



Local Review Body Appeal

REVIEW STATEMENT



APPLICATIONS

23/00306/P, 23/00307/P & 23/00308/P

Change of Use of flats to short term holiday let (retrospective) for flat numbers 3, 5 and 6 West Bay Court, North Berwick, EH39 4AR.

AUGUST 2023.

apt planning &
development

**1 West Road
Whitekirk
EH42 1XA**

[REDACTED]
[REDACTED]
www.apl-plandevlop.co.uk

Each application must be determined on its own merits, a fundamental bedrock of the planning system, yet the decisions to refuse these three applications represents an example of the blanket approach taken to short-term let properties in East Lothian and specifically North Berwick.

These properties have been successfully let on a commercial and short-term basis for the last 4 years – there have been no complaints or need for Council or Police intervention.

Neighbours in the adjacent properties have clearly stated that the holiday lets have had **NO IMPACT** on residential amenity – they support this retrospective change of use (**which of course, is no change to them anyway**).

Even the Council's Senior Environmental Health Officer states that you ***'cannot assume that antisocial behaviour issues will arise'***. Similarly, you cannot control long-term let occupancy and a potential *'bad neighbour'* could have a far greater impact on the amenity of the area over a sustained period of time.

The Council's Economic Development Service Manager advises that ***'there are demonstrable local economic benefits delivered by all types of short-term holiday lets and that existing provision of this type of accommodation must be retained, protected and supported where there is no demonstrable impact on local amenity'***.

This short term holiday letting business contributes 8-bed spaces and approximately £90,000 to the local economy and equivalent to 6 full time equivalent jobs.

A range of local businesses support the use of these properties as short-term lets - they understand the importance of the visitor/tourism sector to the year round vitality and viability of East Lothian and North Berwick.

The case officer concludes that the *'local economic benefits do not outweigh the unacceptable impact on local amenity'* **yet provides no qualification to this statement.**

Short-Term Holiday Accommodation ensures considerable local economic benefits and with, in this instance, no impact on local or residential amenity – each application on its merits !

This is a well-run local business (supported by a well-known local letting agent) that will be put out of business if unsubstantiated assumptions are the basis on which these types of decisions are made;

People living in the centre of a popular holiday destination will expect an element of transient population. This brings an element of vitality to the area alongside the obvious economic benefits;

Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

Executive Summary

- a. The Local Review Panel has the advantage of looking at an application with a fresh perspective. It is neither bound by the original decision nor by a strict interpretation of planning policy which **provides a framework for decision making not an absolute.**
- b. National Planning Policy encourages Local Planning Authorities to take a positive approach to development that could contribute to sustainable economic growth. In taking all aspects of the proposal into consideration it is clear that the proposed change of use from residential apartment to short-term let meets these underlying principles. **Using existing properties in a town centre location to generate significant economic benefit.**
- c. **These properties are established; well run, short-term holiday lets that have no local amenity issues as has been highlighted by letters of support from the neighbouring properties who are permanent residents within the building. They have clearly stated that the holiday lets have NO IMPACT on residential amenity.**
- d. There is no evidence of any anti-social behaviour. Neither the Council nor the Police have been required at any point whilst conversely the neighbours support these applications, which to them is simply a continuation of the current situation.
- e. Using sweeping unsubstantiated assumptions on the behaviour of short-term let guests as a reason to refuse a planning application is ignoring the risk that longer term tenants can pose as part of a short-assured tenancy. In such instances, the impact is far greater and over a longer period of time. To tar all short-term guests with the same brush **infers that all of us who may use short-term self-catering accommodation are equally reason to refuse planning permission.**
- f. Permanent residents whether owner-occupiers of longer term tenants will have active social lives (involving late nights and early mornings which involves movement, noise and disturbance) or jobs requiring early starts and late finishes. Receiving shopping deliveries or unloading their own shopping can be a noisy business whilst the delivery lorry blocks parking etc. It is perhaps more likely that problems can arise from long-term occupancy (ownership or rental) than with short-term lets (and much more difficult to control) and is a reason why until recently short-term lets were not differentiated from residential use.

Re: [23/00307/P](#)

Thanks for sending this to me, Tom.
Susan and I are aware that your flats have been used as short term lets over a period of time. We have had no issues with this and do not foresee any going forward.
We have had no problems with recycling or the bins being put out on the correct days. You stay locally, and I know that you are on top of things and if there were any such issues, you would sort quickly.
Parking is also something we all "self police" and there have been no problems.
I note that the Community Council are concerned that the fact that there is a shared entrance door could be disruptive for other residents (e.g. ourselves). This has not been an issue for us. This is particularly the case since between us all, we installed the new front door with a much improved lock.
It is worth recording from Susan and my point of view that as owners of the flats we all work well together to sort any common issues we have - e.g. the replacement of the fence at the back, the replacing of the hall windows and the front door as mentioned.

Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

- g. The change in policy and approach has been brought about by the so called party-flats in Edinburgh where it is common to have many people in a single property visiting the City for stag/hen weekends, major sporting fixtures or concerts and the Edinburgh Festivals/New Year celebrations etc. That is a very different pattern of use to a high quality one or two bedroom apartment in a seaside town in East Lothian. **As stated...every application on its own merits !**
- h. There is an acknowledged lack of hotels/bed spaces in the area and the loss of the short-term let properties will have a damaging impact on East Lothian's ability to meet the demand of visitors which in turn will have a significant impact on the viability of local businesses which depend on the tourism sector (year-round).
- i. This situation has not been helped by planning permission being granted previously that saw the conversion of The Blenheim Hotel to four luxury homes. **It is surely contradictory to permit the conversion of existing hotel stock yet refuse existing, well-run and popular short-term let properties to continue to operate.**
- j. **Local businesses have expressed their support for these three applications**, acknowledging the critical role tourism plays in the vitality and viability of North Berwick. Local retailers and restaurants as well as tourist specific destinations are dependent on 12 months of tourism spend. **Many would not be able to continue if there is a noticeable drop in tourism expenditure and activity in the area.**



Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

INTRODUCTION

1. **apt planning & development** has prepared this Review Statement on behalf of Mr Tom Gleeson of **Forthview Properties Ltd** with regards to applications **23/000306/P, 23/000307/P and 23/000308/P** seeking planning permission for change of use of flats to short term holiday lets at **numbers 3, 5 and 6, West Bay Court, North Berwick EH39 4AR.**
2. Procedurally we are submitting three separate appeals to the Panel. They are however identical in their nature and the fact that this **relates to three properties in the same building further highlights the appropriateness of this use at West Bay Court.**

