

LOCAL REVIEW BODY

16th February 2023

Application No: 22/01161/P

Flat 3, 8 Quality Street, North Berwick

Applicant's Supporting Information

Appeal to Planning Decision.

Planning Reference: 22/01161/P

ePlanning Appeal Reference: 100602734-004

Date of Decision: 2 December 2022

Appeal Submission Date: 12/12/2022

Property 8/3 Quality Street, North Berwick EH39 4PN

Owners: Stuart and Susan McLean [REDACTED]

Owners contact: [REDACTED]

To whom it may concern

We note and reference the above decision to refuse retrospective planning permission for the above property to operate as a short term let and wish to appeal as in accordance with THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013.

We have structured this appeal document by responding to the reasons given as noted in the refusal notice.

We hope after your due consideration of this document and associated enclosures you will agree to overturn the refused decision.

Warm Regards

Stuart & Susan Mclean

Planning Officers Refusal Item or Reference	Appeal detail	Document/Image reference/Supporting Evidence or Availability of further evidence
<p>1 <i>The holiday let use of the flatted property is incompatible with and harmful to the amenity of the occupiers of the properties within the residential building of 8 Quality Street, North Berwick and as such is contrary to Policy RCA1 of the adopted East Lothian Local Development Plan 2018.</i></p>	<p>We refute that a holiday let is “ Incompatible with” 8 Quality Street as the block has a long established mix of holiday let/long let tenants/ and homer occupiers.</p> <p>1.1 The property has been operating from August 2022 as a short term let without any issues directly reported.</p> <p>1.2 Historically: 8 Quality Street is a mixed block</p> <p>1.3 Historical: Flat 3 has been rented out as a short-term let by the previous owner over a period of 15 years.</p>	<p>1.1 We have had no complaints from neighbours or community representatives.</p> <p>1.2 For example: The Imperial Apartments has been offering short-term lets for over 9 years.</p> <p>1.3 Prior to our purchase of this property from Mr Ian Miller, it had been operating informally as a ‘holiday let’ from December 2005, evidenced by the seller themselves informing us at point of purchase and by the installation of fire doors, public notices and guests manuals in the property. During many conversations with other flat owners there was never any issues with short term letting under the ownership of Mr Ian Miller And there is question whether we actually need planning permission at this point due to the historic nature of the flat’s use.</p>

	<p>1.4 The majority of the current owners purchased knowingly into a block that had established holiday let concerns.</p> <p>We also refute that the our short-term let is “harmful to the occupiers”</p> <p>1.5 The owners have proactively sought to enhance the building.</p> <p>1.6 We have taken steps to engage proactively with the buildings occupants . Stuart Mclean (owner) is the chairperson of the Owners Group and since owning the property has actively sought results on many items and any issues with fabric of building, engagements with Facility Management companies and repaired</p>	<p>1.5 (a) Externally we have enhanced the building - The planting of pots/Fixed damage to the external wall on two different occasion’s/The sweeping and clearing rubbish of the outside external area. All done in a neighbourly fashion, with no charge to the other occupiers.</p> <p>1.5 (b) Internally we have painted our flat door and keep the immediate area neat and tidy. We have also improved the lighting. We have no items stored or placed in the communal areas of the building.</p> <p>1.6 Email communications evidencing the level of involvement by Stuart Mclean in the <i>Quality Street Owners group</i> can be made available to the reporter on request.</p>
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<p>2. <i>Also material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation area given in Scottish Planning Policy: June 2014..... Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character and appearance.</i></p> <p>2.1 Section 64.1 states: <i>In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.</i></p>	<p>We refute that we are “Harmful to the area”. The surrounding locale of the flat all caters to tourist needs - the public conveniences is directly beside the building, a public car park, a chip shop takeaway, a pub, 2 restaurant(s), a gift shop and an ice-cream parlour are all within 1 minute walk of the building.</p> <p>Lifestyle Both our visitors and resident owners enjoy all the amenities that the local area can offer such as golfing, sea swimming to name a few.</p> <p>“Preserving and Enhancing” We argue that this short-term holiday let should not be determined as “harmful”, but rather as section 64.1 states that it is “preserving and enhancing the character of the West end of North Berwick High Street”.</p> <p>- North Berwick is a Historic tourist town, and tourists like to stay central Location is a key factors tourists when</p>	

