

LOCAL REVIEW BODY

29th February 2024

Application No: 23/00714/P

1B Shorthope Street, Musselburgh

Appointed Officer's Submission

23/00714/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 1B Shorthope Street, Musselburgh.

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1. Statement of Case: Officer's report for planning application 23/00714/P.
2. Copy of stamped refused drawings relating to planning application 23/00714/P.
3. Copy of Decision Notice (including reason for refusal) relating to planning application 23/00714/P.
4. Copy of consultation responses from Ant-Social Behaviour, Police Scotland, Environmental Health, Road Services, Economic Development, Housing Strategy and Development.
5. Copy of Policies 7 (Historic assets and places) and 30 (Tourism) of National Planning Framework 4 and Policies RCA1 (Residential Character and Amenity), CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), CH5 (Battlefields), 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

7th September 2023

App No. **23/00714/P**

Application registered on **19th July 2023**
Target Date **18th September 2023**

Proposal	Change of use of flat to short term holiday let (Retrospective)	SDELL	N
		CDEL	N
Location	1B Shorthope Street Musselburgh East Lothian EH21 7DB	Bad Neighbour Development	N

APPLICANT: **Miss Katherine Seale**

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

**8 Bellfield Avenue
Musselburgh
East Lothian
EH21 6QU**

DECISION TYPE:

Application Refused

PLANNING ASSESSMENT

The property to which this application relates is a first floor flat set within a three storey flatted building accessed via a communal entrance to the north elevation of the building. The south elevation of the building contains a commercial property at ground floor level. The property is located within Musselburgh Town Centre as defined by Policy TC2 of the adopted East Lothian Local Development Plan 2018. The building is also listed as being of special architectural or historic interest (Category C) and is situated within the Battle of Pinkie Cleugh Historic Battlefield Site.

The building is bounded to the north by residential properties, to the east by a mix of commercial properties at ground level with residential properties situated above, to the south by the public road of High Street and to the west by the public road of Shorthope Street.

Planning permission is sought retrospectively for the change of use of the residential first floor flat of 1B Shorthope Street, Musselburgh 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 proposed change of use.

Subsequent to the registration of the application the applicant has confirmed in writing that (i) the property has been marketed/used as a short term holiday let since July 2022; (ii) there is a 2 night minimum stay and a maximum stay of 28 days; (iii) the property can accommodate a maximum of 4 people; (iv) the recycling is disposed of after each stay and is managed by the applicant or a cleaner. The property is cleaned after each guest check-out and rubbish is disposed of in the bins provided in the property; (v) stays are managed through Airbnb and the guests check-in through a self-check-in system, details of which are provided on the Airbnb booking. Access to the property is through a coded gate and then keys to the property are accessed via a lock box with a code provided to guests; (vi) during the 'high season' (April - October) there is a 97% occupancy rate with an occupancy rate of 75% between November and March. The busiest time for bookings is August; (vii) there are 6 bookings for 2024 and the applicant does not take booking for 2025 as this is too far in advance. The applicant notes the property is consistently booked until December 2023; (viii) The property is typically let to couples and some families although the applicant notes workers working in the local area also let the property for a week and the applicant notes the property has been booked by construction companies 3 times for this purpose; (ix) the applicant notes guests travel from all over the world but the majority are from Europe and America although the property is well used by Scottish guests as well with return guests; (x) the property is marketed on Airbnb and the applicant is not a member of any industry bodies or accreditation schemes but is a registered landlord; (xi) the short term letting of the property benefits the local economy as the applicant hires a cleaner who cleans the property 2-3 times a week and also hires a local window cleaning company who clean the windows monthly. Guests also shop and eat locally on the High Street; (xii) the applicant notes the income from the property is used as part of their main living income and it also covers the fees and costs of running the Airbnb; (xiii) there are 2 flats on each floor of the building with 4 flats in total including the applicants'; and (xiv) the flat has a shared main door and stairwell.

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.

Material to the determination of the application are Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and NPF4.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Also 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 states that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area.

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), CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), CH5 (Battlefields), 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.

No public letters of objection have been received in relation to the application.

This application seeks retrospective planning permission for the change of use of a one bedroom, first floor flat to a one bedroom unit of holiday let accommodation. The holiday let comprises of a living room, kitchen, bedroom, bathroom and hall. The 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 retrospective 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 of the application property to a unit of holiday let accommodation upon 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 no records of any incidents relating to 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 and thus they raise no objection to this retrospective planning application.