SITE CHARACTERISTICS, BACKGROUND AND PLANNING HISTORY

3. The three properties consist of Number 3 West Bay Court, is a one-bedroom ground floor flat, number 5 West Bay Court, a one-bedroom first floor flat and number 6 West Bay Court which is a two-bedroom first floor flat. There are all high quality and small holiday let properties which do not attract large groups (so called party-flats) likely to create noise/disturbance in the area.
4. We can confirm that:
 - The flats have been marketed and used as short-term lets for 4 years;
 - The minimum length of stay is 5 days, the maximum length of stay is 28 days;
 - The maximum number of visitors in one booking is two guests for Apartments 3 and 5 and four guests for Apartment 6;
 - Each flat has one allocated parking space and dedicated waste and recycling storage – they key box is not at the front door (which can be an unsightly intervention);
 - The properties are managed by **North Berwick Holiday Lets** a well-know and reputable local company specialising in these types of properties. They are responsive to any problems (maintenance etc.) as well as vetting/checking potential guests before accepting bookings and helping with check-in procedures. The fact that many booking are repeat guests highlights the quality of the properties and the operation of the business.

Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

APPLICATIONS 23/000306/P, 23/000307/P AND 23/000308/P.

5. Applications **23/000306/P** and **23/000307/P** were both validated on 5th April 2023 and application **23/000308/P** was validated on 6th April 2023.
6. The Officer Report prepared in determining all of these applications acknowledges the following:
 - a. The East Lothian Development Strategy 2012-22 identifies tourism as one of the strengths of the East Lothian Economy and a source of employment opportunities in the future;
 - b. The adopted East Lothian Development Plan 2018 states that a range of hotel guest house and other accommodation attracts visitors and encourages them to stay and benefit the economy of East Lothian;
7. The retrospective change of use of the flats to a holiday let provides accommodation within North Berwick that attracts visitors and encourages them to stay in East Lothian, which supports the existing long established business and benefits the wider economy of East Lothian.
8. In addition:
 - a. The Council's **Roads Services** and **Antisocial Behaviour Team** raise no objection to the (retrospective) planning applications;
 - b. **Police Scotland** state that there have been no police incidents at any of the addresses and raise no objection to the (retrospective) planning applications;
 - c. The Council's **Economic Development Service Manager** supports these planning applications.
9. Applications **23/000306/P** and **23/000307/P** were refused on the 9th May 2023 and **23/000308/P** was refused on the 15th May, 2023. The same reason for this refusal was given for each application and we address it in turn below.
10. Any appeal to the local review body must be lodged within three months of the determination of the application. As such these appeals have been lodged in advance of the 8th and 14th August deadlines.

Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

REASON FOR REFUSAL

The holiday let use of the flatted property is incompatible with and harmful to the amenity of the occupiers of the properties within the residential building of west Bay Court, North Berwick and as such is contrary to part e) of Policy 30 of National Planning Framework 4 and Policy RCA1 of the adopted East Lothian Local Development Plan 2018. .

11. Policy 30 of National Planning Policy framework 4 states that proposals will not be supported if they mean an *“unacceptable impact on local amenity or the character of the neighbourhood or area”* or if the loss of residential accommodation isn't outweighed by demonstrable, local economic benefits.
12. Policy RCA1: Residential Character and Amenity states that the predominately 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.
13. There is **no basis** on which to make the assertion that the holiday let use of the property is *‘incompatible with and harmful to the amenity of the occupiers of the properties within the residential building’*;

29.5.23

East Lothian council

Re: Application No 23/00306/P, 23/00307/P, 23/00308/P

I am writing as a neighbour of the above properties to support these applications. There are 6 flats in the complex and all have been used in various ways over the years including holiday lets.

I have never had any issues with any flat in the development. There has never been any issues regarding parking as each flat has an allocated numbered offroad space. There has also never been any issues regarding the shared entrance door and certainly no issues regarding 'disturbance, anxiety, annoyance, reduced security or disruption' as mentioned by yourselves. There are key boxes for each of the above properties in their designated car spaces and so not at the front door as well as having the different recycling bins in the allocated space which are used by each flat.

North Berwick is a tourist destination and this contributes hugely to the local economy. For many many years East Lothian has been known to have a shortage of all types of accommodation for visitors and to take some short term lets away from the area would have a detrimental impact to North Berwick and the surrounding area.

Yours faithfully

14. The neighbours in the adjacent properties have clearly stated that the owner has a proven track in terms of the guests who stay at West Bay Court with **NO IMPACT** on their amenity or enjoyment of their own property;
15. Even the Council's Senior Environmental Health Officer sates that you **‘cannot assume that antisocial behaviour issues will arise’** which is exactly what the reason for refusal has done!

Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

16. It is just as likely that a short-assured tenancy tenant or permanent resident could be a bad neighbour whilst that problem would be difficult to resolve and potentially a much longer-term issue. Similarly it is a draconian approach to suggest that all short-term guests are a problem. By its very nature, if there was a problem it would be 'short-term' whilst we must reiterate, there has never been a problem with these properties and the neighbours support this application/appeal.
17. By taking such a stance, the Council is effectively tarring everyone who uses short-term let accommodation with the same brush – surely the exception does not prove the rule and the damaging economic implications of this unilateral approach will have far greater negative impacts than the occasional poos guest. As above, a bad long-term tenant or owner occupier is a far more concerning situation given how much more difficult it is to resolve.
18. The Council's **Economic Development Service Manager** advises that there are demonstrable local economic benefits delivered by all types of short-term holiday lets in East Lothian and that existing provision of this type of accommodation must be retained, protected and supported where there is no demonstrable impact on local amenity, the character of the area or loss of residential accommodation.
19. How do you measure a demonstrable impact on local amenity. If a local resident suddenly started a mechanics workshop in his driveway, it would have visual and noise impacts not to mention the increased activity. What if an owner occupier brought a set of drums or an electric guitar and started practicing throughout the day. The impact could be significant yet a law abiding holiday maker is going to be prevented from utilising these properties to visit North Berwick and surrounding area.
20. Short-term let guest effectively act as if the property is their residence and this has been the recognised use for many years. This is not the situation of party flats in North Berwick but high-quality reputable accommodation options for visitors to North Berwick and East Lothian, many of whom are repeat guests and who spend time and money in the area supporting businesses and jobs yet we have decided upon a course of action to discriminate against a whole group of visitors/tourists (and property owners/businesses).
21. In the particular circumstances of this case it is stated that;
 - the property will provide high quality tourist accommodation attracting visitors to North Berwick and the surrounding area providing economic benefit;
 - there is a demonstrable economic benefit to having a wide range of accommodation types in East Lothian with the tourism sector contributing £155m to the local economy in 2021 and supporting 10% of the workforce;

Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

- visitors staying overnight in non-serviced accommodation contributed £60.1m to the local economy in 2021 and the majority of visitors to East Lothian are repeat visitors;
 - non-serviced accommodation (short term holiday lets) contributes positively to the local economy (£279m in 2019), the applicant's flat accounts for 8 bed spaces and a potential annual economic impact of around £90,000
 - there is an increasing number of overnight stays in East Lothian for work purposes (which is expected to increase over the next 10-15 years) such that the loss of short-term accommodation is likely to have a significant negative impact on the local tourist economy in monetary and reputational terms.
22. Therefore, the Council's Economic Development Service Manger **supported** this planning application stating that the change of use of the flat to short-term holiday let accommodation supports the strategic goals and objectives of the Economic Development Strategy 2012-2022 and the intent and outcomes of part e) of Policy 30 of NPF4.
23. This statement is **objective** and **qualified** in its support for the application;
24. The case officer concludes that the '*local economic benefits do not outweigh the unacceptable impact on local amenity*'.
25. This is a **subjective** and **unqualified** statement.
- The case officer has not specified at what point the economic benefits outweigh the unacceptable impacts – **what is the tipping point ?**
 - At what point is the economic benefits associated with tourism expenditure (**expenditure that underpins the viability of many of North Berwick's businesses**) more important than the *chance* of a bad customer at **three properties where there is no history of poor guest behaviour and the neighbouring property owners (owner occupiers) support this appeal.**
 - The case officer report cites '*luggage or other property*' taken through the communal entrance leading to a level of disturbance'. Permanent residents come and go on a regular basis (if not more a regular basis) and may take golf clubs, regularly bring in shopping, transport luggage etc. at any time of the day and night.
 - We accept that guest changeover elicits movement and activity, but the existing permanent neighbours have stated that this does not create any amenity issue **and local residents are just as likely to have cleaners, gardeners, deliveries and regular comings and goings.**

Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

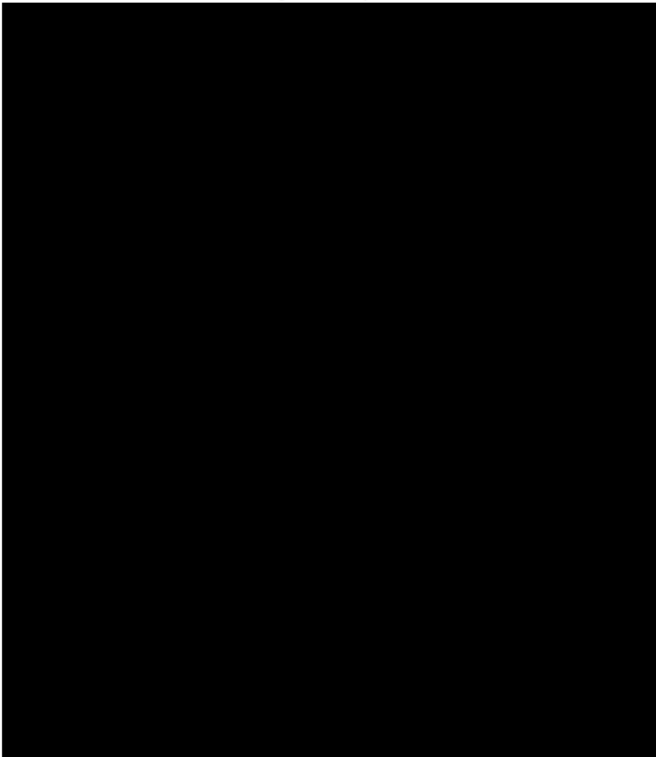
- There are also recent decisions (Edinburgh and East Lothian) concerning short-term lets with the main determining issues in these cases including:
 - The frequency of movement and disturbance for neighbours and whether it is likely to be more than a full-time tenant occupying the flat. **Generally the smaller the flat the less likelihood of disturbance to neighbours;**
 - These are one/two bedroom flats – **the impact is negligible;**
- The officer goes to make an assumption that holiday makers will come and go sometimes at antisocial hours. We would assert that that this is not necessarily the case and that permanent residents can work different hours/ shift patterns/ take business trips at odd hours and also go on holidays at odd hours;
- Another determining issue in the recent appeal decisions included:
 - The size of the property and whether anyone renting it for a few days is likely to use it any differently from a long term tenant.
- The case officer refers to '*unfettered access*' leading to actual/perceived level of security for permanent residents. The holiday lets are managed by a reputable local company and again we believe that this has been significantly overstated. The fact that the neighbouring properties have written in support of the proposals clearly demonstrates that the current use of the properties is not having any material impact on their own enjoyment of West Bay Court as a permanent residence.

SUMMARY

26. Planning policies provide a framework within which to determine applications for planning permission **not a definitive position and policies cannot possibly apply to all circumstances.**
27. By adopting a blanket approach to short-term let properties with shared entrances etc. the determination of this application fails to take account of the individual merits of the application – that of three small high quality properties, with no history of incidents and support from neighbouring owners.
28. This goes against the fundamental principles of planning. In looking at the individual benefits of this short term letting business and taking a balanced in the context of all the influencing factors...every application determined on its merits.

Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

29. The case officer concludes that the *'local economic benefits do not outweigh the unacceptable impact on local amenity'* yet does not qualify this statement in anyway. An assessment must surely be made between a well-run high quality small scale holiday let business and the benefits it brings to North Berwick against the small chance that a paying guest could possible cause some disturbance and despite the fact that over the past four years this has not happened and the neighbouring properties support these three appeals.
30. This is not a party flat, but a well-run small scale holiday home popular with guests and neighbours alike and experiencing many repeat guest visits.
31. On this basis, the conclusion of any assessment must surely be that on balance the positives of these three properties contributing to the supply of holiday accommodation in North Berwick outweigh any potential (and unlikely) risk of there being a problem with short-term let guests.
32. It is also important to acknowledge that permanent residents, either owner-occupiers or long-term tenants can be equally problematic but far more difficult to control and create a much more long term problem.



