

# LOCAL REVIEW BODY

21 August 2025

Application No: 25/00150/P

**35E Edinburgh Road, Musselburgh**

Appointed Officer's Submission

# OFFICER REPORT

**31st March 2025**

App No. **25/00150/P**

Application registered on **17th February 2025**

Target Date **16th April 2025**

Proposal	<b>Change of use of flat to short term holiday let (Retrospective)</b>	SDELL	Y/
		CDEL	N
Location	<b>35E Edinburgh Road Musselburgh EH21 6EE</b>	Bad Neighbour Development	N

APPLICANT: **Montgomery Empire LTD**

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

**Per Mr Alan Montgomery  
9 Clanranald Avenue  
Prestonpans  
EH32 9FP**

DECISION TYPE:

**Application Refused**

## REPORT OF HANDLING

### PROPOSAL

This application relates to a top floor flat within a three storey flatted building situated on the north side of Edinburgh Road in Musselburgh. The flatted building is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

The flatted building is bounded to the north by the foreshore of Fisherrow Sands beach, to the east by the communal garden area serving the flatted building beyond which there are neighbouring residential properties and to the south and west by the public road of Edinburgh Road.

In June 2024, an application seeking a certificate of lawfulness (Ref: 24/00068/CLU) was refused for the use of the flat of 35E Edinburgh Road, Musselburgh as a short term holiday let for the reason being that it has not been demonstrated that the use of the flat as a short term holiday let is not a material change of use that does not require planning permission or

that the flat has been in use as a short term holiday let for a continuous period of 10 years or more.

The decision to refuse application 24/00068/CLU was appealed to the DPEA and dismissed by the reporter on 25th November 2024 concluding that the use of the flat was a material change of use which required planning permission for it.

Planning permission is now retrospectively sought for the change of use of the residential top floor flat of 35E Edinburgh Road, Musselburgh as a three bedroomed 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.

Subsequent to the registration of this application the applicant has confirmed in writing that (i) the flat has been marketed/used for short term lets since September 2022; (ii) the minimum length of stay is 2 days and the maximum length of stay is 28 days; (iii) the maximum number of visitors in one booking is 6 guests; (iv) bins/recycling are managed by the applicant and the flat is cleaned between guest stays by the applicant or by an appointed cleaning company; (v) the property is advertised online and guests have access to a key safe box for checking in and checking out; (vi) the property has an occupancy rate of 87% for the year and the busiest months are from April to August; (vii) there are a total of six flats within the building (2 per floor) which share a communal entrance and internal stair; (viii) the applicant's flat does not benefit from an allocated or private parking space but there is on-street parking available.

## DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 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 East Lothian Local Development Plan 2018.

Policies 13 (Sustainable transport) and 30 (Tourism) of NPF4 are relevant to the determination of this application. Policies RCA1 (Residential Character and Amenity), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

## REPRESENTATION

One objection to this application has been received. It states that it is made on behalf of five of the six residents within the building. The main grounds of objection, as summarised, are:

(i) Flats 35A, 35B, 35C, 35D and 35F are occupied by homeowners, as permanent residents within the block, and the ongoing use of the applicant's flat (35E) as a short term holiday let has resulted in significant difficulties - due to the attitude from the applicant towards his

neighbours and the fact that the applicant's flat is located on the top floor such that guests have to navigate the communal stairwell passing every residents' flat in the process;

- (ii) there continues to be significant noise disturbance in the stairwell as guests arrive at all hours of the night and day pulling luggage up the stairs and moving in and out of the flat during their stay at all hours - including unsociable hours;
- (iii) guests use the back drying green and the front steps of the building to drink, smoke and party resulting in noise and disturbance to neighbours - guests also hang their clothes on the wrong washing lines which are not allocated to the applicant's flat;
- (iv) guests throw cigarette butts out of the windows onto both the front garden area and the back drying green resulting in health and safety concerns;
- (v) music, loud voices, laughing, shouting, banging in the stairwell from guests renting the flat can be heard by neighbours which affects the amenity of permanent residents;
- (vi) there is no security for the front door which means anyone can gain entry and it bangs loudly all of the time - the permanent residents in the building know to hold the door to close it but guests don't;
- (vii) guests often cause damage to the stairwell when dragging their suitcases up and down, and dirt and sand from shoes are deposited onto the stairwell leaving a mess for residents to deal with;
- (viii) guests often deposit their waste/recycling in bins belonging to residents rather than using the correct bins/containers designated for the short term let flat or they leave their rubbish on the pavement which then overflows onto the pavement and onto the beach attracting vermin;
- (ix) concerns that guests are blocking drains by pouring fat, oil and grease down kitchen sinks and a recent water leak, coming from the applicant's flat, caused water and electrical damage to the occupiers in a neighbouring flat;
- (x) guests of up to 6 people, 7 days a week, are utilising the common areas, increasing the wear and tear on the front steps, stair and stairwell, and the back green, as well as affecting amenities such as drainage;
- (xi) parking is compromised and there is no dedicated off-street parking for visitors;
- (xii) the applicant does not appear to be able to attract holiday makers or families and is increasingly offering the let to groups of males and tradespeople which is distressing and disconcerting for residents, and in particular females, to have so many male strangers in the stairwell or encountering them in the back green or around the front steps of the building;
- (xiii) the applicant is generally unresponsive, unavailable and unsympathetic to calls made when there are issues of concerns such that residents have had to resort to calling the Police.

## COMMUNITY COUNCIL COMMENTS

None.

## PLANNING ASSESSMENT

This application seeks retrospective planning permission for the change of use of a three bedroomed flat to a three bedroomed unit of short term holiday let accommodation. The holiday let comprises of three bedrooms, a kitchen, a living room and a bathroom. It is capable of accommodating/sleeping 6 guests.

The East Lothian Local Economy Strategy 2024-2034 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 East Lothian Local Development Plan 2018 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 the residential flat to a holiday let provides holiday accommodation within Musselburgh that attracts visitors and encourages them to stay in East Lothian, which supports the existing long established business and benefits the wider economy of East Lothian.

The adopted East Lothian Local Development Plan 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 East Lothian Local Development Plan 2018 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 (retrospective) 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 Environmental Health Officer advises that whilst the normal use of a property would not result in loss of amenity to neighbours, the use of properties for short term holiday lets can result in future guests misusing and abusing the property in a manner that is antisocial and can result in a significant impact upon amenity of neighbours. However, it is stated that the Council's Environmental Health Service cannot assume that antisocial behaviour issues will arise and thus cannot impose any enforceable conditions to protect the amenity of neighbours.

