

Notice of Review: 20 Beechwood Park, Newtongrange

Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use from dwellinghouse to short-term let (retrospective) at 20 Beechwood Park, Newtongrange.

2 Background

- 2.1 Planning application 22/00861/DPP for the change of use from dwellinghouse to short-term let (retrospective) at 20 Beechwood Park, Newtongrange was refused planning permission on 16 February 2023; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 16 February 2023 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk.

4 Procedures

- 4.1 In accordance with agreed procedures, the LRB:

- Have determined to undertake a site visit (only elected members attending the site visit can participate in the determination of the review); and
 - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there were two consultation responses and three representations (from the same property) received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported back to the LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions/Enforcement

- 5.1 The nature of the proposal is such that it is considered that no conditions would be required if the LRB is minded to grant planning permission.
- 5.2 If the LRB dismisses the review, the unauthorised use will be required to cease. In this case the applicant will be asked to comply with this requirement within two months of the LRB decision. However, the failure to cease the unauthorised use will result in the Council having to consider issuing an enforcement notice to resolve the breach of planning control.

6 Recommendations

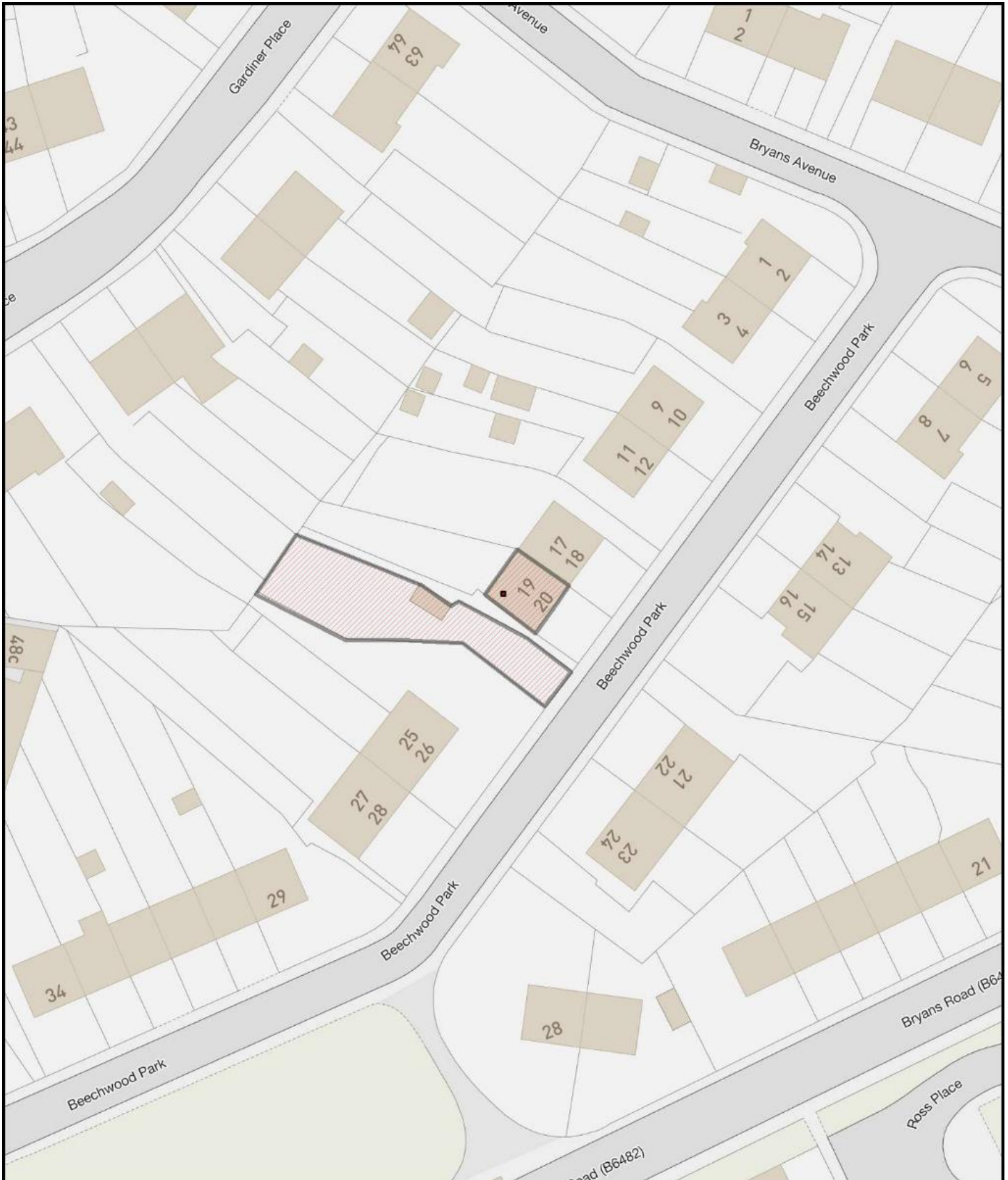
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 10 April 2023
Report Contact: Whitney Lindsay, Planning Officer
Whitney.Lindsay@midlothian.gov.uk

