

# Owner of a North Berwick holiday flat loses appeal

The owner of a North Berwick holiday flat who was granted a licence to operate despite not having planning approval has lost his appeal to Scottish Ministers.

James Miller-Stirling was refused permission to carry on using the flat on Balfour Street as a short term holiday let by East Lothian Council planners earlier this year after they ruled it was not a 'lawful' use.

The flat owner had applied for a Certificate of Lawfulness for the property which would have meant he did not need to apply for planning permission for a change of use however planners rejected the application.

The decision meant that although he had a temporary licence to run the short term let he now needed planning permission to carry on and he asked Scottish Ministers to overturn the decision.

Agents for Mr Miller-Stirling, who bought the flat in Balfour Street six years ago and said it was a second home he used on trips to the seaside town but rented out in the summer season, and argued there was no material change in use by renting the flat as a holiday let compared to living in it full time.

However the Scottish Government Reporter investigating the appeal disagreed.

Throwing out his appeal, the Reporter said: "Short-term guests by their nature, often move heavy luggage to and from properties. This in general results in noise.

"While permanent or long-term residents may also make noise,

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.

“Even taking the appellant’s stated figure of four-night stays from four guests, this would still represent a materially different form of use of the property. This would represent a materially different use from the lawful residential one.”

He concluded: “I find that, on the balance of probability, the use of this property for short-term letting accommodation entails a materially different pattern of use than that associated with its occupation on a normal domestic basis.

“As no planning permission has been granted, I find that use is not established and that the appellant has not demonstrated that the use is lawful.”

By Marie Sharp Local Democracy Reporter