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

Police Scotland advise that there have been four police incidents at this address (having checked their records over the last three years) relating to (i) guests banging on the door who were locked out of the property; (ii) banging and loud laughing coming from the flat; (iii) loud noise coming from the flat to which police officers found 20 persons within the flat hosting a party; and (iv) a call for advice regarding concerns over the property being used as a holiday let and residents feeling intimidated by guests and owner interactions.

The Council's Road Services raise no objection to this application and note that the property is situated within a block of flats which has no private parking such that residents/visitors are required to park on-street. They also note that the documents submitted with this application confirm that no internal alterations are proposed and thus they advise that there would be no changes in the likely parking demands. In general, they state that whilst there may be some increase in the number of vehicles during the peak tourist season compared to residential use, this increase would likely even out throughout the year resulting in no noticeable difference in overall car parking demand. Accordingly, the proposals do not conflict with Policy 13 of NPF4 or Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

The applicant's property is a three bedroomed flat located on the top floor of a three storey flatted building which contains a total of 6 residential properties within the block (2 per floor). The property the subject of this application shares a communal front entrance door and internal stairwell with three other residential properties within the flatted building.

The use of the application property as a holiday let enables it to be let out for short stays resulting in a turnover of people over short time periods with a significant proportion of occupants likely to be visitors. Such a regular turnover of users/occupants would change the nature of comings and goings not only to the application property itself but also within the communal entrance and internal stair of the residential flatted building. Most users/occupants of the holiday let would have a degree of luggage or other belongings to take through the communal entrance and internal stairwell which in itself would lead to a level of disturbance and nuisance not associated with the permanent/long term residential use of the property. This is harmful to the amenity of the occupants of the residential properties within the residential flatted building of 35 Edinburgh Road. It is accepted that permanent residents may also make noise but they tend to keep their luggage in their homes and do not move them with the same frequency as regularly changing guests who arrive and depart sometimes at unsociable hours, and this differs from typical residential circumstances.

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 and stairwell as a result of people regularly accessing both the main building and the application property itself to service/clean it and remove waste and recycling material after each guest stay. 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 again which is harmful to the amenity of the occupants of the residential properties within the flatted building of 35 Edinburgh Road.

Moreover, allowing frequently changing guests unfettered access to otherwise secure shared areas changes the actual and perceived level of security for permanent residents. Whilst 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.

Given the specific circumstances and location of the application property within the residential flatted building of 35 Edinburgh Road, Musselburgh which contains a number of permanent/long term residences which share a communal entrance and stairwell, the retrospective change of use of the applicant's top floor flat as a three bedroom unit of short

term self-catering holiday let accommodation is incompatible with, and harmful to, the amenity of the occupiers of the properties within the residential flatted building. 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 East Lothian Local Development Plan 2018.

It is now necessary to assess the impact of the change of use on the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits as is stated in part e) of Policy 30 of NPF4.

The Council's Housing Strategy & Development Service state that the change in use of this property from a long term residential dwelling to a short term let is considered a significant loss because the property is not an established short term let. Accordingly, the Council's Housing Strategy & Development Service object to this retrospective planning application.

The Council's Economic Development Service Manager advises that there are demonstrable local economic benefits delivered by all types of short term holiday lets in East Lothian and that existing provision of this type of accommodation must be retained, protected and supported where there is no demonstrable impact on local amenity, the character of the area or loss of residential accommodation. In the particular circumstances of this case it is stated that (i) the aggregate economic benefit from short terms lets is a 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 "a successful, accessible and sustainable tourism sector that provides quality experiences and benefits our local communities"; (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 6 bedspaces and a potential annual economic impact of £136,362 and 3 FTE jobs; (v) the proposal provides high-quality tourist accommodation attracting visitors to Musselburgh 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. Therefore, the Council's Economic Development Service Manager 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 East Lothian Local Economy Strategy 2024-2034 and the intent and outcomes of part e) of Policy 30 of NPF4.

However the local economic benefits associated with the use of the applicant's top floor flat operating as a three bedroom unit of short term self-catering holiday let accommodation does not outweigh the unacceptable impact on local amenity. Therefore, the change of use is not in accordance with the Development Plan and there are no material planning considerations that outweigh the fact that the change of use is not in accordance with the Development Plan.

The application property of 35E Edinburgh Road, Musselburgh 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 three months.

REASON FOR REFUSAL:

