



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 18 AUGUST 2022
VIA THE DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor D Collins
Councillor N Gilbert

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Ms J Squires, Planning Adviser to the LRB

Other attendees:

Ms M Scott, Committees Officer

Clerk:

Ms F Currie, Committees Officer

Apologies:

None

Declarations of Interest

None

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the Local Review Body to reach a decision on the planning application before it. He also asked the Members to confirm that they had viewed all of the documentation which had been available to the planning case officer during his consideration of the application. All members did so.

The Legal Adviser then invited nominations to chair the meeting. Councillors Gilbert and Collins indicated that they would be content for Councillor Hampshire to chair the Local Review Body (LRB) on this occasion.

1. PLANNING APPLICATION NO. 22/00286/P: CHANGE OF USE OF FLAT TO HOLIDAY LET ACCOMMODATION (RETROSPECTIVE), 2 WESTBAY APARTMENTS, 7 STATION HILL, NORTH BERWICK EH39 4FA

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser outlined the proposals contained in planning application no. 22/00286/P. She set out in detail the proposals contained within the application and provided details of the site and surroundings.

She reminded Members that applications should be determined in accordance with the development plan for the area unless material considerations indicate otherwise: in this case the South East Scotland Development Plan (SEsplan) and the adopted East Lothian Local Development Plan 2018 (LDP). The proposal was within North Berwick Conservation Area. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 required that in the exercise of planning functions, with respect to any buildings in a conservation area, special attention should be paid to the desirability of preserving or enhancing the character or appearance of that area.

While none of the policies approved by SEsplan were relevant to this application, it instructed LDPs to have regard to the need to improve quality of life in local communities; it also recognised the importance of tourism to the area. Similarly, the LDP did not contain any topic specific policy on short term lets but noted that a range of accommodation attracted visitors and encouraged them to stay and benefit the economy of East Lothian. The LDP also stated that all leisure and tourism related development proposals, including visitor attractions, hotels and holiday accommodation, should be assessed against all relevant LDP policies.

The Planning Adviser outlined the most relevant policies of the LDP, which were: TC2 (Town and Local Centres) and CH2 (Development Affecting Conservation Areas). She also explained how the North Berwick Town Centre Strategy Supplementary Guidance and the Scottish Government's guidance on Short Term Lets related to this application.

The Planning Adviser summarised the case officer's assessment of the application which considered the determining factor to be the impact of use as a holiday let on the amenity of existing residential property within Westbay apartments. Identified impacts included the regular turnover of occupants which would change the nature of comings and goings to the application property and communal areas with a level of disturbance and nuisance from luggage movement not associated with long term use. Service and

cleaning, and removal of waste, would increase activity levels. Frequently changing guests would reduce the actual and perceived level of security.

The case officer therefore considered that due to the location of the property within a residential building containing long term residents who shared communal parking, pend access and shared main entrance and internal hall, use as a holiday let was incompatible with and harmful to the amenity of the occupiers, and was therefore contrary to Policy RCA1. The Planning Adviser clarified that the policy that applied to this site was TC2 not RCA1. However, TC2 contained a similar provision protecting existing housing. The material reason for refusal would therefore be the same.

Turning to the consultation process, the Planning Adviser noted that 13 representations had been made on the application. One was neutral and one was in support of the application, though gave no reason for this, and the remainder were objecting on a variety of grounds including: security, parking, alleged anti-social behaviour, the effect on communal facilities, and that there were too many holiday lets in North Berwick leading to a reduction in the supply of rented housing for permanent residents, a large number of empty properties in North Berwick in the winter and the consequent effect on community spirit in North Berwick.

North Berwick Community Council was consulted and objected due to loss of amenity and security for neighbours. The Council's environmental health and roads services raised no issues. The Council's Anti-Social Behaviour Team checked their records back to 1 January 2020 and did not find any record of calls from Westbay Apartments. Police Scotland were consulted but did not respond.

The Planning Adviser then turned to the applicant's appeal submission which contended that the planning department had not taken a consistent approach to similar applications; and that the successful letting history of the property had not been taken into account, with undue emphasis on exaggerated objections. The applicant believed that setting of precedent was a reason for the refusal and that each application should be considered on its merits. They also stated that letting the property benefitted the economy of the town, the alternative being that the property would sit empty much of the year. They referred to a lack of holiday accommodation, from their own research, and the general support for tourism shown in the Council's Economic Development Strategy and within the LDP. They added that the proposed use supported businesses and the wider community.

The applicant stated that they have notices in the flat regarding dogs, noise and respect for the neighbours. They had given the neighbours contact numbers for any issues, but have had less than five incidents reported in 7 years. They also noted that the Council had received no reports of anti-social behaviour, and the police had not responded to the application. They addressed specific objections regarding movement of luggage and access for cleaners. On security issues, they noted that in any development of this type there would be numerous individuals and organisations that had unaccompanied access to flats and there was no reason to suppose holiday guests or letting agent staff would pose a greater risk. Finally, the applicant considered that their application had not been considered separately from another similar proposal in the same building.

The Planning Adviser concluded her presentation by reminding Members that, should they be minded to grant planning permission, the applicant had stated that they would accept restrictions to protect amenity and the planning case officer had provided suggested conditions.

The Planning Adviser responded to a question from the Chair advising that the new legislation on Short Term Lets, due to come into force in October 2022, did not impact on the determination of this application.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor Gilbert commented on the common entrance way and garden and the lack of any physical barrier within these shared areas. He agreed with the view of the planning officer that there would be a significant impact on other residents and that this would be in contravention of planning policy. He was minded to uphold the decision of the planning officer to refuse planning permission.

The Chair noted the close proximity to the communal area, the shared access and car parking arrangements. He also believed that the presence of holiday visitors would have an adverse impact on the amenity of residents within the development and he expressed concern about holiday lets being operated without adequate controls where landlords were not in attendance. He did not consider this property to be an appropriate choice for a holiday let and he would be voting to uphold the planning officer's decision to refuse planning permission.

Councillor Collins was unhappy that the letting agent who had shown Members around was unfamiliar with the property and unable to answer important questions about it. She was advised that the individual was in fact the planning agent, rather than the letting agent. Councillor Collins acknowledged this correction, however, she supported the planning officer's view regarding loss of amenity for residents within the block. As such, she was minded to uphold the officer's decision to refuse planning permission.

Decision

The ELLRB agreed unanimously to dismiss the appeal and to refuse planning permission for this application, for the reasons set out in the original decision notice. Subject to the inclusion of reference to policy TC2 in place of policy RCA1.

Signed

Councillor Norman Hampshire
Chair of Local Review Body (Planning)