

REPORT TO: Planning Committee

MEETING DATE: Tuesday 5 June 2018

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 Williamson for the following reason: the application proposes a major change of use for the existing facility which would result in the loss of a leisure/restaurant and functions venue. Given (a) the strategic location of the building at Fisherrow Harbour where regeneration plans and action are well underway; and (b) the amount of local opposition voiced through representations made by local umbrella organisations on behalf of the many individual groups who have an interest in the harbour area and in encouraging visitors to the area and to Musselburgh in general, I feel that the Planning Committee should be given the opportunity to consider the application.

Application No. **18/00205/P**

Proposal Alterations to and change of use of restaurant, gym, swimming pool facilities and function suites to nursing home and associated works

Location **Quayside
131 New Street
Musselburgh
East Lothian
EH21 6DH**

Applicant Simply Musselburgh Care Limited

Per Young and Gault Architects Ltd

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to the 'The Quay', a commercial complex comprising function suites, a bar and restaurant, a café and a fitness club, located beside Fisherrow Harbour, Musselburgh. The fitness club facilities include a swimming pool and a gym.

The Quay is bounded to the north by a public car park with the Promenade and Fisherrow Sands beyond, to the east by the access road to Musselburgh Harbour and Fisherrow Sands, with a public car park beyond, to the south by the public road of the western end of New street, with a fishmonger, petrol filling station and public open space beyond and to the west by flatted residential properties.

The buildings in the area are of a range of traditional and modern architectural styles and finishes and vary in building height from one to five storeys. The area includes residential

and business uses. The building containing the commercial complex of 'The Quay' is of a modern design. The building varies in height from one storey to three storeys. It has large feature windows on its north and south elevations. Its walls are finished with reconstituted stone and render. Its pitched roofs are clad with concrete roof tiles.

In December 2009, planning permission was granted (Ref: 09/00265/FUL) for alterations, extension and part change of use of the existing building to form 29 hotel bedrooms and a meeting room and associated works. Planning permission 09/00265/FUL has not been implemented and lapsed in December 2012.

Planning permission 16/00497/P was subsequently granted in November 2016 for the conversion of part of the Quay complex to form 29 hotel bedrooms. This planning permission has not been implemented and remains extant.

Planning permission is now sought for the alterations to and change of use of the Quay building to a nursing home and associated works.

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.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV1 (Residential Character and Amenity), DP6 (Extensions and Alterations to Existing Buildings), C12 (Residential Care and Nursing Homes - Location) T1 (Development Location and Accessibility), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008.

The proposed East Lothian Local Development Plan (PELLDP) was submitted to Scottish Ministers for examination in 2017 and the Reporters' Examination Report was issued on 14 March 2018. The PELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Relevant Policies RCA1 (Residential Character and Amenity), DP5 (Extensions and Alterations to Existing Buildings), Policy HOU6 (Residential Care and Nursing Homes - Location) T1 (Development Location and Accessibility) and Policy T2 (General Transport Impact) of the PELLDP do not represent any significant alteration to the current relevant policies.

Five letters of objection to the application have been received. The main grounds of objection can be summarised as:

- (i) The proposal is inconsistent with the local initiative to improve the Fisherrow harbour and waterfront as a recreational area and would remove any opportunity to develop existing leisure facilities to enhance the opportunity to attract tourist and locals;
- (ii) The proposed change of use would be completely detrimental to the aim of the Musselburgh Area Plan of increasing investment in local infrastructure and facilities to enhance the unique features of this area;
- (iii) It does not support the Action Plan outlined by ELC which clearly states that it will develop a single East Lothian Tourism Implementation that will deliver towards East Lothian Economic Development Strategy;
- (iv) The leisure facilities are widely used by senior community members who will lose a vital recreational and social meeting point which supports their health and well-being;
- (v) There has been an increase in social and recreational events in the locality which add community value which does not appear to be conducive with the location of a care home

for residents who may be disrupted by such activity;

(vi) The waterfront is a key recreational asset and should be retained, ensuring development to attract tourism and visitors and benefit the local community;

(vii) The proposal contradicts the Fisherrow Waterfront Group's ambition for more activity in the area and further development of the harbour and waterfront area;

(viii) The proposed use will increase the demand for car parking and car access;

(ix) Not a safe place for elderly people, public safety issue given the building's proximity to Fisherrow Harbour which is a working harbour; and

(x) Loss of a disabled parking space within the existing car park outside the adjacent flats.

