listed building the planning authority shall have special regard to the desirability of preserving and enhancing the building or any features of special architectural or historic interest which it possesses.

One public representation to the application has been received. In it objection to the proposed development is raised on the grounds that the proposed rectangular framework, in the angled position proposed for it alongside the harbour wall and the snack bar would dangerously narrow the quayside at this location, and observation is made that a rounded or hexagonal plan shape would be more appropriate at this place and be less of a hazard to passersby.

In an email submitted with the application, the applicant's agent confirms that the proposed canopy would be erected in time for the opening of the snack bar it is proposed to be used in association with, which in 2017 would be 1st April, and that it would be removed by the end of October.

The purpose of the proposed canopy is to provide shelter for users of the tables and chairs of the seating area of the snack bar approved by the grant of planning permission 11/00786/P.

Historic Environment Scotland has no comments to make on the canopy, supporting framework and base plates or on the positioning of them on the Category B listed

harbour.

The proposed canopy would be supported by twelve support posts, and thus there would be twelve base plates embedded into the harbour land. Five of the twelve base plates would be positioned immediately to the southeast side of the harbour wall. There would be one support post and therefore one base plate supporting each of the northeast and southwest sides of the proposed canopy and a further five support posts and base plates supporting the southeast side of the proposed canopy. The proposed base plates would be made of steel and would measure some 200mm by 200mm and would have a projecting section measuring some 300mm that would be embedded into the harbour land using concrete. The steel support posts of the proposed canopy would be attached to the base plates. The proposed canopy would have a mono-pitched roofed form that would be some 2.7 metres high at its highest point (its northwest side) and some 2.26 metres high at its lowest point (its southeast side).

Due to their form and fixing to the harbour the base plates for the posts of the proposed canopy could not easily be removed once installed. They would have to remain in place during the months of the year when the snack bar and seating area would not be in place. However, due to their small size and low surface profile and the already somewhat uneven surface of the harbour area they would only be visible in close up views. In those limited public views of them they would be seen in the context of the mix of stone and concrete surface finishes of this part of the harbour and in the context of nearby metal railings, steps and benches. They would not, in their setting, appear harmfully prominent, intrusive or exposed in the functional setting of this operational harbour. They would not be harmful to the special architectural or historic interest of the listed harbour.

The canopy, including its supporting posts, approved by the grant of listed building consent 12/00419/LBC, is a maximum of some 2.7 metres in height. It is small in size and comprises a retractable fabric canopy enclosed in a metal casing supported on two metal posts. When extended, the fabric canopy would be some 5.4 metres by 2.3 metres in extent.

The now proposed canopy would measure some 6.9 metres in length by some 4.0 metres in width and would be positioned to the southwest side of the snack bar approved by the grant of planning permission 11/00786/P. It would be positioned over the footprint of the temporary retractable canopy approved by the grant of listed building consent 12/00419/LBC. In this it is assumed that it is proposed as a replacement for that temporary retractable canopy.

At a maximum of some 2.7 metres in height the proposed canopy would be some 1.3 metres higher than the harbour wall to the northwest of its position and some 0.3 of a metre lower than the height of the snack bar it would be used in association with.

Although at a maximum height of 2.7 metres above ground level the now proposed canopy would be no higher than the retractable canopy approved by the grant of listed building consent 12/00419/LBC, it would, due to its proposed footprint size, be more than twice the size of the retractable canopy approved by the grant of listed building consent 12/00419/LBC.

Its large rectangular form, bare galvanised metal framework and plastic sheeted finish would differ significantly from the lightweight and open retractable form of the canopy and support posts approved by the grant of planning permission 12/00419/P. Furthermore, the proposed canopy would be significantly larger than the snack bar it would be positioned alongside. It would not be of a scale and proportion appropriate to

its setting. Although the plastic finish of its external walls would give the proposed canopy a lightweight appearance, due to its three sided rectangular form and galvanised steel framework, it would have a more permanent presence than does the already approved retractable canopy and thus it would have a greater bulk and massing than that retractable canopy, which when opened still retains a lightweight and open appearance. Rather the proposed canopy would dominate its surroundings in a manner harmful to the special architectural or historic interest of the listed harbour. Moreover, its bare galvanised metal framework together with the flexible plastic sheeted finish of its roof and walls would have an unfinished appearance that would have more of the appearance of a sheeted area of scaffolding than a canopy shelter, and would cause the proposed canopy to have a detrimental impact on the special architectural or historic interest of the listed harbour.

In these circumstances the proposed canopy, by virtue of its size, scale, form, architectural appearance, external finishes and its positioning would appear harmfully dominant, incongruous and intrusive in its position on the northwest side of the listed harbour. It would not be of a proportion and scale appropriate to its setting, rather the proposed canopy would harmfully dominate its setting, drawing focus away from the Category B listed harbour, and as such would be harmful to the special architectural or historic interest of the listed harbour.

Moreover the proposed canopy and its supporting posts would be of a temporary form, unsatisfactory for being a permanent feature on the listed harbour.

On the foregoing considerations the proposed canopy including its supporting framework and associated fixings are contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV3 of the adopted East Lothian Local Plan 2008, Scottish Ministers' policy on development affecting a listed building given in Scottish Planning Policy: June 2014 and the Historic Environment Scotland Policy Statement June 2016.

REASON FOR REFUSAL:

- 1 The proposed canopy, including its supporting framework and fixings, by virtue of its size, scale, form, architectural appearance and external finishes would appear harmfully dominant, incongruous and intrusive in its position on the northwest side of the harbour and would not be of a proportion and scale appropriate to its surroundings. As such it would be harmful to the special architectural or historic interest of the Category B listed harbour, all contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV3 of the adopted East Lothian Local Plan 2008, and Scottish Ministers' policy on development affecting a listed building as given in Scottish Planning Policy: June 2014 and the Historic Environment Scotland Policy Statement June 2016.