

19 Silverburn Drive

Penicuik

Midlothian

EH26 9AQ

23rd February 2024

Ref: Application for Planning (ref 23/00938/P) accompanying letter to formal appeal submission to contest the rejection of the application for a licence for 'change of use of flat from residential to a mixed use of residential and short term let'

Dear Fiona

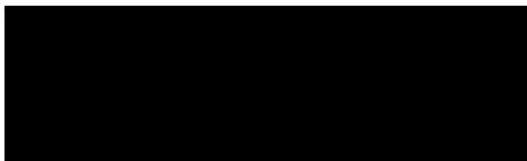
In response to your email of the 20th December 2023 informing me as to how to frame an appeal against the above stated decision, I now formally submit my appeal.

In addition to the required completed 'Notice of Review' form, I also enclose an annotated extract from the 'Officer Report' that gave the rationale for the Council's 'rejection' decision and additional guest reviews gathered since the date of my submission for a change of use in October. The annotated extract proves that the original decision was flawed (i.e. plain wrong!) and the additional guest reviews prove that what you have rejected is high quality visitor accommodation.

I understand that you now have all the documentation you need to make a final decision. Please give my appeal full consideration as I still hope (in a small but significant way) to help increase the stock of high quality visitor accommodation in Dunbar and in so doing help stimulate the local economy. I look forward to your response.

Please note that should your decision be to uphold the rejection for a change of use then I urge you to refund me £1040 paid for originally the short term lets licence application (£390) and then an additional payment for the planning application (£750). It will then be clear that your unwritten rule of 'no licences for main door flats' has been implemented once again and that my application has not been considered 'on its own merits' and the result been decided as a refusal from the start.

Yours Sincerely

A large black rectangular redaction box covering the signature area.

Mary Anne Donkin

Summary of 'Short Let' Reviews since October 2023

Earlier reviews (i.e. before the submission of the planning application in October) are already available to the review panel as they are included with the application. Subsequent reviews (included below) are also glowing and indeed all are '5 star' reviews. In conclusion, the reviews evidence that guests consider 114a High Street Dunbar to be high quality visitor accommodation.

[REDACTED]
Mary Anne Donkin

Reviews since October 2023

From guests

[REDACTED]
February 2024

Flat was spotless and I felt right at home. The host was lovely and friendly, everything was perfect. I'd recommend anyone to stay here you'd be just as pleased as me.

[REDACTED]
December 2023

This was a last minute booking for family over Christmas and Mary Anne was super accommodating and great to communicate with. The living room felt very homely especially with a tree and a few other decorations up.

Response from Mary Anne

December 2023

Thanks for this feedback [REDACTED] and I am so pleased that your parents enjoyed their stay

[REDACTED]
December 2023

Really good stay at Mary Anne's. Cosy & comfortable. Perfect for a quick one overnight stay.

[REDACTED]
December 2023

Everything we needed and a very friendly welcome

[REDACTED]
December 2023

Always an easy stay ! I love the little extra touches . Chocolate biscuits ,mice feet 😊 Shower gel ! Clean big towels ! One off my favourite Airbnbs

██████████
November 2023

Great flat on Dunbar High Street that felt very homely. Hosts very helpful and allowed us to extend our stay, thank you.

Response from Mary Anne

December 2023

Thanks for a splendid review ██████████. you will be welcome back any time ! Best wishes .. Mary Anne

██████████
October 2023

Mary and her husband are always accommodating. Love this little flat

██████████
October 2023

We were in Dunbar for a wedding and this lovely property was a perfect place to stay. A beautiful flat with everything we needed. The host was responsive and helpful when organising our stay.

██████████
October 2023

We loved our stay in a warm ,cosy well equipped flat in the centre of a fascinating town. We went to the harbour, beach, John Muir museum, swimming pool and the great community bakery and craft shops. Made use of the nearby train to Edinburgh which is fast and convenient.

██████████
October 2023

This is a beautiful house to stay in. I felt immediately at home and loved the cosy living room and bedrooms. If you like to cook, the kitchen is big and incredibly well equipped. Mary Anne is a fabulous host and always available if you need any help. The house is on the high street so there is a little noise from the street especially in the front bedroom and living room. It didn't stop my children from sleeping though and meant that in the day we were right in the middle of everything. It couldn't have been easier. There are so many lovely cafes and shops. The toys were a lovely addition too and made us feel at home. We would love to come back soon!

