

LOCAL REVIEW BODY

31 October 2024

Application No: 24/00575/P

Flat 27, 1 Station Road, North Berwick EH39 4AT

Appointed Officer's Submission

Index of Contents

Planning Application no. 24/00575/P: Change of use of flat to short term holiday let (Retrospective), Flat 27, 1 Station Road, North Berwick, EH39 4AT.

1. Officer's report for planning application 24/00575/P.
2. Copy of the Decision Notice (including reason for refusal) relating to planning application 24/00575/P.
3. Copy of consultation responses from:
 - (i) ELC Economic Development; and,
 - (ii) Housing Strategy & Development.
4. Representations: 10x Objections;
5. Development Plan Policies:

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 ELLDP 2018 are relevant to the determination of this application.
6. Schedule of conditions.
7. Stamped Refused Drawings

OFFICER REPORT

20th August 2024

App No. **24/00575/P**

Application registered on **6th June 2024**
Target Date **5th August 2024**

Proposal	Change of use of flat to short term holiday let (Retrospective)	SDELL	Y
		CDEL	N
Location	Flat 27 1 Station Road North Berwick EH39 4AT	Bad Neighbour Development	N

APPLICANT: **TM Holiday Lettings**

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

**c/o Derek Scott Planning
Per Derek Scott
21 Lansdowne Crescent
Edinburgh
EH12 5EH**

DECISION TYPE:

Application Refused

PLANNING ASSESSMENT

The application property is a flatted dwelling located on the first floor of a five-storey flatted building which occupies a prominent position at the junction of Station Road and Station Hill in North Berwick.

The flat is accessed via a shared front & back entrance door, an internal communal stair and hallway. The flatted building is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018 ('ELLDP 2018'). It is also located within the North Berwick Conservation Area.

The property is bounded to the north and south by neighbouring properties of the wider flatted building complex, to the east by an area of private car parking servicing the flatted buildings and to the west by the public road of Station Road.

The first floor flat comprises of two bedrooms (one of which has an en-suite), a bathroom, a kitchen and a lounge with access to an external balcony. The flat also has its own allocated private parking space. The applicant's flat is 1 of 34 flats within the building as a whole. The flatted complex is split into a number of individual blocks of flats, each of these blocks has

their own individual stairwell, hallway entrance and lift. The application property along with a further 11 flats (nos. 23 - 34) share a front and rear entrance door, communal stairwell, lift and hallway and are known as 'Block 3'. All 11 flats within Block 3 are in residential use.

PLANNING HISTORY

An application for retrospective planning permission was submitted for the change of use of the same flat (Flat 27, 1 Station Road) under ref: 23/01509/P in January 2024. The application was refused in June 2024 for the reason 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 1 Station 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. " That decision was not appealed or taken to the Local Review Body.

APPLICATION

Planning permission is again sought retrospectively for the change of use of this two bedroomed residential flat at Flat 27, 1 Station Road, North Berwick to a two -bedroom unit of short-term self-catering holiday let accommodation. No alterations have been undertaken to the flat, either internally or externally, to facilitate the retrospective change of use.

Proposals remain the same as previously submitted under planning application ref: 23/01509/P. The only difference in this submission is that a Planning Statement has been submitted in support of the application.

The Planning Statement is summarised below:

- o The flat has been used as a unit of short term holiday let accommodation since May 2017;
- o Within that period, the flat has been occupied for an average of 67% of the calendar year (approx. 245 nights annually);
- o Other flatted properties (nos. 1, 8, 10 & 17) within the wider flatted complex have obtained certificates of lawfulness for use as short term holiday lets under refs: 23/01508/CLU, 23/01510/CLU, 23/01094/CLU & 23/01511/CLU).
- o The applicant's agent asserts that only 6 of the 34 (18%) units in this block are in permanent residential use with the balance in use as second homes;
- o The previous application which was refused under ref: 23/01509/P was submitted following the investigation of an enforcement case;
- o In reference points within the previous Officer's Report, the applicant states:
 - i) As the minimum length of stay is 3 nights and the average length of stay is 7 nights, the applicant does not accept that the nature of comings and goings to the property are materially different or in any way more imposing or invasive that those associated with permanent residents;
 - ii) Movements to and from the application property will, based on the typical characteristics of guests, take place on a maximum of two occasions during the week...the movement of luggage from a vehicle to the flat will take less than 5 minutes on each occasion

and will be undertaken via lift or on carpeted floors...this would not amount to a level of disturbance even by the wildest stretch.

iii) It is inevitable that guests and permanent residents will very occasionally arrive and depart at unsociable hours. Though given 80% of guests staying in the application property over the past 7 years comprises of families, there has been no complaints about disturbance to statutory authorities... and no evidence exists to support such claims;

iv) As with luggage movements, activities associated with servicing and cleaning arrangements will occur at most, twice a week, but more often than not once a week. They will be undertaken during the day time and will be complete within a 1.5 - 2 hour period. Such arrangements would be little different in the case of permanently occupied properties benefitting from the services of a cleaner;

v) Since the property commenced as a unit of short-term holiday let accommodation, the applicant is unaware of any security breaches. No security breaches have been recorded in association with the application's other properties due to strict booking and management arrangements etc.

vi) It is of considerable concern that the Planning Officer in their determination of the earlier application appears not to have undertaken a site visit to the application property; and

vii) Has based their decision to refuse planning permission on a perception that guests to self-catering holiday accommodation are disrespectful to both the property and the wider neighbourhood, with the area being portrayed as opportunist criminals.

DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) 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 ELLDP 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 ELLDP 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 pay special attention to the desirability of preserving or enhancing the character or appearance of the area in which the building is located.

REPRESENTATIONS

A total of ten objections have been received in respect of this application. The main grounds of objection are:

- i) The Supporting Statement submitted on behalf of the applicant raises and relies upon a number of irrelevances including the existence of a number of flats nearby where Certificates of Lawful Use have been issued. The applicant in this case cannot demonstrate lawful use and the existence of others has no effect on the merits of this particular case.
- ii) If approved, this flat would be the first Short Term [Holiday] Let (STL) in Block 3 of 1 Station Road.
- iii) The same objections would have been raised to the numerous Certificate of Lawfulness applications as submitted by this applicant, though the objector was informed that these objections would not carry the same weight or be considered in the same way as objections to applications for planning permission.
- iv) Each application is determined on its own merits and in accordance with the Development Plan, unless material circumstances indicate otherwise. The Supporting Statement fails to show that the previous case was determined other than in accordance with the development plan.
- v) NPF4 is the most up to date policy framework and is highly relevant. The change of use of this flat to form a unit of short-term holiday let accommodation is not acceptable in accordance with Policy 30 of NPF4. Not only will the flat be lost as needed housing stock, whether for rent or purchase, but its use for tourism would also not contribute to the local economy to outweigh the loss of housing stock.
- vi) The figures previously relied upon by ELC Economic Development in support of the assumed contribution to the economy are not correct. They are not based on locally derived data and exaggerate the position. A report by MKA Economics based on the local North Berwick data from May 2024 and published in July 2024 shows that a two-bedroom residential property will contribute £17,580 to the local economy and generate 0.46 jobs while a short term let will contribute £11,592 to the economy and create 0.79 jobs. These figures are based on actual local data and it is quite incorrect for old figures based on Scotland to be used by Economic Development.
- vii) An objector states that the Planning Statement's implied justification that this application should be granted partially on the grounds that Royal Apartments has four other short term holiday lets is in itself objectionable.
- viii) Such a regular turnover of different occupants changes the nature of coming and goings within the shared entrances and communal areas, along with the external private ground of Royal Apartments which can have a disruptive impact upon permanent residents being harmful to their amenity.
- ix) The use of the property as a STL entails a significant variation from the character and intensity of normal residential activity.

x) With the property being occupied on average by 35 different groups or families of up to 5 people a year, there would be a minimum of 70 changes, 69 more than one long term resident, therefore the use as a STL would not be minor and is materially different.

xi) Having renters come and go changes the nature of Royal Apartments, a place which is very much considered as the objector's home.

xii) One objector states that they would have no objection to long term residents.

xiii) Precedent would indicate that STL applications with similar characteristics to this application have been refused planning permission such as the cases of West Bay Court and West Bay Apartments.

xiv) The Supporting Statement notes that the STL has not attracted complaints. One objector advises that this is false as they have complained on numerous occasions to the occupants of the flat when subjected to noise and anti-social behaviour.

xv) Another objector states that they have complained to the owner of no.27 in respect of a number of issues connected to guest behaviour. The objector notes that such complaints wouldn't have merited complaints to the Police or the Council.

xvi) Other objectors note that they have raised concerns about anti-social behaviour and noise generated by guests at night/unsocial hours and lack of care and respect that guests have for communal areas.

xvii) One objector states that their buzzer is rung frequently presumably from guests who have forgotten their keys.

xviii) One objector states that there is no point in complaining about disturbance given the occupants would have vacated prior to any action being taken. The use of the property as such does sometimes cause a disturbance (i.e. kids running around).

xix) The recent residents AGM held on 8th February 2024 highlighted concerns of drunk foreign golfers returning to Royal Apartments in the early hours of the morning who were unable to obtain access. Raised voices are said to have woken several residents up, making them feel anxious and vulnerable. The objector notes that the owner was in the south of England at the time.

xx) Having partiers, noise makers and renters who just want their money's worth are not what one objector thought could form as part of this property.

xxi) A lack of evidence of bad behaviour is not evidence of good behaviour.