'The Quay' is in a predominantly residential area, as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. However the uses of 'The Quay' are authorised and the operation of them is well established relative to the other uses of the area, including the residential use of the flatted building to the west of 'The Quay'. Nonetheless, Policy ENV1 requires that within its area of coverage development incompatible with the residential character and amenity of the area will not be permitted. On this matter of policy the consideration in the determination of this application is whether or not the proposed change of use of 'The Quay' to a Nursing would have a harmful impact on the residential amenity of the area.

The proposed nursing home use would be a residential institution use additional to the predominantly residential use of the area. The nursing home use, although not a housing use, would be a residential institution use that, in principle is compatible with housing use. In principle the proposed development does not conflict with Policy ENV1 of the adopted East Lothian Local Plan 2008.

The proposed external alterations to the building to facilitate its change of use to a nursing home would consist of the formation of a number of new window openings, door openings, new panels in existing openings, a new vent and an extract fan. A total of eleven window openings and one door opening are proposed to be formed in the ground floor, along with two window openings on the upper floor, fifteen new Spandrel panels to match existing and a new vent and extract fan on the north elevation of the existing building are proposed, six new window openings and one door opening at ground floor level and eighteen new Spandrel panels to match existing are proposed on the south elevation of the existing building, three new Spandrel panels to match existing are proposed on the east elevation and two new window openings at ground floor level are proposed on the courtyard elevation.

Two garden areas are to be formed with shrubs and lawn areas one within a central location to the south of the existing building and one within the north-eastern corner of the application site. It is proposed to erect new 1m high decorative metal railings around the perimeter of these garden areas and to erect a 1.8m high timber fence along the north-eastern boundary. It is proposed that the existing 1.8m high timber fence along the north-western boundary of the application site be removed and replaced with a 1m high palisade fence.

These external alterations would not result in a change in the overall scale or massing of the building and the design and appearance would largely remain as existing. All facing materials involved in the external alterations would reflect those already used in the existing building. As such, by its design and finishes the proposal would be in keeping with the modern architectural form of the existing building and of the adjacent flatted building to the west of 'The Quay'. Overall the proposed alterations would be appropriate to the building and its surroundings and would not harm the character and appearance of the street scene of New Street.

The proposed alterations would not encroach onto Fisherrow Harbour, the waterfront, slipway or boatyard area to the north east of the application site and as such would not prejudice any future development of this area which if planning permission were required would stand to be determined on their own merits. The proposed change of use of the building to a nursing home would not have a detrimental impact on the attractiveness of the waterfront or harbour area to tourists.

The proposed alterations would not give rise to overlooking or loss of sunlight or daylight to any neighbouring residential property.

Policy C12 of the adopted East Lothian Local Plan 2008 states that developers of residential care homes and nursing homes are encouraged to choose sites within, or close to, existing settlements. Proposals must have reasonable access to the normal range of community services. The building of 'The Quay' occupies a central position within Musselburgh with local amenities nearby and given its location the proposed nursing home would be capable of being conveniently and safely accessed by public transport, on foot and by cycle, as well as by private vehicle. The development is therefore consistent with both Policy C12 and Policy T1 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager has no adverse comment to make on the application, being satisfied that the development would not have an adverse impact on any neighbouring land use and would provide the occupants of the proposed nursing home with an appropriate level of residential amenity.

The Council's Road Services advise that the use of the building as a nursing home with 40 beds would result in a reduction in parking demands from the building's current use. The proposal to add 2 disabled parking spaces near the main entrance is welcomed. They advise that the car park to the front of the adjacent flat block mentioned in a letter of representation to the planning application is private and is not maintained by East Lothian Council and as such likely to be owned/managed by the owners of the flats. Consequently, given the reduction in parking demands from the building's current use they raise no objection to the application, being satisfied that there is sufficient parking to serve the development. The development therefore complies with Policy T2 of the adopted East Lothian Local Plan 2008.

East Lothian Health and Social Care Partnership advise that with the construction of the Haddington care home and the continuing development of community support services for the elderly they are of the view that there is sufficient nursing home provision in East Lothian to meet the needs of older people. In addition, such a development would cause extra and unplanned demand on the Musselburgh GP Practices and the Care Home Team. For these reasons, the Health and Social Care Partnership does not support the application for the care home.

The need for or viability of the proposed nursing home use is a matter for the developer and is not a material consideration in the determination of this planning application, which requires to consider whether or not the proposed use of the building is appropriate. There is a private market for this type of provision outside of the NHS and it is for the developer to assess if that market would support the proposal.

In conclusion given all of the above the proposed scheme of development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV1, DP6, C12, T1, T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

CONDITION:

- 1 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.