

East Lothian Council Local Review Body

Reference LRB20251120 01 2500542P

Review Decision Notice

Decision by East Lothian Local Review Body (the “**ELLRB**”)

Site Address: 22 Vert Court, Haldane Avenue, Haddington EH41 3PX

Application for Review by Ms Maja Tomse of 22 Vert Court, Haldane Avenue, Haddington EH31 3PX

Application Description: change of use of flat to mixed use of residential and short-term holiday let

Application Ref: 25/00542/P

Application Drawing: Please refer to the Drawings/Plans detailed at 3.1.1

All members of the ELLRB attended a site visit prior to the meeting.

Date of Review Decision Notice: 11.12.25

Decision

The ELLRB by a majority of Accordingly, the ELLRB by majority of two (2) to one (1) decided to uphold the appeal and grant planning permission for the change of use of flat to mixed use of residential and short-term holiday let at 22 Vert Court, Haldane Avenue, Haddington EH41 3PX subject to the following condition for the reasons more particularly set out below.

1. Introduction

- 1.1. This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2. The ELLRB reviewed the determination of the above application for planning permission at a meeting held on Thursday, 20 November 2025. The ELLRB was attended by Councillors Hampshire (Chair), Findlay and Collins. The following persons were also present at the meeting of the ELLRB: Mr M Mackowiak, Planning Adviser to the ELLRB; Mr C Grilli, Legal Adviser to the ELLRB and Ms F Currie, Clerk.

2. Proposal

- 2.1. The planning application had been made for the change of use of flat to mixed use of residential and short-term holiday let at 22 Vert Court, Haldane Avenue, Haddington EH41 3PX. The planning application was registered on 8 July 2025 and the Decision Notice refusing the application is dated 29 August 2025.
- 2.2. The reason for the refusal is more particularly set out as follows:

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 Vert Court, Haddington 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.*

2.3. The applicant has requested that the ELLRB review the decision and submitted a notice of review dated 13 September 2025.

3. Preliminaries

3.1. The ELLRB members were provided with copies of the following:-

3.1.1. The drawings accompanying this application are referenced and numbered as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
DRG 1	-	27.05.2025
DRG 2	-	01.07.2025

3.1.2. The Application for planning permission registered on 8 July 2025 together with said Decision Notice.

3.1.3. The Appointed Officer's Submission.

3.1.4. The said Notice of Review together with Applicant's Submission with supporting statement and associated documents

3.1.5. The National Planning Framework Policies relevant to the determination of the application, which were as follows:

Policy 7(Historic assets and places),
Policy13 (Sustainable transport)
Policy30 (Tourism)

3.1.6. The adopted East Lothian Local Development Plan 2018 policies relevant to the determination of the application, which were as follows:

Policy RCA1 (Residential Character and Amenity)
PolicyT1 (Development Location and Accessibility)
Policy T2 (General Transport Impact)

3.2. The ELLRB members noted the relevant policies identified above and the planning adviser's comments that in his view the above policies with the exception of Policy 7 (Historic Assets and Places) are relevant to the determination of this application. Members were also asked to note that the application site is not in a conservation area and Vert Court is not a listed building.

3.3. The ELLRB members noted that there was only one objection to this application which was summarised in the case officer's report and a full copy of this objection had been made available to members.

3.4. The ELLRB members noted that of the consultees who responded there was no objection from the Senior Environmental health Officer, the Council's Anti-Social behaviour team,

Police Scotland and Road Services. The case officer confirmed that the Council's Housing Strategy & Development Service raise no objection as the flat is the principal residence of the applicant and will only be used for a short period as a short term let every year. Among the material considerations is the East Lothian Economic Development Strategy which states that tourism and tourist accommodation of all types benefits the local economy. The Council's Economic Development team supports the proposal.

4. Findings and Conclusions

- 4.1. The ELLRB confirmed that the application for a review of the planning application permitted them to consider the application afresh and it was open to them to grant it in its entirety, grant it subject to conditions or to refuse it. They confirmed that they had access to the planning file in respect of this matter and to all the information that the Appointed Officer had available when reaching the original decision to grant planning permission subject to conditions, including all drawings and copies of all representations and objections received in respect of the original application. They also confirmed they had received and reviewed the Applicant's Submission and further representations made in connection within this appeal before the ELLRB today.
- 4.2. The Members then asked the Planning Adviser to summarise the planning policy position in respect of this matter. The Planning Adviser advised that this is an application for a change of use of the flat to a mixed use of residential and short-term holiday let. The two-bedroom top floor flat is accessed by a shared front door, an internal communal stair and hallway.

The Planning Adviser stated that as part of the application process the applicants confirmed that:

- (i) the minimum length of guest stay would be 7 nights, and the maximum would be 1 month;
- (ii) the maximum number of visitors in one booking would be 4 guests;
- (iii) recycling/waste bins will be emptied by guests and the applicant will clean the flat between guest stays;
- (iv) guests will be met on arrival and departure by the applicant, or a safe key-box will be used;
- (v) the property is likely to appeal to singles, couples small families and family members;
- (vi) the property will be marketed/advertised online;
- (vii) there are a total of 9 flats within the building (3 flats per floor) which are all accessed via a communal entrance door and internal stair; and
- (viii) the applicant's flat benefits from an allocated parking space.

Members were asked to note that in the case officer's report he confirmed that whilst the description of the proposal relating to this application was registered as 'Change of use of flat to short term holiday let accommodation' it is clear from the information contained within the supporting statement that the applicant intends to live at the property for 10 months of the year and let it out for the months of July and August. Accordingly, the report of handling assesses the proposal as being a 'Change of use of the residential flat to a mixed use of residential and short term holiday let accommodation'.

