

LOCAL REVIEW BODY

18th August 2022

Application No: 22/00286/P

**2 Westbay Apartments, 7 Station Hill, North Berwick
EH39 4FA**

Applicant's Supporting Information

1 Prod Lane
Baildon
ShIPLEY
BD17 5 BN

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

17.05.2022

We wish to appeal against the decision to refuse retrospective planning permission for the use of 2 Westbay Apartments as a Holiday Let (Planning Application No 22/00286/P).

Basis for appeal

- The Planning department has failed to take a consistent approach to planning applications for the conversion of residential flats to holiday lets. We have found examples of recent successful applications in which issues that have formed grounds for the refusal of our application have been disregarded.
- We believe that the specific position and successful letting history of our property has not been appropriately taken into account, and that undue emphasis has been placed on objections that are exaggerated, speculative or irrelevant.
- We believe that the decision taken relating to our property has been affected by concern that granting retrospective planning permission might result in applications from other owners in the apartment block through the setting of precedent. However, we would submit that each application should be considered on its own merits, and that any other current or future applications are not relevant to our case.

Background

We have visited North Berwick on a regular basis for more than 45 years and were delighted when the opportunity arose in 2014 to purchase an apartment as a base for future holidays for ourselves, our family and friends. We decided to make it available as a holiday let when we were not using it ourselves for several reasons:

- We believe that it is beneficial to the economy of the town to have the apartment occupied rather than left empty for much of the year
- Our research suggested that there was a shortage of holiday accommodation in the town at the time of purchase, and we understand that this remains the case today (as evidenced by the information that our letting agent has been unable to accommodate any of our existing bookings elsewhere)
- Letting the property would contribute to the overhead costs e.g. Council tax, and ensure that it was regularly monitored, and any emergencies quickly identified and dealt with, given that we live 4 hours drive away

During the purchase, we checked with our and the developer's solicitors, the Local Authority, the managing agent and letting agencies and all confirmed that there were no barriers to the property being used in this way.

This is the only holiday home that we own: we are not, as suggested by an objector, running a business, simply allowing others to share the property when we can't use it.

We note that in the planning assessment for other similar applications (e.g. [REDACTED]), the value of holiday lets to the local economy is acknowledged as part of the Economic Development Strategy:

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 Development plan 2018 states that a range of hotel, guest house and other accommodation attracts visitors and encourages them to stay and benefit the East Lothian economy. The change of use of the residential flat to a holiday let provides holiday accommodation within North Berwick that attracts visitors and encourages them to stay which supports the long-established businesses and benefits the wider economy of East Lothian.'

As our flat has contributed to this aim of the Development Strategy for more than 7 years, we were surprised that this was not given any weight in considering our application.

We are not the only owners to have purchased an apartment in this block as a holiday home: around half the apartments are not used full-time. The permanent residents include some pensioners (like ourselves), but also others including a young family: it is not a retirement complex.

Complaint to the council and subsequent planning application

We have read the report carefully and feel that we must respond to the objections received. As (unlike in many other local authorities) we were unable to see the objections on the council website during the planning process, this is our first opportunity to do so, which has placed us at a distinct disadvantage. We note that the process seemed to lack transparency.

Objections appear to fall into two categories: those that relate to perceived/potential inconvenience and disturbance to the permanent residents on the apartment, and those that are more general, and relate to the level of holiday accommodation in the town. It is the former category that form the basis of the refusal of planning permission.

We note the following comment from the Planning Officer on a recently granted application for retrospective planning approval for retrospective permission to convert a flat in a shared building to a holiday let ([REDACTED]):

*'Matters raised regarding the devaluation of neighbouring properties, HMRC requirements, insurance requirements, **anxiety of neighbours**, lack of trust in the owner, overflowing bins and **security of the premises** are not material considerations in the determination of this application'*

It seems strange that a different approach to such representations has been taken with our application: this suggests that the Planning Department is not taking a consistent approach to similar applications. Nonetheless we will address these points made by objectors to our application.

Addressing objections

'Unacceptable behaviour made known to the letting agent, council and police, disturbances, parking issues and damage to communal areas'

- We have notices in the flat reminding guests not to leave dogs unattended in the apartment and to keep their dogs on a lead in shared areas, and to be respectful of our neighbours and avoid any excessive noise
- Neighbours are asked to report any issues to our local letting agency: our closest neighbours have our personal number
- Incidents reported to us/our agents have been infrequent (<5 in 7½ years), minor and we have responded to them in a responsible and timely manner.
- The planning report notes that the Council has received no calls relating to this location, despite objectors appearing to claim that numerous reports have been made, and Police Scotland have not responded: no doubt they would have done so if they had received numerous complaints.
- As there has been NO damage to the apartment by any of our guests, it seems unlikely that they would have caused damage in the communal areas, and nothing of this nature has been reported to us.

From our own experience and lack of evidence that other authorities have been notified as suggested, we must conclude that these claims are at the very least exaggerated.

We are aware of the incident in the apartments last year and understand how traumatic this must have been for residents. However, these visitors were NOT resident in our apartment (and could have been staying in any apartment in the development) and this should therefore not be taken into consideration when determining the suitability of our apartment as a holiday let, or allowed to override 7½ years of problem-free letting.