The Council's Roads 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 first floor level within a three storey flatted building which contains a commercial business at ground floor level which fronts onto High Street. There is a communal entrance and garden accessed via a secure gate from Shorthope Street which provides access to an internal communal stair. The flatted building contains 4 flats, including the applicants' property.

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 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. This is harmful to the amenity of the occupants of the residential properties within the residential flatted building. 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 is also 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 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 of the amenity of the occupants of the residential properties within the residential flatted building.

Moreover, allowing frequently changing guests unfettered access to otherwise secure shared areas 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 named, which contains a number of permanent/long term residences which share a communal entrance, internal stair and hallway, the retrospective change of use of the applicant's first floor flat as a one 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 named. 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 they object to this retrospective application as the change of use of this property from a long term residential dwelling to a short term let is considered a significant loss as the property is located in Musselburgh where a substantial need for long term 1 bed properties exists and the short term let is not considered to be long term established.

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 Musselburgh 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 bed spaces 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 first 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 1B Shorthope 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 a residential dwellings within the residential building of 1 Shorthope Street, Musselburgh 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

7th September 2023



LAND REGISTER
OF SCOTLAND

Officer's ID / Date

5371
22/4/2013

TITLE NUMBER

MID145662



ORDNANCE SURVEY
NATIONAL GRID REFERENCE

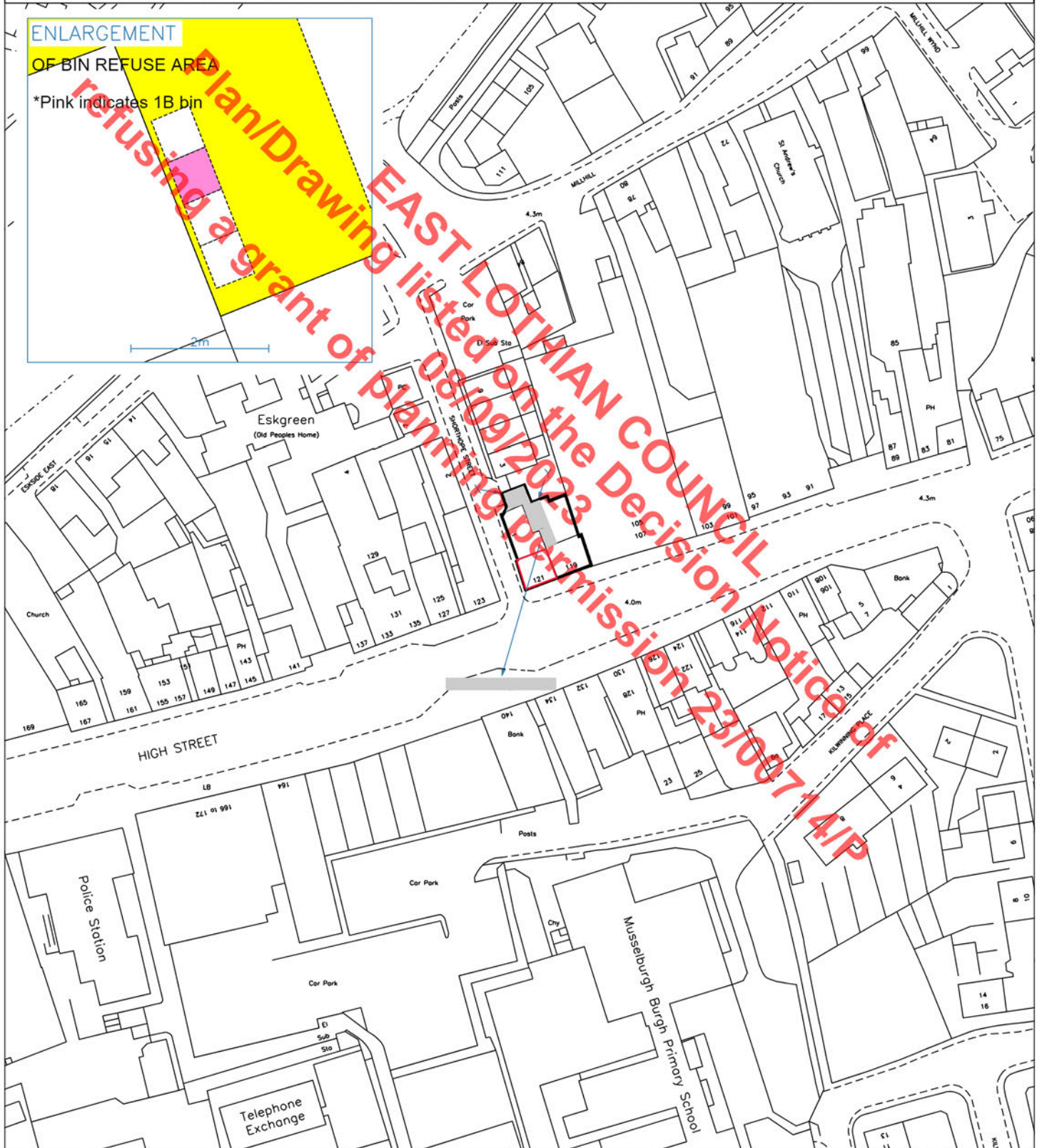
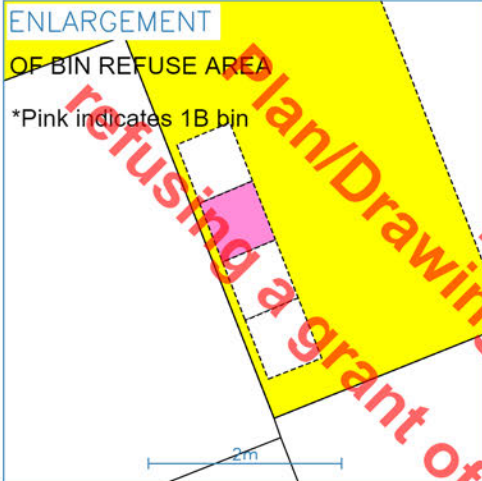
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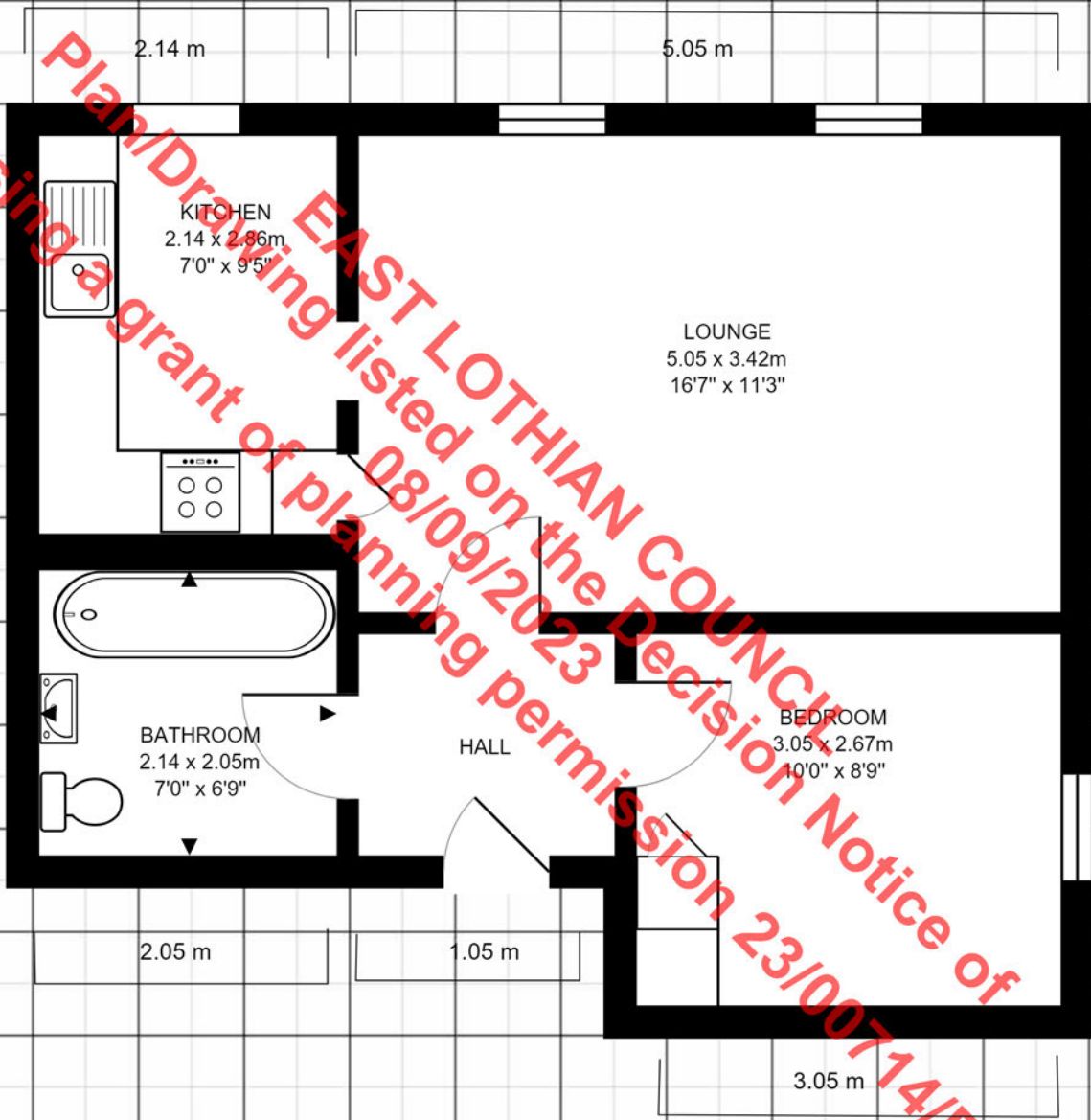
NT3472NW NT3472NE

