

LOCAL REVIEW BODY

25<sup>th</sup> January 2024

Application No: 23/00824/P

**Flat 4, 133 New Street, Musselburgh**

Appointed Officer's Submission

## **23/00824/P – REVIEW AGAINST DECISION – PLANNING OFFICER’S SUBMISSION**

Planning Application Review Against Decision (Refusal): Change of use of flat to short term holiday let (Retrospective) at Flat 4, 133 New Street, Musselburgh.

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2. Copy of the Decision Notice (including reason for refusal) relating to planning application 23/00824/P.
3. Copy of consultation responses from (i) ELC Road Services; (ii) ELC Environmental Health; (iii) ELC Anti-Social Behaviour Team; (iv) Police Scotland; and (v) ELC Housing Strategy & Development.
4. Copy of the nine representations received to application 23/00824/P.
5. Copy of Policies 13 (Sustainable transport) and part (e) of Policy 30 (Tourism) of National Planning Framework 4 and Policies RCA1 (Residential Character and Amenity), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.
6. Schedule of conditions.

# OFFICER REPORT

**5th October 2023**

App No. **23/00824/P**

Application registered on **10th August 2023**  
Target Date **9th October 2023**

Proposal	<b>Change of use of flat to short term holiday let (Retrospective)</b>	SDELL	Y
		CDEL	N
Location	<b>Flat 4 133 New Street Musselburgh East Lothian EH21 6DH</b>	Bad Neighbour Development	N

APPLICANT: **Ms Ruth Shiraz**

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

**c/o Houghton Planning Ltd  
Per Paul Houghton MRTPI  
Alloa Business Centre  
Whins Road  
Alloa  
Clacks  
FK10 3RF**

DECISION TYPE:

**Application Refused**

REPORT OF HANDLING

PROPOSAL

The property to which this application relates is a top floor flat within a two and a half storey flatted building situated on the north side of, and at the western end of, New Street in Musselburgh. The flatted building is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

The flatted building is bounded to the north by a public car park with the Promenade and Fisherrow Sands beyond, to the east and west by neighbouring residential properties and to the south by a public car park.

Planning permission is retrospectively sought for the change of use of the residential top floor flat of Flat 4, 133 New Street, Musselburgh as a three-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 since 2022; (ii) the minimum length of stay is 3 night with the most common length of stay is between 3 or 4 night stays with the most being 8 nights thus far; (iii) the maximum number of visitors in one booking is 6 guests; (iv) recycling and/or bins are emptied every week by cleaners which in turn dispose of waste in the communal bin store; (v) the property is advertised online and is managed privately by the applicant; (vi) there is a key box provided for guests to collect and drop off keys.

There are 6 flats within the building (3 flats per floor) and the applicant's flat, the subject of this retrospective planning application, is accessed via a shared front entrance door, a shared hallway, and a communal stairwell. The block of flats is served by a communal parking area.

## 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 13 (Sustainable transport) and 30 (Tourism) of NPF4 are relevant to the determination of this application. Policies RCA1 (Residential Character and Amenity), 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.

## REPRESENTATION

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

- (i) number of strangers using the communal stairwell with an increase in noise into late hours with concerns raised over comings and goings as a result of this intensity with cleaners with some occasions where the main access is left open by short term occupants.
- (ii) experiences of people stood outside drinking and smoking and being generally loud.
- (iii) block of 133 is not suitable for STLs with five of six flats occupied by elderly and middle-aged permanent residents and is disruptive to permanent residents.
- (iv) noise in the stairwell is a problem – holiday comers do not live between the regular hours of permanent residents.
- (v) owner lives away and is concerned with income.
- (vi) security is a major problem with the key to the flat being the same as the key to the communal stair with the key box located on a wooden fence accessible by the public – 24/7 access.
- (vii) holiday let residents are not aware of the council's rubbish disposal or recycling policy and do not dispose of waste effectively or properly.
- (viii) Increased number of self-catered accommodations which means no knowing stranger from neighbour.

- (ix) Instances where fights have broken out in car park and general noise nuisance from banging on doors at night.
- (x) Suspicious nightly activity from men.
- (xi) Arrival/departures can sometimes be during anti-social hours with associated noise.
- (xii) Left previous flat due to STL as community was destroyed – where does this stop.
- (xiii) Already two STLs in No.139 which has resulted in ASB issues which has involved the police.
- (xiv) Detrimental impact on health.

## COMMUNITY COUNCIL COMMENTS

None.

## PLANNING ASSESSMENT

This application seeks retrospective planning permission for the change of use of a three-bedroom top floor flat to a three-bedroom unit of holiday let accommodation. The holiday let comprises of three bedrooms, a bathroom, and a large open plan living/kitchen area. The applicant's flat can accommodate/sleep 6 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 Musselburgh 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 on the amenity of the existing residential properties contained within the residential flatted building to which the applicant's flat forms a part.

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 lets 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 whilst there are no known ASB issues at the application site, there are cases along New Road and near the property. However, they advise that there are 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 (having checked their records from 2020 onwards) and thus they raise no objection to this retrospective planning application.