xxii) Frequently changing guests' impact upon the security of the building. The flatted building is located within a busy area and guests leaving communal doors open, further reduces the security of the building with objectors stating that the building security is constantly compromised, often with large groups renting the property and leaving the main door off the snib, presumably because they don't all have keys. Objectors state that they have complained about this on a number of occasions.

xxiii) The property was not designed for use as a hotel or serviced apartments for rent. Nor is the building's current design appropriate for STL use in respect of its principal features (communal areas and services and secure environment).

xxiv) Objectors state that the higher turnover of people inclusive of guests and cleaning services within a residential building and associated curtilage changes the nature of communal and shared areas. This can be disruptive and harmful to residential amenity particularly if these movements are at night, or at unsocial hours.

xxv) The carrying of luggage and/or sports equipment through communal areas on a regular can be harmful to the fabric of the building which can have momentary implications for all residents on an equal basis.

xxvi) One objector states that they do not require the services of a cleaner, nor do other owners when in residence, other than an elderly neighbour who requires a high level of care.

xxvii) The Planning Consultant mentions that the Planning Officer didn't undertake a site visit. Several objectors, having sought clarification from the case officer, assert that a site visit was undertaken.

in response to some of the objections:

There have been a total of 4 Certificate of Lawfulness applications granted at Royal Apartments inclusive of Flats 1, 8, 10 and 17 for short term holiday let use under refs: 23/01094/CLU, 23/01511/CLU, 23/01510/CLU, 23/01509/P. These applications were granted as the applicant was able to demonstrate that the properties had been in continuous operation as short-term holiday let accommodation for a period of 10 years or more and were thus lawful in accordance with sections 124 and 150 of the Town and Country Planning (Scotland) Act 1997 (as amended). The planning history is relevant in the determination of this application, in so far as ascertaining that no consent has been obtained for STL use within Block 3.

In the determination of a planning application, representations which raise matters considered as material to the determination of a planning application would be taken into consideration. Matters to be determined within a Certificate of Lawfulness application are solely matters of evidential fact and law, with the onus of proof on the applicant, there is no requirement for an application under section 150 or 151 to be publicised under the provisions of sections 34 or 35 of the '1997 Act (as amended).

In this instance the case officer undertook a site visit on 22nd November 2023 at 12pm and was accompanied by the applicant. Site photos were taken, and there is an email trail between the case officer and the applicant arranging the site inspection.

COMMUNITY COUNCIL

No comments received.

PLANNING ASSESSMENT

This application seeks retrospective planning permission for the change of use of a two-bedroomed flatted dwelling to a two-bedroomed unit of holiday let accommodation. The holiday let sleeps a total of 5 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 ELLDP 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 this residential flat to a holiday let would provide accommodation within North Berwick that attracts visitors and encourages them to stay in East Lothian, which in turn supports the existing long-established business and benefits the wider economy of East Lothian.

The adopted ELLDP 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 ELLDP 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 short-term holiday let accommodation on the amenity of the existing neighbouring residential properties.

The Council's Senior Environmental Health Officer was consulted as part of this application and raised no objection to this retrospective planning application.

The Council's Antisocial Behaviour Team were consulted as part of this application and raise no objection to this retrospective planning application.

Police Scotland raise no objection to this retrospective planning application.

Flat 27, 1 Station Road is contained within a residential flatted building and can be accessed from Station Road to the west or from the private carpark to the east. The building has both lift and stair provision. From the rear entrance, the lift or stairs can be taken up to the first floor. The entrance from Station Road leads directly to the first-floor level where the applicant's property is located, along with two other residential flatted properties. All flats within this particular residential block are in lawful residential use in planning terms.

The use of the application property as a holiday let enables it to be let out for short duration stays with a minimum stay of 3 nights and with an average occupancy of 67% which results

in a higher turnover of people over short time periods, annually. A significant proportion of guests of this accommodation are likely to be holiday related visitors. Such a regular turnover of users/occupants would change the nature of comings and goings not only to the application property itself but also within the communal entrances and internal lift and stairwell of the residential building.

Most users/occupants of the holiday let would have a degree of luggage or other property to take through the communal entrances and stair/lift which in itself would lead to a level of disturbance and nuisance not associated with the permanent/long term residential use of the property. Whilst the applicant states the movement of luggage from a vehicle to the flat will take less than 5 minutes on each occasion and will be undertaken via lift or on carpeted floors and would not amount to a level of disturbance even by the wildest stretch. This specific activity would likely be undertaken on a weekly basis, which would be substantially different to the level of activity undertaken in association with a residential flat property. Guests use of communal areas on such a regular basis with luggage would be harmful to the amenity of the existing residents within the flat block at 1 Station Road, North Berwick.

Whilst it is accepted that permanent residents may also make noise, this would not be on the same frequency as regularly changing guests who arrive and depart sometimes at unsociable hours. Along with the extra comings and goings of users of the holiday let at check in/check out there is also an additional level of activity not only at the application property but also within the communal entrances and stairwell as a result of people regularly accessing both the main building of 1 Station Road 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 given most residents would be responsible for disposing of their own waste and recycling and the level of cleaning or servicing of residential flats would not be to the same degree to which a unit of short-term holiday let would require cleaning and servicing. The nature of the use of the property as a short-term holiday let with a greater degree of movement associated would be harmful to the amenity of the occupants of the residential properties within the residential flat building of 1 Station Road, North Berwick.

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

As a retrospective application, Flat 27 of 1 Station Road has been in operation for 7 years. Whilst no complaints have been logged by either Police Scotland or ELC's Anti-Social Behaviour Team, objectors have raised concerns re- noise and disruption to the residential environment in which the holiday let is currently in operation in.

Given the specific circumstances and location of the application property within the residential building of 1 Station Road, North Berwick which contains a number of permanent/long term residences and which shares a communal front and rear entrance, stairwell, lift and hall with others, the retrospective change of use of the applicant's first 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 residential properties within the residential building of 1 Station Road, North Berwick. 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 ELLDP 2018.

The Council's Road Services raised no objection, being satisfied that proposals do not conflict with Policy 13 of NPF4 or with Policies T1 and T2 of the adopted ELLDP 2018.

As set out above, no alterations have been undertaken to the property, either internally or externally, to facilitate the retrospective change of use and none are proposed through this application. Accordingly, the proposal does not have a detrimental impact on the character and appearance of this part of the North Berwick Conservation Area. On this consideration, the proposal does not conflict with Policy 7 of NPF4 or with Policy CH2 of the adopted ELLDP 2018 on matters relating to development within Conservation Areas.

In assessing the impact of the change of use of a flatted dwelling to form a short-term holiday let, part e) of Policy 30 of NPF4 states that the loss of residential accommodation must be outweighed by demonstrable local economic benefits to be compliant in policy terms. The Council's Housing Strategy & Development Service state that the change of use of this property from a long-term residential dwelling to a short term let is not a significant loss because (i) the property has been a short-term holiday let for 5 years or more; and (ii) the property is not considered adaptable. Accordingly, the Council's Housing Strategy & Development Service raise no objection to this retrospective planning application.

The Council's Economic Development Service Manager advises that despite criticism from objectors, there are demonstrable local economic benefits delivered by all types of short-term holiday lets in East Lothian and that the 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 aggregate economic benefit from short term lets as vital element in the supply of visitor bedstock within the County and the provision of a sustainable and resilient supply of overnight holiday accommodation is key to delivering the Council's strategic priority of being "Scotland's leading coastal, leisure and food & drink destination"; (ii) based on primary research commissioned by the Council 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) and the applicant's flat accounts for 4 bedspaces and a potential annual economic impact of £90,908 and 2 FTE jobs; (v) the proposal provides high-quality tourist accommodation attracting visitors to North Berwick and the surrounding area providing economic benefit; and (vi) 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.

ELC's Economic Development Team advise contrary to objections, the underlying data in which the in their assessment of the above, is locally derived and has been collected on behalf of the Council for over 10 years by an organisation that also provides this data to many other

local authorities. It is the most reliable visitor economy data source for East Lothian and is updated annually.

The Council's Economic Development Service Manger supports this retrospective 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, and notwithstanding that the change of use of the applicant's flat would not result in the loss of residential accommodation, 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.

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 1 Station 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. No material planning considerations outweigh this conflict with the Development Plan.

The application property of Flat 27, 1 Station Road, North Berwick as a holiday let is unauthorised and a breach of planning control. Enforcement action will be taken to ensure the cessation of the holiday let use with the period for compliance with the enforcement notice being one month.

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 1 Station 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

[REDACTED]

[Redacted text block]

20th August 2024

App No. 24/00575/P

**EAST LoTHIAN COUNCIL
DECISION NOTICE**

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

TM Holiday Lettings
c/o Derek Scott Planning
Per Derek Scott
21 Lansdowne Crescent
Edinburgh
EH12 5EH

APPLICANT: TM Holiday Lettings

With reference to your application registered on 6th June 2024 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

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

at
Flat 27
1 Station Road
North Berwick
EH39 4AT

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

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

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

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	-	05.06.2024
DWG 02	-	05.06.2024
DWG 03	-	05.06.2024

30th August 2024



Keith Dingwall
Service Manager - Planning
(Chief Planning Officer)

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.

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 – 24/00575/P

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

Location – Flat 27, 1 Station Road, North Berwick, East Lothian, EH39 4AT

Planning Officer – Amelia Smith

ECONOMIC DEVELOPMENT POLICY BACKGROUND

The East Lothian Local Economy Strategy 2024-2034 was adopted by East Lothian Council on 23rd April 2024. Economic development is a key priority for East Lothian and is at the forefront of The East Lothian Partnership Plan 2017-27. The Local Economy Strategy 2024-2024 is a reflection of the priority placed on economic development and acts as a guiding framework for future activity and policy development. 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, three strategic goals have been set:

1. To increase the number of businesses in East Lothian with growth and employment potential.
2. To reduce income inequality across East Lothian, and to improve access to employment in rural areas.
3. To increase the number of socially and environmentally responsible businesses, expand plural ownership of the economy, and grow community wealth.