Survey Scale

1/1250

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refusing a grant of planning permission 23/00714/IP
EAST LOTHIAN COUNCIL
08/09/2023
Decision Notice of

App No. 23/00714/P

**EAST LoTHIAN COUNCIL
DECISION NOTICE**

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

**Miss Katherine Seale
8 Bellfield Avenue
Musselburgh
East Lothian
EH21 6QU**

APPLICANT: Miss Katherine Seale

With reference to your application registered on 19th July 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

**1B Shorthope Street
Musselburgh
East Lothian
EH21 7DB**

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 a residential dwellings within the residential building of 1 Shorthope Street, Musselburgh 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>
DWG 01	-	13.07.2023
DWG 02	-	19.07.2023

8th September 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.

From: [Raselli, Gail](#)
To: [Environment Reception](#)
Subject: RE: 23/00714/P-James Allan - Planning Consultation
Date: 09 August 2023 10:22:39

Morning

We have a log on our register about issues relating to noise from commercial refrigeration and air con units from the Fruit Shop below which were being dealt with by EP. Suggest EP will be in a better position to confirm how this could impact.

Thanks,
Gail

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

From: Black, Kenneth [REDACTED]
Sent: 08 August 2023 10:37
To: Raselli, Gail [REDACTED]
Subject: FW: 23/00714/P-James Allan - Planning Consultation

GR
Can you oblige.
KB

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

From: Environment Reception <environment@eastlothian.gov.uk>
Sent: 08 August 2023 10:33
To: Black, Kenneth [REDACTED]
Subject: 23/00714/P-James Allan - Planning Consultation

Please see attached document in relation to the following application: Change of use of flat to short term holiday let (Retrospective) at 1B Shorthope Street Musselburgh East Lothian EH21 7DB

From: [Baird, Elaine](#)
To: [Environment Reception](#)
Subject: RE: 23/00714/P-James Allan - Planning Consultation [OFFICIAL]
Date: 09 August 2023 11:24:29

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 afternoon

No police incidents reported at the address. Check covered the last 3 years.

Many thanks

Elaine

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

From: environment@eastlothian.gov.uk [<mailto:environment@eastlothian.gov.uk>]

Sent: 08 August 2023 10:36

To: [REDACTED]

Subject: 23/00714/P-James Allan - Planning Consultation

Please see attached document in relation to the following application: Change of use of flat to short term holiday let (Retrospective) at 1B Shorthope Street Musselburgh East Lothian EH21 7DB

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From: [Clark, Colin - FHO](#)
To: [Environment Reception](#)
Cc: [Allan, James](#)
Subject: RE: 23/00714/P-James Allan - Planning Consultation
Date: 09 August 2023 11:47:23

I refer to your consultation request of 08th 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 or [REDACTED] | Email. [REDACTED] | Visit our website at www.eastlothian.gov.uk