Response from Mary Anne

November 2023

Thanks ██████████ for such a great review. Glad you enjoyed your stay. Very best wishes ... Mary Anne

Annotated extracts from Officer Report detailing the refusal to grant 'change of use from residential to mixed use of residential and short term let'.

The Officer Report seeming to make the case for application for a change of use to be granted

The most powerful case for awarding a licence is articulated by East Lothian Council's own Economic Development Service Manager as quoted below:

*"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 Dunbar 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 4 bedspaces and a potential annual economic impact of £90,908 and 2FTE jobs; (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"***

Elsewhere in the report it states:

"There is no public objection to this application"

"The proposal does not have a detrimental impact on the character and appearance of this part of the Dunbar Conservation Area"

"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 change of use of the flat from residential to a mixed use of residential and short term let provides holiday accommodation within Dunbar, when the applicant is not present at the property, that attracts visitors and encourages them to stay in East Lothian, which supports the existing established business and benefits the wider economy of East Lothian."

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

"Police Scotland advise that there have been no police incidents at this address (having checked their records over the last three years) and thus they raise no objection to this retrospective planning application."

"The Council's Road Services raise no objection to this retrospective application and note that the property has no private parking and thus residents/visitors are required to park on the street, or at the nearby car park, which is considered acceptable."

The Officer Report explaining the reasons for refusing the application

I have read and re-read the report many times and I note the reasons given for refusal of the application and can not comprehend how these reasons outweigh the benefits acknowledged above in the report. In the interests of balance, I quote the reasons here with some additional explanation relating to the relevant comments that the Service Planning Manager Mr Dingwall may not have considered.

"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"

This conclusion is at odds with the reports from the Council's Antisocial Behaviour Team and Police Scotland advice noting that during the period of use as a short term let there have been NO records of anti-social behaviour. Unlike Edinburgh, Dunbar is not 'stag/hen party town'. My guests have all been ordinary short break visitors who have respected the property and showed respect for the neighbours.

"The mixed use of the application property as a residential property and as a short term 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 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 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. It is accepted that permanent/long term 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."

I would argue strongly that the activity described above would NOT lead to a troublesome 'level of disturbance and nuisance'. It was the Council's own Planning Delivery Manager Emma Taylor who pointed out to me in her (what seemed like at the time) supportive site visit on the 5th October 2023

that because my flat is on the first floor and there are no residents on the ground floor then our neighbours on the second and third floor will not be disturbed or experience any sort of nuisance from guests accessing my flat. In short, this planned development is NOT harmful to the amenity of the occupants of the residential properties within the residential flatted building. This is further evidenced by the fact that none of my neighbours have objected to this development.

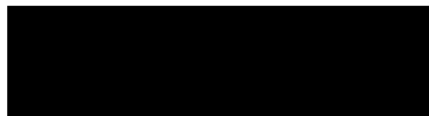
"Allowing frequently changing guests unfettered access to otherwise secure shared areas changes the actual and perceived level of security for the existing permanent residents. Whilst permanent/long term residents are likely to have visitors of their own from time to time, those permanent residents would remain in control of security to communal areas."

The security of the shared area has NOT been compromised. The exterior door to the communal flatted area is not controlled by an entry system. This was observed during the Council's site visit and hence it is disappointing to read that the perception is that existing security arrangements have been compromised.

In Summary

I urge those considering this appeal to re-read the Officer Report and also to consider the comments above. I would be very surprised if after further reflection it was still concluded that *"the local economic benefits associated with the use of the applicant's first floor flat operating as a two bedroom unit of short term self-catering holiday let accommodation does not outweigh the unacceptable impact on local amenity"*. ... unless

Unless there is another agenda that is not explicitly stated but has been empirically observed. I am connected with other applicants for a Short Term Lets licence for a flat within a main door entrance in the Dunbar area through our self-help group. I also read with interest the planning decisions made by East Lothian Council in the local press. I note that the explanation of the decision to refuse any variant of the 'short term lets' licence is uniformly *"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"*. I am not aware of the Council granting a licence to any flat that has main door entrance to a communal flatted area. I have been re-assured during the on site visit by Emma Taylor and during telephone calls with other Council Officers that each case 'will be considered on its own merits'. My case for a 'change of use' can not conceivably be stronger and if this appeal is not upheld I can only assume that the decision was taken before you even received my application. If you confirm the refusal please refund the £1040 paid to the Council charged for an application that was never going to be successful. I sincerely hope that my conclusion above is incorrect and that you are going to reverse your absurd decision to refuse the change of use and grant me a licence to continue to provide high quality accommodation for visitors to Dunbar.



Mary Anne Donkin