The three strategic goals are underpinned by six objectives:

1. To be the destination of choice for innovative, socially, and environmentally responsible businesses to set up, grow, and succeed.
2. To provide high quality opportunities for people to learn, develop skills, and grow their potential.

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 around £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.

Part a) of the policy introduces a presumption of support for new or extended tourist facilities or accommodation in locations identified within local development plans. Part b) sets out the consideration to be taken into account (e.g. contribution to the local economy, impact on communities e.g. hindering provisions of homes), and part e) instances in which proposals for change of use will not be supported.

Specifically, part e) of gives regard to "development proposals for the reuse of existing buildings for short term holiday letting", noting that these 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.

Part e) should be read in conjunction with parts a) and b) of the policy, and in terms of part ii), which we address within this response, it should be considered at an area rather than individual property basis. The test set out in part ii) does not suggest that the relative economic benefit of long term lets or owner occupation should be set against that of use as a short term let within the tourist sector, rather that there should be an area based assessment that sets housing loss (hindering of the provision of homes e.g. though over provision of short term lets in an area) against the economic benefit of short term lets as contributor to the local economy.

The table below provides information on the number of short-term let application received by East Lothian Council, the number of second homes and the number of long term empty properties.

STL Licenses Operational March 2023	East Lothian	Edinburgh City Region	Scotland
Total licenses in operation	40	357	2,085
2022 dwelling estimates	51,409	680,226	2,699,379
Total licenses granted per 10k dwellings	7.8	5.2	7.7
Received by March 2024			
Total valid licence apps received	417		

EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

Total granted	228		
Pending Determination	186		
Withdrawn	3		
Refused	0		
Total number of secondary lets (houses & flats)	293		
Total licenses granted per 10k dwellings	44.4 (0.44%)		
Total licenses received per 10k dwellings	81 (0.81%)		
Total secondary lets received per 10k dwellings	57 (0.57%)		
Second Homes 2023			
Total	471	5,780	24,061
Second homes per 10k dwellings	91.6 (0.92%)	85 (0.85%)	89.2 (0.89%)
Long Term Empty Homes 2023			
Total	498	12,739	46,217
Long-term empty per 10k dwellings	96.9 (0.97%)	187.3 (1.87%)	171.2 (1.71%)

The following table shows the number of short-term let licences received by property type.

Type of premises	Total received as at end of March 2023	Total received as at end of March 2024
Detached House	12	102
Semi-detached house	5	58
Terraced House	5	55
Self-contained flat	17	172
Unconventional Dwelling	8	30
Total Applications	47	417

The application above is for a property in North Berwick, as of 1st April 2024 there were 72 registered short term let license applications in North Berwick town postcodes, 56 of which were for flatted properties.

Operators making an application for change of use are asked to supply additional information in respect of the operation or proposed operation of their property as a short term let, e.g. length of time in operation, average number of nights occupied, what the local economic benefit is, and what they intend to do with the property if a change of use is not granted etc. This information is summarised below.

An earlier application for the same proposal submitted under reference 23/01509/P was refused on the basis of “incompatibility with the amenity of the occupants of other flatted properties used as residential dwellings within the residential building”.

EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

The property in question is a 2 bedroom / 4 bedspace first floor flat located in North Berwick, though the applicant notes that the maximum occupancy is 5. The property has been in use as a Short Term Let since 2017. The applicant notes that the average number of nights stayed is 7, and the property books out to around 30 weeks per year with 24 forward bookings for 2024. Many visitors make repeat bookings and visitors come from the UK, US, Canada, and Europe.

The applicant provided information in relation to the economic benefit of the STL within the earlier application, indicating that:

“Most of my guests are holidaymakers, and eat out in local restaurants, play golf on local golf courses, shop in local shops, etc. My cleaner runs a local business and therefore this holiday let also contributes to her business. The business rates also contribute to ELC income.”

The applicant has noted that should change of use not be granted they would let the property on a long term basis or sell the property as it is currently a main source of personal income.

The most visited location in East Lothian by some distance is North Berwick, with 64% of all visitors. North Berwick has attracted travellers and tourists for hundreds of years and has been an established holiday resort since the C19th, being referred to as the “Biarritz of the North”. The Town’s strong tourist economy supports a very high-quality offering of local shops, cafes, restaurants, and attractions, which are enjoyed by locals and visitors alike. The town is a popular destination for golfers, hosts the Scottish Seabird Centre, and the Fringe by the Sea festival, all of which rely on tourist visitors and high-quality flexible tourist accommodation to remain viable. North Berwick is well situated for access to the rest of East Lothian by car and public transport.

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 property has been in use as a short term holiday let for more than five years.
- The aggregate economic benefit from short terms lets as vital element in the supply of visitor bedstock within the County. Provision of a sustainable and resilient supply of overnight holiday accommodation within the County is key to delivering the Council’s

EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

strategic priority of promoting a “successful, accessible, and sustainable tourism sector that provides quality experiences and benefits our local communities”.

- Based on primary research commissioned by the Council, 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 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). Using the sampling outlined above, this property accounts for 4 bedspaces and a potential annual economic impact of £90,908 and 2 FTE jobs. This is borne out by the information provided by the applicant.
- 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 the town and wider area providing economic benefit.
- 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 Local Economy Strategy 2024-2034:

- To promote a successful, accessible, and sustainable tourism sector that provides quality experiences and benefits our local communities.

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 2024/25 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:** 10/06/2024

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. The policy background and local context helps the Housing Strategy and Development Service to identify

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.'*

Housing to 2040 (H2040) is Scotland's long-term national housing strategy. 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 authorities have a duty to prepare a Local Housing Strategy (LHS) according to the Housing (Scotland) Act 2021. The Local Housing Strategy is the sole strategic document for East Lothian which brings together a wide range of housing priorities. The LHS 2024-2029 was approved by Cabinet in January 2024. Following priorities are relevant to the change of use to short term lettings:

- 'Priority 1: Communities are supported to flourish, be distinctive and well connected.*
- Priority 2: Housing Supply is accessible, affordable and provides a range of choices to meet the needs of households across East Lothian.'*

The LHS is supported by an assessment of housing need and demand (HNDA). The HNDA3 was approved by the Scottish Government as robust and credible in 2022.

LOCAL HOUSING CONTEXT

Pressures in the private rented sector

The following data has been extracted from the Local Housing Strategy 2024-2029, and HNDA3. East Lothian's housing stock is predominantly made up of private sector housing. Owner-occupied stock increased by 2.3% compared to the previous LHS and lies at 67.8%. The private rented stock (PRS) decreased across those 5 years and is down at 8.5% (previously 11%). The social housing stock accounts for 23.7% of all stock and has remained stable.

Demand for affordable housing has never been so high. There are over 4,200 households on the Council's housing list and 400 homeless applications and current supply is unable to meet the demand for affordable housing. Between 2021/22 and 2022/23, East Lothian Council's housing list increased by 700 households. Almost a quarter (24%) of housing list applications 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%). These three wards also have the least amount of social rented housing per 1,000 population.

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 secure a PRS property through a rent deposit scheme. The uptake has been 60 households per annum. However, in 2022/23 the uptake dropped to 30 households, this was because a lack of suitable PRS properties came forward that financial year.

Pressures on small properties

This rise in ageing population and reduction in young people starting families results in 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%.

Current available data shows that there is significant pressure on the supply of 1 and 2 bed properties in both the private and social sector¹:

- 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
- 2) 80% of homelessness applications are single person households.
- 3) Single households are most affected by Unsuitable Accommodation Breaches.
- 4) Highest demand for 1-2 bed properties are in wards Musselburgh, Tranent/Wallyford/Macmerry and Preston/Seton/Gosford.

Accessible housing

East Lothian faces an ageing population and an increase in smaller households. Those aged 75+ are expected to have the largest increase in population of 32%. People aged 65 to 74 will also have a significant increase of 23.2%. North Berwick Coastal area has the largest proportion of older people followed by Haddington and Lammermuir.

North Berwick Coastal	27%
Haddington and Lammermuir	22%
Tranent, Wallyford, Macmerry	15%
Musselburgh	20%
Dunbar and East Linton	21%

An ageing population results in the need of smaller, more accessible homes. According to the wheelchair needs assessment carried out in 2022, East Lothian has an estimated unmet need of 430 wheelchair accessible homes and couple households had the biggest need of adaptable homes in 2020. Furthermore, the private sector housing grant which supports the delivery of adaptations in the private housing sector has face significant budgetary constraints. Particularly the installation of larger adaptations such as curved stairlifts or through floor lifts come with a high cost and can be avoided through securing ground floor properties.

Short Term Lets in East Lothian

¹ South East Scotland Housing Needs and Demand Assessment 3

² Local Housing System Analysis – Housing supply and affordability

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.

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.

POLICY APPROACH

Housing Strategy and Development recognise the need to balance the economic benefits that tourism bring to the area however pressures on the current housing supply cannot be ignored. Even a small number of dwellings converted to STLs can have a disproportionate impact on meeting housing need. This is contrary to the LHS 2024-2029 which seeks housing supply to be accessible, affordable and provide a range of choices.

