

## APPENDIX 1

### COMMENTS MADE ON THE OFFICER REPORT (ATTACHED) DATED 10TH OCTOBER 2023

- A) Positive comment – The building is unaltered.
- B) There is no change to the character or appearance of the area.
- C) A positive comment – No public objections.
- D) A positive comment.  
The four residents of 9 Stanley Road actively support my application.  
[REDACTED] prefers Short Term Lets. Obviously, there are guests in the summer months (who never bother him). In the winter months the property is generally unoccupied, so he enjoys complete peace and quiet for 6 months of the year.
- E) Comments about parking and traffic are irrelevant. In fact the Short Term Letting assists in reducing traffic.  
(1) If the property was occupied full time by an owner or a Tennant there would likely be a car in the area all the time.  
(2) The property is unoccupied for six months (no cars).  
(3) Many guests arrive by public transport.
- F) Positive comments from the East Lothian Economic Development Strategy.  
They recognise the importance of tourism in East Lothian.  
I would also add that as my property has only one bedroom it is one of the cheapest/affordable of all the holiday lets in East Lothian.  
This is a particular benefit to people on lower incomes who wish to visit the area. Not everyone who visits Gullane can afford to stay in expensive hotels.
- G) There is no impact on the local amenity or character of the neighbourhood or area.  
The loss to residential accommodation is a one-bedroom flat. It is not a major impact. All visitors in holiday accommodation spend money in the local area and contribute greatly to the economy. My property is no different to any other Short-Term Holiday Let.
- H) As previously stated, the facts support that there is no change or impact to the local amenity. There has never been or is there any likelihood that guests abuse the property or have any antisocial behaviours. The owner has strict control over the number of people in the property. The fact is that there would be a much greater chance of disturbance to the other residents if there was an antisocial Tennant. That person could be there for months if it was even possible to evict them.
- J) A positive comment - No issues for the Council's Antisocial Behaviour Team.
- K) A positive comment – No objections from the Police.
- L) A positive comment – No objections from the Council's Road Service.

M/N) Your comments here are based on opinion. There are only a few guests. They arrive in the afternoon between 2.00-5.00pm. Any residents are normally at work, and it doesn't bother them at all. It is no busier than it was occupied by an owner. My wife does the cleaning and makes no noise whatsoever. There is no additional activity that would bother any occupant and there is no harm to the amenity of any residents in Stanley Road.

O) I don't allow any guests to use the rear garden. There is no garden furniture. There is absolutely no impact to security of the stair or communal areas.

P) Again – there is no harm to the amenity of the occupiers of the properties. There is no unacceptable impact on the local amenity.

The facts – are there are no complaints, no inconvenience and the residents actively support the Application.

Q) It is very strange how the Council's Housing Strategy and Development Service object to the Planning Application on the basis that my small one-bedroom flat is a "significant contribution to the housing system". "Significant" beggars' belief?

I would also like to add that the property will not be rented out as a long term let. The Scottish Government have made this process very onerous for Landlords and for me it's an unacceptable risk.

R) Positive comments from the Council's Economic Development Services Manager.

S) Why do you draw this conclusion? There is economic benefit. There is no impact on the local amenity as previously demonstrated in the narrative.

In conclusion I appreciate the council are obligated to interpret Government Guidelines.

However, Gullane is not Edinburgh. It is not a location for stag weekends or rowdy adults. The visitor profile in the area is normally mature persons for golf or walking holidays who enjoy the countryside and beaches.

The village will never be overwhelmed by tourists and my Short Term Let is not harmful to the amenity of the Occupants of the other flats. The residents support my application.

My property is no different to any other Short Term Let. It does provide economic benefit to the local community.

I would hope the Council reconsider their decision for the refusal of my application. It would be entirely fair and reasonable for my property of be granted permission as a Short Term Holiday Let.

# OFFICER REPORT

10th October 2023

App No. 23/00825/P

Application registered on 29th August 2023  
Target Date 28th October 2023

Proposal	Change of use of flat to short term holiday let (Retrospective)	SDELL	N
		CDEL	N
Location	9D Stanley Road Gullane East Lothian EH31 2AD	Bad Neighbour Development	N

APPLICANT: Mr Brian Reid

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

3 Esk Glades  
50 Musselburgh Road  
Dalkeith  
EH22 1UZ

DECISION TYPE:

Application Refused

## PLANNING ASSESSMENT

The property to which this application relates is a second floor flat within a two storey flatted building, with accommodation in its roof space, situated on the north side of Stanley Road in Gullane. The flatted building is located within the Local Centre of Gullane as defined by Policy TC1 of the adopted East Lothian Local Development Plan 2018. It is also within Gullane Conservation Area.

The flatted building is bounded to the north and west by neighbouring residential properties, to the east by a two storey building with accommodation in its roof space (serving a bar, restaurant and hotel accommodation) and to the south by the public road of Stanley Road.

Planning permission is retrospectively sought for the change of use of the residential second floor flat of 9D Stanley Road, Gullane as a one bedroom unit of short term self-catering holiday let accommodation.

