

East Lothian Council Local Review Body

Reference LRB20260122 02 2500745P

Review Decision Notice

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

Site Address: 12D Bush Terrace, Musselburgh, EH21 6DF

Application for Review by Mr Peter Oliver c/o Sue Oliver 12D Bush Terrace, Musselburgh, EH21 6DF

Application Description: change of use of flat to short term holiday let

Application Ref: 25/00745/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: 17 February 2026

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 short term holiday let at 12D Bush Terrace, Musselburgh EH21 6DF 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, 22 January 2026. The ELLRB was attended by Councilors N. Hampshire (Chair), J McMillan, D Collins and A Forrest. The following persons were also present at the meeting of the ELLRB: Mr L Taylor, Planning Adviser to the ELLRB; Mr C Grilli, Legal Adviser to the ELLRB and Ms M Scott, Clerk.

2. Proposal

- 2.1. The planning application had been made for the change of use of flat to short term holiday let at 12D Bush Terrace, Musselburgh, EH21 6DF. The planning application was registered on 18 July 2025 and the Decision Notice refusing the application is dated 24 September 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 12D Bush Terrace, Musselburgh, EH21 6DF 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 25 November 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	-	18.07.2025
DRG 2	-	18.07.2025

3.1.2. The Application for planning permission registered on 18 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:

Policy13 (Sustainable transport)
Part e of 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 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 Bush Terrace 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 with this appeal before the ELLRB today.

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 short-term holiday let. The application relates to 12D Bush Terrace, a first floor flat within a three-storey building situated within a predominantly residential area between Fisherrow Harbour and Fisherrow Links. The building has a communal garden with boundary wall. Planning permission was sought for a change of use from a residential property to a one-bedroom short-term holiday let. No internal or external alterations were proposed to the property.

A supporting statement was provided with the application to confirm:

- Minimum length of stay would be 14 nights
- Maximum would be 90 nights
- Maximum of 2 guests per booking as only one of the bedrooms would be used for the holiday let
- Arrangements for waste and recycling
- Use of a lock box for keys to the property
- Communal building access and staircases
- No allocated parking but on-street parking available nearby

The planning officer for this application noted that there had previously been a retrospective application submitted for a change of use of the property to a two-bedroom short term holiday let (reference 23/01289/P) and that this had been refused due to the holiday let use of the flatted property being incompatible with and harmful to the amenity of the occupants of the other flatted properties within the residential building of 12 Bush Terrace, contrary to NPF4 policy 30 and LDP 2018 policy RCA1.

The planning officer highlighted in their report that planning applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

It was noted that Consultation with the Council's Antisocial Behaviour Team confirmed that there have been no complaints received regarding this property and Police Scotland also confirmed in their response to consultation that they had no record of any incidents reported at the property.

Consultation was undertaken with the Council's Housing Strategy and Development Service. In their response, they stated that they would not support the change of use as it would result

in the loss of residential accommodation.

Consultation was also undertaken with the Council's Economic Development Team. In their response, they stated that short term lets are important for East Lothian's economy as they support the tourism sector, and did not object to the application

Consultation with the Council's Environmental Health Officer stated:

- whilst the normal use of a property would not result in loss of amenity to neighbours, the use of properties for short term holiday let 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.

Consultation with the Council's Roads Service resulted in no objection, and:

- 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.

No public objections were received to this application

In making the assessment against relevant Development Plan policy, the planning officer highlighted NPF4 policy 30 Part E which 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

In assessing the impact upon amenity of existing residential properties within the flatted building, the planning officer highlighted that there are seven other properties within the building.

The change of use would result in the property being 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. Whilst the information provided by the applicant on length of stay and number of guests was noted, the planning officer concluded that there would likely be increased disturbance to occupants of existing residential properties resulting from the coming and going of guests on stairwells and the communal entrance, which would not be associated with a residential use. There would also be increased disturbance from regular cleaning and servicing and waste removal from the proposed holiday let.