33. Unsurprising a range of local businesses also support the appeal acknowledging the importance of the tourist related spend to North Berwick [REDACTED].

34. In many ways tourists spend more money locally than a local resident who may work in Edinburgh and actually spend little money in local shops, using online options and Edinburgh outlets as well as the local shops.

35. Local residents are less likely to eat out and use other facilities than people visiting and trying to get the full North Berwick/East Lothian experience in a short space of time.

Applications 23/000306/P, 23/000307/P, 23/000308/P
Change of use of flat to short term holiday let (retrospective)
Numbers 3, 5 and 6, West Bay Court, North Berwick, EH39 4AR.
Local Review Body Support Statement – August 2023.

36. Understandably, holiday-makers budget to spend accordingly including meals out, and other tourist related destinations (Seabird Centre, golf courses etc.).
37. Whilst we fully appreciate the concerns and real impacts that short-term lets can have on an area, there is not a proliferation in North Berwick (compared to some areas of Edinburgh) nor are these three properties so called party-flats.
38. It is interesting that North Berwick has not been designated a controlled zone nor is this likely to happen in the near future. They have co-existed peacefully and successfully with their owner occupier neighbours for over four years whilst contributing to the local economy.
39. This is an application/appeal for retrospective planning – granting planning permission for the three properties does not enable any change to the current situation – a situation that is acceptable and welcomes buy all concerned.
40. Finally these three properties do not have a substantive impact on the availability of private homes on the wider residential market and as we have highlighted above, this does not guarantee good neighbours in any case.

Planning Department
East Lothian Council
John Muir House
Haddington
EH41 3HA

8th June 2023

To Whom It May Concern
East Lothian Council Planning

**Re: Application No 23/00306/P, 23/00307/P, 23/00308/P
West Bay Court, North Berwick - Change of Use to Short Term Holiday Let
(Retrospective)**

I am writing with regards to the above applications and as a neighbour of the above properties. Each of these applications has now been refused via delegated powers and it is my understanding that the applicant, Mr Gleeson is appealing these refusals.

I wish to support these applications and appeals.

There are 6 flats in the complex and all have been used in various ways over the years including holiday lets. I have never had any issues with any flat in the development.

There has never been any issues regarding parking as each flat has an allocated off-road space. There has also never been any issues regarding the shared entrance door and certainly no issues regarding 'disturbance, anxiety, annoyance, reduced security or disruption' as mentioned by yourselves.

There are key boxes for each of the above properties in their designated car spaces and so not at the front door as well as having the different recycling bins in the allocated space which are used by each flat.

We also know that you are local to North Berwick, visit the properties frequently and are generally on top of the letting situation (even though you use an agent).

North Berwick is a tourist destination and this contributes hugely to the local economy and the local shops and attractions

available to us as local residents. For many many years East Lothian has been known to have a shortage of all types of accommodation for visitors and to take some short term lets away from the area would have a detrimental impact to North Berwick and the surrounding area.

Yours faithfully





Re: [23/00307/P](#)

Thanks for sending this to me, Tom.

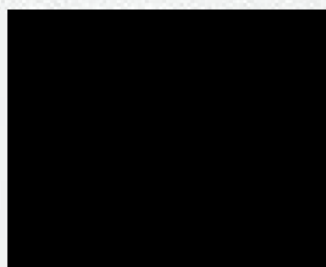
Susan and I are aware that your flats have been used as short term lets over a period of time. We have had no issues with this and do not foresee any going forward.

We have had no problems with recycling or the bins being put out on the correct days. You stay locally, and I know that you are on top of things and if there were any such issues, you would sort quickly.

Parking is also something we all "self police" and there have been no problems.

I note that the Community Council are concerned that the fact that there is a shared entrance door could be disruptive for other residents (e.g. ourselves). This has not been an issue for us. This is particularly the case since between us all, we installed the new front door with a much improved lock.

It is worth recording from Susan and my point of view that as owners of the flats we all work well together to sort any common issues we have - e.g. the replacement of the fence at the back, the replacing of the hall windows and the front door as mentioned.



Planning Department
East Lothian Council
John Muir House
Haddington
EH41 3HA

8th June 2023

To Whom It May Concern
East Lothian Council Planning

**Re: Application No 23/00306/P, 23/00307/P, 23/00308/P
West Bay Court, North Berwick - Change of Use to Short Term Holiday Let
(Retrospective)**

I am writing with regards to the above applications and as a neighbour of the above properties. Each of these applications has now been refused via delegated powers and it is my understanding that the applicant, Mr Gleeson is appealing these refusals.

I wish to support these applications and appeals.

There are 6 flats in the complex and all have been used in various ways over the years including holiday lets. I have never had any issues with any flat in the development.

There has never been any issues regarding parking as each flat has an allocated off-road space. There has also never been any issues regarding the shared entrance door and certainly no issues regarding 'disturbance, anxiety, annoyance, reduced security or disruption' as mentioned by yourselves.

There are key boxes for each of the above properties in their designated car spaces and so not at the front door as well as having the different recycling bins in the allocated space which are used by each flat.

We also know that you are local to North Berwick, visit the properties frequently and are generally on top of the letting situation (even though you use an agent).

North Berwick is a tourist destination and this contributes hugely to the local economy and the local shops and attractions

available to us as local residents. For many many years East Lothian has been known to have a shortage of all types of accommodation for visitors and to take some short term lets away from the area would have a detrimental impact to North Berwick and the surrounding area.

Yours faithfully



29.5.23



East Lothian council

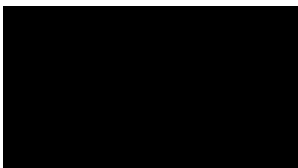
Re: Application No 23/00306/P, 23/00307/P, 23/00308/P

I am writing as a neighbour of the above properties to support these applications. There are 6 flats in the complex and all have been used in various ways over the years including holiday lets.