(A) 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 has confirmed in writing that (i) the flat has been marketed/used for short term lets since mid 2018; (ii) the minimum length of stay is 3 nights, the maximum length of stay is 28 days and the most common length of stay is 5 to 7 nights; (iii) the maximum number of visitors in one booking is 2 guests; (iv) recycling and/or bins are managed by the applicant as is the cleaning of the flat between stays; (v) the check in/check out process is managed by the applicant and guests can either meet the applicant on arrival or use the safe key box (which is located at the entrance door to the applicant's second floor flat); (vi) there are 4 flats within the building - two at first floor level and two at second floor level; (v) the applicant's flat, the subject of this retrospective planning application, is accessed via a shared front entrance door and communal stairwell; and (vi) the flat has no designated parking space but guests are encouraged to park at Goose Green.

Through separate application 23/00565/P planning permission is separately sought for the change of use of flat 9C Stanley Road as a unit of short term self catering holiday let accommodation. Planning application 23/00565/P stands to be determined on its own merits.

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), 13 (Sustainable transport) 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.

(B)

(C)

There is no public objection to this application.

(D)

One letter of support to this application has been received. It states that 9C and 9D Stanley Road have both operated, and are well run, over the last few years as short term lets and have caused no issues to neighbours. It states that guests rarely use the communal garden area and that the owners of 9C and 9D have agreed that their guests will only use the garden in the morning for drying clothes. It also states that, as the flatted building is served by a main door that opens directly onto a busy part of the main road, the flats are not ideally suited for family homes but rather are ideal for single persons, couples or for renting to holiday makers.

(E)

Gullane Area Community Council, as a consultee to this planning application, note that the holiday let is for typical Airbnb type use. They state that there is no available parking at the property and that the general location is busy and often short of available parking. They also state that the property shares an entry with a number of other flats creating the potential for

disturbance. They state that given the difficulties related to parking and the size of the flat, and if the Council are minded to grant planning permission for the change of use, they ask that the level of occupancy be restricted for use by two people only.

This application seeks retrospective planning permission for the change of use of a one bedroom second floor flat to a one bedroom unit of holiday let accommodation. The holiday let comprises of one double bedroom, a sitting room, an open plan kitchen/dining room, a lounge, a hallway with storage areas and a bathroom. The second floor flat is capable of accommodating/sleeping 2 people.

(F) 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 Gullane 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.

(G) 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.

(H) 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.

**J** 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.

**K** 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.

**L** The Council's Road Services raise no objection to this retrospective application and note that the property is situated within a block of flats where residents/visitors are required to park on the street, which is considered appropriate for this property. They also 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.

**M** The applicant's property is a one bedroom flat located at second floor level within a two storey residential flatted building, with accommodation in its roof space, which contains a total of 4 residential properties (2 flats at first floor level and 2 flats at second floor level). The property the subject of this retrospective application shares a communal front entrance door, hallway and internal communal stair with three other residential properties within the flatted 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 entrance, hallway and internal stair 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 entrance, hallway and internal stair which in itself 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 9 Stanley Road. 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.

**N** 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 entrance, hallway and internal stair 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 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 9 Stanley Road.

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 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, which contains permanent/long term residences which share a communal entrance, hallway and internal stair, the retrospective change of use of the applicant's second floor flat as a two bedroom unit of short term self-catering holiday let accommodation is incompatible with and harmful to the amenity of the occupiers of the properties within the residential building. 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) the property is in the North Berwick Coastal Ward; (ii) the property is a one bed which are in high demand; (iii) the applicant has stated that the flat would be rented out on a long term basis, in the event that planning permission for a short term let is refused, which would be a significant contribution to the housing system. Accordingly, the Council's Housing Strategy & Development Service object to this retrospective planning application.

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 Gullane 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) non-serviced accommodation (short term holiday lets) contribute positively to the local economy (£279m in 2019) and the applicant's flat accounts for 2 bedspaces and a potential annual economic impact of £45,454 and 1FTE job; (iv) 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 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 second 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

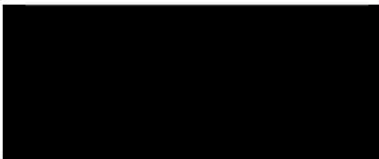
accordance with the Development Plan and there are no material planning considerations that outweigh the fact that the change of use is not in accordance with the Development Plan.

The application property of 9D Stanley Road, Gullane 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 9 Stanley Road 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**



10th October 2023



3 Esk Glades  
50 Musselburgh Road  
Dalkeith  
EH22 1UZ

8<sup>th</sup> November 2023

To  
Clerk to the Local Review Body  
Committee Team  
Communications and Democratic Services  
John Muir House  
Haddington  
East Lothian  
EH41 3HA

Dear Sir,

**9D Stanley Road, Gullane, EH31 2AD**

**App no. 23/00825/P**

Reference the above I am extremely disappointed that planning approval has not been approved.