Background Papers: Planning application 22/00861/DPP available for inspection online.

Appendix A



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Change of use from house to short term let 20 Beechwood Park Newtongrange

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File No.22/00861/DPP

Scale: 1:750



NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect
of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND)
Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://www.eplanning.scot>**

1. Applicant's Details		2. Agent's Details (if any)	
Title	<div>Mrs</div>	Ref No.	<div></div>
Forename	<div>Angela</div>	Forename	<div></div>
Surname	<div>Bardens</div>	Surname	<div></div>
Company Name	<div></div>	Company Name	<div></div>
Building No./Name	<div>1</div>	Building No./Name	<div></div>
Address Line 1	<div>Rush Common Mews</div>	Address Line 1	<div></div>
Address Line 2	<div></div>	Address Line 2	<div></div>
Town/City	<div>London</div>	Town/City	<div></div>
Postcode	<div>SW2 3RN</div>	Postcode	<div></div>
Telephone	<div></div>	Telephone	<div></div>
Mobile	<div></div>	Mobile	<div></div>
Fax	<div></div>	Fax	<div></div>
Email	<div></div>	Email	<div></div>
3. Application Details			
Planning authority		<div>Midlothian</div>	
Planning authority's application reference number		<div>22/00861/DPP</div>	
Site address			
<div>20 Beechwood Park Newtongrange Midlothian EH22 4RY</div>			
Description of proposed development			
<div>Change of use from dwellinghouse to short term let</div>			

Date of application

06/12/2022

Date of decision (if any)

17/02/2023

Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of Application

Application for planning permission (including householder application)

☐

Application for planning permission in principle

☒

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)

☐

Application for approval of matters specified in conditions

☐**5. Reasons for seeking review**

Refusal of application by appointed officer

☒

Failure by appointed officer to determine the application within the period allowed for determination of the application

☐

Conditions imposed on consent by appointed officer

☐**6. Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

Further written submissions

☒

One or more hearing sessions

☐

Site inspection

☐

Assessment of review documents only, with no further procedure

☐

If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

I have detailed below in box 8 my reasons for appeal. The three points given in the letter sent to me from Midlothian Council have three grounds for refusal. These three grounds are in my case not applicable for the reasons stated below.

7. Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

Can the site be viewed entirely from public land?

☒

Is it possible for the site to be accessed safely, and without barriers to entry?

☐

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

There is no reason, the site is accessible from the pathway and it can be seen from there that the property is in good order and there is plenty of room for 3-4 cars to be parked if required.

8. Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. **Note:** you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

1. My property has been operating for several years as a short term let, since 2019, full details of this were provided. Can you let me know if any neighbours have complained about this as I am completely unaware of any complaints. My neighbours have my contact details and have contacted me when there was an issue with roof repairs in 2020 which needed to be carried out. This work was carried out straight away without any problem with neighbours. We were in full contact then so do not believe there has been any issues with my property and the short term let situation. In fact I was in contact with them recently regarding the repainting of the outside of the home.

Can you please explain why there would be any detrimental impact please, my home is kept in first class order, the garden is maintained on a regular basis as well as the long driveway and garage. I have updated the outside of the house so it is in keeping with neighbours properties.