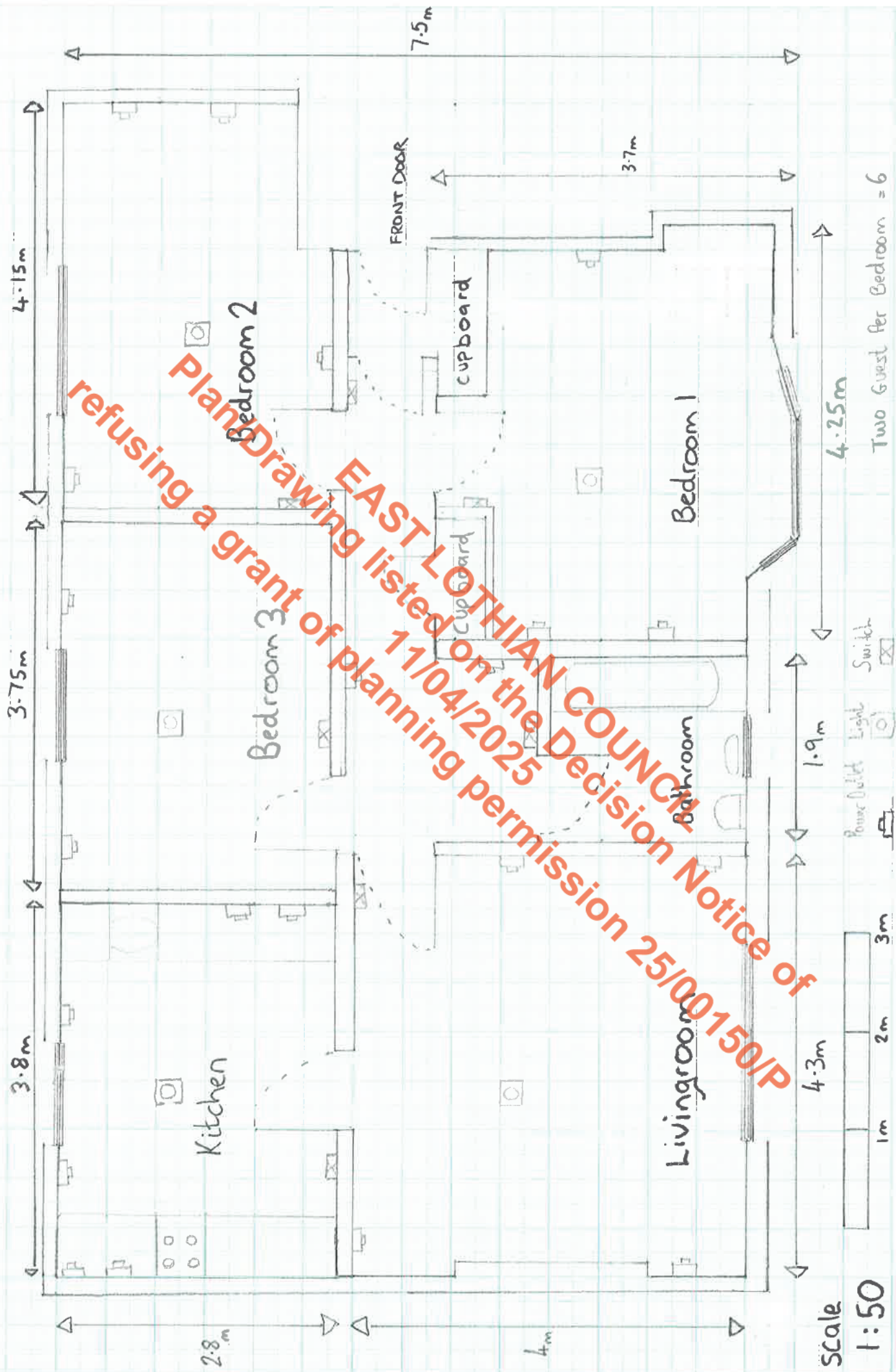
- 1 The holiday let use of the flatted property is incompatible with and harmful to the amenity of the occupiers of the properties within the residential building of 35 Edinburgh Road, Musselburgh and as such is contrary to part e) of Policy 30 of National Planning Framework 4 and Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

LETTERS FROM

[REDACTED]  
[REDACTED]

31st March 2025





scale  
1:50



Two Guest per Bedroom = 6



LAND REGISTER  
OF SCOTLAND

Officer's ID / Date

3305  
5/1/2012

TITLE NUMBER

**MID70909**



ORDNANCE SURVEY  
NATIONAL GRID REFERENCE

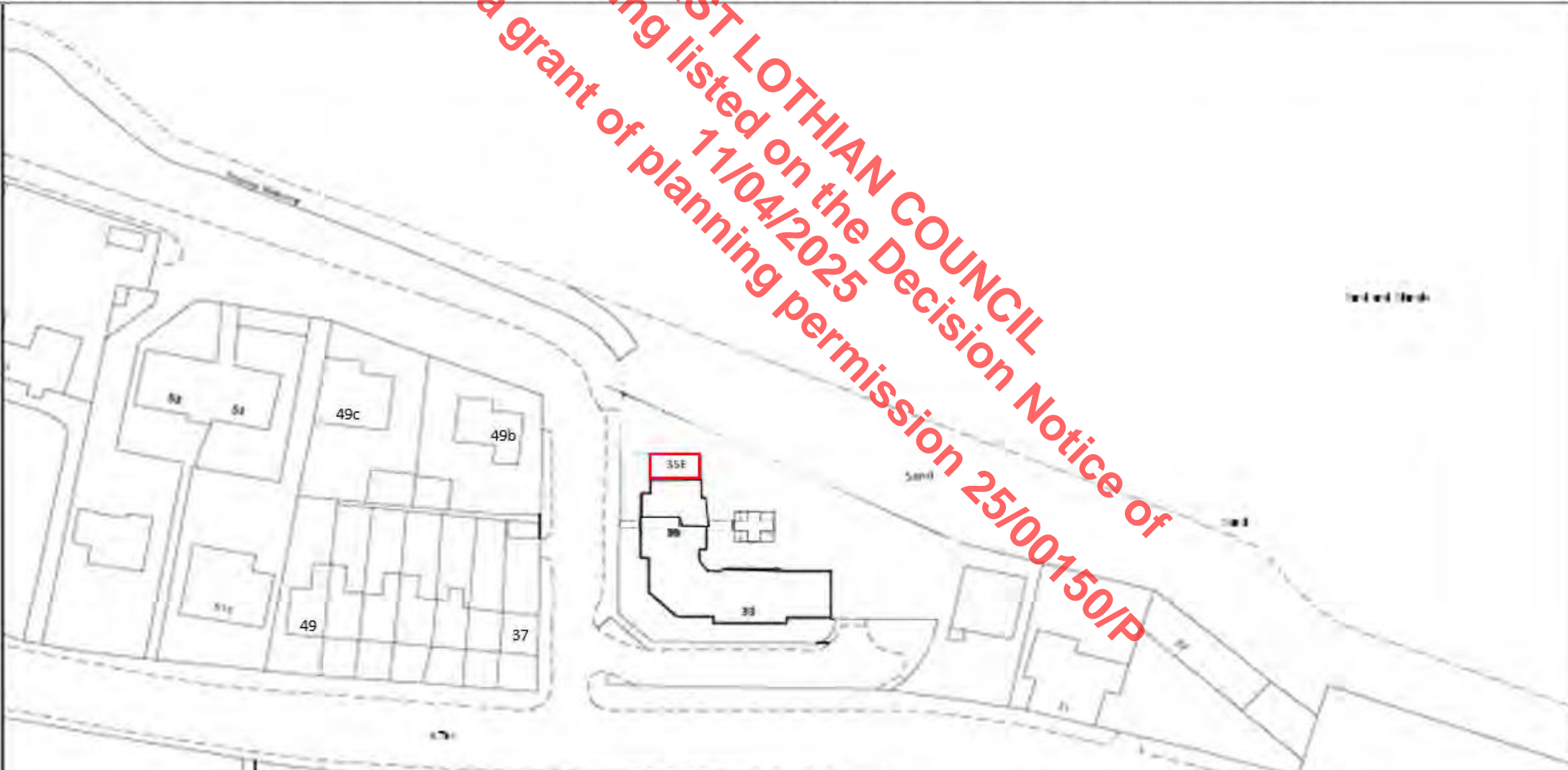
70m

NT3272NE NT3372NW NT3273SE NT3373SW

Survey Scale

1/1250

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**App No. 25/00150/P**

**EAST LoTHIAN COUNCIL  
DECISION NOTICE**

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

**Montgomery Empire LTD  
Per Mr Alan Montgomery  
9 Clanranald Avenue  
Prestonpans  
EH32 9FP**

**APPLICANT: Montgomery Empire LTD**

With reference to your application registered on 17th February 2025 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  
35E Edinburgh Road  
Musselburgh  
EH21 6EE**

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 occupiers of the properties within the residential building of 35 Edinburgh Road, Musselburgh 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 1	-	17.02.2025
MID70909	-	17.02.2025

**11th April 2025**



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.

