

Notice of Review: 8 Springfield Place, Roslin 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 a change of use from long term let (class 9) to short term let (sui generis) (retrospective) at 8 Springfield Place, Roslin.

2 Background

- 2.1 Planning application 23/00684/DPP for a change of use from long term let (class 9) to short term let (sui generis) (retrospective) at 8 Springfield Place, Roslin was refused planning permission on 15 December 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); and
 - A copy of the decision notice, excluding the standard advisory notes, issued on 15 December 2023 (Appendix D).
- 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 three consultation responses and no representations 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: 15 March 2024
Report Contact: Whitney Lindsay, Planning Officer
Whitney.Lindsay@midlothian.gov.uk

Background Papers: Planning application 23/00707/DPP available for inspection online.



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Change of use from long term let (class 9) to short term let (sui generis) (retrospective) at 8 Springfield Place, Roslin, EH25 9LW

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File No: 23/00707/DPP

Scale: 1:500

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Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100659957-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Ms"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Helen"/>	Building Number:	<input type="text" value="8"/>
Last Name: *	<input type="text" value="Forbes"/>	Address 1 (Street): *	<input type="text" value="Springfield Place"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="[REDACTED]"/>	Town/City: *	<input type="text" value="Roslin"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Midlothian"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="Eh25 9lw"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="[REDACTED]"/>		

Site Address Details

Planning Authority:

Midlothian Council

Full postal address of the site (including postcode where available):

Address 1:

8 SPRINGFIELD PLACE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ROSLIN

Post Code:

EH25 9LW

Please identify/describe the location of the site or sites

Northing

663530

Easting

327039

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Retrospective application for change of use from long term to short term rental which has been operating since 2017. I note 22 addresses were notified of this application and there have been no objections. As well as tourists from around the world, I have hosted friends/relatives of local families as well as new-comers to Roslin, whose new builds were not completed in time or they were in-between properties. I have also hosted temporary staff working at the Vet School, Bush Estate.

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

This holiday let has been operating since summer 2017. I registered for non-domestic rates with LVJB in 2017 so why did Midlothian Council not ask me directly to apply for planning permission? When I phoned Planning Department, Edinburgh was told Midlothian not in a control area. You notified 22 addresses and there were no objections. I have already had to turn down 4 requests this month (Feb) from relatives of locals in Roslin and Rosewell plus a new staff member looking for somewhere to rent.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

The holiday let has been operating since 2017 and this was previously mentioned in an email, rather than stated on the application form. This is also the case for the site visit from LVJB and emails with them from 2017, approving switchover to holiday let and water meter etc. You wrote to 22 addresses and no-one objected to this application, in fact, I suspect some will have made use of this apartment. I believe I have supported tourism, local businesses and transport services in Midlothian.

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

I can provide emails from 2017 when I set up this holiday let, if required. I can provide my Midlothian Non-Domestic Rates account reference number, if required. The decision notice in December 2023 incorrectly spelled my email address therefore I did not receive the email and I had to chase up a response in January 2024. I guess I could have let this lapse and therefore it would not meet your response deadline.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

23/00707/DPP

What date was the application submitted to the planning authority? *

27/10/2023

What date was the decision issued by the planning authority? *

18/01/2024

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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

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

Can the site be clearly seen from a road or public land? *

Yes No

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

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

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 (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Ms Helen Forbes

Declaration Date: 05/02/2024

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 23/00707/DPP

Site Address: 8 Springfield Place, Roslin.

Site Description: The application site comprises a first floor flat within a building which houses four flatted dwellings and associated garden ground. This is a two bedroom unit and has its own main door access from an external stair to the rear elevation, adjacent to the entry to one of the other flatted units which has been extended. The building has natural stone walls, with the extension finished in render, and a hipped slate roof. The window frames at the site are aluminium, with others on the building white uPVC and painted timber. The site is in a predominantly residential area.

Proposed Development: Change of use from long term let (class 9) to short term let (sui generis) (retrospective).

Proposed Development Details: Retrospective planning permission is sought for the change of use from a long term let to short term let (STL). No internal or external physical changes are proposed as part of the current planning application.