I have never had any issues with any flat in the development. There has never been any issues regarding parking as each flat has an allocated numbered offroad space. There has also never been any issues regarding the shared entrance door and certainly no issues regarding 'disturbance, anxiety, annoyance, reduced security or disruption' as mentioned by yourselves. There are key boxes for each of the above properties in their designated car spaces and so not at the front door as well as having the different recycling bins in the allocated space which are used by each flat.

North Berwick is a tourist destination and this contributes hugely to the local economy. For many many years East Lothian has been known to have a shortage of all types of accommodation for visitors and to take some short term lets away from the area would have a detrimental impact to North Berwick and the surrounding area.

Yours faithfully



Planning Department
East Lothian Council
John Muir House
Haddington
EH41 3HA

8th June 2023

To Whom It May Concern
East Lothian Council Planning



**Re: Application No 23/00306/P, 23/00307/P, 23/00308/P
West Bay Court, North Berwick - Change of Use to Short Term Holiday Let
(Retrospective)**

I am writing with regards to the above applications and as a neighbour of the above properties. Each of these applications has now been refused via delegated powers and it is my understanding that the applicant, Mr Gleeson is appealing these refusals.

I wish to support these applications and appeals.

There are 6 flats in the complex and all have been used in various ways over the years including holiday lets. I have never had any issues with any flat in the development.

There has never been any issues regarding parking as each flat has an allocated off-road space. There has also never been any issues regarding the shared entrance door and certainly no issues regarding 'disturbance, anxiety, annoyance, reduced security or disruption' as mentioned by yourselves.

There are key boxes for each of the above properties in their designated car spaces and so not at the front door as well as having the different recycling bins in the allocated space which are used by each flat.

We also know that you are local to North Berwick, visit the properties frequently and are generally on top of the letting situation (even though you use an agent).

North Berwick is a tourist destination and this contributes hugely to the local economy and the local shops and attractions

available to us as local residents. For many many years East Lothian has been known to have a shortage of all types of accommodation for visitors and to take some short term lets away from the area would have a detrimental impact to North Berwick and the surrounding area.

Yours faithfully



OFFICER REPORT

9th May 2023

App No. **23/00306/P**

Application registered on **5th April 2023**
Target Date **4th June 2023**

Proposal	Change of use of flat to short term holiday let (Retrospective)	SDELL	Y
		CDEL	N
Location	3 West Bay Court North Berwick EH39 4AR	Bad Neighbour Development	N

APPLICANT: **Forthview Properties Ltd**

Is this application to be approved as a departure from structure/local plan? N

**c/o Lothian Plans
Per Stephen Lothian
18 Laidlaw Gardens
Tranent
EH33 2QH**

DECISION TYPE: **Application Refused**

REPORT OF HANDLING

PROPOSAL

The property to which this application relates is a ground floor flat within a two storey detached flatted building which occupies a prominent corner site at the junction of West Bay Road and Station Hill in North Berwick. The flatted building is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. It is also within North Berwick Conservation Area.

The building is bounded to the north by a neighbouring flatted building, to the east by the public road of West Bay Road, to the south by the public road of Station Hill and to the west by a neighbouring flatted building and its communal garden ground.

Planning permission is retrospectively sought for the change of use of the residential ground floor flat of 3 West Bay Court, North Berwick as a one bedroom unit of short term self-catering holiday let accommodation.

No alterations have been undertaken to the flat, either internally or externally, to facilitate the retrospective change of use.

Subsequent to the registration of this application the applicant's agent has confirmed in writing that (i) the flat has been marketed/used for short term lets for 5 years; (ii) the minimum length of stay is 5 days and the average length of stay is 7 days; (iii) the maximum number of visitors in one booking would be 4 guests; (iv) cleaning takes place after each stay; (v) the property is managed/advertised by North Berwick Holiday Lets and guests can either collect keys from their office or use the external key safe provided; (vi) there are a total of 6 flats within the building (3 flats per floor) and that the flat, the subject of this retrospective planning application, is accessed via a shared front entrance door and communal hallway; and (vii) the applicant's flat has one allocated parking space within the existing parking area.

Through separate applications 23/00307/P and 23/00308 planning permission is separately sought for the change of use of flats 5 and 6 of West Bay Court as units of short term self catering holiday let accommodation. Planning application 23/00307/P is at this time also on this Scheme of Delegation List. Planning application 23/00308/P will be determined on its merits in accordance with the development plan unless material considerations indicate otherwise.

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.

Policies 7 (Historic assets and places) and 30 (Tourism) of NPF4 are relevant to the determination of this application. Policies RCA1 (Residential Character and Amenity), CH2 (Development Affecting Conservation Areas), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

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 requires that a planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the area in which the building is located.

REPRESENTATION

Three objections to this application have been received. The main grounds of objection are:

- (i) the short term holiday let sector has given rise to unwelcome impacts upon neighbours and has had a serious adverse effect upon the housing market;
- (ii) the housing stock for long term lets has been reduced and properties are increasingly being bought for investment purposes rather than as homes;
- (iii) house prices for small town centre properties have increased making it very difficult for lower income locals, especially the young, to afford property in the town and the housing market has become less diverse;

- (iv) the reduction of affordable letting premises is a considerable problem within certain employment sectors and for temporary staff;
- (v) there are concerns and issues relating to the loss of this one bedroom property from the housing stock - this is a quiet residential area within the town where disturbance, anxiety, annoyance, reduced security and disruption will be caused by increased arrivals and departures for short stay visitors;
- (vi) there are likely to be issues relating to recycling and bin management commonly associated with the operation of a short term let business and there is likely to be disruption in communal bin storage and recycling areas, driveway/parking and garden areas along with associated noise;
- (vii) the perceived economic benefits of tourism to the locality do not, in practice, outweigh the wider issues that have been caused by the proliferation of short-term lets in the central area of North Berwick; and
- (viii) the applicant owns two other flats within the building which also seek planning permission for a change of use to short term lets and, if approved, this would permit the short term letting operation of three units in a single residential block of six units which is excessive.

COMMUNITY COUNCIL COMMENTS

North Berwick Community Council, as a consultee to this application, state that they object to this proposal as the applicant's flat is accessed by a shared entrance door and thus raise concern that this will be disruptive for the permanent residents within the building.