## Currie, Fiona

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**From:** Anstock, Luke  
**Sent:** 20 February 2025 16:07  
**To:** Environment Reception  
**Cc:** Millar, Neil  
**Subject:** RE: 25/00150/P-Neil Millar - Planning Consultation 25/00195/PLANCO

**Categories:** 

Good afternoon,

I refer to your e-mail consultation of 18th February 2025 in connection with the above and would advise as follows.

Whilst the normal use of a property would not result in a loss of amenity to neighbours, the use or part use of a property including ancillary buildings for the purposes of short term let may lead to instances of guests misusing or abusing the accommodation in a manner that is anti-social. This may adversely impact the amenity of neighbours. Environmental Health cannot assume that ASB will arise however, and cannot enforce any enforceable conditions to protect the amenity of neighbours.

Kind regards,

Luke Anstock  
Environmental Health Officer  
Public Health & Environmental Protection Protective Services East Lothian Council

  
Email: lanstock@eastlothian.gov.uk

Website:

<https://gbr01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.eastlothian.gov.uk%2F&data=05%7C02%7Cenvironment%40eastlothian.gov.uk%7C257ffc7181c1424f7e6d08dd51c894b0%7C85e771afe90a4487b4071322ba02cc82%7C0%7C0%7C638756644099606561%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIlwLjAuMDAwMCIslIAiOiJXaW4zMilSlkFOljoiTWFpbGlldUljoyfQ%3D%3D%7C0%7C%7C%7C&sdata=a1KaEkBESzKsJUK3JISZdyqtQiPENUCskbXO%2BbIF32Q%3D&reserved=0>

-----Original Message-----

**From:** Environmental Protection <envprot@eastlothian.gov.uk>  
**Sent:** 18 February 2025 16:02  
**To:** Anstock, Luke <lanstock@eastlothian.gov.uk>  
**Subject:** FW: 25/00150/P-Neil Millar - Planning Consultation 25/00195/PLANCO

Planning 25/00195/PLANCO

-----Original Message-----

**From:** environment@eastlothian.gov.uk <environment@eastlothian.gov.uk>  
**Sent:** 18 February 2025 12:32  
**To:** Environmental Protection <envprot@eastlothian.gov.uk>  
**Subject:** 25/00150/P-Neil Millar - Planning Consultation

Please see attached document in relation to the following application: Change of use of flat to short term holiday let (Retrospective) at 35E Edinburgh Road Musselburgh  
EH21 6EE

[[https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.eastlothian.gov.uk%2Fimages%2FELC\\_Be\\_Nice\\_EMAIL\\_FOOTER\\_\\_zerotolerance\\_1.png&data=05%7C02%7Cenvironment%40eastlothian.gov.uk%7C257ffc7](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.eastlothian.gov.uk%2Fimages%2FELC_Be_Nice_EMAIL_FOOTER__zerotolerance_1.png&data=05%7C02%7Cenvironment%40eastlothian.gov.uk%7C257ffc7)]

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d=0]

## Currie, Fiona

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**From:** Business Support CPT  
**Sent:** 20 February 2025 10:31  
**To:** Environment Reception  
**Subject:** RE: 25/00150/P-Neil Millar - Planning Consultation

**Categories:** 

Nothing on the ASB register

-----Original Message-----

From: environment@eastlothian.gov.uk <environment@eastlothian.gov.uk>

Sent: 18 February 2025 12:32

To: 

Subject: 25/00150/P-Neil Millar - Planning Consultation

Please see attached document in relation to the following application: Change of use of flat to short term holiday let (Retrospective) at 35E Edinburgh Road Musselburgh

EH21 6EE

[https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.eastlothian.gov.uk%2Fimages%2FELC\_Be\_Nice\_EMAIL\_FOOTER\_\_zerotolerance\_1.png&data=05%7C02%7Cenvironment%40eastlothian.gov.uk%7Cfc8a8e383b6f407c03a408dd51999d88%7C85e771afe90a4487b4071322ba02cc82%7C0%7C0%7C638756442418323555%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMilslkFOljoitWFPbClslldUljoyfQ%3D%3D%7C0%7C%7C%7C&sdata=UWttN1SvVFg0%2BsBAys6oXNSQLnhohSOX43l8wv9fwx4%3D&reserved=0]



**From:** [REDACTED]  
**To:** [Environment Reception](#)  
**Subject:** RE: 25/00150/P-Neil Millar - Planning Consultation [OFFICIAL SENSITIVE: POLICE AND PARTNERS]  
**Date:** 18 February 2025 12:51:41

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[REDACTED]

Please see attached document in relation to the following application: Change of use of flat to short term holiday let (Retrospective) at 35E Edinburgh Road Musselburgh EH21 6EE

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[nce\\_1.png&data=05%7C02%7CElaine.Baird%40scotland.police.uk%7C195d77b04178445663c708dd5018326](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.eastlothian.gov.uk%2Fimages%2FELC_Be_Nice_EMAIL_FOOTER__zerotolera)

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**From:** [Hussain, Aizaz](#)  
**To:** [Millar, Neil](#)  
**Cc:** [REDACTED]  
**Subject:** TRANSPORT PLANNING RESPONSE: 25/00150/P- Planning Consultation  
**Date:** 28 February 2025 16:00:48

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EAST LoTHIAN COUNCIL ROAD SERVICES

From: Asset & Regulatory Manager

To: Service Manager, Planning

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Proposal: Change of use of flat to short term holiday let (Retrospective) at 35E Edinburgh Road Musselburgh EH21 6EE

This planning application is for a retrospective change of use of flat to a short-term holiday let at 35E Edinburgh Road, Musselburgh. The property is situated within a block of flats and has no private parking; therefore, residents/visitors are required to park on the street.