I have spoken to my Solicitor and would confirm my intention to make a formal appeal.

Prior to submitting a detailed response, I would be obliged if the Council could answer two fundamental questions:

1. Has any property in East Lothian been granted Planning Permission for a short term let if it has a common stair?

If there has- then there is absolutely no reason why my property should not also be granted consent.

a) There have been no objections from anyone regarding my planning application for a short term let.

b) In the four-year period I have been letting the property there has never been a single complaint from anyone.

c) There are four residents in the stair-all of them support the use of my property as a short term let.

d) There is no likelihood of any anti-social behaviour. The property is a one-bedroom flat with a double bed. Maximum occupancy is two people. It is exclusively let to a single person or couples.

e) Like all holiday properties there is economic benefit. All guests spend money on the wide range of facilities that East Lothian has to offer.

2. If no properties with a common stair in East Lothian have been granted planning consent for short term holiday lets, then it is obvious that there is a predetermined agenda to issue blanket refusals.

Is this lawful? There are thousands of properties in the Edinburgh area that are holiday lets and have common stairs.

If no properties in East Lothian have been granted consent it follows that the council have deliberately or unintentionally misled me into making a Planning Application and a Licence Application without any possibility of success.

In addition to the fees this has cost me a few thousand pounds. If this is the case, it seems fair and reasonable that the Council reimburse me of these costs.

I would be obliged if you could answer these points so I can make a considered detailed response.

Yours Faithfully

Brian Reid

3 Esk Glades  
50 Musselburgh Road  
Dalkeith  
EH22 1UZ

14<sup>th</sup> December 2023

To  
Planning Service  
John Muir House  
Haddington  
East Lothian  
EH41 3HA

Dear Sir,

**9D Stanley Road, Gullane, EH31 2AD**

**App no. 23/00825/P**

Reference my letter of 8<sup>th</sup> November 2023 and your letter of 14<sup>th</sup> November 2023 (copies attached).

I have still not received a response.

Can you please provide this as soon as possible. I have already indicated that I will appeal the planning decision but require the reply from you.

On a separate matter I have been contacted by the License Department that deals with Short Term Letting applications. They were processing my application??

Can you confirm that no licenses will be issued to any properties that do not have a Change of Use Planning Consent?

Yours Faithfully

Brian Reid

From: **Millar, Neil** nmillar@eastlothian.gov.uk  
Subject: **RE: 23/00825/P**  
Date: **21 Dec 2023 at 10:48:25**  
To: 

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Dear Mr Reid,

I have been forwarded on a copy of your letters dated 8<sup>th</sup> November and 14<sup>th</sup> December (attached for ease). I note that your original letter of 8<sup>th</sup> November raises a couple of questions which I have been asked to respond to.

Your first question is *'Has any property in East Lothian been granted for a short term let if it has a common stair?'* My response to this question is yes, I can confirm that planning permission has been granted for the change of use of a flat to short term holiday let accommodation that shares a common stair.

However, as previously outlined to you in my email of 11<sup>th</sup> October, each application is determined on its own merits given the particular circumstances of each individual case. In your specific case, planning permission 23/00825/P was refused for the reason being that *'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 9 Stanley Road 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'*.

Your second question is that *'If no properties with a common stair in East Lothian have been granted planning consent for short term holiday lets then it is obvious that there is a predetermined agenda to issue blanket refusals'* and you then ask *'Is this lawful?'* before making reference to properties in Edinburgh that share a common stair. However, your letter doesn't state whether or not those properties in Edinburgh were granted or refused planning permission and, in any event, the answer to your first question is yes.

I note that you seek to appeal against the Council's decision to refuse planning application 23/00825/P and my understanding is that the Council's Committees Officer, Fiona Currie, has recently been in touch with you in that regard.

Regards

Neil



Subject: **Re: 23/00825/P**

Date: **21 Dec 2023 at 21:10:53**

To: **Millar, Neil nmillar@eastlothian.gov.uk**

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**Neil**

**Thank you for your emailed response.**

**I am comforted by the fact that properties (or at least one) with a common stair have been granted change of use Planning consent in East Lothian.**

**Completed bemused however if that is the case why my property doesn't meet that criteria also.**

**The crucial reason for refusal "unacceptable impact on local amenity and harmful to the occupants of the other flatted properties" is completely untrue. Therefore it seems to me the decision is based largely on a preconceived opinion and not based on the facts.**

**The facts are:**

**There were no objections to the Planning Application**

**There has never been any complaints.**

**The four residents in the common stair support the Application. They have no issues with short term holiday lets.**

**My property has one bedroom - only permits two people, usually couples. Nearly all lets are UK based and arrive and depart during daytime hours. There is no likelihood of any antisocial behaviour.**

**There is no additional impact to traffic or parking.**

**I don't feel my application has been fairly considered.**

**I appreciate I now have to make my formal appeal but I would be obliged if you could pass these comments to the relevant people involved.**

**Regards**

**Brian Reid**

**Sent from my iPad**