PLANNING ASSESSMENT

This application seeks retrospective planning permission for the change of use of a one bedroom ground floor flat to a one bedroom unit of holiday let accommodation. The holiday let comprises of a bedroom, a large hallway with a fitted wardrobe which can be used, if required, as a second bedroom, an open plan kitchen/living room and a bathroom. The ground floor flat is capable of accommodating/sleeping 4 people.

The East Lothian Economic Development Strategy 2012-22 identifies tourism as one of the strengths of the East Lothian economy and a source of employment opportunities in the future and the adopted East Lothian Local Development Plan 2018 states that a range of hotel, guest house and other accommodation attracts visitors and encourages them to stay and benefit the economy of East Lothian. The adopted East Lothian Local Development Plan 2018 states that all leisure and tourism related development proposals, including visitor attractions, hotels and holiday accommodation, will be assessed against all relevant Local Development Plan policies.

The change of use of the residential flat to a holiday let provides holiday accommodation within North Berwick that attracts visitors and encourages them to stay in East Lothian, which supports the existing long established business and benefits the wider economy of East Lothian.

The adopted East Lothian Local Development Plan 2018 does not contain a specific policy on the change of use of flats to holiday lets. However, part e) of Policy 30 (Tourism) of NPF4 states that:

Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

- (i) An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- (ii) The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

Policy RCA1 (Residential Character and Amenity) of the adopted East Lothian Local Development Plan 2018 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.

In the determination of this application it is necessary to assess the impact of the change of use (retrospective) of the application property to a unit of holiday let accommodation on the amenity of the existing neighbouring residential properties.

The Council's Senior Environmental Health Officer advises that whilst the normal use of a property would not result in loss of amenity to neighbours, the use of properties for short term holiday let can result in future guests misusing and abusing the property in a manner that is antisocial and can result in a significant impact upon amenity of neighbours. However, it is stated that the Council's Environmental Health Service cannot assume that antisocial behaviour issues will arise and thus cannot impose any enforceable conditions to protect the amenity of neighbours.

The Council's Antisocial Behaviour Team advise that they have had no records of any incidents relating to any antisocial behaviour matters at this address and thus they raise no objection to this retrospective planning application.

Police Scotland advise that there have been no police incidents at this address since 1st January 2020 and thus they raise no objection to this retrospective planning application.

The Council's Road Services raise no objection to this retrospective planning application. Accordingly, the proposal does not conflict with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

The applicant's property is a one bedroom flat located at ground floor level within a two storey residential flatted building which contains a total of 6 residential properties (3 flats per floor). The property the subject of this retrospective application shares a communal front entrance door, including access to an internal communal stair, with five other residential properties within the flatted building. The existing hallway serving the applicant's ground floor flat also serves two other ground floor flats within the building.

The use of the application property as a holiday let would enable it to be let out for short stays resulting in a turnover of people over short time periods with a significant proportion of occupants likely to be visitors. Such a regular turnover of users/occupants would change the nature of comings and goings not only to the application property itself but also within the communal entrance and hallway of the residential building. Most users/occupants of the holiday let would have a degree of luggage or other property to take through the communal external entrance and hallway which in itself would lead to a level of disturbance and nuisance not associated with the permanent/long term residential use of the property which is harmful to the amenity of the occupants of the residential properties within the residential flatted building

of West Bay Court. It is accepted that permanent residents may also make noise but they tend to keep their luggage in their homes and do not move them with the same frequency as regularly changing guests who arrive and depart sometimes at unsociable hours, and this differs from typical residential circumstances.

Along with the extra comings and goings of users of the holiday let at check in/check out there would also be an additional level of activity not only at the application property but also within the communal entrance and hallway as a result of people regularly accessing both the main building and the application property itself to service/clean it and remove waste and recycling material. This level of additional activity would be evidently different to that expected with the permanent/long term use of the flat as a private residence again which is harmful to the amenity of the occupants of the residential properties within the residential flat building of West Bay Court.

Moreover, allowing frequently changing guests unfettered access to otherwise secure shared areas and facilities changes the actual and perceived level of security for permanent residents. Whilst permanent residents are likely to have visitors of their own from time to time, those permanent residents would remain in control of security to communal areas. The introduction of frequently changing guests regularly into these secure areas, independent of the owner, would therefore differ from typical residential circumstances.

Given the specific circumstances and location of the application property within the residential building of West Bay Court, which contains a number of permanent/long term residences which share a communal entrance, internal stair and hallway, the change of use of the applicant's ground floor flat as a one bedroom unit of short term self-catering holiday let accommodation is incompatible with, both individually and cumulatively with the 2 other flats also in use as holiday lets the subject of planning applications 23/00307/P and 23/00308/P, and harmful to, the amenity of the occupiers of the properties within the residential building of West Bay Court. By having an unacceptable impact on local amenity, the proposal is contrary to part e) of Policy 30 of NPF4 and with Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

It is now necessary to assess the impact of the change of use on the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits as is stated in part e) of Policy 30 of NPF4.

The Council's Housing Strategy & Development Service advise that they do not support this application due to the density of short term lets in North Berwick combined with the constrained housing market (especially of 1 and 2 bedroom properties) which suggests that this property would best be used for long term lets to meet the needs of local population.

The Council's Economic Development Service Manager advises that there are demonstrable local economic benefits delivered by all types of short term holiday lets in East Lothian and that existing provision of this type of accommodation must be retained, protected and supported where there is no demonstrable impact on local amenity, the character of the area or loss of residential accommodation. In the particular circumstances of this case it is stated that (i) the property will provide high quality tourist accommodation attracting visitors to North Berwick and the surrounding area providing economic benefit; (ii) there is a demonstrable economic benefit to having a wide range of accommodation types in East Lothian with the tourism sector contribution £155m to the local economy in 2021 and supporting 10% of the

workforce; (iii) visitors staying overnight in non-serviced accommodation contributed £60.1m to the local economy in 2021 and the majority of visitors to East Lothian are repeat visitors; (iv) non-serviced accommodation (short term holiday lets) contributes positively to the local economy (£279m in 2019), the applicant's flat accounts for 4 bedspaces and a potential annual economic impact of £89,000 and 2FTE jobs; (v) there is an increasing number of overnight stays in East Lothian for work purposes (which is expected to increase over the next 10-15 years) such that the loss of short term accommodation is likely to have a significant negative impact on the local tourist economy in monetary and reputational terms. Therefore, the Council's Economic Development Service Manger supports the this planning application stating that the change of use of the flat to short term holiday let accommodation supports the strategic goals and objectives of the Economic Development Strategy 2012-2022 and the intent and outcomes of part e) of Policy 30 of NPF4.