The Council's Road Services raise no objection to this retrospective application and note that the supporting statement submitted with this application confirms that no internal changes are proposed. They state that whilst there may be some increase in the number of vehicles during the peak tourist season compared to residential use, this increase is likely to even out throughout the year resulting in no noticeable difference in overall car parking demand. Accordingly, the proposals do not conflict with Policy 13 of NPF4 or with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

The applicant's property is a three-bedroom flat located at second floor level within the two-storey residential flatted building of 133 New Street which contains a total of 6 residential properties (3 flats per floor). The property the subject of this retrospective application shares a communal stair and entrance with five other residential properties within the flatted building. The existing hallway serving the applicant's second floor flat also serves two other top floor flats within the building.

The use of the application property as a holiday let enables 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 entrances, internal stair, 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 entrances, stair and hallway which would lead to a level of disturbance and nuisance not associated with the permanent/long term residential use of the property. This is harmful to the amenity of the occupants of the residential properties within the residential flatted building of 133 New Street, Musselburgh. It is accepted that permanent residents may also make noise, but there would be a tendency to retain 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 is also an additional level of activity not only at the application property but also within the communal entrances, stair and hallway as a result of people regularly accessing both the main building of 133 New Street and the application property itself to service/clean it and remove waste and recycling material after each guests stay. This level of additional activity is 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 flatted building of 133 New Street, Musselburgh.

Moreover, allowing frequently changing guests unfettered access to otherwise secure shared areas changes the actual and perceived level of security for the existing permanent residents. Whilst the 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 133 New Street, Musselburgh which contains a number of permanent/long term residences and which shares a communal front and rear entrance, stair and hallway, the retrospective change of use of the applicant's third floor flat as a three bedroom unit of short term self-catering holiday let accommodation is incompatible with and harmful to the amenity of the occupiers of the residential properties within the residential building of 133 New Street, Musselburgh. 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 state that the change in use of this property from a long term residential dwelling to a short term let is considered a significant loss because (i) Musselburgh is part of a constrained housing system and the housing need outstrips the supply; (ii) there is an existing concentration of short term lets within the area; and (iii) the property is not an established short term let. Accordingly, the Council's Housing Strategy & Development Service object to this retrospective planning application.

The applicant further submitted evidence of a GVA study on the benefit of STL in Edinburgh – whilst this does not apply to Musselburgh, indeed a historic part of Edinburgh, it would be reasonable to assume that its findings may be applied to Musselburgh. Nevertheless, and notwithstanding this, the Housing Strategy and Development Service believes that whilst acknowledging the economic benefit it may bring, this would not outweigh the loss of a permanent residential address and as such object on this ground also.

Noting that the proposed is seeking consent retrospectively, the application property of Flat 4, 133 New Street, Musselburgh 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 occupants of other flatted properties used as residential dwellings within the residential building of 133 New Street 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

[Redacted text block containing multiple lines of blacked-out content]

5th October 2023



App No. 23/00824/P

**EAST LoTHIAN COUNCIL  
DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
TOWN AND COUNTRY PLANNING  
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

**Ms Ruth Shiraz  
c/o Houghton Planning Ltd  
Per Paul Houghton MRTPI  
Alloa Business Centre  
Whins Road  
Alloa  
Clacks  
FK10 3RF**

**APPLICANT: Ms Ruth Shiraz**

With reference to your application registered on 10th August 2023 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

**Change of use of flat to short term holiday let (Retrospective)**

**at  
Flat 4  
133 New Street  
Musselburgh  
East Lothian**

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **REFUSE PLANNING PERMISSION** for the said development.

The reasons for the Council's refusal of planning permission are:-

- 1 The holiday let use of the flatted property is incompatible with and harmful to the amenity of the occupants of other flatted properties used as residential dwellings within the residential building of 133 New Street 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.

The report on this application is attached to this Decision Notice and its terms shall be deemed to be incorporated in full in this Decision Notice.

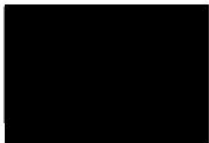
Details of the following are given in the application report:

- the terms on which the Planning Authority based this decision;
- details of any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997.

The plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
NS-FLAT4-MUSS-01	-	20.07.2023
DWG 01	-	09.08.2023

**13th October 2023**



Keith Dingwall  
Service Manager - Planning

## NOTES

If the applicant is aggrieved by the decision to refuse permission for the proposed development, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to the Clerk to the Local Review Body, Committee Team, Communications and Democratic Services, John Muir House, Haddington, East Lothian EH41 3HA.

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

**Currie, Fiona**

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**From:** Hussain, Aizaz  
**Sent:** 29 August 2023 10:21  
**To:** Stark, Billy  
**Cc:** [REDACTED]  
**Subject:** TRANSPORT PLANNING RESPONSE: 23/00824/P- Planning Consultation

EAST LoTHIAN COUNCIL ROAD SERVICES  
From: Asset & Regulatory Manager  
To: Service Manager, Planning

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Proposal: Change of use of flat to short term holiday let (Retrospective) at Flat 4 133 New Street Musselburgh East Lothian EH21 6DH

This planning application is for a retrospective change of use of flat to a short-term holiday let, located at 133/4, New Street in Musselburgh.