The applicant has confirmed the following:

- Each apartment has separate area of garden and there is a communal area with a drive up the side of the building and a path round the other side;
- There is an outside staircase to the upper level for numbers 6 and 8;
- The flats at ground floor are long term rentals;
- The flat has a garage which is not used for parking. There is space for two cars in the communal area but the occupants of the flats park on the street;
- The site is for short term lets only available on Airbnb only;
- Booking are through the whole year;
- Bookings are for the whole of the site, which has one double room and one single. This sleeps 3 and they do not let individual rooms; and
- The minimum stay is 2 nights and the maximum is 28 nights, though they have never had someone book that long.

They have not confirmed how long the property has been in use as a STL.

Background (Previous Applications, Supporting Documents, Development Briefs): No relevant history.

Consultations:

The Council's **Senior Manager Neighbourhood Services (Roads)** was consulted but did not make comment on the application.

The Council's **Protective Services Manager** has no objection provided a condition be attached to any permission to ensure that a Short Term Licence be in place before the use commences.

The **Councils Housing Services Manager** advised that demand on Midlothian Council housing waiting list is significant at 4468 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 3.5% per year.

Representations: No representations were received.

Relevant Planning Policies: The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017. The following policies are relevant to the proposal.

National Planning Framework 4 (NPF4)

- Policy **1 Tackling the climate and nature crises**; sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis;
- Policy **2 Climate mitigation and adaptation**; sets out to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change;
- 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: **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 which is located on the rear elevation by an external stair shared with the neighbouring first floor flat. The ground floor units appear to be accessed from doors on the front elevation. There appears a low degree of activity in the immediate vicinity of the property at any time, especially in the area to the rear where the site is accessed from.

The use of the flatted property as a short term let would introduce an increased frequency of movement to the flat. The 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/long term 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 a short term let requires compared to that of a long term residential use is also likely to result in an increase in disturbances, further impacting on neighbouring amenity.

The applicant stated that the property is only advertised to be let out by a maximum of three people. Whilst the appellant's efforts to minimise instances of disturbance through the reduced of people is acknowledged, there is no guarantee that any future owner would adhere to the same standard or that the current owner would not change the standard currently in operation. Furthermore, it is not considered to be reasonable or enforceable to attach a condition restricting occupancy.

The applicant submitted a supporting statement outlining the occupants can book to stay between two and 28 nights. Given the potential for a minimum of two night stays for three visitors at one time there would be greater opportunities for disturbance to surrounding residential properties than might be expected from established residents.

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 4468 housing applications. The change of use of the flatted dwelling to a short term let results in the loss of residential accommodation for permanent/long term 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 two bedroom flat could potentially be occupied by two parents and one 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 one or two cars. The current on-street parking would need to accommodate this.

Occupation of the short term let property by three adults living not as a family unit raises the possibility of three 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.

The proposal would make a contribution to the local economy which would be in compliance with NPF4 Policy b)i. However as detailed above, this would not be compatible with the surrounding area in terms of nature and scale of activity and impacts of increased visitors and would impact on communities by hindering the provision of homes for local people, contrary to NPF4 Policy b) ii and iii. This detrimental impact on the surrounding area and housing stock outweighs the economic benefits.

While the Council's Protective Services Manager requests a condition be attached to any permission to ensure that a Short Term Licence be in place before the use commences. It would be more appropriate for this to be attached as an advice note to any permission approved as this would not comply with the six tests for conditions.

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. The proposal is also very similar to an application for a short term let in Newtongrange which was refused by delegated powers in February 2023 and also by the Local Review Body in April 2023. Therefore, it is recommended that the application is refused.

Recommendation: Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Appendix D 

Reg. No. 23/00707/DPP

Ms Helen Forbes
8 Springfield Place
Roslin
EH25 9LW

Midlothian Council, as Planning Authority, having considered the application by Ms Helen Forbes, 8 Springfield Place, Roslin, EH25 9LW, which was registered on 6 November 2023 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from long term let (class 9) to short term let (sui generis) (retrospective) at 8 Springfield Place, Roslin, EH25 9LW


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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location plan		06.11.2023
Location plan		06.11.2023
Site plan		06.11.2023
Other statements		06.11.2023

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 flatted dwelling as a short term let for up to 3 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 15 / 12 / 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