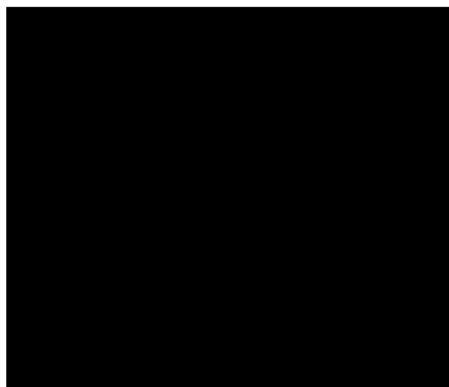
However the local economic benefits associated with the use of the applicant's ground floor flat operating as a one bedroom unit of short term self-catering holiday let accommodation does not outweigh the unacceptable impact on local amenity. Therefore, the change of use is not in accordance with the Development Plan and there are no material planning considerations that outweigh the fact that the change of use is not in accordance with the Development Plan.

The application property of 3 West Bay Court, North Berwick as a holiday let is unauthorised and a breach of planning control. Enforcement action will be taken to ensure the cessation of the holiday let use with the period for compliance with the enforcement notice being three months.

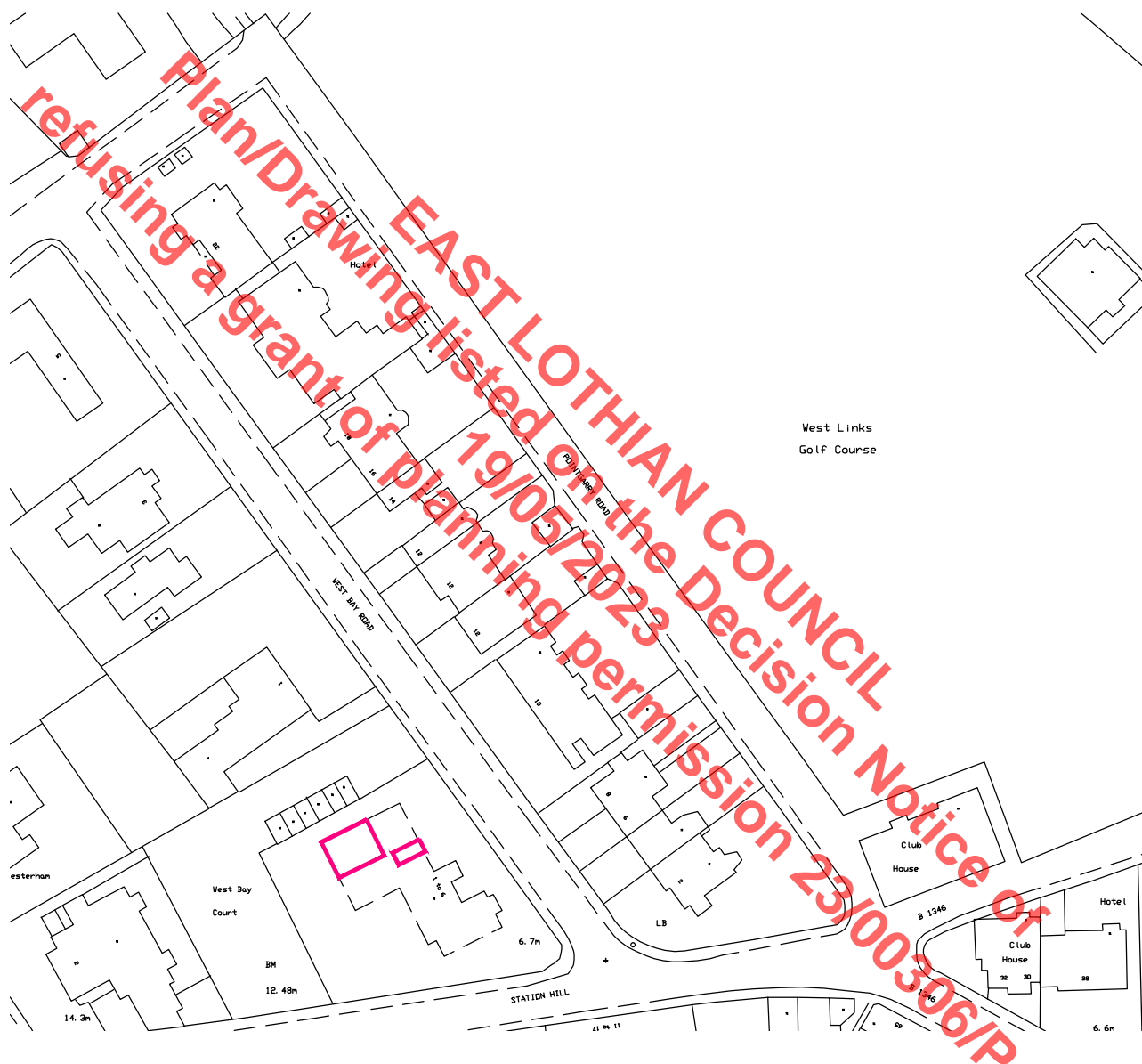
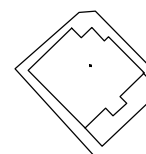
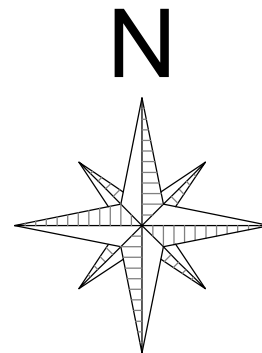
REASON FOR REFUSAL:

- 1 The holiday let use of the flatted property is incompatible with and harmful to the amenity of the occupiers of the properties within the residential building of West Bay Court, North Berwick and as such is contrary to part e) of Policy 30 of National Planning Framework 4 and Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