2. There will not be a loss of available residential accommodation. This flat is my second home, which it has been for years, and will never be put up for rent. The flat is used by myself and my family a few times a year which is why it can also be used as a short term let. I will be keeping this home as it is important for my children to keep relations with family and friends in Newtongrange. My three children are adopted and keeping connections is extremely important to them and also familiarity which makes it difficult for them to be able to stay in a hotel environment.

3. There will not be any pressure on additional cars in the vicinity as the extremely long driveway that the property has can accommodate 3-4 cars so there is no requirement for any vehicles to be parked on the street. There will be no effect on the existing on street parking spaces.

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes ☐ No ☒

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

I have no additional documents to provide, the evidence has all been provided.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form



Statement of your reasons for requesting a review



All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.



Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature

Name:

ANGELA BARDENS

Date:

17/2/23

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 22/00861/DPP

Site Address: 20 Beechwood Park, Newtongrange

Site Description:

The application property comprises a first floor flatted dwelling within a four in a block building within a primarily residential area. The application site is a two bedroom, first floor flat with its own main door access.

The application property is finished externally in render with a slate hipped roof and brown stained timber window frames.

Proposed Development: Change of use from dwellinghouse to short-term let (retrospective)

Proposed Development Details:

Retrospective planning permission is sought for the change of use from flatted dwelling to Short Term Let (STL). No internal or external physical changes are proposed as part of the current planning application. The applicant has advised that the property has been used as a STL since February 2019.

Background (Previous Applications, Supporting Documents, Development Briefs): Planning history sheet checked.

Planning permission was granted in 2021 for the formation of a dormer window so as to provide a third bedroom and en-suite within the attic. Planning ref: 20/00827/DPP. It is noted that this planning permission has not yet been implemented but it is still extant.

Consultations:

The **Senior Manager Protective Services** advised that they received a complaint regarding use of the property as a short-term let and loss of amenity to neighbours in August 2019. It was noted that they spoke with the letting agent for the property who advised that they had taken action which they believed would improve the situation and the job was closed. The **Senior Manager Protective Services** advised that their database does not show any further complaints received about this property.

The **Councils Housing Services Manager** advised that demand on Midlothian Council housing waiting list is significant at 4440 housing applications and that as an area Midlothian has a very high level of tenant satisfaction and as a result very few properties become available for let, around 4% per year.

Representations:

Three representations from one address have been received all of which object to the above planning application. The representation raised concerns which can be summarised as follows:

- Raised numerous noise issues with this property as an AirBnB/short term let for over 2 years now;
- Constant new "neighbours" from groups of people including Hen parties, Stag parties and festival workers who frequently come and go during unsociable hours;
- Raised numerous complaints with AirBnB, Midlothian Council, and Evergreen Properties;
- Noted that the occupancy list submitted only shows the name of the lead person of the party and not the true extent of the size of the group staying, or the actual make up of the party;
- Concerned over the multiple more cars now parked along the street which adds to the already tight parking in this street;
- Concerns given the state of the housing market is down to properties being allowed to be used in this way, with no care, regard or concern for the residential areas and neighbours that it may affect;
- Suggested that this property should at the very least be only for family bookings and for long term lets instead of different people staying who have zero care or regard for the actual people who live here permanently; and
- Concerned over impact on neighbour amenity being impacted especially when working from home.

The above concerns will be addressed within the planning issues section of this report.

Relevant Planning Policies:

Planning policy currently comprises National Planning Framework 3 and Scottish Planning Policy, SESPlan and the adopted Midlothian Local Development Plan 2017. On 11 January 2023 the Revised Draft National Planning Framework 4 was approved by the Scottish Parliament. The Planning Act requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption, planned for 13 February 2023, the provisions in the Planning Act will commence to make NPF4 part of the statutory development plan. The existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers. As the Revised Draft NPF4 is at an advanced stage and represents the settled view of the Scottish Government in terms of its planning policy it is a material consideration of significant weight in the assessment of the application. The following policies are relevant to the proposal:

Policy 30: Tourism

Part b) Proposals for tourism related development will take into account:

- i. The contribution made to the local economy;
- ii. Compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors;
- iii. Impacts on communities, for example by hindering the provision of homes and services for local people;

- iv. Opportunities for sustainable travel and appropriate management of parking and traffic generation and scope for sustaining public transport services particularly in rural areas;
 - v. Accessibility for disabled people;
 - vi. Measures taken to minimise carbon emissions;
 - vii. Opportunities to provide access to the natural environment.
- Part 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.