We have reviewed the documents submitted by the applicant in support of this planning application, which confirm that no internal changes are proposed. Hence, we conclude that there would be no changes in the likely parking demands. In general, we would note that whilst there may be some increase in the number of vehicles during the peak tourist season compared to residential use, this increase would likely even out throughout the year, resulting in no noticeable difference in overall car parking demand.

Therefore, we confirm that we do not have any objections to this planning application.

Please advise the applicant that all works within or affecting the public road including works on the footway or verge must be authorised in advance by this Council as Roads Authority.

Sent on behalf of IAN LENNOCK  
ROAD SERVICES, ASSET & REGULATORY MANAGER

Please ask for:  
[Aiz](#)

[Aizaz Hussain](#)  
Transportation Planning Officer  
[REDACTED]

East Lothian Council  
Penston House, Macmerry Industrial Estate, Macmerry, East Lothian EH33 1EX

## Currie, Fiona

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**From:** Clark, Colin - EHO  
**Sent:** 01 September 2023 15:46  
**To:** Environment Reception  
**Cc:** Stark, Billy  
**Subject:** RE: 23/00824/P-Mr Billy Stark - Planning Consultation

I refer to your consultation request of 23<sup>rd</sup> August 2023 in connection with the above and would advise as follows.

While 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 in the accommodation misusing and abusing the property in a manner that is antisocial and can result in significant impact upon amenity of neighbours. Environmental Health cannot assume such ASB will arise however, and cannot impose any enforceable conditions to protect amenity of neighbours.

East Lothian Council will have to determine whether or not any such future proposals are acceptable having regard to existing planning policy which may need to be revised to address this situation. I would suggest that you also consult with the Safer Communities Team in the event they may wish to comment further.

Regards

Colin Clark | Senior Environmental Health Officer, Public Health & Environmental Protection | Protective Services | East Lothian Council | John Muir House | Haddington | EH41 3HA |  
Tel. 01620 827443 [REDACTED] | [REDACTED] | Visit our website at [www.eastlothian.gov.uk](http://www.eastlothian.gov.uk)

-----Original Message-----

From: Environmental Health/Trading Standards <ehts@eastlothian.gov.uk>  
Sent: 23 August 2023 08:58  
To: [REDACTED]

Subject: FW: 23/00824/P-Mr Billy Stark - Planning Consultation

-----Original Message-----

From: Environment Reception <environment@eastlothian.gov.uk>  
Sent: 23 August 2023 08:46  
To: Environmental Health/Trading Standards <ehts@eastlothian.gov.uk>  
Subject: 23/00824/P-Mr Billy Stark - Planning Consultation

Please see attached document in relation to the following application: Change of use of flat to short term holiday let (Retrospective) at Flat 4  
133 New Street  
Musselburgh  
East Lothian  
EH21 6DH

## Currie, Fiona

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**From:** Raselli, Gail  
**Sent:** 23 August 2023 16:46  
**To:** Environment Reception  
**Subject:** FW: 23/00824/P-Mr Billy Stark - Planning Consultation  
**Attachments:** [REDACTED]

Nothing on the ASB register for this address although there are other cases on New Street.

Thanks,  
Gail

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**From:** Black, Kenneth [REDACTED]  
**Sent:** 23 August 2023 09:33  
**To:** Raselli, Gail [REDACTED]  
**Subject:** Fwd: 23/00824/P-Mr Billy Stark - Planning Consultation

GR  
Can you do the necessary.  
Thanks  
Kenny

Sent from [Outlook for iOS](#)

---

**From:** Environment Reception <environment@eastlothian.gov.uk>  
**Sent:** Wednesday, August 23, 2023 8:46:05 AM  
**To:** Black, Kenneth [REDACTED]  
**Subject:** 23/00824/P-Mr Billy Stark - Planning Consultation

Please see attached document in relation to the following application: Change of use of flat to short term holiday let (Retrospective) at Flat 4  
133 New Street  
Musselburgh  
East Lothian  
EH21 6DH

**Currie, Fiona**

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**From:** Baird, Elaine [REDACTED]  
**Sent:** 24 August 2023 08:57  
**To:** Environment Reception  
**Subject:** RE: 23/00824/P-Mr Billy Stark - Planning Consultation [OFFICIAL]

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

**OFFICIAL**

Good morning

Property address checked covering the past 3 years and no police incidents reported.

Many thanks

Elaine

-----Original Message-----

From: environment@eastlothian.gov.uk [<mailto:environment@eastlothian.gov.uk>]  
Sent: 23 August 2023 08:46  
To: [REDACTED]  
Subject: 23/00824/P-Mr Billy Stark - Planning Consultation

Please see attached document in relation to the following application: Change of use of flat to short term holiday let (Retrospective) at Flat 4  
133 New Street  
Musselburgh  
East Lothian  
EH21 6DH

\*\*\*\*\*  
\*\*\*\*\*

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# EAST LoTHIAN COUNCIL: HOUSING STRATEGY & DEVELOPMENT

## PLANNING APPLICATION RESPONSE

### POLICY BACKGROUND

East Lothian Council's Housing Strategy and Development Service are consulted on planning applications to assess the loss in residential accommodation relating to the change of use from long term residential accommodation to short term holiday lettings.