	<p>choosing where to stay - We have scored 5/5 on all reviews with regard to location</p> <ul style="list-style-type: none"> - Our visitors take advantage of immediate local amenities – they help support the vibrant North Berwick High Street and surrounding eateries. Are visitors are economically viable. - Guests independent reviews state that we offer stylish, comfortable, well-equipped, clean accommodation - The owners virtually promote local business via digital media. <p>We therefore refute that our planning application harms the character of the area, but that it actually preserves and enhances it.</p>	<p>- see Keepers Nook, NB.</p> <p>Material evidence can be provided on request. Links to our Instagram account showing localised business promotions aligning to the apartment and email conversations with other building occupants are available to support this on request.</p>
<p>Objections: Two objections to this application have been received. The main grounds of objection are:</p>		

(i) it is not appropriate to run a short term let business within a residential apartment block;

With reference to 8/3 Quality Street

2.1 As already stated, this block has been for many years a “mixed block”.

2.2 Many of the current owners purchased their properties when short let businesses were running within the block

2.3 The apartment is centrally located in north Berwick, therefore, it is not unexpected in such a central location that such a building would contain offers of tourist accommodation, therefore rather than be incompatible it is compatible.

2.3 Furthermore, The types of housing stock around the High Street are mainly flatted and/or have shared communal areas, and thus many holiday owners have bought these properties as these are the properties types that are available to purchase.

2.4 We are very concerned, both as a holiday flat owners and as local residents the impact that this “moratorium on communal spaces” is having on NB local property market, available tourist accommodation and local economy.

Example 1.
Flat 11, 8 Quality Street, is a former let, which is lying empty. It has been on the market since Autumn 2022 , and has failed to find a buyer (residential or holiday owner). It started as offers over and has since dropped its fixed price twice.

		<p>Example 2. Puffin Retreat offered high standard flatted tourist accommodation from an address on Quality Street – it has now left this market.</p>
<p><i>(ii) the residential block has a shared communal entrance, stairwell and bin store and it is likely that noise and disturbance to neighbours will occur should planning permission be granted;</i></p>	<p>“Likely Behaviour”</p> <p>A planning decision based on “likely future behaviour” cannot be justified.</p> <p>The “likely” is an assumption not based on evidence.</p> <p>The current evidence is contrary to this suggestion. The apartment has been operating informally as a short term let since 2005 and more recently with the current owners since August 2022. No complaints have been made directly to the current owners or any other relevant community representatives e.g. police, council etc.</p> <p>“Noise and Disturbance”</p> <p>We also want the apartment and stairs to be well manged.</p> <p>This is why we have a strict guest criteria. This is why we use a booking system that allows us to vet guests previous accommodation behaviour.</p>	<p>Criteria for selecting guests include no dogs, no smokers, no children under the age of 5.</p>

	<p>This is why we purchased a flat that in our own locale, so that we could be on call. This why we actively participate in building management. This is why we pay our factor fees in a timely fashion.</p> <p>Stairwell/Communal Entrance The building though built at the turn of the 19th Century, is not of traditional tenement style. Its original use was that of a Hotel. Therefore, its stairwell is well equipped with generous landings for those carrying any baggage up and down stairs. The Entrance door is a double doored.</p> <p>We also offer our guests the free use of large, ground floor, lockable cupboard for any items they wish to store e.g. golf clubs/bikes. This internal cupboard is directly opposite the main communal entrance.</p>	<p>The flat is a 5 min walk away from our home address. We too live in North Berwick's Conservation Area.</p>
<p><i>(iii) there is expensive equipment (such as bikes) stored in the communal hallway</i></p>	<p>"Expensive Equipment"</p> <ul style="list-style-type: none"> - No equipment or any items should be stored in the communal area it is 	

and thus the proposal raises a number of security concerns given that multiple strangers would be entering and leaving the building at various times;

against fire regulations and Health and Safety Advice.

- Insurance does not cover any items which are in the communal area as the front door is not of a recognised BS 3621 type.
- There are large lockable ground floor cupboards available to the majority of flat owners for this purpose.

“Multiple...

- There is no evidence to suggest that there are additional comings and goings between someone living in an apartment, than someone who is visiting the area.
- In fact, it could be argued that there is less movement as they tend to be out exploring the town, the surrounding area, spending money in the shops, restaurants and bars, playing golf etc.
- Indeed, those residents staying in the block have multiple trips in and out of the building due to work, school, shopping, car parking, dog walking, social commitments etc.