We have reviewed the documents submitted by the applicant in support of this planning application, which confirm that no internal changes are proposed. Hence, we conclude that there would be no changes in the likely parking demands. In general, we would note that whilst there may be some increase in the number of vehicles during the peak tourist season compared to residential use, this increase would likely even out throughout the year, resulting in no noticeable difference in overall car parking demand.

Therefore, we confirm that we do not have any objections to this planning application.

Please advise the applicant that all works within or affecting the public road including works on the footway or verge must be authorised in advance by this Council as Roads Authority.

Sent on behalf of IAN KING

ROAD SERVICES, ASSET & REGULATORY MANAGER

If telephoning, please ask for:

**Aiz**

**Aizaz Hussain**

Transportation Planning Officer

[REDACTED]

East Lothian Council

Penston House, Macmerry Industrial Estate, Macmerry, East Lothian EH33 1EX



# **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 to residential accommodation from the change of use of long term residential accommodation to short term holiday lets.

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 is Scotland's long-term national housing strategy and 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) under the Housing (Scotland) Act 2001. The Local Housing Strategy is the sole strategic document for East Lothian which brings together a wide range of housing priorities. The most recent version LHS 2024-29 was approved by Cabinet in January 2024. The following priorities are relevant to the change of use of homes to short term lets:

- '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 higher, this was reflected by the Council declaring an Affordable Housing Emergency in November 2024. Further restrictions on the availability of homes within the wider housing market will further restrict the supply of housing impacting upon affordability. This includes excessive use of properties that were formerly homes as short term lets. As of January 2025 there were over 4,273 households on the Council's housing list. There were 795 homeless applications during 2023/24 with current supply unable to meet the demand for affordable housing. Significant increases in the number of people on the Council's housing list in recent years

reflect an increasing need for affordable accommodation with over one fifth (20.1%) of housing list applications being made by households currently living in the PRS.

There is a need for an increased supply in long term rental properties across the whole county. The three eastern wards have the highest concentration of PRS tenants seeking social rented housing within East Lothian. North Berwick Coastal (29.6%); Dunbar and East Linton (22.8%); and Haddington & Lammermuir (24.2%) have the highest proportion of households on the housing list who live in the PRS. These three wards also have the least amount of social rented housing per 1,000 population. These localities also have the highest concentrations of short term lets within the region.

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.

From 1st April 2023 – 31st March 2024 the Council provided 34 Rent Deposits and where required provision of rent in advance to clients approaching our Housing Options Team. 13 of these cases were provided to Ukrainian households through Homes for Ukraine, these monies are recouped from Scottish Government through funding provided.

#### *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 sector<sup>1</sup>:

- 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.<sup>2</sup>
- 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 is in wards Musselburgh, Tranent/Wallyford/Macmerrie 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.

<b>Table 1: Percentage of persons aged 65 and over by area partnership</b>	
North Berwick Coastal	27%
Haddington and Lammermuir	22%
Tranent, Wallyford, Macmerrie	15%
Musselburgh	20%
Dunbar and East Linton	21%

<sup>1</sup> South East Scotland Housing Needs and Demand Assessment 3

<sup>2</sup> Local Housing System Analysis – Housing supply and affordability

An ageing population results increase the need for smaller, more accessible homes. According to a wheelchair needs assessment carried out in 2022, East Lothian has an estimated unmet need of 430 wheelchair accessible homes and couple households have the greatest need for adaptable homes in 2020. Furthermore, the private sector housing grant which supports the delivery of adaptations in the private housing sector has faced significant budgetary constraints. 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*

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 the 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. This puts further strain 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 brings 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 negative impact on housing availability. 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 in terms of homeless household applications, the housing list, or the general trend of an increase in smaller households in owner-occupied properties. One and two 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 sees the greatest pressures in terms of the need for smaller properties to accommodate homeless people. North Berwick see an increased pressure 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 bedrooms; as originally built.
- Where the property is deemed as adaptable<sup>3</sup>: 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 ten years from date of application; and/or
- The annual occupancy rate of the property is 6 months 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 criterion mentioned will be weighted in each case.

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<sup>3</sup> 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** – 25/00150/P

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

**Location** – 35E Edinburgh Road, Musselburgh, EH21 6EE

**Planning Officer** – Neil Millar

Housing Strategy has been asked to comment on the approval of the change of use of 35E Edinburgh Road, Musselburgh 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 property is a three bedroom flat located on the top floor with a communal entrance and stairwell shared with five other properties within the building. The home has been utilised as a short term let since September 2022.

The Housing Strategy & Development Service 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 considered a significant loss because:

- The property is not an established short term let.

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:** 7<sup>th</sup> March 2025



## 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** – 25/00150/P

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

**Location** – 35E Edinburgh Road, Musselburgh, EH21 6EE

**Planning Officer** – Neil Millar

### ECONOMIC DEVELOPMENT POLICY BACKGROUND

The East Lothian Local Economy Strategy 2024-2034 was adopted by East Lothian Council on 23<sup>rd</sup> 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

3. To build on East Lothian's reputation as a great place to live, work, and learn by adopting a pro-business approach, seeking and supporting sustainable investment, and by empowering communities.
4. To capitalise on the economic opportunities of and take a leading role in the just transition to a net zero economy.
5. To maximise the opportunities of being a part of the Edinburgh and South-East Scotland City Region.
6. To promote a successful, accessible, and sustainable tourism sector that provides quality experiences and benefits our local communities.

### 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.

## EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

2019	Total Accommodation
Number of NSA Establishments	203
Number of NSA Bedspaces	6111
NSA Visitor Numbers	130k
NSA Visitor Days	853k
Direct Economic Impact	£210m
Indirect Economic Impact	£69m
<b>Total Economic Impact</b>	<b>£279m</b>
VAT Revenue	£35m
NSA Direct Employment (FTEs)	1007
Total Employment (FTEs)	4434

The potential impact of removing or failing to allow the development of non-serviced accommodation bedstock is evident. Any drop in staying visitors would have an effect on the economic impact of visitors to the area, reducing direct expenditure related to NSA and the wider supply chain. The negative economic impact would further result in a reduction in VAT revenue.

Reductions in bedstock and staying visitor numbers would not only impact visitor expenditure and total economic impact, but also employment related to servicing and maintaining properties.

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.

### 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

## EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

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.

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.