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

From: Environmental Health/Trading Standards <ehs@eastlothian.gov.uk>

Sent: 08 August 2023 10:37

To: [REDACTED]

Subject: FW: 23/00714/P-James Allan - Planning Consultation

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

From: Environment Reception <environment@eastlothian.gov.uk>

Sent: 08 August 2023 10:35

To: Environmental Health/Trading Standards <ehts@eastlothian.gov.uk>

Subject: 23/00714/P-James Allan - Planning Consultation

Please see attached document in relation to the following application: Change of use of flat to short term holiday let (Retrospective) at 1B Shorthope Street Musselburgh East Lothian

EH21 7DB

From: [Hussain, Aizaz](#)
To: [Environment Reception](#)
Cc: [Lennock, Ian](#); [Environment Reception](#)
Subject: TRANSPORT PLANNING RESPONSE: 23/00714/P- Planning Consultation
Date: 18 August 2023 12:50:17

EAST LoTHIAN COUNCIL ROAD SERVICES

From: Asset & Regulatory Manager

To: Service Manager, Planning

Proposal: Change of use of flat to short term holiday let (Retrospective) at 1B Shorthope Street Musselburgh East Lothian EH21 7DB

This planning application is for a retrospective change of use of flat to a short-term holiday let, located at 1B Shorthope 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



East Lothian Council

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

PLANNING APPLICATION RESPONSE – SHORT TERM HOLIDAY LETS

The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee and on the basis of the information provided. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.

Planning application reference – 23/00499/P

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

Location – 1B Shorthope Street, Musselburgh, EH21 7DB

Planning Officer – James Allan

ECONOMIC DEVELOPMENT POLICY BACKGROUND

The East Lothian Community Planning Economic Development Strategy 2012-22 was adopted by East Lothian Council on 9th October 2012 and the mid-term refresh was concluded December 2018. Economic development is a key priority for East Lothian and is at the forefront of The East Lothian Partnership Plan 2017-27. The Economic Development Strategy 2012 to 2022 is a reflection of the priority placed on economic development and acts as a guiding framework for future activities. The Strategy is being reviewed and renewed during 2023 and continues to be in effect during that process. It sets out clear strategic direction and is the foundation of the vision set out in the East Lothian Plan of:

Working in partnership to achieve an even more prosperous, safe and sustainable East Lothian, with a dynamic and thriving economy that enables our people and communities to flourish.

To help achieve the vision, *two major strategic goals* have been set:

- To increase the proportion of East Lothian residents working in and contributing to East Lothian's economy.
- To increase the number of businesses in East Lothian with growth potential.

The two strategic goals are underpinned by five key objectives:

- To be the best place in Scotland to set up and grow an innovative business.
- To be Scotland's leading coastal, leisure and food & drink destination.
- To explore and develop regional opportunities to support economic development and to encourage study, work and spend in East Lothian.
- To provide high quality employment pathways for East Lothian's workforce.
- To become Scotland's most sustainable and digitally-connected local economy.

EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

Short Term Holiday Lets in East Lothian

Tourism is a mainstay of the East Lothian economy employing 10% of the workforce (3,075 FTE jobs). Overnight visitors contributed a total of £155m to the local economy in 2021, of that £60.1m was by visitors staying in local non-serviced accommodation. The majority of visitors to East Lothian are repeat visitors, 81%. The 2021 figures show significant negative impact following COVID-19 and taken in isolation are not representative of the value of tourism to the East Lothian economy in 'normal' times. Below we have used the figures from 2019 which was the last pre-COVID-19 year for the sector.

Short term holiday lets, whether flats or houses, are classed as non-serviced accommodation. Stays in this type of accommodation have become increasingly popular in recent years. In 2003, 6% of visitors stayed in a rented house or flat, rising to 30% in 2021. Other forms of accommodation have shown a fall in popularity over the same period, e.g. caravan parks, B&B/ guest houses, serviced apartments, and staying with friends / relatives. Most operators of short term holiday lets in East Lothian are small or micro businesses. Hotel stays during this period have also risen, although there was drop from 20% of stays to 19% between 2018 and 2021 representing a switch to non-serviced accommodation over the COVID-19 period. It remains to be seen if this is a developing trend. Hotel accommodation, and especially accommodation in larger hotels, is limited in East Lothian, promotion to overnight visitors is therefore focused on independent travellers, and not on-group travel.