In accordance with Policy 30 (Tourism) of the National Planning Framework 4:

*'e) 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.'*

The Housing (Scotland) Act 2001 requires local authorities to prepare a Local Housing Strategy (LHS) for their area, supported by an assessment of housing need and demand. The Local Housing Strategy is the sole strategic document for East Lothian which brings together a wide range of housing priorities. The current priorities of the LHS 2018-2023 relevant to the change of use to short term lettings are:

- Priority 1: Sustainable and vibrant communities are created and maintained
- Priority 2: The supply of housing is increased and access to housing improved
- Priority 3: Homelessness is prevented as far as possible [...]

Housing to 2040 (H2040) is Scotland's long-term national housing strategy and has also been taken into account as part of this assessment. H2040 recognises that local authorities should be empowered

*'to strike a better balance between local housing need and the concerns of residents with that of the tourism industry, both of which are crucial to support thriving communities.'*

### LOCAL HOUSING CONTEXT

When considering a balanced approach between housing and tourism, the property types facing significant pressure in East Lothian and local housing demand by ward were analysed.

An affordable housing supply target of 189 units per annum (36%) and a market housing supply target of 330 (64%) were determined for East Lothian, according to the LHS 2018-2023.

East Lothian's housing stock is predominantly made up of private sector housing, with a substantial owner occupied sector. Owner-occupied homes account for 65.3%, private rented sector 11% and social housing accounts for 23.7% of all stock.

Almost a quarter (24%) of housing list applicants for social housing in East Lothian are made by households currently living in the PRS. There is a need for an increased supply in long term rental properties, particularly in the East of the county. PRS tenants seeking social rented housing in East Lothian are concentrated in North Berwick Coastal (36%), Haddington and Lammermuir (31%) and Dunbar and East Linton (27%).

Current available data shows that there is significant pressure on the supply of 1 and 2 bed properties in both the private and social sector:

- 1) 2 bed properties account for only 2.3% of new build homes in the private sector, compared to 3 and 4 bed homes which account for 40% respectively.



- 2) There is a projected increase of single and two adult households at 14.3% and 13.2% respectively compared to households with children which lies at 5%.
- 3) 80% of homelessness applications are single person households.
- 4) Single households are most affected by Unsuitable Accommodation Breaches.
- 5) Highest demand for 1-2 bed properties are in wards Musselburgh, Tranent/Wallyford/Macmerry and Preston/Seton/Gosford

East Lothian has an estimated unmet need of 430 wheelchair accessible homes and couple households had the biggest need of adaptable homes in 2020. In terms of population increase, those aged 75+ are expected to have the largest increase in population, at 32% and people aged 65 to 74 will also have a significant increase of 23.2%. This highlights East Lothian's ageing population who will most likely require smaller, accessible homes.

#### *Short Term Lets in East Lothian*

The now relatively out-of-date Census 2011 estimated that about 2% of all household spaces in East Lothian are second homes or holiday lets. However, when considering 'flat, maisonette or apartment in converted or shared house', it is estimated that 9% of those residential types are second residence/holiday lets. The LHS 2018-23 estimated that in 2017, 120 properties in East Lothian were short term lets, at which point short-term let properties were not considered problematic.

In 2022, Housing Strategy & Development commissioned Arneil Johnston to undertake research into the Private Rented Sector in East Lothian. This included an insight into the extent to which the PRS in East Lothian has been affected by the growth of Short Term Lets (STLs).

By taking a snapshot of available properties in October 2022, 387 STL vacancies were identified and analysed, with a focus on properties which could only be residential dwellings. This is a 222.5% increase from 2017.

The highest proportion of STL snapshot vacancies were in North Berwick Coastal area partnership (58%), followed by 19% in Dunbar & East Linton. Musselburgh had the lowest proportion of STLs (2%) along with Fa'side and Preston Seton Gosford (3.4%). The study shows that North Berwick Coastal has been impacted the most in terms of properties being taken out of the residential market, with 22% of the properties that could be long term residential, now functioning as STLs.

<b>Short Term Lets (STLs) by Area Partnership, Snapshot October 2022.</b>			
<b>Area Partnership</b>	<b>PRS</b>	<b>Number of STLs</b>	<b>% of STLs</b>
Dunbar & East Linton	914	76	20%
Fa'side	995	13	3%
Haddington & Lammermuir	1735	32	8%
Musselburgh	844	25	7%
North Berwick Coastal	836	225	58%
Preston Seton Gosford	636	13	3%
<b>Total</b>	<b>5960</b>	<b>387</b>	<b>100%</b>

Source: Arneil Johnston (2022) Research into the PRS in East Lothian

The increase in STLs can lead to a decrease in properties in the long-term rental market as landlords opt for STLs instead. This puts further pressure on an already stretched housing system, increasing long term rents as demand outstrips supply. Rents across East Lothian are already high with an average PRS rent of £1,041 per calendar month with rents in North Berwick (£1,162) being the highest in the region. Tourism often relies on low paid seasonal workers, if there is insufficient affordable housing for these employees there will not be a workforce to sustain the industry.