“...Strangers”

- All guests in our apartment have a record of when and who they are via registration and an online platform with audit capabilities.
- This cannot be said for any other visitors or those that are renting the other apartments.

	<ul style="list-style-type: none"> • The guests staying at our property are actually more identifiable and time specific than other occupants in the building. • In a long term let we would have no control over who the visitors to our tenants will be and hence will create a potential uncontrolled footfall. • Other owners also have visitors who are “strangers” to us • With a shared communal block of 11 flats is expected that you will pass people unknown to you on the stairwell. <p>Security Concerns The owners have equipped the flat to an exceptional high standard, and it is their interest also to attract guests that are law abiding.</p>	
<p><i>iv) managing recycling and household waste in the communal building requires understanding and close attention to detail by all residents. This will become a problem with short stay visitors who do not understand this system.</i></p>	<p>Apartment - Guests Our guests are not required to use the communal recycling area as this is done by us - the owners - after each let.</p> <p>We have set up 4 separate recycling containers in the flat (Food/General/Glass/Tins & Plastic)</p> <p>If guests choose to use the bin store, we have a council recycling information leaflet to aid them in the distribution of waste.</p>	

	<p>There is labelling in the bin store.</p> <p>Apartment - Owners</p> <p>We live locally and are therefore able to pay close attention to recycling/waste We participate in the Owners group – any ongoing issues can be identified and rectified through this forum.</p>	
	<p>Therefore we argue that the 2 objections are invalid due to the reasons outlined above, and that we have more than sufficient grounds for our appeal to be successful.</p>	
<p>Representation Objection - COMMUNITY COUNCIL</p>		
<p><i>North Berwick Community Council, as a consultee to this planning application, state that they object to the proposal. They state that it has been clearly established that flats with communal entrances are not suitable for holiday lets out of consideration for the neighbours sharing the flatted building.</i></p>	<ul style="list-style-type: none"> • We as owners have paid a fee of £600 for “full consideration” of our application. • If NBCC have declared a “Moratorium” on short-term lets with communal stairs in North Berwick. We, as owners of this property have entered into a planning process where the outcome was already decided. This is of concern. • The NBCC has “a duty to establish and reflect the views of the community as a 	

	<p><i>whole</i>". We are residents of North Berwick living in the Conversation Area. We argue that NBCC has failed to take account of our views, and others like us. Local Holiday Let owners views are not been represented.</p> <ul style="list-style-type: none">• NBCC -Code of Conduct for Community Councillors includes the Principle of Objectivity. A "blanket ban" therefore is unprincipled.• Many short-term holiday lets have operated successful for years with in NB communal stairs. We suggest that there is not a "clearly established" evidence to support their objection.• We argue that each planning application should be taken on an individual basis, due to the distinct historic nature of North Berwick Conservation Housing/Business Stock.	<p>Evidence for the need for individual planning is demonstrated below;-</p> <p>(a) West Bay Apartments, Station Road</p> <p>16 Flats. 11 of 15 Neighbours Objected</p> <p>- 73 % Objection/ 27% Approval</p>
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	<p>Therefore, the NBCC argument that they objected “ out of consideration of neighbours” is invalid as the planning process clearly demonstrated that a strong majority of 80% of owners have no issue with us operating us a short-term holiday let.</p>	<p>Quality Street 11 Flats, 2 of 10 Neighbours objected</p> <ul style="list-style-type: none"> - 20% Objection/80% Approval <p>(b) West Bay Apartments</p> <ul style="list-style-type: none"> - 13 Representations Objections <p>Quality Street</p> <ul style="list-style-type: none"> - Only 1 Representation Objection (NBCC) <p>(c) West Bay Owners</p> <p>Lived in England/ Used a letting agency</p> <p>Quality Street Live 5 mins away/Self Manage</p>
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	<p>We are a responsible holiday let owners and rather than been discouraged, we should be supported by the NBCC.</p>	
PLANNING ASSESSMENT		
<p><i>Policy RCA1 (Residential Character and Amenity) of the adopted East Lothian Local Development plan 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.L</i></p>	<p>As already outlined, The flat is located in a prime and historic tourist accommodation locale. Furthermore,</p> <ul style="list-style-type: none"> - This property has been operating within the area as a short term let since 2005 and is should be considered as part of the amenity. - The flat is located beside restaurants, take aways, the public convenience, car parking facilities, ice-cream outlet, shops, lodge grounds, the harbour, the sea etc. It is a busy area with tourists. It is not solely a residential area. - The flat is a tourist amenity and should be preserved as such. <p>The flat offers high quality accommodation, in a tourist locale – it does not adversely affect the area.</p>	