The Local Housing Context shows that 1-2 bedroom properties are in the highest demand whether that is in terms of homeless household applications, the housing list, and the general trend of an increase in smaller households in owner-occupied properties. 1-2 bedroom properties are not being built to the same extent as larger properties. The ageing population increases the need for retaining ground floor, easily adaptable and accessible housing. Costs for adaptations are increasing beyond SG grants, putting pressure on care services. This also increases the Council's housing list due to ever decreasing options in the private sector. The west of the county see the highest pressures in terms of the need for smaller properties to accommodate homeless people. North Berwick see the highest pressures in terms of people from the PRS and older people. Given these pressures, Housing Strategy cannot support all applications for short term letting.

Recent reforms to the Private Residential Tenancy give a series of rights to renters relating to 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.

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 adaptable³: level access properties; ground floor properties; no internal steps; potential space for 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 6months or more; and/or
- Where the property has been long term vacant prior to being used as a short term let.

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

³ 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 – 24/00575/P

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

Location – Flat 27, 1 Station Road, North Berwick, EH39 4AT to

Planning Officer – Amelia Smith

Housing Strategy has been asked to comment on the approval of the change of use of Flat 27, 1 Station Road, North Berwick, EH39 4AT to a short-term holiday let. The proposal is a first application for planning permission for short-term letting of a fully furnished property. The home is a two bedroom, first floor flat with a communal entrance. There are shared communal stairwells and lifts. The property has been used as a short term let since 2017.

The Housing Strategy & Development Service do not object the proposal set out in the above noted application.

Reason(s):

The change in use of this property from a long term residential dwelling to a short term let is not considered a significant loss because:

- Although located in North Berwick, the property has been a short term for more than 5 years; and
- The property is not considered adaptable.

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: Craig Entwistle

Date: 11/06/2024

Comments for Planning Application 24/00575/P

Application Summary

Application Number: 24/00575/P

Address: Flat 27 1 Station Road North Berwick EH39 4AT

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

Case Officer: Amelia Smith

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: [REDACTED]

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I am a co-owner of [REDACTED] with my mother (102 yrs) - a long term resident in Royal Apartments (>20 years). Her kitchen window abuts the entrance door and entrance to the bins store. Over the years, not infrequently, her outside buzzer is rung for entrance presumably when STL visitors forgot their keys. She had physical difficulty letting people in using the buzzer (rheumatoid hands) but would always try when she was able with a zimmer was a falls risk! Now 24hr live in carers, let people in the front door - not knowing if they are really residents or not. Long term residents all know her situation, and would never press her outside buzzer.

I see that the STL flat is occupied, on average, for 67% of the calendar year. i.e. 35 different groups or families up to 5 people use the property within any given year. Everyone knows that if there is a disturbance there is no point complaining about STL people as they will have gone before complaint can be actioned. That doesn't mean its not disturbing sometimes, esp. if there are kids running around.

Page 3 (i) There have been complaints directly to the STL owner. One such complaint was discussed at the AGM on 8th February 2024. From memory, there was a group of foreign golfers returning to Royal apartments in the early hours drunk were unable to gain access to the flats and woke several residents shouting in the block and made many residents anxious about letting them into the property. The owner was contacted in the middle of the night, I believe, but he himself was in south of England and couldn't resolve the issue. The incident was alarming to residents, some of whom live alone and are vulnerable.

Page 4 (ii) Luggage and possessions. With at least 35 changes of occupancy each year involving several people / families - would be a minimum of 70 changes each year - which is 69 more than one long term residents or long term let - therefore not minor! The potential for damage is multiplied several times. I can't see their argument that "its not materially different or in any way

than those associated with permanent residents."

Page 4 (iii) Unsociable hours. Lack of evidence of bad behaviour is not evidence of good behaviour, as indicated by the incident mentioned above, which anyone would feel uneasy about.

Page 4 (iv) Servicing and Cleaning - As with luggage use there will be at least 35 full changes with more people coming into the property to service these -presumably deep clean after families of up to four, rather than a quick Hoover of a resident.

Page 4 (v) Security - this is an issue - snib on the door frequently kept open resulting in it being open to anyone pushing of the door. Residents in the block re-snib it. This is frequently required.

I understand that there WAS a visit by the Planning Officer.

In the light of the above I consider a STL should be refused, although I have no objections to long term let, as this would address a lot of my concerns above.



**Service Manager Planning
(Chief Planning Officer)
East Lothian Council
John Muir House
Haddington
15/06/24**

Application No 24/00575

**Change of Use to Short Term Let.
Flat 27/1 Station Road
North Berwick.**

Dear Sir,

I refer to the [REDACTED] notification dated 7 June 2024.

I have nothing to add to the detail provided in my submission dated 25/01/24 in response to the original Application 23/01509/P.

A copy of our letter dated 25/01/24 is attached.

Yours faithfully,

[REDACTED]

[REDACTED]



Service Manager

Planning

East Lothian Council

John Muir House

Haddington

EH41 3 HA

25/01/24

Application Number 23/01509/P


Flat 27 Change of Use to Short Term Let (Retrospective)

Royal Apartments

1 Station Road


North Berwick.

Dear Sir,

I refer to your  notification dated 18/01/2024 to the Change of Use application for Planning Permission for change of use from Residential to Short Term Holiday Let and record as joint owners of Flat 25 our Objection to this proposal.

Royal Apartments many owned principally by retired long term residents with support needs is in many respects totally unsuitable for use by short term visitors . The geometry of the buildings designed with communal access, services and a secure environment as principle features, is not suitable for use by rapidly changing short stay holiday residents.

The impact of short term visitors even with efficient management will put pressures on our requirement as resident owners for secure access, home security and safety and the use of all communal access areas of Royal Apartments. Short term lets may also be contributing to an acceleration of the level of internal fabric and equipment deterioration now being experienced with the regular movement of luggage, sports equipment and related through the communal access areas .I ask you to take these issues into consideration in your deliberations



RECEIVED

24 JUN 2024

For the attention of: Service Manager – Planning (Chief Planning Officer),
East Lothian Council, John Muir House, Haddington, EH41 3HA

Objection to Planning Application 24/00575/P

This representation is an objection to Planning Application Number 24/00575/P 'Change of use of flat to short term holiday let (Retrospective)' regarding Flat 27, 1 Station Road, North Berwick, EH39 4AT. The grounds for this objection are detailed below and reinforce those previously made in respect to application 23/01509/P.

Flat 27 is part of a five storey building comprising 34 flats which forms number 1 Station Road, North Berwick, which is also known as 'Royal Apartments'. Access to the building's flats is via shared door entrances at the front from Station Road and to the rear via Royal Apartment's private car parking area. The use of the applicant property for short-term holiday lets throughout the year results in a higher than comparatively normal flow and turnover of people within a residential building of this type.

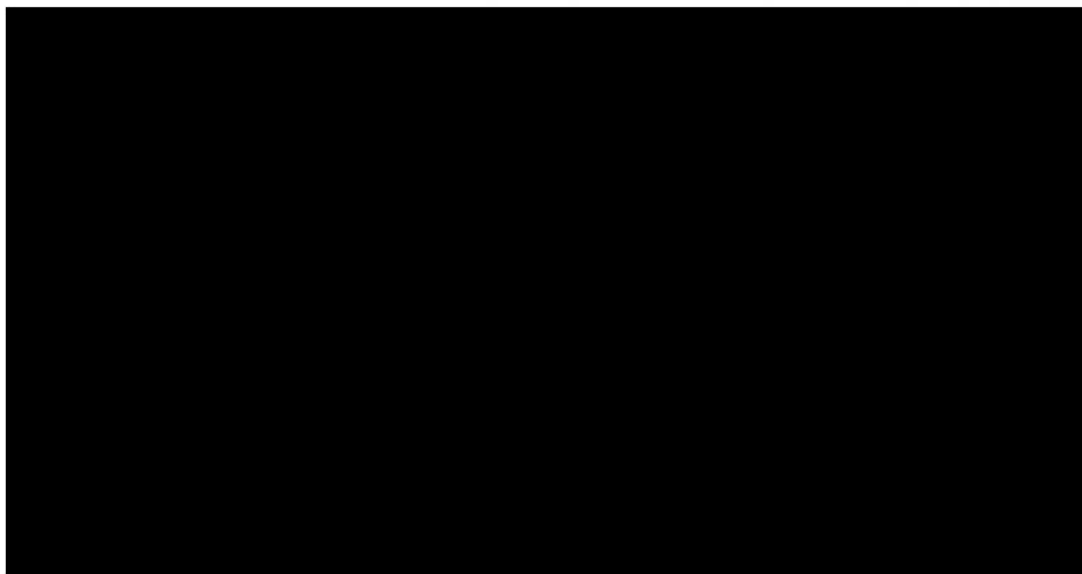
Such a regular turnover of different occupants changes the nature of the comings and goings within the shared entrances and communal areas, along with the external private grounds of Royal Apartments, which can have a disruptive impact upon permanent residents being harmful to their amenity. It is to be expected that most occupants of a short-term holiday let have personal luggage and possibly leisure equipment (e.g. golf bags/trolleys, bicycles, etc.) to take through the shared entrances and communal areas of the building. Such regular and increased activity can lead to a higher level of disturbance and nuisance than might be considered normally acceptable within the long-term occupant use of such a property, thus being harmful to the amenity of permanent residents. The additional movement of luggage and leisure equipment through shared entrances and communal areas can also be considered harmful to the upkeep of the good decorative fabric and general maintenance of the building itself (e.g. doorways, walls, carpeting, lift, etc.). This has monetary implications for all 34 flat owners of Royal Apartments as they have a collective and equal financial responsibility for the upkeep of the entire building. Internal disturbance and nuisance concerns also apply to the more frequent unloading and reloading of short-term holiday let occupants' vehicles in the private car parking area which is overlooked by the balconies of certain flats which are regularly used by residents as they look across to North Berwick's West Bay. Along with the frequent comings and goings of guests using the holiday let, there is also the regular servicing/cleaning of the property which adds further to disturbance and access concerns in and around Royal Apartments.