Accommodation available to visitors does not operate in isolation. It forms a crucial part in the overall experience and destination offer. It is also the case that an increasing number of those staying in East Lothian's serviced and non-serviced accommodation are in the area for work. Significant numbers of workers visit the area regularly in association with the operation and maintenance of Torness Power Station and the Viridor Energy Recovery Facility as well as major sporting events e.g. golf tournaments. Over the next 10-15 years significant new projects to develop electricity grid connections for renewable energy and the decommissioning of Torness are anticipated to place high demand on local accommodation, and there is a risk that this may reduce the number of overnight stays by tourists to the area due to a shortage of beds. Any loss of bed stocks will negatively impact on many sectors that rely on the visitor economy including food and drink, retail, attractions, and activities.

Analysis commissioned by the Economic Development Service of the economic impact of non-serviced accommodation in East Lothian is detailed below. This is based on analysis of economic data from 2019, the last year not to have been impacted by COVID-19.

2019	Total Accommodation	Total Excluding Shared Access NSA	Impact of Removing Shared Access NSA
Number of NSA Establishments	203	114	-89
Number of NSA Bedspaces	6,111	5,495	-616
NSA Visitor Numbers	130k	110k	-20k
NSA Visitor Days	853k	721k	-132k

EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

Direct Economic Impact	£210m	£200m	-£10m
Indirect Economic Impact	£69m	£65m	-£4m
Total Economic Impact	£279m	£265m	-£14m
VAT Revenue	£35m	£33.4m	-£1.6m
NSA Direct Employment (FTEs)	1,007	740	-267
Total Employment (FTEs)	4,434	4,104	-330

There are 89 NSA units in the data set that contribute 616 bedspaces of local accommodation. The total annual economic impact of those as short term holiday lets is £14m, or £140m over the next ten years (at 2019 rates). Those 89 short term lets support 330FTE jobs in East Lothian. Each bedspace in an NSA short term let provides £22,727 of annual economic benefit and supports 0.5FTE jobs in East Lothian.

The impact of removing flats, studio flats, and apartments from non-serviced accommodation bedstock is evident. Fewer staying visitors would be able to stay within the area; the estimated drop in staying visitor numbers is 20,000 with a corresponding drop of 132,000 visitor days. Visitor days take into account those visitors who stay at any destination for more than a day. For example, if a family of five stay three nights, they will not only account for five visitors, but also fifteen visitor days.

The drop in staying visitors would have a corresponding effect on the economic impact of visitors to the area, reducing direct expenditure related to NSA by £10m, and by conservatively taking the wider supply chain into consideration, an overall total economic reduction of £14m to the visitor economy. The negative economic impact would further result in a reduction in VAT revenue of £1.6m. In 2019, the average NSA generated c£86k towards the local visitor economy, buoyed up by the use of the sector by golfers, especially during major golfing competitions.

The above reductions in bedstock and estimated staying visitor numbers would not only impact visitor expenditure and total economic impact, but also employment related to servicing and maintaining 89 properties if removed from accommodation bedstock. Should that happen, there is an estimated direct loss of 267 FTE jobs. Conservatively taking into account the supply chain and indirect employment, there is an estimated total loss of employment of 330FTE jobs within the wider tourism sector.

The needs of those seeking NSA are largely based on length of stay, and for staying visitors to East Lothian the current average length of stay in NSA 6.7 days, which suggests a high level of week-long rentals. It is therefore unlikely this segment of the visitor population would consider serviced accommodation for this length of stay due to cost and difference in amenities and independence, and would therefore seek accommodation out-with East Lothian, with the subsequent loss to the local visitor economy. The economic impact of visitors staying in the area for a week in NSA, far outweighs that of visiting the area as a day tripper- the average spend per person of those staying in NSA in 2019 was £97.44 per day, and £643.13 per stay; the average spend per day tripper was £52.52.

EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

Context

Economic Development has been asked to comment on the above application for change of use from a flat to a short term holiday let in the context of National Planning Framework 4 Policy 30 (Tourism) Part e) development proposals for the reuse of existing buildings for short term holiday letting. The intent of Policy 30 is to encourage, promote and facilitate sustainable tourism development that benefits local people, is consistent with [Scotland's] net zero and nature commitments, and inspires people to visit Scotland. The intended outcomes of Policy 30 are for communities and places to enjoy economic, social and cultural benefits from tourism, supporting resilience and stimulating job creation.