The case officer in his report clarified that the applicants' property shares a communal front entrance door with 8 other residential properties and an internal stair with 5 other

residential properties within the flatted building. The case officer stated that granting permission would enable the flat 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. The officer accepted that short term lets would be limited to the months of July and August only. Still, he considered that such a regular turnover of users/occupants during those months 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 building. The officer stated in his report that most occupants of the holiday let would have a degree of luggage to take through the communal external entrance and hallway which would lead to a level of disturbance and nuisance not associated with the permanent (long term) residential use of the property. The case officer concluded that this particular aspect of the proposed scheme would be harmful to the amenity of the occupants of the residential properties within the residential flatted building of Vert Court. The case officer then addressed other visitors such as cleaning staff and those undertaking refuse removal and recycling as additional visits to the property would be causing a degree of harm to the amenity of the block. It was also noted that while no complaints have been logged by Police Scotland, or the ASB team the actual and perceived level of security could be adversely affected. In concluding, the case officer stated that notwithstanding the fact that this proposal would provide the local economic benefits associated with the use these matters do not outweigh the unacceptable impact on local amenity and found that the holiday let use was therefore contrary to part e) i of Policy 30 and Policy RCA 1 of the adopted LDP.

The Planning Adviser then continued to summarise the applicant's review submission. The key points raised are listed as follows:

- Lack of clarity in grounds for refusal. It is unclear whether the refusal is based primarily on policy grounds or on a single neighbour's objection.
- If the determining factor is that the property does not have its own separate entrance, this should have been made transparent at the beginning of the process.
- The property would only be let for 1.5 months each year (July and half of August). • The minimum stay would be 1 week, maximum 1 month.
- This limits the number of potential guest turnovers to a maximum of six in total per year. In effect, the level of "comings and goings" would be no greater than that of ordinary residents who may frequently travel, host visiting family, or rent informally.
- Suggesting that luggage movements over six occasions in a summer period would disrupt the amenity of neighbours seems disproportionate.
- The only representation received came from a single neighbour, raising speculative concerns about potential long-term or "party" use.
- Economic Development Service: Strongly supportive, citing measurable benefits to East Lothian's economy, tourism strategy, and local employment. It is therefore contradictory that the application was refused on the basis of speculative concerns about amenity
- Policy RCA1 safeguards residential character and amenity from incompatible uses. The character of the building remains residential, as the flat is occupied by the applicants as their main home for most of the year. • Letting for 1.5 months only cannot reasonably be said to alter the building's residential character.
- the proposal does not breach Policy RCA1, as it does not introduce any material incompatibility with the building's residential nature and the refusal misapplies Policy 30 of NPF4.
- Antisocial behaviour cannot be assumed.

The Planning Adviser then summarised the further representation received from the objector and response from the applicants. Confirming that the objector's further representations stated that the applicant seems to be fixated on the fact that moving luggage etc won't disrupt anyone. This isn't the objector's concern. They said that when people own or rent their own home in the close and wider block, they know who is there as the residents form a small community. This provides a sense of safety for those residents who have kids. There was also concern is that this would set a precedent for further applications for short term lets to be approved. The planning adviser then referred to the applicants' response. The applicant stated that their flat is, and will remain, their family's main home. The proposal seeks permission only to let the property for approximately six weeks each year during school holidays. The applicants recognise broader concerns about the spread of short-term lets, but their application is not commercial in nature and does not set a precedent for uncontrolled letting. There is no loss of residential use, no change to the character of the building, and no history of amenity or antisocial issues at this address. The applicants will continue to manage any guest stays personally to ensure quiet, respectful use of the property.

- 4.3. The ELLRB Members then raised questions with the Planning Advisor. The Planning Advisor confirmed that he was unaware of properties operating under a mixed use of Short Term Let and residential. It was also commented that it would be difficult to enforce.
- 4.4. The ELLRB then considered if there was sufficient information before them to consider the review without further procedure. The ELLRB determined that it did have sufficient information and proceeded to determine the review.
- 4.5. Comments on the application followed.
 - 4.5.1. Councillor Findlay confirmed that in his view the difference between this application and other applications for Short Term Lets was that the primary use would be as a family home.
 - 4.5.2. Councillor Allan commented that this was a family holiday except for a 6 week period over summer holidays. She noted that this would continue to be the primary residential home and therefore did not see this as a loss of housing. She agreed with Councillor Findlay and was minded to go against the officer's decision.
 - 4.5.3. The Chair considered the proposal to for 6 weeks to still utilise areas shared with others. He noted that those using the property as a short term let would treat it differently as they are on holiday. He therefore considered there to be an adverse impact on the amenity of the block should this application be granted. He was minded to support the planning officer's decision and dismiss this appeal however should members be minded he would propose a condition restricting use to the 6 week period indicated by the applicants.

5. Reasons for Decision

Accordingly, the ELLRB by majority of two (2) to one (1) decided to uphold the appeal and grant planning permission subject to the following condition:

The premises shall only be used as a short-term holiday let from the period of 1 July until 15 August in any year.

Reason: to reduce the impact on amenity to the residents within the building of which the premises forms part.

Planning Permission is hereby granted.



Carlo Grilli
Legal Adviser to ELLRB

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under Section 43A(8)

Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

- 2 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 V of the Town and Country Planning (Scotland) Act 1997.