Allowing frequently changing guests to have unfettered access to an otherwise secure building, through the provision of keys to locked shared entrances, also changes the actual and perceived level of security for permanent residents and their properties/belongings. Whilst permanent residents have visitors of their own, those residents remain in control of security to communal areas. Having frequently changing unknown people within these secure areas differs from typical residential circumstances, which again is harmful to the amenity of permanent residents. The use of properties as short-term holiday lets also raises concerns of the potential misuse and abuse within and around the property in a manner that is antisocial, impacting upon neighbours both within the Royal Apartments building and its surrounds.

In regard to the Planning Statement's implied justification that this Planning Application should be granted partially on the grounds that Royal Apartments has four other short term holiday lets, is in itself objectionable. Whilst these were granted Certificates of Lawfulness as they complied with the 10 year continuous operation as holiday lets criterion, this is not the case with this application. It is worthy of note that the same objections raised above would also have been lodged against these four Certificates of Lawfulness applications but for the advice given by one of the Council's Planning Officers that such issues would not be considered valid as the 10 year continuous operation as holiday lets factor would over-ride any such objections should they be submitted. Whilst accepting the advice, it was frustrating that such objections would not be deemed appropriate as they reflect the negative and long standing feelings of permanent residents about the unsuitability of having any short term holiday lets within the Royal Apartments building.

It would appear that Royal Apartments as a flatted building with shared entrances and communal areas has very similar characteristics to other residential dwellings in the immediate vicinity which have recently had planning applications for a change of use of flats to short-term holiday lets refused by East Lothian Council's Planning Department (e.g. West Bay Court and West Bay Apartments). It would therefore seem reasonable to expect that issues raised in such applications, and many others with similar characteristics, be taken into account by the

Council's Planning Department in considering this repeated application in respect to the on-going usage suitability of the property and 'refuse' it as per the previous decision (23/01509/P) made in March 2024.



Currie, Fiona

From: [REDACTED]
Sent: 19 June 2024 09:09
To: Environment Reception
Subject: Application Number 24/00575/P: Change of Use of Flat to Short Term Holiday Let

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.

Dear Service Manager,

Objection to Application 24/00575/P

We refer to the planning application noted above and also our previous objection to this application noted below.

The contents of our previous objection apply as before and we confirm again that the owners of this apartment are in legal breach of the Title Deeds as there is a restriction on using the flat for business activity. They are not legally allowed to use the flat for short time lets and it can only be used as a private dwellinghouse. The clause is noted below. We note that within the planning statement they have included that the owners do not agree that that this is a breach of the Title Deeds, but it is irrelevant whether they want to agree with this clause or not. It is a statement of fact and not subject to their interpretation.

We note the other points included within the Planning Statement:

1. They note that the short term lets have not attracted complaints. This is false. We have complained numerous times to the occupants of the flats when we have been subjected to noise and anti-social behaviour.
2. The transfer of luggage causes significant disturbance and also damages the communal areas. It is of course inevitable that people who are staying there short term treat the building with less care than if it was their own. This is human nature.
3. Servicing and cleaning does of course increase the use of the communal areas and increases noise and disruption for the residents. Any other view is false.
4. The building security is constantly compromised. There are often large groups renting the property and they leave the main door off the snib constantly, we presume because they don't all have keys. We have complained about this to the people renting the property many times.

Regards,

[REDACTED]

[REDACTED]

Date: Monday, 22 January 2024 at 10:42
To: "environment@eastlothian.gov.uk" <environment@eastlothian.gov.uk>
Subject: Application Number 23/01509/P: Change of Use of Flat to Short Term Holiday Let

Dear Service Manager,

Objection to Application 23/01509/P

[REDACTED]

Granting of this consent would be in legal breach by the owners of the Title Deeds as there is a restriction on using the flat for any business activity. The apartment can only be used as a private dwellinghouse (for the use of one family only) and for no other purpose. The legal clause is as follows:

(a) Each Dwellinghouse shall be used and occupied in all time coming solely as a private dwellinghouse (for the use of one family only) and for no other purpose whatsoever and in particular but without prejudice to the foregoing generality no business activity shall be carried out in the Dwellinghouses and no trade goods may be stored on the Property and the Dwellinghouses shall never in any way be sub-divided or occupied by more than one family at any time, and no additional buildings or erections of any description shall be erected by the Proprietors on the Property without WR's Consent.

We also understand that there will be an additional breach of the Title Deeds in relation to access and egress into the flat and also a breach of the burdens in relation to the Common Parts. In summary, anyone staying in the flat as part of the short term let doesn't have a legal right to access the property.

In addition to the above, we would stress that the apartments were initially designed as flats for private sale and not for use as a hotel or serviced apartments for rent. The building has not been designed to be used in this way and using in this way will be very damaging to the properties and the development as a whole. We have serious concerns about the increase in numbers of people coming in and out of the building, causing increased wear and tear of the common areas and lifts, and the increased security risk having more strangers having access to the building.

Some of the apartments are currently used as holiday lets and AirBnB lets and this has caused a degree of anti-social behaviour. By granting this consent we believe this anti-social behaviour will only increase and could be a danger to the current residents.

We would greatly appreciate if you can take into consideration the above and refuse this application.

Regards,

[REDACTED]

Currie, Fiona

From: [REDACTED]
Sent: 21 June 2024 14:41
To: Environment Reception
Subject: Objection to Planning Application 24/00575/P

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.

You don't often get email from [REDACTED] [Learn why this is important](#)

Dear Service Manager,

Your ref;
Planning Application 24/00575/P
Change of use of flat to Short Term Holiday Let (Retrospective)
Flat 27
1 Station Road,
North Berwick EH39 4AT

I wish to object to the above Planning Application.

My reasons which are detailed below are the same as my previous objection to the applicants refused Planning Application for application 23/01509/P

Best regards.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
Sent: Monday, January 22, 2024 2:26 PM
To: 'Environment Reception' <environment@eastlothian.gov.uk>
Subject: Objection to Planning Application 23/01509/P

Dear Service Manager,

Your ref:
Planning Application 23/01509/P
Change of use of flat to Short Term Holiday Let (Retrospective)
Flat 27,
1 Station Road,
North Berwick EH39 4AT

I wish to object to the above Planning Application for the following reasons:-

- As an owner and retired old age pensioner I am concerned with the loss of security to a multitude of unknown short term guests through a communal shared secure access door entrance.
- Concerned the increased foot fall of STL guests with a variety of luggage types and wheeled cases and no doubt golf equipment, will have a definite detrimental and damaging effect to communal carpets, walls and lifts.
- Concern simple shared requirements such as ensuring the building entrance Yale locks are closed or segregation of domestic waste into their respective containers would not always be carried out by STL guests.
- Concern STL guests could interrupt the tranquility and respect of what was expected to be a peaceful arrangement for long term neighbours.

I believe Royal Apartments is unsuitable for STLs for the reasons stated and you will consider refusal of this application.

Best regards.

[REDACTED]

Currie, Fiona

From: [REDACTED]
Sent: 13 June 2024 22:15
To: Environment Reception
Subject: Letter of opposition to planning application

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.

We have learned that your Ref23/01509P denied the request for STLs, but that the requester is asking again. (27 Royal Apartments, North Berwick)

Please allow us to reiterate our dislike of the idea of short term lets in the Royal Apartments. Having renters come and go honestly changes the nature of the Royal Apartments, a place that is very much our home when we are there. We have never rented our flat because it is our personal space and we care very much about it. We have long-standing relationships with many owners.

Having parties, noise-makers and renters who just want their money's worth are not what we thought could be part of this property. We have seen the exterior doors set to "unlock" multiple times (in a day), despite the notes asking that the doors be kept locked at all times. That is NOT owners.

We would like to encourage residents who are committed to the culture/neighborliness of the Royal Apartments. Thanks for reading this.

Sincerely,

[REDACTED]

Currie, Fiona

From: [REDACTED]
Sent: 10 June 2024 11:12
To: Environment Reception
Subject: Planning application 24/00575/P

You don't often get email from [REDACTED]. [Learn why this is important](#)

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.

Regarding the above application.

I do not agree to any holiday lets in the building as described in above planning as I live in the adjacent retirement flats and do not want traffic at various times coming through the communal access road. Nor do I want potential noisy neighbours and strangers in the local.

[REDACTED]

Currie, Fiona

From: [REDACTED]
Sent: 08 July 2024 16:38
To: Environment Reception
Cc: Dingwall, Keith
Subject: PLANNING APPLICATION 24/00575/P CHANGE OF USE OF FLAT TO SHORT TERM HOLIDAY LET (RETROSPECTIVE)

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.

THIS OBJECTION HAS BEEN EMAILED LATE DUE TO A BROADBAND MALFUNCTION. IT WAS DRAFTED AND ISSUED ON FRIDAY 5 JULY 2024 BUT FAILED TO SEND. IN THESE CIRCUMSTANCES I WOULD BE GRATEFUL IF SOME DISCRETION COULD BE SHOWN AS IS AFFORDED TO THE COMMUNITY COUNCIL. WHILE THIS REPRESENTATION IS OUTSIDE 21 DAYS THAT IS THE MINIMUM STATUTORY PERIOD FOR THE RECEIPT OF COMMENTS AND THIS IS THE FIRST WORKING DAY FOLLOWING.

