

REPORT TO: Planning Committee

MEETING DATE: 14 January 2025

BY: Executive Director – Place

SUBJECT: Application for Planning Permission for Consideration

9

Note: *This application has been called off the Scheme of Delegation List by Councillor McGinn for the following reasons:* There are concerns this fire escape will open directly against a planned extension to an adjoining building; There are concerns tenants will have to use an access into what is effectively a pub beer garden; and there are concerns at the limited space available in the area the door will open into. I believe the Planning Committee would benefit from a site visit to gain an understanding of the area proposed.

Application No. **24/01007/P**

Proposal Section 42 to vary condition 1 of planning permission
21/00622/P

Location **95A High Street
Tranent
EH33 1LW**

Applicant Mr Altaf Khan

Per Whitelaw Associates

RECOMMENDATION Consent Granted

REPORT OF HANDLING

SITE CONTEXT

This application relates to a two-storey former restaurant building located in a backland location on the south side of High Street, Tranent. It is within Tranent Town Centre and therefore within an area of mixed uses as defined by Policy TC2 of the adopted East Lothian Local Development Plan 2018. It is also within Tranent Conservation Area.

The building abuts the residential property of 10 Well Wynd to the west. To the south is the flatted development of 4 Well Wynd. The building further abuts the

building of 95 High Street to the northeast, in use as a public house. To the north is a vennel leading from Tranent High Street, in use as a beer garden and external storage area associated with the public house. That vennel is closed-off from Tranent High Street by means of a locked roller shutter door. Prior to the installation of that roller shutter door pedestrian access to the former restaurant was taken from Tranent High Street via the vennel by means of an existing external double doorway on the north elevation of the building. Surrounding uses to the north include a takeaway, beauticians and other commercial premises with residential uses at the upper floors.

PLANNING HISTORY

In October 2021 planning permission (ref: 21/00622/P) was granted for alterations and change of use of existing restaurant to form two Houses of Multiple Occupation (HMO) and associated works. That planning permission has been implemented and works to form the two approved HMOs are nearing completion. Pedestrian access to the building is now taken from Well Wynd to the south. Four vehicle parking spaces to serve the approved HMOs have been formed within a parking area to the south of the site.

In August 2024 planning permission (ref: 24/00063/P) was granted for extension to building and erection of gate at 95 High Street. That planning approval grants consent for the erection of a single storey extension to be attached to the side elevation of the existing public house and would be positioned within the existing beer garden and external storage area of the premises. No development has been implemented and planning permission (ref: 24/00063/P) remains extant.

Condition (1) of planning permission (ref: 21/00062/P) states:

'Prior to any use of the building for two houses of multiple occupancy hereby approved: a) the off-street car parking spaces as shown on drawing P1 Rev B titled 'Location and Existing Plans' docketed to this planning permission shall be fully formed and available for use; and b) the existing doors in the north elevation of the building shall be removed and the door opening infilled in accordance with docketed drawing no. P5 rev B.

The off-street car parking spaces shall thereafter be retained in place free from obstruction to use unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety'

PROPOSALS

Through this application permission is now sought to vary condition 1 of planning permission 21/00062/P to allow the retention of one of the doors in the north elevation of the building, to be used as an emergency access. It is proposed that the condition be varied to read:

'Prior to any use of the building for two houses of multiple occupancy hereby approved the off-street car parking spaces as shown on drawing P1 Rev B titled 'Location and Existing Plans' docketed to this planning permission shall be fully formed and available for use; and b) the easternmost door in the north elevation of the building shall be removed and the door opening infilled in accordance with docketed drawing no. V1.

The off-street car parking spaces shall thereafter be retained in place free from obstruction to use unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety'

The applicant's agent has provided a statement informing that the variation to Condition 1 as applied for would allow for the retention of an external doorway on the north elevation of the building for use as an emergency exit only and to facilitate essential maintenance if required.

Further information submitted in support of the application purports that the building the subject of this application benefits from a servitude right of access over land to the north that constitutes the vennel. Applicants further confirm a means to access the existing locked roller shutter door.

DEVELOPMENT PLAN

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 National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (ELLDP).

NPF4 Policies 7 (Historic Assets and Places), 13 (Sustainable Transport), 14 (Design, Quality and Place) and 27 (City, town, local and commercial centres) are relevant to the determination of the application. Also relevant are Policies HOU7 (Housing in Multiple Occupation), TC2 (Town and Local Centres), CH2 (Development Conservation Areas), DP5 (Extensions and Alterations to Existing Buildings) and T2 (General Transport Impact) of the ELLDP.