Increased comings and goings/late arrivals and departures, and movement of luggage

- Our guests almost invariably arrive by car and use our allocated parking space, luggage is moved into the apartment via the patio doors directly from the car park rather than via the shared entrance, without even passing another apartment.
- Cleaners/maintenance staff utilise the same route.
- As keys to the property must be collected from and returned to the letting agency (rather than using a key safe) this mitigates against late arrivals or departures.

In view of the specific comments relating to potential inconvenience to [REDACTED], to which considerable weight has been attached, we approached the resident to apologise for the disruption we had unknowingly caused to her lifestyle. She was upset to read the objections based on disturbance or distress caused to her and she told us that none of these issues had occurred, and she had made no representation to the planning Authority. The owner of the flat ([REDACTED]) personally called round later to our flat to reiterate that:

- **they have no concerns about the use of our apartment as a holiday let**
- **they did not submit an objection to our planning application**
- **[REDACTED] has not experienced noise or inconvenience resulting from the arrival and departure of our guests, the movement of luggage or visits from cleaners etc.**
- **They have had no contact with North Berwick Environment and Heritage Trust, who have made statements without their knowledge or permission and at odds with their views**

Furthermore, we note that the position of an individual flat within a development such that any additional movement of people or luggage would be unlikely to inconvenience other residents was not considered detrimental in another recent successful application for retrospective planning permission in a shared building in North Berwick (*Application [REDACTED]*).

'The use of the application property as a holiday let would enable it to be let out for short duration stays. Such short duration stays would result in a turnover of people over short time periods with visitors likely to have an amount of luggage or other property to take through the communal entrance door and into the communal hallway of the building. Whilst this could lead to a level of disturbance, as the application property is situated directly to the west of the communal entrance door, before reaching any of the other properties within the building, any such disturbance would be kept to a minimum and to only a small part of the overall building. Holiday makers wouldn't have any reason to pass other properties within the building or to use any communal staircases.

Furthermore, in the circumstances of its degree of self-containment at the western end of the building, the additional comings and goings associated with the servicing/cleaning of the property and removing waste and recycling material would also be unlikely to be evidentially different to that expected with the permanent/long term use of the flat as a private residence, and thus would not be harmful to the amenity of the occupants of the neighbouring residential properties'.

It is unclear why this factor is not taken into consideration in relation to our application: perhaps the access to our accommodation has not been fully understood. **We conclude that the movement of luggage, guests and cleaning staff does not impinge on other apartments and that this factor has not been fully taken into account, in contrast to other similar applications.**

Potential issues regarding security

- Our apartment is situated on the ground floor and shares a communal entrance with one other flat (No.1). It is isolated from the main block (our keys do not allow access)
- In any development of this type, there will be numerous individuals and organisations that have unaccompanied access to these areas, e.g. cleaners and maintenance companies appointed by the Factors, and cleaners, carers, family of residents, people using other holiday properties with the permission of owners etc.

There seems no logical reason to assume that paying guests or letting agent staff would pose a greater security risk than those who already legitimately access secure areas.

Other issues raised in the Planning Assessment

- Our application was considered contrary to Policy RCA1 of the local development plan. However, in a recently successful planning application for conversion of a flat to a holiday let in North Berwick, the Planning Assessment states:

'The change of use of the residential flat to holiday let accommodation is in principle a use compatible with the predominantly residential use of the area. As such the proposal is consistent with Policy RCA1 of the adopted East Lothian Local development plan 2018'

This decision therefore appears inconsistent with other applications.

Concern that our application was not considered separately from other applications in the same accommodation

- We are aware that a second apartment in the development applied for retrospective planning permission as a holiday let at the same time
- the reports show very significant overlap in the planning assessment and reasoning for refusal, despite obvious differences in location within the building/access, and significantly different histories as a holiday let.
- The similarity of the reports/decision suggest that our property was not considered separately on its own merits but rather as part of a wider decision perhaps relating to concerns around setting precedent.

Conclusions

In summary, we believe that the planning decision is unsound because it is based on an incomplete understanding of the manner in which the property is accessed and concerns around detriment to other residents that do not stand up to scrutiny.

The decision to refuse our application does not appear to be in line with previous decisions for similar applications.

It appears that the decision on our property has been taken as part of a general decision regarding this particular block of apartments, rather than on the merits of the individual application alone.


While we have no evidence that letting our property has had any detrimental effect on our neighbours, we are nevertheless now cognisant of the apparent concerns of some residents, and if granted planning permission, we would be happy to accept and implement restrictions (e.g. 7 day letting only, a limit to the number of weeks/year that we could offer the property as a holiday let) in order to mitigate any real or perceived anxiety about unacceptable levels of disturbance amongst our neighbours. We can confirm that we have removed the apartment from the holiday letting market, and all bookings have been cancelled: at present it is used only by ourselves and our family members.

Peter and Sue Whittle

Planning permission for no 2 Westbay Apartments, 7 Station Hill, North Berwick

Sun 15 May, 21:10

To: 

Hi Peter. As owners of  we confirm that we do not object to your planning application. We also confirm that we did not agree to anyone submitting an objection on our behalf.

Regards