The private rented sector's contribution to reducing homelessness is important and cannot be understated. The LHS 2018-2023 introduced new policies supporting homeless applicants to find accommodation within the PRS. Recent reforms to the Private Residential Tenancy gives a series of rights to renters about when a landlord can evict a household. Where an individual wishes to convert an existing long term rented residential dwelling into a short term let, **the owners must clearly evidence** that the previous tenant

- has been evicted in accordance with the Private Housing (Tenancies) (Scotland) Act 2016; **and**
- was not made homeless as a result.

## **POLICY APPROACH**

When considering the evidence above, East Lothian has a high housing need and there is already a limited supply of residential rental properties. Therefore even a small number of dwellings converted to STLs could have a disproportionate impact on meeting housing need. This is contrary to the LHS 2018-2023 priorities which seek to create sustainable communities, improve the supply of housing and prevent homelessness.

Housing Strategy & Development Service **will not** favour planning applications:

- Where the property consists of a one bed or two bedroom; as originally built; particularly when located in wards Musselburgh, Tranent/Wallyford/Macmerry and Preston/Seton/Gosford; and/or
- Where the property is deemed as adaptable<sup>1</sup>: level access properties; ground floor properties; no internal steps; potential of wet floor shower adaptation; and/or
- Where the property is located within the North Berwick Coastal ward; and/or
- In cases of tenancy eviction; where meeting the Private Housing (Tenancies) (Scotland) Act 2016 has not been demonstrated.

Housing Strategy & Development **will** favour applications where:

- The proposed short term let is the host's principal home; and/or
- The proposed short term let is deemed as an established short-term secondary let property e.g. has been let for over 5 years from date of application; and/or
- The annual occupancy rate of the property is 6 months or more; and/or
- Where the property is advertised to seasonal workers and other persons who would use the property as their principal home for a short term period.
- Where the property has been long term vacant prior to being used as a short term let.

Each case will be assessed based on its own merit and the interconnection of the different criterion mentioned will be weighted in each case.

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<sup>1</sup> A property is defined by East Lothian Council as being adapted or adaptable where it has a ground floor bedroom (or a room that can be used as a bedroom) and ground floor bathroom (or space to provide a bathroom within the existing footprint of the property) and can be ramped to provide level access.)

## HOUSING STRATEGY & DEVELOPMENT RESPONSE

**Planning application reference** – 23/00842/P

**Proposal** – Change of use to short term holiday let (retrospective)

**Location** – Flat 4 133 New Street, Musselburgh, East Lothian, EH21 6DH

**Planning Officer** – Billy Stark

Housing Strategy has been asked to comment on the approval of the change of use Flat 4 133 New Street, Musselburgh, East Lothian, EH21 6DH to a short term holiday let. The proposal is a first application for planning permission for short-term letting. Flat 4 133 New Street was purchased in September 2022 and has been used as a short term let since. The property is a three bedroom flat access via a communal staircase.

The applicant suggests that according to a recent study from Edinburgh Council STL bring in £20,000 GVA annually. The independent study carried out by MKA Economics Ltd for Edinburgh Council's Planning Service compared the GVA of short term lets to residential properties. In terms of 3 bedroom properties located in the Edinburgh Eastern constituency, short term lets bring in an annual GVA of £8,861 compared to £15,833 of long term residential properties.

The Housing Strategy & Development Service object the proposal set out in the above note application.

Reason(s):

The change in use of this property from a long term residential dwelling to a short term let is considered a significant loss because:

- Musselburgh is part of a constrained housing system, and the housing need outstrips the supply.
- There is an existing concentration of short term lets within this area.
- The property is not an established short-term let.

Please advise the applicant that, should planning permission be granted, then the letting of the property to seasonal workers is strongly recommended. Should planning permission not be granted, then the long term letting of the property would be a significant contribution to the housing system.

**Response author:** Anne Kripler – Housing Strategy Officer

**Date:** 05/09/2023

## Currie, Fiona

---

**From:** Kripler, Anne (Housing)  
**Sent:** 06 September 2023 15:50  
**To:** Stark, Billy  
**Subject:** RE: housing response to 23/00824/P

Hi Billy,

From my reading, the applicant mentions that according to the study there is a GVA benefit for short term lets. However they do not mention that the GVA benefit for long term lets is higher than that of short terms. So they're statement is deceiving and I wanted to point that out. Although not fully reflective, if we consider Edinburgh East, which reaches out to Portobello, we are not far off from Musselburgh. Indeed historically Musselburgh was part of Edinburgh. Overall the study has shown that the GVA benefit for long term properties in Edinburgh is higher than that for short term lets (excluding city centre). I don't see why in case of Musselburgh, located so close to Edinburgh, that evidence would be that much different.

Housing Strategy therefore consider that the loss of residential is not outweighed by economic benefit since the GVA of permanent housing is higher. However, you need to consider all other responses and your own assessment.

Is there anything in the response you would like me to rewrite?