The relevant policies of the adopted **Midlothian Local Development Plan 2017** are;

Policy **DEV2: Development within the Built-up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.

Planning Issues:

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval.

The application property has its own main door access, and there is a low degree of activity in the immediate vicinity of the property at any time.

The use of the flatted property as a short term let would introduce an increased frequency of movement to the flat. The proposed two bedroom short stay use would enable visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests would not come and go frequently throughout the day and night and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home. The additional servicing that operating a property as an short term let requires compared to that of a residential use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

The use of the flatted dwelling as a short term let would be significantly different from the ambient background noise that neighbouring residents might reasonably expect and will have a significantly detrimental effect on the living conditions and amenity of nearby residents. Therefore, the change of use to a short term let does not comply with policy DEV2 of the Midlothian Local Development Plan and Policy 30 parts b and e of the draft NPF4.

As noted above, the demand for Midlothian Council housing waiting list is significant at 4440 housing applications, the change of use of the flatted dwelling to a short term let results in the loss of residential accommodation for permanent residents within

Midlothian which also results in an unacceptable impact on local amenity and the character of the area, which is contrary to Policy 30 part e of the draft NPF4

The streets surrounding the application property are predominantly residential, the size of the properties mean that the majority of the properties are likely to be family residences. While it is acknowledged that a 2 bedroom flat could potentially be occupied by 2 parents and 1 adult child, all with their own vehicles and potentially additional work vehicles, this would be an uncommon scenario. The most common scenario would be for a property of this size to be the base for 1 or 2 cars. The current on-street parking would need to accommodate this.

Occupation of the short term let property by 4 adults living not as a family unit raises the possibility of 4 vehicles being based at the property. This number of vehicles cannot be accommodated within the application site. This number of vehicles puts significant additional pressure on the demand for on-street parking spaces. There is a high demand for on-street which can have a significant detrimental impact on the amenity of local residents, often leading to arguments and inconsiderate parking. Furthermore, it is noted that the property would be occupied on a short term basis with occupants and vehicle movements frequently changing. Therefore, the proposed change of use would place additional pressure on the current limited on-street parking spaces.

It is noted that there is an extant planning permission for a dormer window extension which would provide a third bedroom and en-suite within the attic space; whilst this is not guaranteed, it could increase the occupancy capacity of the short term let if the use is permitted.

It is noted that one objection representation was received which raised concerns. All material planning considerations raised within the representations have been addressed above within this section of the report.

Overall, all relevant matters have been taken into consideration in determining this application. It is considered that the proposal does not accord with the principles and policies of the adopted Midlothian Local Development Plan 2017 and the draft NPF4 and is not acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is refused.

Recommendation: Refuse planning permission.

Reg. No. 22/00861/DPP

Mrs Angela Bardens
1 Rush Common Mews
London
SW2 3RN

Midlothian Council, as Planning Authority, having considered the application by Mrs Angela Bardens, 1 Rush Common Mews, London, SW2 3RN, which was registered on 6 December 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from dwellinghouse to short-term let (retrospective) at 20 Beechwood Park, Newtongrange, EH22 4RY

In accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	06.12.2022
Existing Floor Plan	EX1 1:50	06.12.2022

The reasons for the Council's decision are set out below:

- The proposal is contrary to Policy DEV2 of the Midlothian Local Development Plan and Policy 30 parts b and e of the NPF4, as the use of the flatted dwelling as a short stay let will have a materially detrimental impact on the living conditions and amenity of nearby residents.*
- The change of use of the flatted dwelling to a short term let will result in the loss of residential accommodation where there is a high demand for residential accommodation and also results in an unacceptable impact on local amenity and the character of the area.*
- The use of the flat dwelling as a short term let for 4 residents will put additional pressure on the limited number of existing on-street parking spaces and may lead to inconsiderate or illegal parking to the detriment of road safety. This pressure for parking spaces will have a significant detrimental impact on the character and amenity of the surrounding area and is therefore contrary to policy DEV2 of the adopted Midlothian Local Development Plan and Policy 30 parts b and e of NPF4.*