COPIED TO KEITH DINGWALL

North Berwick Environment and Heritage Trust (NBEHT) wishes to **OBJECT** to the retrospective application to change the use of Flat 27, 1 Station Road, North Berwick to a short term let.

The Supporting Statement submitted on behalf of the applicant raises and relies upon a number of irrelevancies including the existence of a number of flats nearby where Certificates of Lawful Use have been issued. The fact that other properties have a different lawful use is solely based on their circumstances. Owners have been able to provide evidence to demonstrate use for a period of more than ten years. The applicant in this case cannot do so and the existence of others has no effect on the merits of this particular case.

Every planning application should be determined in accordance with the Development Plan unless material circumstances indicate otherwise. Each application must be determined on its own merits.

The Supporting Statement fails to show that the previous case was determined other than in accordance with the Development Plan. NPF4 is the most up to date policy framework and is highly relevant. Whether the property was used previously for short term lets is immaterial, the fact is that its lawful use is residential and not for short term letting. The proposed retrospective use of the flat, now that NPF4, importantly including Policy 30, has come into play is not acceptable. Not only will the flat be lost as needed housing stock, whether for rent or purchase, its use for tourism would not contribute to the local economy to outweigh the loss of housing stock.

The figures previously relied upon by ELC Economic Development in support of the assumed contribution to the economy are not correct. They are not based on locally derived data. They exaggerate the position. The contribution made to the economy is far lower than ELC Economic Development believes. A report by MKA Economics based on local North Berwick data from May 2024, and published in July 2024 shows that a two bedroom residential property will contribute £17,580 to the local economy and generate 0.46 jobs while a short term let will contribute £11,592 to the economy and create 0.79 jobs. These figures are

based on actual local data and it is quite incorrect for old figures based on Scotland to be used by Economic Development.

The report, commissioned by NBEHT and undertaken in the absence of local data, entitled *Economic Impact of Residential and Short Term Let Properties in North Berwick* can be made available in full. What is clear is that short term lets result in a loss of housing stock, and do not contribute to the local economy in the manner suggested. They may help to create jobs but the jobs are typically seasonal and unskilled rather than permanent. Policy 30 is offended.

NBEHT considers that the resubmitted application should be **refused** on the basis of the conflict with NPF4, Policy 30 in particular.


NBEHT Trustee

Currie, Fiona

From: [REDACTED]
Sent: 17 June 2024 12:18
To: Environment Reception
Subject: Objection to Planning Application 24/00575/P

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.

For the attention of: Service Manager – Planning (Chief Planning Officer),

East Lothian Council, John Muir House, Haddington, EH41 3HA

Objection to Planning Application 24/00575/P

This representation is an objection to Planning Application Number 24/00575/P 'Change of use of flat to short term holiday let (Retrospective)' regarding Flat 27, 1 Station Road, North Berwick, EH39 4AT. The grounds for this objection are detailed below and reinforce those previously made in respect to application 23/01509/P.

Flat 27 is part of a five storey building comprising 34 flats which forms number 1 Station Road, North Berwick, which is also known as 'Royal Apartments'. Access to the building's flats is via shared door entrances at the front from Station Road and to the rear via Royal Apartment's private car parking area. The use of the applicant property for short-term holiday lets throughout the year results in a higher than comparatively normal flow and turnover of people within a residential building of this type.

Such a regular turnover of different occupants changes the nature of the comings and goings within the shared entrances and communal areas, along with the external private grounds of Royal Apartments, which can have a disruptive impact upon permanent residents being harmful to their amenity. It is to be expected that most occupants of a short-term holiday let have personal luggage and possibly leisure equipment (e.g. golf bags/trolleys, bicycles, etc.) to take through the shared entrances and communal areas of the building. Such regular and increased activity can lead to a higher level of disturbance and nuisance than might be considered normally acceptable within the long-term occupant use of such a property, thus being harmful to the amenity of permanent residents. The additional movement of luggage and leisure equipment through shared entrances and communal areas can also be considered harmful to the upkeep of the good decorative fabric and general maintenance of the building itself (e.g. doorways, walls, carpeting, lift, etc.). This has monetary implications for all 34 flat owners of Royal Apartments as they have a collective and equal financial responsibility for the upkeep of the entire building. Internal disturbance and nuisance concerns also apply to the more frequent unloading and reloading of short-term holiday let occupants' vehicles in the private car parking area which is overlooked by the balconies of certain flats which are regularly used by residents as they look across to North Berwick's West Bay. Along with the frequent comings and goings of guests using the holiday let, there is also the regular servicing/cleaning of the property which adds further to disturbance and access concerns in and around Royal Apartments.

Allowing frequently changing guests to have unfettered access to an otherwise secure building, through the provision of keys to locked shared entrances, also changes the actual and perceived level of security for permanent residents and their properties/belongings. Whilst permanent residents have visitors of their own, those residents remain in control of security to communal areas. Having frequently changing unknown people within these secure areas differs from typical residential circumstances, which again is harmful to the amenity of permanent residents. The use of properties as short-term holiday lets also raises concerns of the potential misuse and abuse within and around the property in a manner that is antisocial, impacting upon neighbours both within the Royal Apartments building and its surrounds.

In regard to the Planning Statement's implied justification that this Planning Application should be granted partially on the grounds that Royal Apartments has four other short term holiday lets, is in itself objectionable. Whilst these were granted Certificates of Lawfulness as they complied with the 10 year continuous operation as holiday lets criterion, this is not the case with this application. It is worthy of note that the same objections raised above would also have been lodged against these four Certificates of Lawfulness applications but for the advice given by one of the Council's Planning Officers that such issues would not be considered valid as the 10 year continuous operation as holiday lets factor would over-ride any such objections should they be submitted. Whilst accepting the advice, it was frustrating that such objections would not be deemed appropriate as they reflect the negative and long standing feelings of permanent residents about the unsuitability of having any short term holiday lets within the Royal Apartments building.

It would appear that Royal Apartments as a flatted building with shared entrances and communal areas has very similar characteristics to other residential dwellings in the immediate vicinity which have recently had planning applications for a change of use of flats to short-term holiday lets refused by East Lothian Council's Planning Department (e.g. West Bay Court and West Bay Apartments). It would therefore seem reasonable to expect that issues raised in such applications, and many others with similar characteristics, be taken into account by the Council's Planning Department in considering this repeated application in respect to the on-going usage suitability of the property and 'refuse' it as per the previous decision (23/01509/P) made in March 2024.

[REDACTED]

[REDACTED]

Currie, Fiona

From: [REDACTED]
Sent: 13 June 2024 12:10
To: Environment Reception
Cc: Smith, Amelia
Subject: Objection to Planning Application No. 24/00575/P
Attachments: Note to the Planning Officer June 2024.pdf

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.

Dear Service Manager,

Objection to:- Change of use of flat to short term holiday let (Retrospective.) - Ref 24/00575/P - Flat 27, 1 Station Road, Royal Apartments, North Berwick. (Current)

[REDACTED] in this apartment building consisting of 34 apartments, I wish to object again to the latest retrospective Application for Planning Permission for Change of Use from Residential to - "short term holiday let."

I object to this repeat application because of the loss of amenity, because of increased inconvenience, and because of the increased security risk, for all the permanent residents.

These apartments were designed and built as private residences for family living and not for opportunist landlords to run businesses and make profits by operating STLs or AirBnBs. The use of the property for short stay commercial visitor accommodation entails a significant variation from the character and intensity of normal residential activity.

The applicant owns and operates 3 such STL properties in this building, and manages another STL property on behalf of another owner. The applicant's other apartments are operating as STLs because they had acquired Certificates of Lawfulness. The property at 1/27 apparently does not have such a CLU certificate.

If this Planning Application were to be allowed, It would be the first apartment in Block 3, consisting of apartments 23 to 34, to be designated for use as an STL.

Residents of Royal Apartments have the right to feel that they are living securely and safely in their homes, or in some cases, in their second homes, and not have concerns over security and loss of amenity, inevitably caused by the flow of total strangers using the communal entrances, communal areas, stairs, lifts etc, sometimes arriving at, or departing the building, at early or late hours of the day. Temporary visitors may not show due respect to the peace and quiet of other residents, or to the cleanliness of the communal areas and may not be aware of how to use shared facilities.

Accordingly, I hope that you will refuse this Application.

Regards,

[REDACTED]

[REDACTED]

PLEASE NOTE:- I include below the reasons I gave for the first application **Ref 23/01509/P** but additionally on this occasion, I have, in a **separate attachment**, responded to comments made in the **Consultant's**

Planning Statement as I feel obliged to refute several claims that have been made, and refute an allegation made about a so-called "Vendetta."

Objection to:- Change of use of flat to short term holiday let (Retrospective.) - Ref 23/01509/P. - Flat 27, 1 Station Road, Royal Apartments, North Berwick. (Previous)

[REDACTED] in this apartment building consisting of 34 apartments, I wish to object to the above retrospective Application for Planning Permission for Change of Use from Residential to - "short term holiday let," for the following reasons.

The use for several years now of flat 27 as a short term let has led to issues I have raised in the past with the owner, where a lack of care and respect for the communal areas of the building has been shown.

An approval of change of use of flat 27 to a short term holiday let will result in the continuation of a high turnover of people for short periods of time with heavy luggage and associated noise, movement in and out of the building at unsocial hours, and the possible repetition of the lack of care etc mentioned above. This will affect the nature of long term residential occupation for which reason the majority of the flats are occupied. There are many retired people in the development who value their peace and tranquility, and security, which they share with other long term neighbours.