Material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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.

REPRESENTATIONS

Two letters of public objection have been received against the application.

The main grounds of objection are:

- i) the land which the emergency exit door would open onto is outwith the ownership of applicants;
- ii) development approved by planning permission (ref: 24/00063/P) will not allow for access from the proposed emergency exit;

- iii) access to the vennel from Tranent High Street is required to remain locked for security purposes;
- iv) potential for increased noise and disturbance caused by multiple occupants of HMO dwellings; and
- v) potential for detritus.

As stated above, the applicant's agent has provided a statement informing that the building the subject of this application benefits from a servitude right of access over land to the north that constitutes the vennel.

Applicants further confirm a means to access the existing locked roller shutter door.

The matter of potential for detritus is not a material planning consideration relevant to the determination of this planning application.

COMMUNITY COUNCIL COMMENTS

None

PLANNING ASSESSMENT

The use of the building for two HMOs is approved by the grant of planning permission (ref: 21/00622/P). The proposed variation of condition 1 of that planning permission seeks to retain one of two existing glazed timber external doors within the north elevation of the building for use as an emergency exit and to facilitate essential maintenance as required. The vennel to the north of the application site is not readily visible from any public places. Therefore, the external door it is proposed to retain is not visible from any public place and does not have an appreciable effect on, and therefore does not harm the character and appearance of the Tranent Conservation Area. The external door is not contrary to Policies 7 and 14 of NPF4 or to Policies CH2 and DP5 of the ELLDP.

The variation of Condition 1 of planning permission (ref: 21/00622/P) would allow the use of the vennel to facilitate emergency exit from, and access to, the approved HMO building and to undertake any essential maintenance. In the determination of this application, it must be considered whether such uses would harm the amenity of any neighbouring residential properties. A condition can be attached to any planning permission granted to restrict the use of the door to emergency purposes and to facilitate essential maintenance only, safeguarding against potential loss of amenity from use of the vennel for any purpose other than that applied for.

The **Council's Environmental Health Officer** has been consulted on the proposals and has responded no comment.

The **Council's Road Services** have been consulted and raise no objection to the application.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under

section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that, "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted subject to the applied for variation of condition 1 and subject to all of those conditions from planning permission 21/00622/P, where it is intended these should apply. In this case, the conditions that should continue to apply are Conditions 2 (EV Charging) and 3 (Flush Fitting).

It is also necessary to impose two further conditions on this grant of planning permission. Of these additional conditions, one of them is required in accordance with up-to-date planning policy legislation to ensure that the development begins before the expiration of 3 years from the date of this permission. The other condition is required to restrict the use of the external door to emergency purposes and essential maintenance only, thus safeguarding against potential loss of amenity from use of the vennel for any purpose other than that applied for. Accordingly, an appropriately worded condition can be imposed on a grant of planning application to control such use.

The proposed variation of Condition 1 of planning permission 21/00622/P is not contrary to NPF4 Policies 7, 13, 14 and 27 and Policies HOU7, TC2, CH2, DP5 and T2 of the ELLDP. In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

CONDITIONS:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 Prior to any use of the building for two houses of multiple occupancy hereby approved the off-street car parking spaces as shown on drawing P1 Rev B titled 'Location and Existing Plans' docketed to this planning permission shall be fully formed and available for use; and b) the easternmost door in the north elevation of the building shall be removed and the door opening infilled in accordance with docketed drawing no. V1.
The off-street car parking spaces shall thereafter be retained in place free from obstruction to use unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety

- 3 At least one dedicated EV charging point per vehicle parking space shall be provided for each of the houses of multiple occupancy hereby approved. Such provision should involve engagement with electricity providers to ensure that the entire electricity supply infrastructure will have sufficient capacity to enable all chargepoints to operate simultaneously.

Reason

In the interests of sustainability.

- 4 The new roof windows hereby approved shall be installed in a manner that ensures their upper surface is as near flush as possible with the upper surface of the roof into which they will be installed and with minimum flashing, unless otherwise approved by the Planning Authority.

Reason:

To reduce the visual impact of the roof windows in the interest of safeguarding the character and appearance of the building and the character and appearance of the Conservation Area.

- 5 The emergency door hereby approved for the rear (north) elevation of the building shall, unless required for emergency purposes or essential maintenance, be kept in the closed position and shall not be used as a general entrance for resident access/egress.

Reason:

In the interests of protecting the residential amenity of the area.