The short term let in question is a 1st floor flat located within Musselburgh. The applicant has indicated that the property has been used as a holiday let since 2022, achieving 95% occupancy April to October and 75% November to March and hosting guests from around the world, especially in connection with the Edinburgh Festivals. The applicant has provided information on the benefits to the local economy, including examples of local businesses that benefit from their visitors. The applicant has indicated that they have a number of forward bookings for the 23/24 and 24/25 season.

The applicant has additionally indicated that they have a good relationship with the other owners / occupants of the building, and organise and pay for the ongoing maintenance of shared spaces.

Economic Development Recommendation

It is the view of the Economic Development Service that in terms of National Planning Framework 4 Policy 30 part e) ii. 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 and unacceptable impact on local amenity, the character of the area, or loss of residential accommodation. Furthermore, new applications for short term lets should be supported and encouraged in order that East Lothian continues to expand its capacity to host overnight visitors.

In the above noted case the Economic Development Service **supports** the proposal for change to short term holiday let.

Reason(s):

- The operation of short-term holiday letting is a bonafide business activity that contributes to employment and economic benefit in East Lothian. The proposal provides high-quality tourist accommodation attracting visitors to Musselburgh 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. Visitors staying overnight in non-serviced accommodation contributed £60.1m to the local economy in 2021, a

EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

figure which has been rising year on year. The majority of visitors to East Lothian are repeat visitors, 81%, and rely on good availability of high quality accommodation year on year to facilitate this.

- Non- serviced accommodation (short term holiday lets) contribute positively to the local economy (£279m in 2019), this property accounts for 4 bedspaces and a potential annual economic impact of £89,000 and 2FTE jobs. This is borne out by the supporting information provided by the applicant, though we note that the applicant has indicated that 2 to 3 occupants is the norm.
- An increasing number of overnight stays in East Lothian are for work purposes, e.g. major events, servicing major infrastructure. This is expected to increase over the next 10-15 years as more nationally significant infrastructure is developed or decommissioned in East Lothian. In this context, the loss short term accommodation is likely to have significant negative impact on the local tourist economy in monetary and reputational terms.

This proposal supports the following strategic goals and objectives of the Economic Development Strategy 2012-2022:

- To be Scotland's leading coastal, leisure and food & drink destination.
- To explore and develop regional opportunities to support economic development and to encourage study, work and spend in East Lothian.

The proposal supports the intent and outcomes of National Planning Framework 4, Policy 30 (Tourism):

- To encourage, promote and facilitate sustainable tourism development that benefits local people, is consistent with [Scotland's] net zero and nature commitments, and inspires people to visit Scotland.
- Communities and places enjoy economic, social and cultural benefits from tourism, supporting resilience and stimulating job creation.

Additional recommendation(s)

- That should the application be refused all bookings for 2023/24 should be allowed to be honoured by the applicant, subject to any requirement to obtain a short term let licence.

Response author: Jamie Baker, Service Manager, Economic Development **Date:** 29/08/2023

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.

Short Term Lets (STLs) by Area Partnership, Snapshot October 2022.			
Area Partnership	PRS	Number of STLs	% of STLs
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%
Total	5960	387	100%

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 adaptable¹: 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.

¹ 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 – 23/00714/P

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

Location – 1B Shorthope Street, Musselburgh, East Lothian, EH21 7DB

Planning Officer – James Allan

Housing Strategy has been asked to comment on the approval of the change of use of 1B Shorthope Street, Musselburgh, East Lothian, EH21 7DB to a short term holiday let. The proposal is a first application for planning permission for short-term letting. 1B Shorthope Street has been marketed as a holiday let since July 2022. Occupancy rate lie at 97% April- October and 75% November- March. The property has also been let to seasonal workers previously. The property is a one bedroom flat accessed through communal stairs and is located on the first floor.

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:

- The property is located in Musselburgh where a substantial need for long term 1 bed properties exists.
- The short term let is not considered long term established.

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 Krippner – Housing Strategy Officer

Date: 17/08/2023

National Planning Framework 4

Policy 7 (Historic assets and places)

(a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change. Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.