The planning officer concluded that as a result of the impact upon amenity, the proposal was contrary to policy 30 on the NPF4 and policy RCA1 of the LDP 2018

The planning officer then moved on to assess the impact of the proposal on housing. They noted the response from the Council's Housing Team who did not support the change of use to a holiday let because it would result in the loss of long term rental accommodation. This loss was deemed to be contrary to the Council's Local Housing Strategy 2024-29 as it seeks housing supply to be accessible, affordable and provide a range of choices of accommodation

The planning officer also assessed the impact of the proposal on the economy. They noted the response from the Economic Development Team who stated there are demonstrable local economic benefits of short term lets and that they help to deliver the Council's strategic objectives. They also stated that short term lets are essential for East Lothian's tourism sector, and that a range of holiday accommodation means the tourism sector provides a significant contribution towards the local economy. It was also stated that there are employment benefits from holiday lets, benefitting the local economy. In reaching their conclusion on the application, the planning officer stated that the unacceptable impact upon residential amenity was not outweighed by the local economic benefits of the short-term holiday let, and that the proposal was not in accordance with the Development Plan. Planning permission was subsequently refused for the reasons set out in the decision notice.

The Planning Adviser then turned to the appellant's submission, which states:

- They do not believe the application was given due consideration
- They challenge the points raised in the Planning Officer's Report of Handling and the conclusion reached
- An error regarding the issuing of a decision notice to the applicant

Taking the final point first, the Council accepts that there was an administrative error regarding the issuing of the decision notice, however it is my understanding this has since been rectified. With regards to the point on due consideration of the application, each planning application is considered on its own merits, and planning applications are not pre-determined. As was set out in the Planning Officer's report, the proposal was given detailed consideration and an assessment made against all relevant Development Plan policy. Within this report, an explanation is given at each stage as to why the proposal was contrary to the Development Plan. With regards to specific commentary from the appellant on the points within the planning officer's report, the appellant:

- challenges the assessment of the impact upon amenity and character of the neighbourhood due to there being no complaints, and that the short term let had been operating since 2017
- disagrees with the impact upon residents of the other flatted properties and confirms there are already arrangements in place for cleaning of communal stairs in the building, with no issues raised to date
- disagrees with the assessment of disturbance from guests coming and going to the property, they confirm that only one bedroom would be used for the holiday let with a maximum occupancy of two guests, which is less than what was proposed in the previously refused planning application for a two-bedroom holiday let.
- The appellant also states that cleaning would only occur twice per month
- Frequent changing of guests is also challenged and that prior to stays, all guests are vetted with ID checks

5. Consideration of the Application

5.1. 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.

5.2. Comments on the application followed.

5.2.1. Councillor Forrest commented that the planning officer's report was comprehensive. He was of the view that if it is a Short Term Let it would not be possible to consider antisocial behaviour as the occupants will have left before

measures could be taken. He felt there would be issues around noise and would be harmful to the amenity of the other flats within the building. Accordingly he was minded to support the planning officer's decision and refuse the appeal

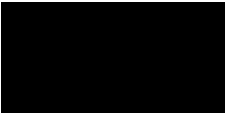
5.2.2. Councillor McMillan carefully considered the information before him and noted that there had been no objections to the application and there would only be one room let out. He also noted that proposal that this would be for a limited time over the year as the applicant would want to return to the property when they are back in East Lothian. Given that the applicant is proposing to stay in the property for a limited time over the year he believed there would be a strong vetting of occupants and felt noise would be at a minimum therefore not having a material impact to amenity. He was therefore minded to support the application and uphold the appeal.

5.2.3. The Chair stated that initially he did not think he could support this application but when he was on site, he noted that the proposal was more aligned to supporting employment and in his view, such would not necessarily require permission and would support employment opportunities. He did note the requirement for permission as the application was for a short term let but was minded to support the application on this occasion due to the way the business was operated. Accordingly he was minded to support the appeal.

6. Decision

Accordingly, the ELLRB, by majority of two (2) to one (1) decided to uphold the appeal and grant planning permission for the reasons set out within this decision notice.

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.