Temporary visitors to Flat 27 on holiday change the nature of this security by their movements within the communal entrances, internal halls, stairs and lift. Allowing such frequently changing parties unsupervised access to otherwise controlled and secured shared areas and facilities, changes the perceived level of security and amenity for permanent residents.

Given the specific circumstances of the Royal Apartments, where only communal entrances exist, this building is unsuitable for STLs. In other words, a holiday let is incompatible with, and harmful to, the amenity and security of the apartments within the residential buildings of the Royal Apartments.

Accordingly, I hope that you will refuse this Application.

Your sincerely,

[REDACTED]

[REDACTED]

To the Planning Officer, East Lothian Council.

Ref 24/00575/P - Flat 27, 1 Station Road, Royal Apartments, North Berwick.

I refer to the "Planning Statement" by Derek Scott Planning.

In the "Executive Summary" section, at bullet point No.7, you can see the Consultant's responses to objections numbered (i) to (v) that were made by up to 10 objectors to the previous application.

In response to the Consultant's points in his **Executive Summary**, I can state:-

(i) I have made a complaint to the owner of No. 27 in the last year, when a trail of mud and grass was found from the car park, up the stairs and to the door of No. 27 where, I believe, some golfers were staying. The owner had the mess cleaned up. On other occasions, a tenant was found to be charging his golf trolley battery in the communal power point in the corridor by the lift, another tenant had to be asked to stop tossing cigarette ends from the balcony onto the car park below. I cleaned these up. A pigeons nest, containing twigs with **thorns**, was tossed into the car park from the balcony of 27, just after my wife and I had brushed that area clean. We collected the twigs and placed them in a bag and placed a note in the bag asking politely that this should not happen again and delivered it to flat 27. The other matters were not reported to the owner, because we don't talk much. None of these matters individually, would have merited a complaint to the Police to to the Council. **The example with the mud and grass, and the twigs, confirms that the Consultant's response that there have been NO complaints, is incorrect.** All these examples show that the owners and renters of STLs may not necessarily show due care and attention to the communal areas, and therefore may not respect the other permanent residents, no matter how much "vetting" of clients allegedly takes place by the owner of No. 27.

(ii) STL tenants might also take less care than a permanent resident of the building may take, when moving luggage, bicycles, golf clubs etc around, and possibly cause damage to the fabric of the building. The 34 owners of apartments are currently considering quotes to replace the worn and stained carpets in some communal areas. Damage to our walls is evident. It is not known who caused it. The three owners in block 3 who are golfers, have access to garages for the storage of said items.

(iii) Recent tenants of flats [REDACTED] on the same floor level as 27, were long term tenants, and in the case of flat [REDACTED], the tena [REDACTED] rely there. If there were any levels of disturbance and nuisance and ar [REDACTED] vals at unsociable hours, these would be unlikely to be witnessed and then raised with the owner of No. 27. If these apartments had been occupied by permanent residents, then a history of any disturbances by the STL tenants might be evident.

(iv) My wife and I, both permanent residents, do not need the services of a cleaner. This is probably the case for other owners when they are in residence here. I exclude our 102 year old neighbour who needs a high level of care!

(v) As a permanent resident, I often find that the 2 access doors to the block are left unlocked, and as such, any person can gain entry without being admitted by a resident or tenant. On one morning a few years back, I recall finding a homeless person or vagrant sleeping on a sofa in the entrance lobby, having slept there all night. Permanent residents and long term tenants, are more likely to maintain the security of the building than STL tenants.

At the final bullet point the Consultant mentions that the **Planning Officer may not have made a visit to the property!** I asked for clarification of this with Amelia Smith of the Planning Department who has kindly emailed me back, stating: "I undertook a site visit, accompanied by the applicant, so I'm unclear why there is now a claim that I have not visited the site. I also have photographs from my site visit and correspondence with the applicant arranging the visit" **Perhaps the Planning Consultant should have been given the full facts by the owner?**

The Consultant's use here of the term "Opportunist Criminals" is interesting. There are of course, many reports on the internet and press of STLs or AirBnBs being abused by some tenants for

parties, illegal sub letting, or even for criminal use such as drug dealing, etc. (not that these are being suggested here). There is no guarantee that any client using an online booking system, even if vetting is carried out, might be able to deceive an owner into letting the property to them. There may be a natural inclination on behalf of any owner to accept a booking in order to keep occupancy rates (and profits) up. I wonder if the owner in this case can prove that he has rejected any booking and on what grounds? There has been one theft of property in block 3 that I know of, when a dehumidifier placed in the basement level by an owner, went missing and was never found.

In the "**Planning Statement**" at Para 3.11 at page 18, the Consultant says this - "Our client only became aware* that planning permission was required to use his properties as short term holiday lets following an approach from the Council's Planning Department in 2023 who had received an allegation from a member of the public. Our client believes that the allegation referred to may have come from an individual in the block who has a **personal vendetta** against him." **There is no doubt that this is aimed at me. There has been no "Vendetta" against the owner by me**, as alleged, unless "twig-gate" fits the definition. Even if I had behaved in the manner of a "Vendetta" i.e. "prolonging a bitter quarrel or waging a campaign against someone" that may be totally irrelevant to any planning application. The applicant seems to be taking the view that my objection is based solely on a personal dislike for him, which is not true. I would be objecting to this application, whoever the applicant was. And it I feel that for any Consultant to repeat his client's belief in a Planning Statement is highly unprofessional and indeed may be libellous. If the owner feels strongly enough about this he should commence civil proceedings against me. Neighbours are perfectly entitled to object to planning applications.

My initial interest in the licensing issue arose after I became aware* in the press and elsewhere, of planned changes in legislation of the STL sector, at this link. This planning guidance is something that STL owners should have been aware of, well before the original email I sent to the Council on [REDACTED] which is pasted in here:-

Dear Sir/Madam, I am a joint owner and permanent resident of [REDACTED] Royal Apartments, 1 Station Road, North Berwick EH39 4AT.

There are 34 Apartments in the building. I am aware that at least 5 apartments in the building are involved in the business of short term letting of their accommodation. The following apartment numbers and owners involved are:-

[REDACTED]

Please check that they have planning permission for said activity. If not, please pass the matter to your Enforcement staff.

Yours faithfully,

[REDACTED]

I don't think this request could be construed as an "Allegation?" - (Para 3.11 - first response.) The facts speak for themselves. From the Consultants document at para 3.25(xiv,) - **"Our client has never hidden the fact that he operates a short term letting business consisting of 4 no. properties (3 owned and 1 managed) within the accommodation block ..."**

The Council uses the standard term "Representations." You can of course, decide for yourselves if it was either or neither of the above, and consider whether my request could be part of any personal "vendetta" against the applicant.

At Para **3.25**, please read the **responses** of the Consultant to previous **objections**, covered under number ii) and numbers vi) to xv). His comments could be very confusing.

At response **No.ii)** the Consultant states "... there are less than **six** permanent residents within the Royal Apartments (1 Station Road.)" I'm not sure of the origin of this statement, whether it be the Council, the Appellant or by one of the residents but it is not accurate! It may refer only to Block 3?

However, by my calculation, as a Royal Apartments Residents Committee Member, for the whole of Royal Apartments, which has **34** apartments, there are presently **11** flats with permanent residents, and **15** flats which are second homes. Surely the owners of those **15** flats are justly entitled to security and amenity when they are in residence in Royal Apartments, in the same way that **11** permanent residents are? **5** flats are STLs and the status of **3** other flats is currently unknown. Total **34**. The apartments used as STLs represent less than 15% of the 34 apartments.

If the figure of **6** refers only to Block 3, which has 12 apartments, excluding 1 apartment which is now up for sale, then, by my calculation, there are only **3** apartments being used permanently as principal residences, one of whom is 102 years old. There are **7** apartments which are second homes, whose owners have principal residences elsewhere. There is **1** apartment which has been on long term let for many years and a temporary occupant, a relative of the renter, had caused some anti-social noise issues by having a noisy party, which was reported to both the owner and to the Police, who attended the scene. Total **11** plus the vacant apartment which is now on the market.

The Consultant then states at **Para 3.26** "None of the points raised in opposition to the previous application provide credible support justifying its refusal." So all the objections by 10 other Owners are considered to be "not credible" by the applicant?

The response to **Para xv)** is interesting, but is not relevant to this application. To quote - "*Our client does not agree that the (business) use of the property represents a legal breach of his title deeds. In any event this is not a relevant material consideration in the determination of the application.*"

There are several residents who disagree with this interpretation of the Title Deeds. Apparently seeking changes to the Deeds would be extremely difficult and costly and is therefore on hold.

I would guess that most of the objections to the original planning application for No. 27, were on relevant grounds e.g. - "*A holiday let is incompatible with, and harmful to, the amenity and security of the apartments within the residential buildings of the Royal Apartments.*"

I would add here that the use of the property for short stay commercial visitor accommodation entails a significant variation from the character and intensity of normal residential activity.

If the appeal is refused, it may set a useful precedent for any more such applications for change of use to STLs within Royal Apartments. These apartments were designed for, and marketed for, the use of family units as permanent (or second) homes, where owners can expect to relax and enjoy communal facilities without the constant turnover of short term visitors who may not have the same respect for communal living as resident owners have. The current use of 5 of the 34 flats as STL rental businesses, whether in breach of the deeds or not, is not conducive to the enjoyment of the amenities by other resident owners. If the application is granted, and precedent set, then the Royal Apartments may one day again become in effect, the Royal Hotel!

I personally look forward to the day when the use of these apartments as STLs ceases, and they are sold to owners who will live here as neighbours, either permanently, or by using them as 2nd homes, or by letting them out to long term renters, many of whom in the past, we have formed good friendships.