(b) Development proposals for the demolition of listed buildings will not be supported unless it has been demonstrated that there are exceptional circumstances and that all reasonable efforts have been made to retain, reuse and/or adapt the listed building. Considerations include whether the: i. building is no longer of special interest; ii. building is incapable of physical repair and re-use as verified through a detailed structural condition survey report; iii. repair of the building is not economically viable and there has been adequate marketing for existing and/or new uses at a price reflecting its location and condition for a reasonable period to attract interest from potential restoring purchasers; or iv. demolition of the building is essential to delivering significant benefits to economic growth or the wider community.

(c) Development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.

(d) Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the: i. architectural and historic character of the area; ii. existing density, built form and layout; and iii. context and siting, quality of design and suitable materials.

(e) Development proposals in conservation areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting, including structures, boundary walls, railings, trees and hedges, are retained.

(f) Demolition of buildings in a conservation area which make a positive contribution to its character will only be supported where it has been demonstrated that: i. reasonable efforts have been made to retain, repair and reuse the building; ii. the building is of little townscape value; iii. the structural condition of the building prevents its retention at a reasonable cost; or iv. the form or location of the building makes its reuse extremely difficult.

(g) Where demolition within a conservation area is to be followed by redevelopment, consent to demolish will only be supported when an acceptable design, layout and materials are being used for the replacement development.

(h) Development proposals affecting scheduled monuments will only be supported where: i. direct impacts on the scheduled monument are avoided; ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.

(i) Development proposals affecting nationally important Gardens and Designed Landscapes will be supported where they protect, preserve or enhance their cultural significance, character and integrity and where proposals will not significantly impact on important views to, from and within the site, or its setting.

(j) Development proposals affecting nationally important Historic Battlefields will only be supported where they protect and, where appropriate, enhance their cultural significance, key landscape characteristics, physical remains and special qualities.

(k) Development proposals at the coast edge or that extend offshore will only be supported where proposals do not significantly hinder the preservation objectives of Historic Marine Protected Areas.

(l) Development proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved.

(m) Development proposals which sensitively repair, enhance and bring historic buildings, as identified as being at risk locally or on the national Buildings at Risk Register, back into beneficial use will be supported.

(n) Enabling development for historic environment assets or places that would otherwise be unacceptable in planning terms, will only be supported when it has been demonstrated that the enabling development proposed is: i. essential to secure the future of an historic environment asset or place which is at risk of serious deterioration or loss; and ii. the minimum necessary to secure the restoration, adaptation and long-term future of the historic environment asset or place. The beneficial outcomes for the historic environment asset or place should be secured early in the phasing of the development, and will be ensured through the use of conditions and/or legal agreements.

(o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Where impacts cannot be avoided they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority to enable agreement on appropriate inspection, recording and mitigation measures.

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.

CH1 (Listed Buildings)

Internal or external alterations or extensions to listed buildings will only be permitted where they do not harm the architectural or historic character of the building.

The demolition of a listed building will not be permitted unless the building is no longer of special interest, is incapable of repair or there are overriding environmental or economic reasons, and it must be satisfactorily demonstrated that every effort has been made to continue the present use or to find a suitable new use.

New development that harms the setting of a listed building will not be permitted.

CH2 (Development Affecting Conservation Areas)

All development proposals within or affecting a Conservation Area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area. Proposals for new development should accord with the size, proportions, orientation, alignment, density, materials, and boundary treatment of nearby buildings and public and private spaces. Parking requirements of new developments must accord with the Council's adopted parking standards unless it can be demonstrated that a reduced level of parking (which in exceptional circumstances could be no parking provision) will achieve positive townscape benefits without compromising road safety.

The Council will set out in supplementary planning guidance more detailed policies on the circumstances in which it would support proposals for alterations to shop fronts, external security, external wall treatment and the display or installation of advertisements in Conservation Areas.

CH5 (Battlefields)

Development within a site listed in the Inventory of Historic Battlefields will not be permitted where it would have a significant adverse effect on the key features of the battlefield, including its key landscape characteristics and special qualities, unless it can be demonstrated that the overall integrity and character of the battlefield area will not be compromised. Any new development supported in such areas must provide appropriate mitigation that conserves or enhances the key features of the battlefield, including through siting, scale, design and landscape treatment and, where relevant, contributes to the understanding of the battle and historic assets, particularly with respect to any archaeological deposits found in situ (See Policy CH4).

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 – 23/00714/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 four 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.