The property in question is a 3-bedroom / 6-bedspace upper flat that shares an access stair with other properties in its block in Musselburgh. It has been operated as a short-term holiday let since September 2022 and has been granted a short term let license.

The applicant notes that the property is available year-round for holiday lets and typically achieves an occupancy rate of 87% over the year and 100% April-August. The property has 56 days booked up to September 2025.

The applicant has provided information in relation to the property's contribution to the local economy:

"...we have a high occupancy rate, and the local community benefits from guests spending on shops, bars, takeaways, restaurants, taxis, buses, trains, plus the prices they pay for tickets for these events and then the additional spending they do at the events e.g. golf tournaments/concert/festival/Xmas markets/theatre tickets etc. We have direct employment

## EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

– Pat testers, Gas testers, Legionella testers, Electrical safety testers, Cleaners, Maintenance odd job technician, Plumbers, Electricians, Carpet Fitters, Painters, Window cleaners, Taxi drivers - All these people benefit from our STL. We also direct our guests to a local man who takes our guests on local paddle boarding lessons. He benefits from our business. This is my wife's only source of income. This is her full time job, liaising with guests, cleaning, managing the property (with me). It's part of our business. As we are married couple who share all income, this property significantly contributes to our joint (household/family) income and if we lost this STL it would drastically impact our family (3 daughters)."

### 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 operated as a short-term holiday let since 2022 and is therefore established within the area's current supply of accommodation.
- 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 strategic priority of being promoting "a successful, accessible, and sustainable tourism sector that provides quality experiences and benefits our local communities".
- The majority of STL properties applying for COU retrospectively that have a shared access or other common area are not granted permission, this is resulting in significant number of properties being removed from the current visitor accommodation market, increasing the value to the economy of properties with no shared access such as this.
- 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

## EAST LoTHIAN COUNCIL ECONOMIC DEVELOPMENT AND REGENERATION

accounts for 6 bedspaces and a potential annual economic impact of £136,362 and supporting 3 FTE jobs.

- 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 2025/26 should be allowed to be honoured by the applicant, noting the property has a current STL licence.

**Response author:** Jamie Baker, Service Manager, Economic Development **Date:** 06/02/2025

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

Service Manager – Planning (Chief Planning Officer)

East Lothian Council

John Muir House

Haddington

EH41 3HA

**Re: Application Number 25/00150/P, 35E Edinburgh Road, Musselburgh, EH21 6EE.  
Change of use of flat to short term holiday let (Retrospective).**

I am writing on behalf of residents within flats [REDACTED] and there has also been some disturbance in relation to noise, car parking and the use of the drying green for residents in flats [REDACTED]

The flats are occupied by home-owners and four flats are East Lothian Council Tenants. We all live in the two stairs as our permanent residences.

We have experienced significant and ongoing difficulties with Mr Alan Montgomery renting out his flat as a short-term let since he purchased it in 2022. At no time has he or any member of his family lived in the flat as their home. He refurbished it immediately upon purchase and commenced to let it out on Air BnB and now Booking.com shortly afterwards. As residents and neighbours we were unaware of his intentions and the impact on our peaceful living was immediate.

The difficulties have been exacerbated by Mr Montgomery's attitude towards his neighbours, collectively and individually, with myself and my [REDACTED] neighbour – [REDACTED] being the most affected. I understand that while this does not fall within scope of the planning regulations we request that it is noted in the context of Mr Montgomery being unwilling to work positively with the local community. Were he to be granted planning permission, realistically his attitude will harden further leaving us with no options for resolution.

When the requirement to apply for a licence was introduced in 2023, as a common stair we submitted an objection and I gave verbal evidence to Councillors in May 2023 at

Haddington. As a result Mr Montgomery was only afforded an 18 month licence (which is due for renewal in November 2025) not the usual 3 year licence and conditions were placed on his business activity. While Mr Montgomery did comply with some of these conditions there have been ongoing problems which are not resolvable within the context of a common stair.

The situation is exacerbated by the fact that Mr Montgomery's flat is on the top floor so his guests have to navigate the stairwell passing every residents' flat in the process.

We continue to experience:

- Significant noise disturbance from 'guests' in the stairwell:
  - Arriving at all hours of night and day, pulling heavy luggage up the stairs
  - Up to six people (sometimes more) moving in and out of the flat during their stay at all hours, including unsociable hours
  - Using the back drying green and the front steps of the building to continue to drink, smoke and party
  - Throwing cigarette butts out of the window onto the private front garden of [REDACTED] the back drying green, smoking on the front steps, smoking cannabis
  - Music, loud voices, laughing, shouting, banging in the stairwell and from the flat that is being rented out
  - There is no security for the front door which means anyone can gain entry and it bangs loudly all of the time, especially as the flats are in a very windy spot by the sea. Residents know to hold the door to close it – guests don't
- Damage, dirt and mess to the stairwell:
  - Coming in off the beach with wet, sandy and dirty shoes/clothes, dripping towels etc
  - Dragging heavy suitcases up and down the stairs, hitting off each stair and depositing mud/dirt
  - Removing rubbish which sometimes overflows or leaks onto the common stairwell, causing health and safety concerns
  - Most people consume food and alcohol carry outs creating a lot of extra rubbish and mess
- Rubbish management:
  - Not placing rubbish in the designated green bin for that flat but using bins owned by residents or leaving on the pavement
  - Rubbish overflowing onto the pavement, onto the beach and into the sea
  - Not recycling appropriately
  - Increased potential for vermin – Guests have reported that Mr Montgomery currently has mice in his flat. The [REDACTED] tenants [REDACTED]



have yesterday (27<sup>th</sup> Feb 2025) called in environmental health who have advised there is vermin in the building. This has been reported to Mr Montgomery but he has not responded