Anne

---

**From:** Stark, Billy [REDACTED]  
**Sent:** 06 September 2023 15:37  
**To:** Kripler, Anne (Housing) [REDACTED]  
**Subject:** RE: housing response to 23/00824/P

From my reading, as they have provided info on this as part of the submission, I am unsure how to apply it to my assessment. I want to say that as it is outwith Edinburgh, the study is irrelevant and cannot be applied to ELC.

So the latter point you made about referencing it when considering its loss – if this makes sense?

Billy

---

**From:** Kripler, Anne (Housing) [REDACTED]  
**Sent:** 06 September 2023 14:41  
**To:** Stark, Billy [REDACTED]  
**Subject:** RE: housing response to 23/00824/P

Hi Billy,

Do you mean that we should expand on why the GVA study is mentioned in the first place?; or to mention the study when explaining why we consider the loss to be significant?

Best wishes,

Anne

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**From:** Stark, Billy [REDACTED]  
**Sent:** 06 September 2023 13:15

**To:** Krippler, Anne (Housing) [REDACTED]

**Subject:** RE: housing response to 23/00824/P

Hi Anne,

Thank you for coming back to me.

I wanted to provide some comment on why there isn't any conclusion on the GVA study as part of your conclusion? There is the paragraph on the study however I am unsure how this would apply or not to our findings, be it irrelevant or not?

Thanks

Billy

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**From:** Krippler, Anne (Housing) [REDACTED]

**Sent:** 05 September 2023 13:44

**To:** Stark, Billy [REDACTED]

**Subject:** housing response to 23/00824/P

Good afternoon,

Please see attached Housing Strategy and Development's response to planning application 23/00824/P

Best wishes,

Anne

Anne Krippler (she/her)

Housing Strategy Officer – Housing Strategy

[REDACTED] | Tel. 1620 82 8784 | [REDACTED] | Ext. 6784

Office: Housing Strategy & Development, Penston House, East Lothian Council



RECEIVED  
1 AUG 2023



RE Ap. 23/00824/P.

Dear Sir.

I left my home, a flat in the High Street <sup>EDINBURGH</sup> because the community was destroyed by Holiday lets. Eventually there was only holiday homes or holiday lets in my tenement. There are several holiday lets in our whole block. My concern is, where does it stop?

Your sincerely,



12 Aug 2023

**Representation on Application 23/00824/P**

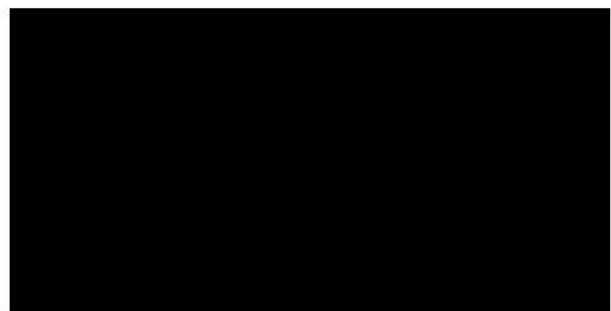
This is an objection to the **retrospective** "change of use of flat to short term Holiday Let

The whole block of flats comprise 26 individual homes, spread over 5 separate stairwells and entrances. All of the stairwells have a property which is let out, some long term others short term so everyone in the development has experienced some disturbances as people come and go, The use of this flat, 133/4, has already highlighted issues when used as a short term let.

- Shared entrance, 6 flats in this end of the block 133 is disruptive to owner occupiers
- It is not clear whether the short term renters are aware it is NOT a holiday block
- There are 5 owner occupiers in that block
- Irregular coming and goings by strangers is distressing to the elderly owner occupiers
- The level of security is compromised as access is 24/7
- Long term rental residents would generally have more respect for the other occupants
- At the end of the Lets, the rubbish is being deposited in "private" green bins outside 135
- The flat Key is housed in a lock box some 10m away in the bin store fence outside at 135 and NOT adjacent to the rental flat at 133.
- Flat 135/4, [REDACTED] has also been used as short term let with the above issues as well
- These flats are accessed on arrival and departure at random times
- Some arrivals and departures are during anti social hours
- Suitcases being trundled up and down the stairs, disturbing sleeping owners

In summary it is basically resulting in unnecessary stress and worry, in particular for the owner occupiers who are elderly, and for neighbours, of which I am one, regularly seeing multiple strangers in and around the car park outside our property.

Retrospective change of use should not be approved and if it is to be let, long term occupants would be preferable.





19 August '23

Dear Sirs,

change of use of Flat 4 to short term holiday let

I write to object to the above application for the following reasons:

- a) it is not suitable to have a holiday let at 133 New Street. Four of the six flats in 133 New Street are occupied by elderly residents and one by a middle aged lady.
- b) Noise in the stair is a problem. People on holiday do not keep the same hours as residents i.e. 4, 5 or 6 people coming home at all hours of the day and night, chatting loudly and incapable of closing doors quietly is very disturbing.
- c) Owner lives down south so is only concerned with the income from the flats.
- d) Security is a major issue - The key for the flat is the same key that opens the stair door. This key is located in a key box which is attached to an external wooden fence which anyone can access.
- e) holiday let residents are unaware of the Council's rules on disposing of rubbish, and sometimes mixed bags of rubbish are left for locals to separate. Council employees are fussy about this.