Dated 16 / 2 / 2023



.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: planningconsultation@coal.gov.uk

Website: www.gov.uk/coalauthority

Development Low Risk Area- STANDING ADVICE

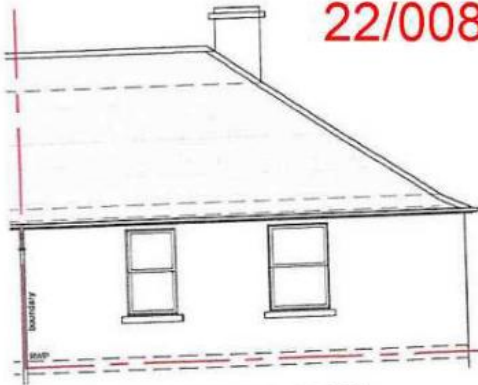
The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Standing Advice valid from 1st January 2023 until 31st December 2024

REFUSED
16.02.2023
22/00861/DPP

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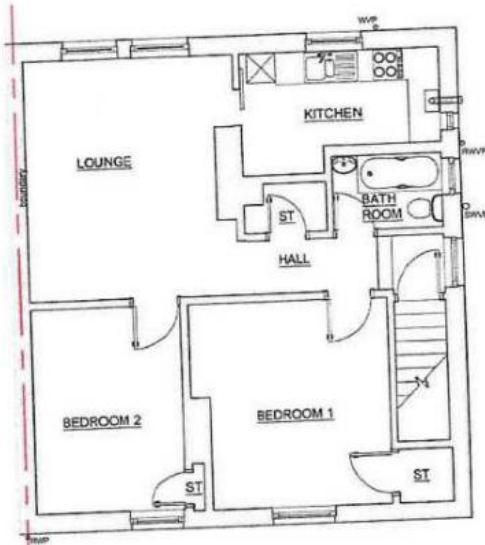
1:50 Scale EXISTING NORTH-WEST ELEVATION



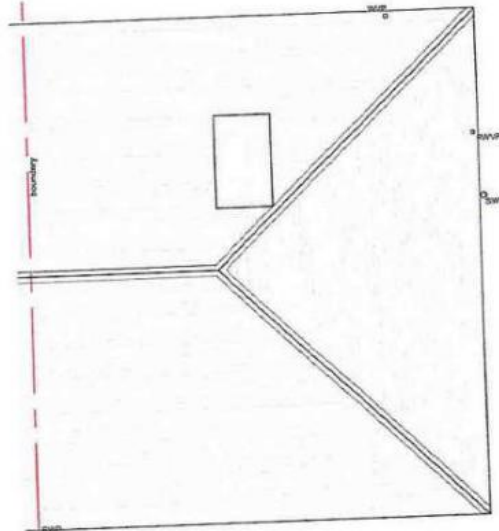
1:50 Scale EXISTING SOUTH-WEST ELEVATION



1:50 Scale EXISTING SOUTH-EAST (FRONT) ELEVATION



1:50 Scale EXISTING FIRST FLOOR LAYOUT



1:50 Scale EXISTING ROOF PLAN

MIDLOTHIAN COUNCIL
 This is a copy of the plan(s) in respect of which the Building Warrant was granted under the Building (Scotland) Act 2003 on
 19 October 2021
J Delamar
 Building Standards Manager

Appendix E

Building Warrant Application Drawing

1:1250 SCALE LOCATION PLAN

1:1250 Scale Bar

1:1250 Scale Bar

1:1250 Scale Bar

REVISIONS

CLIENT Mrs Angela Barbera	PROJECT Proposed Attic Conversion to first floor flat at 25 Beechwood Park, Newington EH12 4TV
DRAWING TITLE Existing first floor plan, roof plan, and elevations & location plan	DATE April 2021
	DRAWN SM
	SCALE 1:50 @ A1

david paton building consultancy
 Chartered Architectural Technologists
 Established in 1991
 11 High Street, Edinburgh
 Midlothian, EH22 3PP
 Telephone No. 0131 483 1212
 website: www.dpbpc.co.uk
 email: david@dpbc.co.uk

dpbc

CIAT	JOB NO. 20/44	DRAWING NO. EX1
	REVISION	