- Drying Green:
  - Using the drying green as a social and party space
  - Hanging washing on clothes lines that are not allocated to that flat
  - Not removing rubbish or cigarette butts
- Drainage and damage
  - The down pipe for the sinks in kitchens [REDACTED] into the drainage system. Yesterday, 27<sup>th</sup> Feb 2025, Dynamic Drainage cleared the drains which have been blocked for around 6 months. The cause was fat, oil and grease which was so solid, standard rodding could not clear it and power jets were required. As home owners [REDACTED] are extremely careful not to pour any matter that could solidify down our sinks. The most likely cause of the blockage is therefore the guests in 35E over the past 3 years who are unlikely to have disposed of this type of material appropriately. This has been reported to Mr Montgomery but he has not responded
  - A recent water leak from 35E was not addressed as an emergency and caused water damage and electrical damage to [REDACTED]
- Stair Maintenance:
  - The stair is generally quiet with middle aged residents (most in their 60s) and very little footfall but with the operation of this business - up to 6 people, 7 days a week are utilising the common areas, increasing the wear and tear on the front steps, stair and stairwell, and the back green, as well as affecting amenities such as drainage
- Parking:
  - Parking is compromised - on most short-term lets, at least one vehicle and sometimes two are utilising premium parking spaces in front of the flats, limiting the use by residents
- Guests
  - Mr Montgomery appears to no longer be able to attract holiday makers or families and is increasingly offering the let to groups of males and tradespeople. This is distressing and disconcerting for residents and in particular females – to have so many male strangers in our stairwell, encountering them in the back green and around the front steps, usually smoking and having partaken of alcohol. Most recently in January 2025 there were 8 non-UK males resident in the flat who arrived in a white van and had very limited English language which made communication potentially problematic in terms of problem resolution

- Police
  - As Mr Montgomery is generally unresponsive, unavailable and unsympathetic to calls made when there are issues of concern we have increasingly had to resort to calling the Police.

I have also attached the original objection to the short-term licence application which provides additional and specific examples of the noise disturbance and attitude of Mr Montgomery. [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

East Lothian Council

Short-term Lets Department

[REDACTED]

**Air B&B Application: 35E Edinburgh Road, Musselburgh, EH21 6EE. Owner: Mr Alan Henderson.**

I am writing [REDACTED] resident within the stair 35 Edinburgh Road to object to the application for an Air B&B licence for 35E.

Mr Alan Montgomery bought the property over a year ago and gave no indication of its intended purpose. He did not engage with residents of the stair or provide any contact details and it was only when his first guests arrived that we became aware that the flat was now being used for commercial purposes.

We have owned the [REDACTED] since 2012 and it is the family home of my partner.

My neighbour [REDACTED] is also a long-standing property owner and this is her family home. [REDACTED] spends most of her time in her home and is particularly affected by this situation which at times affects her sleep patterns and results in panic attacks: the problems relating to the Air B&B and Mr Montgomery's attitude has significantly impacted on her well being.

[REDACTED]

was forced to take early retirement a couple of years back due to a neurological condition that affects her mobility and periodically she requires mobility aids. She has grandchildren who visit her home on a regular basis.

[REDACTED] is also a home owner and has lived in the property for many years.

[REDACTED] is also a Council tenant and has been a resident for over 25 years.

Essentially it is a family stair which extends to the other 6 flats adjoining to the property where there are another two Council tenants, one of whom has lived there and raised his family for over 30 years. In general we all get on very well, are respectful and helpful towards each other and live peacefully in our community. We also have good connections with our neighbours on the opposite side of the road.

The utilisation of 35E has been a huge disrupter to our living environment from the onset and we have captured a catalogue of issues, all of which have been raised with Mr Montgomery. The medium used for this has been what's app but in the months running up to the requirement to apply

for a licence Mr Montgomery attached a timer to remove messages and so the vast majority [REDACTED] communication with him has been lost. He gave no indication of his intention to do this.

Collectively as residents however we can provide an overview of the issues as follows:

1. Smoking.

- Although it is a non-smoking property guests frequently open the windows and hang out of them to have a cigarette. [REDACTED].
- Fire risk. I assume Mr Montgomery has the necessary smoke alarms and ideally has asked for a HFSV however the risk is significantly increased when multiple guests disregard that smoking is prohibited and especially so when quite often guests are consuming alcohol.
- Fag ends out of the window. Some of the guests have chosen to throw their fag ends out the window as a way of avoiding the restrictions [REDACTED] [REDACTED] This is particularly unpleasant and I have to remove them.
- Where guests do abide by the rules they will often come down to the front door to smoke, again causing the smell to permeate [REDACTED] also then throwing their fag ends down the front door steps. This makes for an unsightly and unpleasant entrance to our homes.

2. Drinking alcohol, noise disturbance and threatening behaviours.

- While Mr Montgomery allows a wide variety of guests to rent the flat and not all consume alcohol, some guests have drunk to excess causing considerable noise disturbance and a sense of alarm and fear for residents.
- One particular hen party chose to drink and smoke outside the front door, [REDACTED] sitting on [REDACTED] wall and essentially heckling [REDACTED] him as he came into the stairwell. He found this very intimidating but felt unable to address their behaviours because they were clearly drunk and female. The noise on this occasion lasted well into the early hours.
- On one occasion three middle aged men were here for the Golf Open. They consumed vast amounts of alcohol and one person was then deliberately locked out of the flat. He decided to throw stones at [REDACTED] window in the early hours and [REDACTED] told her to go upstairs and knock on the flat door to get his mates to let him in. [REDACTED] refused and called the Police who attended the incident but could not locate the individual. He was later let in by his mates.

Later that evening [REDACTED] spotted two young men with rucksacks in [REDACTED] neighbours' garden. They then turned around and went into our stairwell and up to the flat. I do not know their intended purpose at that time in a morning but again there were unknown people coming in and out of a stair at all times of the night.

- We have also had men urinating in my front garden and spitting on the steps.
- The group of 9 New York students mentioned in 6. below decided to sleep out on the beach during their stay. They were up and down the stairwell at 2-3am in the morning carrying their blankets and kit. The next day they decided to dry their blankets on a clothes line not allocated to their flat which occupied the space for the whole day.
- One couple decided to have sex so vigorously and loudly in the living room of the flat that they caused [REDACTED] clock to fall off the wall and was damaged. [REDACTED]

██████ was absolutely mortified by this incident, particularly as her children were disturbed and she asked me to address this with Mr Montgomery. ██████ also very perturbed by the use of alcohol and that her children are witness to this.

- The use of alcohol is very common and results in excessive noise and poor behaviours. Frequently there is loud music, people dancing and moving loudly around the flat. Basically people are renting the flat as a holiday let and act accordingly with no regard to the people whose homes they disturb.