Please call me if you have any questions.

Regards,



5. Development Plan policies

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 ELLDP 2018 are relevant to the determination of this application.

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.

Policy 13 (Sustainable transport)

(a) Proposals to improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs will be supported. This includes proposals:

- i. for electric vehicle charging infrastructure and electric vehicle forecourts, especially where fuelled by renewable energy;
- ii. which support a mode shift of freight from road to more sustainable modes, including last-mile delivery;
- iii. that build in resilience to the effects of climate change and where appropriate incorporate blue and green infrastructure and nature rich habitats (such as natural planting or water systems).

(b) Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

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

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

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

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

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

(g) Development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it has been demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer.

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

Part (e) of Policy 30 (Tourism)

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

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

Adopted East Lothian Local Development Plan 2018

Policy RCA1 (Residential Character and Amenity)

The predominantly residential character and amenity of existing or proposed housing areas will be safeguarded from the adverse impacts of uses other than housing. Development incompatible with the residential character and amenity of an area will not be permitted. Proposals for new development will be assessed against appropriate local plan policies. In the case of infill, backland and garden ground development, this will include assessment against Policy DP7.

Policy 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.

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

6. Schedule of Suggested Conditions

24/00575/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.

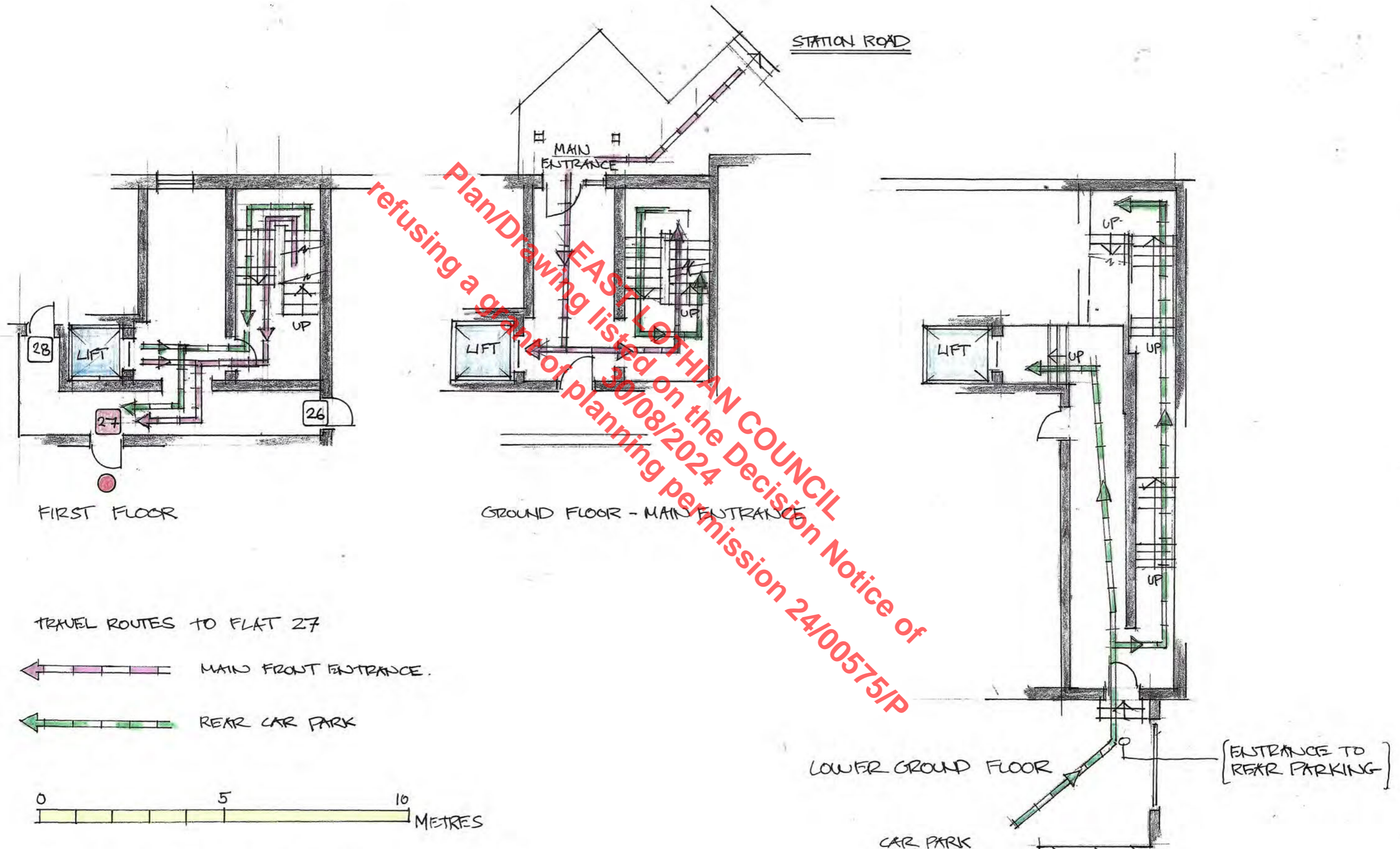
Reason:

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.

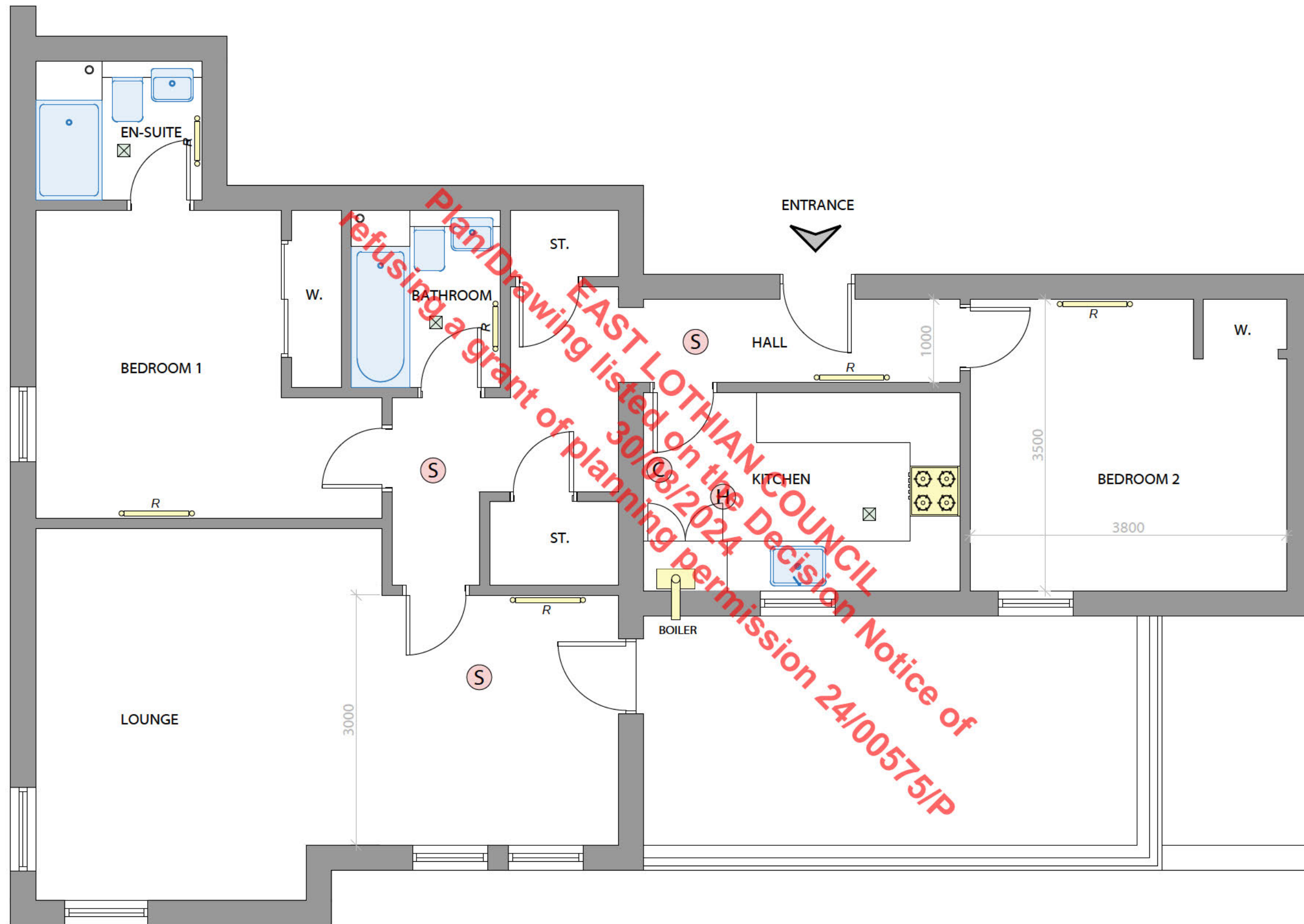


Plan/Drawing EAST LOTHIAN COUNCIL refusing a grant of planning permission 24/00575/P listed on the Decision Notice of 30/08/2024

No 27 ROYAL APARTMENTS
 STATION ROAD - NORTH BERWICK



- C CARBON MONOXIDE
- S SMOKE DETECTOR
- H HEAT DETECTOR
- R RADIATOR
- FAN



Plan/Drawing listed on the Decision Notice of
 refusing a grant of planning permission 24/00575/P
 EAST Lothian Council 30/08/2024

FLAT 27
 ROYAL APARTMENTS
 LINKS ROAD
 NORTH BERWICK
 JAN 2024