LETTERS FROM



9th May 2023

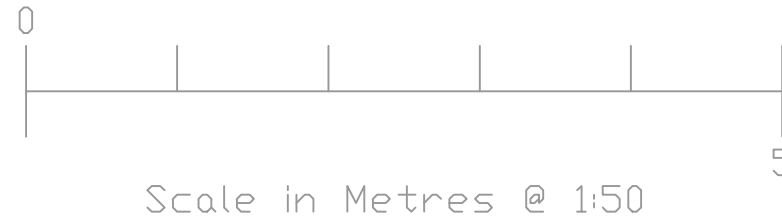


Plan/Drawing listed on the Decision Notice of refusing a grant of planning permission 23/00306/P
 EAST LOTHIAN COUNCIL
 19/05/2023

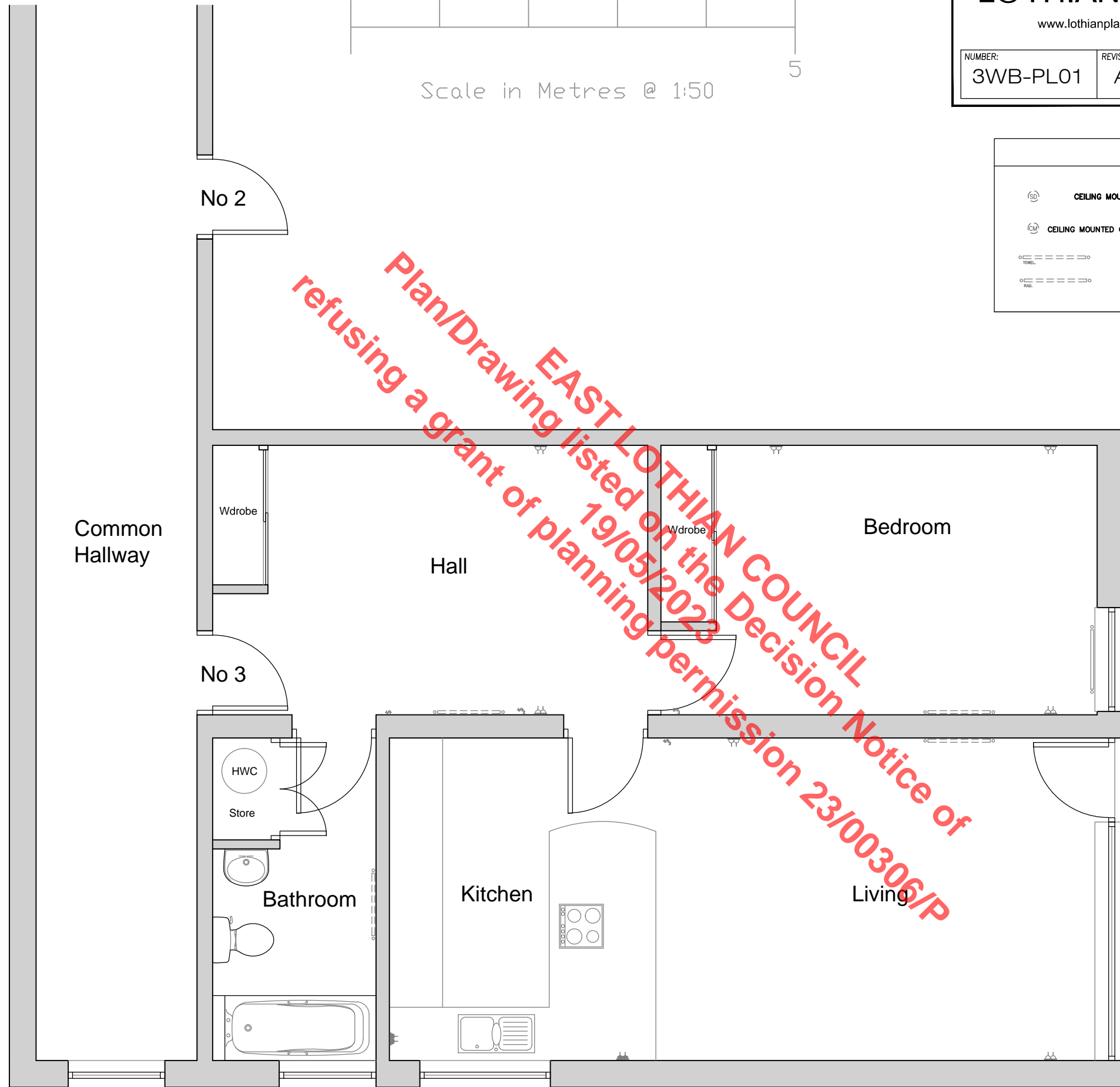
Location Plan
1:1250

LOTHIAN PLANS			CLIENT: Forthview Properties Ltd
www.lothianplans.com			JOB: 3 Westbay Court, Westbay Road North Berwick, EH39 4AR
NUMBER: 3WB-PL02	REVISION A	SCALE 1:1250@A4	TITLE: Location Plan
		DRAWN SL	
		CHECK SL	
		DATE March 2023	

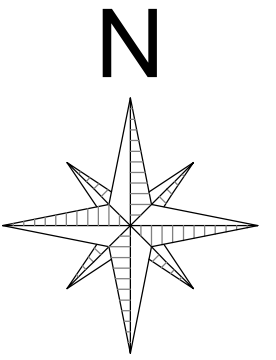
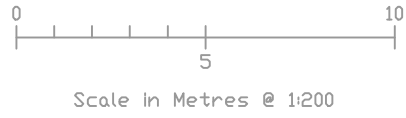
NUMBER:	REVISION	SCALE	1:50@A3
3WB-PL01	A	DRAWN	SL
		CHECK	SL
		DATE	March 2023



SERVICES LEGEND	
	CEILING MOUNTED SMOKE DETECTOR
	CEILING MOUNTED CARBON MONOXIDE DETECTOR
	TOWEL RAIL
	RADIATOR
	Single 13 AMP OUTLET
	TWIN 13 AMP OUTLET
	TWIN 13 AMP OUTLET @ 1100mm AFFL.
	SWITCH
	2-WAY SWITCH
	CEILING MOUNTED HEAT DETECTOR



Ground Floor Plan
1:50



BM

12.48m

6.7m

STATION HILL

Site Plan
1:200

LOTHIAN PLANS		CLIENT: Forthview Properties Ltd	
www.lothianplans.com		JOB: 3 Westbay Court, Westbay Road North Berwick, EH39 4AR	
NUMBER: 3WB-PL03	REVISION: A	SCALE: 1:200/A3	TITLE: Site Plan
		DRAWN: SL	
		CHECK: SL	
		DATE: March 2023	