Yours faithfully



# Comments for Planning Application 23/00824/P

## Application Summary

Application Number: 23/00824/P

Address: Flat 4 133 New Street Musselburgh East Lothian EH21 6DH

Proposal: Change of use of flat to short term holiday let (Retrospective)

Case Officer: Mr Billy Stark

## Customer Details

Name: [REDACTED]

Address: [REDACTED]

## Comment Details

Commenter Type: [REDACTED]

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I wish to submit my objection to this retrospective application (23/00824/P) on several grounds.

First, 133-141 New Street, Musselburgh forms a block of residential flats that were not intended for use as self-catering accommodation. Each stairwell has a single point of access to several flats. As an owner-occupier of over ten years, I have seen an increasing number of these flats being used unofficially for self-catering, which means that I no longer know whether someone is a neighbour or not. I have even had a stranger approach me asking where the key box is for their flat. As a result, I feel less secure with an increasing number of strangers coming in and out of these flats.

Secondly, the increasing use of self-catering accommodation brings in people who do not care about the residents, including elderly and families, or the properties themselves. Short-term guests staying in the development have been known to return to the flats very late at night, or the early hours of the morning, in a drunken state, shouting loudly, banging on door entrances, damaging fences, shrubbery and even fighting in the car park. I was awoken from my sleep on each instance and couldn't get back to sleep until things had calmed down.

Finally, short-term letting may have been a possible factor in a concerning situation earlier this year, when a group of strange men were seen acting suspiciously, hanging around the flat and garage entrances, questioning residents about a car owner. They were told that the car and owner was unknown to residents, but did not leave until told that the police had been informed.

These three reasons on their own may not sound much, but combine to show a changing attitude to the well-being of the residential development, as well as the safety and security of the local full-

time owner-residents.

I would, therefore, urge you to send a message that short-term letting in predominantly residential flatted developments is not allowed, by refusing this application.

Thank you.

24/8/23.



Application Reference - 23/00824/P

Holiday let Flat 4 133 New Street

Dear Sir

My husband & I are objecting to the use of this flat into holiday let.

- 1.) Strangers will be using the same staircase as residents. There will be an increase of noise on arrival up to 11.00 p.m. Our concerns are increase in noise from the holiday let and cleaners coming & going.
- 2.) Experience has seen groups of people standing by the front doors outside smoking & talking loudly.

Thank you for your consideration in this matter.

Yours faithfully.

**Currie, Fiona**

---

**From:** [REDACTED]  
[REDACTED] 16 August 2023 13:31  
**To:** Environment Reception  
**Cc:** [REDACTED]  
**Subject:** COMMENTS FOR APPLICATION NO. 23/00824/P

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Good afternoon

APPLICATION NO 23/00824/P  
FLAT 4 133 New Street Musselburgh, EH21 6EL CHANGE OF USE OF FLAT TO SHORT TERM HOLIDAY LET  
(RETROSPECTIVE)

I wish to object to the application above.

My name is [REDACTED] and I am resident at [REDACTED]. The communal stair is shared with 6 flats including Flat 4 on the second floor.

I am very aware of Flat no 4 having a lot of traffic coming and going at various times of the day. This has resulted in increased noise. There have been several occasions where my door has been buzzed in error and knocks to my front door. I am an elderly lady and strangers coming and going are disturbing and distressing. My daughter is a frequent visitor and has had to open the door to guests for flat 4 and she is concerned that as a vulnerable person I may open the door to strangers.

The main door has been left open once suit cases have been dragged upstairs at all different times of the day and night. Also a number of cleaners and maintenance people arrive and depart on a regular basis.

I have noticed rubbish being dumped inappropriately from the flat.

Like me some of my neighbours are elderly (6 flats only in stair). It is comforting to know your neighbours.

As a short term let to to have multiple strangers causing noise on the stair and in the flat, the subsequent disruption and distress is not acceptable and is having and significant impact on the amenity. I also feel it is having detrimental impact on my health.

Yours sincerely

[REDACTED]

**Currie, Fiona**

---

**From:** [REDACTED]  
**Sent:** 15 August 2023 20:03  
**To:** Environment Reception  
**Subject:** Planning Objection 23/00824/P

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Dear Sirs

I wish to object to the above planning application on the following grounds.

1. People are coming and going at all times of the day and night and I am concerned about the security aspect to our property as we don't know the strangers entering our stair.
2. They arrive at all hours in the evening and early morning, dragging cases across the tarmac outside, in addition you can here them outside the bedroom windows trying to find keys in the key locks placed outside for them, phone calls going back and forward because they can't get into the stairwell.
3. The noise they make going through our stair with cases and shouting back and forth in the late evening with no regard for the residents who unlike them are not on holiday and have work to go to.
4. I had to call the police because my wife and I woke up to what we thought was someone trying to break into our home.

It was short term letters trying to get into my home with keys that was for entry to another home in our stair.