3. Noise disturbance.

- Guests come into the flat at all times of the day, including the early hours when flights are delayed or roadworks have held people up. This causes noise disturbance in the stair.
- People are lugging heavy suitcases up the stairwell, banging off each step and/or talking loudly or excitedly to each other, sometimes trying to get small children up the stair.
- When there are not problems with the use of alcohol it can be problematic when children are in residence. They do what children do: run, shout, cry, scream, play causing a lot of anxiety ██████. At various times some children have decided to run through ██████ garden and jump down off the wall, damaging flowers and plants but more concerningly running a risk to themselves. I have spoken to parents on a number of occasions about this.
- This weekend, 8th October, there was a family in the flat with four young children which were so noisy ██████ asked the mum if they could be calmed down – to which she said she would ‘try’. ██████ was also woken up at 7am on Sunday morning with the noise of the children going down the stair.
- The front door slams shut due to the hinge mechanism, particularly if the back door is open and guests do not take the precaution to close it quietly.

4. Stair maintenance and wear and tear.

- In addition to the impact of increased footfall on the stairwell the steady progression of people through the stair brings with it increased dirt and sand which is not cleaned on a regular basis by Mr Montgomery. I raised this with him a couple of months back and he agreed to clean the stair on a monthly basis but has only undertaken this on one occasion in the past year and in doing so only swept the floor and did not mop.

██████ asked me to speak to him about this as she has been trying to keep the stair clean due to the excessive amount of sand in particular that comes through on guests shoes. As residents we are particularly mindful of living so close to the beach and clean our shoes before coming into the stair. ██████

- There is an inevitable impact on the fabric of the stairs and doors in the stairwell from the increased footfall which is not covered by our insurances and requires communal agreement for repair. Mr Montgomery is not required to make an increased contribution to this cost which means that home owners and East Lothian Council are subsidising his business.
- There is increased wear and tear on the path to the beach also. This is already a vulnerable and deteriorating walkway which is being considered for improvement as part of the flood defences scheme.

## 5. Waste Management

- On occasions guests have used our recycling bins and our green bins for their rubbish which can be excessive, especially when there is a high turnover within the two week period of the green bins being emptied. In addition, at times Mr Montgomery's bin has overflowed causing a risk of vermin and certainly an opportunity for the birds to peck open bags resulting in unsightly rubbish around the bins and towards the sea shore. The last time this happened I called Mr Montgomery who was in Turkey and he asked his parents to come over and clean up.
- Quite often guests will go onto the beach and use disposable barbecues. Unfortunately we do not have an East Lothian Council recycling bin for people to use (although I asked for this a couple of years back) and so guests (and other beach users) either leave their rubbish on the beach or fill our green bins.

## 6. Exceeding the maximum numbers

- It has been clear on a number of occasions that guests have exceeded the maximum capacity of the flat. The hen party noted previously was one such occasion but in August 2023 there were at least 9 students from New York City using the flat. This increases the level of risk and noise disturbance.

## 7. Soundproofing

- As ex-local authority flats the soundproofing is poor especially so when there are bare floorboards as in Mr Montgomery's flat which makes for easy cleaning for him but is highly disturbing and disruptive [REDACTED].

[REDACTED] suffer a multitude of random strangers using the flat above [REDACTED]. [REDACTED] does not feel able [REDACTED] can speak to and ask them to be more respectful of [REDACTED] living environment [REDACTED], especially when alcohol and potentially drugs have been consumed.

Noise disturbance is far more pronounced when you do not know the people who are staying.

## 8. Parking

- There is very limited on-street parking in our cul-de-sac which is already used regularly by members of the public visiting the beach. Two of our neighbours have allocated disabled parking spaces and one needs [REDACTED] gateway kept clear to be able to get [REDACTED] car out. There is a private road which is not in use for visitors and only available to the people who live along that road. So, in total the 12 flats in our stair and the row of houses along the main road (8), as well as the houses which are in the inner enclave, already have to compete for very limited parking. When air B&B people arrive they try and park as close to the entrance as possible, often having two cars which stay in situ for the duration of their visit making space very limited for residents.
- Sometimes they will park on the corner by the path to the beach which then is an obstruction for the Scottish Water vehicles which need to have access to the private lane. Local residents are aware of this and so do not park there.
- Sometimes guests high sided vehicles also block our views when the reason for purchasing these properties was in part for the picturesque views.

Since Mr Montgomery bought the property and started to operate the B&B I have tried to maintain positive relationships through verbal and what's app communication. It is very concerning that Mr Montgomery has chosen recently to apply a timer to these communications which means the majority have disappeared. Some of these written communication give a sense of Mr Montgomery's actual attitude and approach:

He [REDACTED] that his guests have the right to drink and party until all hours if they want to. Stating that he is minded to put in tenants who have small children to give [REDACTED] something to bother about.

I have these posts:

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

"I have other flats. One for 4 years and not once have I had any issue with the neighbours. That tells me I am doing air bnb right. [REDACTED]  
[REDACTED]

"My guests are paying good money to stay there and are getting made to feel like they are doing something wrong when they are not... [REDACTED] they are entitled to play loud music and dance all night if they so wish as long as it's within a certain decibel and not after midnight and within the law. [REDACTED] understand, people live, people do what they want and are not all quiet hermits that don't make a sound"

[REDACTED]  
[REDACTED]

Mr Montgomery no longer responds to [REDACTED] and says he cannot be expected to come out to deal with problems all the time. He appears to have abdicated all responsibility for the flat ownership other than to rake in the rental income. I am aware that he has imposed fines for guests but this money has not been used to compensate the residents who were the people actually inconvenienced.

I have asked him if he could not use the drop box for keys and entry and instead personally meet guests to show them around the flat, to explain the expectations etc but he said this is not feasible.

The advert on Air B&B is no indication of how this flat is rented out in practice. We live in a family stair and are having so many strangers (usually big numbers at one time as the flat can accommodate 6) coming by our doors at all hours of the day and this is very unsettling and intimidating. [REDACTED]

[REDACTED]. Other than call the Police [REDACTED] powerless to do anything about guests who are behaving badly – as noted Mr Montogmery does not answer [REDACTED] calls and it is too risky to knock on the door not knowing what response will be received. [REDACTED] also indicated [REDACTED] feels physically vulnerable with all the people in the stair.

I hope ELC will look into this matter sensitively and seek to avoid any repercussions for those of us who live in the stair.

Your faithfully,

[REDACTED]



## **National Planning Framework 4**

### **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 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.

**SUGGESTED SCHEDULE OF CONDITIONS - REVIEW AGAINST REFUSAL OF PLANNING  
APPLICATION BY THE LOCAL REVIEW BODY – 25/00150/P**

There are no conditions to be attached to a grant of planning permission should the Local Review Body be minded to uphold the review.