	<p>The flat is not incompatible with the immediate location in which is situated in.</p> <p>The quality of the accommodation on offer enhances the building and surrounding area.</p>	
<p>Please note: None of these representation groups made any objection</p>	<ul style="list-style-type: none"> • Council's Environmental Health Service • Council's Antisocial Behaviour Team • Police Scotland • Council's Road Services 	
<p><i>Along with the extra comings and goings of users of the holiday let at check in/check out there would also be an additional level of activity not only at the application property but also within the communal entrance, internal stair and hallway as a result of people regularly accessing both the main building of 8 Quality Street</i></p> <p><i>and the application property itself to service/clean it and</i></p>	<p>“Extra Comings and Goings”</p> <p>As outlined above -there is no evidence to suggest that there are additional comings and goings between someone living in an apartment, than someone who is visiting the area.</p> <p>Checkin/Check out This done by self checkin.</p> <p>“Service and Cleaning”</p> <p>The flat is well equipped with storage cupboards. All cleaning materials is stored in the flat e.g. mop, brush, hoover etc, These are not carried up and down the communal stairwell.</p> <p>Services only involves, the owners going up one flight of stairs on the day of change. It is once up the stairwell and once down. It is</p>	

<p><i>remove waste and recycling material.</i></p> <p><i>This level of additional activity would be evidently different to that expected with the permanent/long term use of the flat as a private residence</i></p> <p><i>again which is harmful to of the amenity of the occupants of the residential properties within the residential flatted building of 8 Quality Street.</i></p>	<p>not excessive movement and in no way can it be considered “additional activity” to those living in the block as a private residence.</p> <p>We have found that our guests create lower amounts of waste than ourselves who are permanent resident in North Berwick. Our guests frequently eat out for breakfast, lunch and dinner. Therefore, their recycling needs do not add “additional activity” to the stairwell.</p> <ul style="list-style-type: none"> • There is no evidence to suggest that a short-term let creates a “level of additional activity.” . Both local residents and visitors enjoy the amenities and lifestyle that North Berwick offers, eg golf. <p>Therefore, the objection of “additional activity” is unsustainable, and therefore our short-term let is not harmful to the amenity of residential properties</p>	
<p><i>Given the specific circumstances and location of the application property within the residential building of 8 Quality Street, which contains a number of permanent/long term residences.....</i></p>	<p>As noted above there are 2 short term lets, 5 permanent (owner occupied) and 4 tenants (these can be non-permanent (3 months or more). Therefore this statement is misleading.</p>	
<p><i>incompatible with and harmful to the amenity of the occupiers of the properties within the residential building of 8 Quality Street and as</i></p>	<p>80% of the property owners in the building did not agree that we are harmful to the amenity of the occupiers of the building.</p>	

<p><i>such is contrary to Policy RCA1 of the adopted East Lothian Local Development Plan 2018.</i></p>	<p>We have outlined earlier on in the document that we are not Harmful but actually preserve and enhance both the stair and the close locale, therefore we are not contrary to the Policy RCA1.</p>	
<p>Local Development Plan</p>		
<p>Councillor Norman Hampshire; <i>“It is vitally important that we conserve East Lothian’s special qualities for future generations. But at the same time it is also important to embrace change and to provide appropriate opportunities to help grow and diversify East Lothian’s economy and to create more jobs in the area”.</i></p>	<ul style="list-style-type: none"> • Anyone who has taken a short holiday apartment in other towns and cities in the UK and in Europe can appreciate the negative impact of such a criteria as “no apartments with communal access can be let short term” North Berwick is no different. 	<p>We invested £28k in modernising the apartment employing local tradesmen (heating engineer, electrician, plumber, joiner and plasterer) to ensure the property was of a high standard. This has all contributed to increasing the value of the property and investing in local trades.</p>
<p>Further Comments to be considered</p>		
<p>We live in North Berwick, and we want to offer visitors to North Berwick high standard tourist accommodation. We have taken significant steps to be “good neighbours” to our fellow neighbours in Quality Street. For example, we setup a strict vetting and guest criteria; we help maintain the building; all neighbours have our contact number for any issues that arise, to name a few. We have clearly addressed the 2 resident objections made in this document. We have also outlined our concerns with regard to the NBCC objection, and outlined our arguments against.</p> <p>We hope you find in our favour.</p>		