I wish to strongly appose this application as I don't feel this is best for the residents and owners who just wish to live in peace and quite in the safety of our homes without the constant interruption of strangers coming and going from our property.

[REDACTED]

Sent from my iPhone

**Currie, Fiona**

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**From:** [REDACTED]  
**Sent:** 14 August 2023 14:07  
**To:** Environment Reception  
**Subject:** Application Number 23/00824/P

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Hello

I am writing to note concerns about the Application Number 23/00824/P.

[REDACTED]

[REDACTED]

I have concerns for the following reasons:

There is a communal front door key and I am concerned that as an airbnb multiple people will have the key  
Over the past few weeks there have been people in the property and they have not been disposing of rubbish properly and just throwing bin bags in the bin store and not in the bin. As refuse is only collected on a fortnightly basis this has health and safety implications for the residents who then have to manage the loose bin bags  
There has been an increase in noise over recent weeks, at a level more than just a 'neighbour' particularly with late night banging of the main door  
As a stair we don't leave the main door open, there have been occasions in the past few weeks where it has been left open  
There have also been people standing outside the main door smoking, if my windows at the front are open this then comes into my property

Many Thanks ,

[REDACTED]

[REDACTED]



**Currie, Fiona**

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**From:** [REDACTED]  
**Sent:** 12 August 2023 14:15  
**To:** Environment Reception  
**Subject:** App Number 23/00824/P

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**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good afternoon.

I refer to the above application for retrospective short term holiday let.

I wish to object against the application.

There are already two holiday lets in the stair of 139 New Street, Musselburgh, which have caused a range of anti social behaviour which has included police involvement.

Please confirm receipt of this email.

Yours faithfully

[REDACTED]



## **National Planning Framework 4**

### **Policy 13 (Sustainable transport)**

(a) Proposals to improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs will be supported. This includes proposals: i. for electric vehicle charging infrastructure and electric vehicle forecourts, especially where fuelled by renewable energy; ii. which support a mode shift of freight from road to more sustainable modes, including last-mile delivery; iii. that build in resilience to the effects of climate change and where appropriate incorporate blue and green infrastructure and nature rich habitats (such as natural planting or water systems).

(b) Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they: i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation; ii. Will be accessible by public transport, ideally supporting the use of existing services; iii. Integrate transport modes; iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards; v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking; vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles; vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and viii. Adequately mitigate any impact on local public access routes.

(c) Where a development proposal will generate a significant increase in the number of person trips, a transport assessment will be required to be undertaken in accordance with the relevant guidance.

(d) Development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area.

(e) Development proposals which are ambitious in terms of low/no car parking will be supported, particularly in urban locations that are well-served by sustainable transport modes and where they do not create barriers to access by disabled people.

(f) Development proposals for significant travel generating uses, or smaller-scale developments where it is important to monitor travel patterns resulting from the development, will only be supported if they are accompanied by a Travel Plan with supporting planning conditions/obligations. Travel plans should set out clear arrangements for delivering against targets, as well as monitoring and evaluation.

(g) Development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it has been demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational

performance, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer.

While new junctions on trunk roads are not normally acceptable, the case for a new junction will be considered by Transport Scotland where significant economic or regeneration benefits can be demonstrated. New junctions will only be considered if they are designed in accordance with relevant guidance and where there will be no adverse impact on road safety or operational performance.

#### **Part (e) of Policy 30 (Tourism)**

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.

### **Adopted East Lothian Local Development Plan 2018**

#### **Policy RCA1 (Residential Character and Amenity)**

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. Proposals for new development will be assessed against appropriate local plan policies. In the case of infill, backland and garden ground development, this will include assessment against Policy DP7.

#### **Policy T1: Development Location and Accessibility**

New developments shall be located on sites that are capable of being conveniently and safely accessed on foot and by cycle, by public transport as well as by private vehicle, including adequate car parking provision in accordance with the Council's standards. The submission of Travel Plans may also be required in support of certain proposals.

#### **Policy T2: General Transport Impact**

New development must have no significant adverse impact on:

- Road safety;
- The convenience, safety and attractiveness of walking and cycling in the surrounding area;
- Public transport operations in the surrounding area, both existing and planned, including convenience of access to these and their travel times;
- The capacity of the surrounding road network to deal with traffic unrelated to the proposed development; and
- Residential amenity as a consequence of an increase in motorised traffic.

Where the impact of development on the transport network requires mitigation this will be provided by the developer and secured by the Council by planning condition and / or legal agreement where appropriate.

**SUGGESTED SCHEDULE OF CONDITIONS - REVIEW AGAINST REFUSAL OF PLANNING APPLICATION BY THE LOCAL REVIEW BODY – 23/00824/P**

Should the Local Review Body be minded to uphold the review it is respectfully requested that planning permission be granted subject to the following conditions:

1. The property shall be let for overnight occupation by a maximum of six persons at any one time.

Reason:

To ensure that the terms of the lets protect occupants of nearby residential properties from noise/disturbance.

2. A register of the date and number of occupants for each let shall be maintained for the property by the owner/letting agent and shall be available at all reasonable times for inspection, on request, by the Planning Authority.

Reason:

To ensure compliance with condition 1.