

## City of Edinburgh Local Review Body

10.00 am, Wednesday, 4 June 2014

### Present

Councillors Blacklock, Howat (items 3, 4), Mowat (Chair) and Robson

### 1. Chair

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Councillor Mowat was appointed as Chair.

### 2. Planning Local Review Body Procedure

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#### Decision

To note the outline procedure for consideration of reviews.

(Reference – Local Review Body Procedure, submitted.)

### 3. Request for Review – 12 Earlston Place, Edinburgh

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Details were provided of a request for a review of the refusal of planning permission for the formation of 2 flats to rear at basement/sub-basement level below ground floor uses at 12 Earlston Place, Edinburgh (Application No: 13/04615/FUL).

#### Assessment

At the meeting on 2 April 2014, the LRB had been provided with copies of the notice of review including a request that the review proceed on the basis of an assessment of the review documents and a site inspection. The LRB had also been provided with copies of the decision notice and the report of handling submitted by the Acting Head of Planning and Building Standards.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development.

The plans used to determine the application were numbered 1-4 (Scheme 1) being the drawings shown under the application reference number 13/04615/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, decided a site visit was required and visited on 2 April. The LRB on their return agreed to continue the matter to a future meeting to allow the Acting Head of Planning and Building Standards to advise of any further conditions that may be required if minded to grant.

The LRB reconvened on 4 June and in their further deliberations on the matter considered the following:

1. The development plan, including the relevant policies of the Edinburgh City Local Plan:  
Policy Env 4 (Listed Buildings – Alterations and Extensions)  
Policy Env 6 (Conservation Areas Development)
- 2) The Non-Statutory Guidelines on ‘Listed Buildings and Conservation Areas’.
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward by you in your request for a review.

### **Conclusion**

The LRB carefully considered all the arguments put before it in respect of the proposed planning application.

The LRB, having taken all the above matters into consideration, did not agree with the officer’s assessment and was of the view that the proposal would not have inadequate amenity in terms of daylight, sunlight, proximity to neighbouring uses and location beneath commercial uses, nor would it prejudice the development rights of the land to the immediate north.

The LRB were of the opinion that the material considerations that it had identified were of sufficient weight to allow it to overturn the original determination by the Acting Head of Planning and Building Standards and to grant planning permission.

### **Decision**

To not uphold the decision by the Acting Head of Planning and Building Standards and to grant planning for the formation of 2 flats to rear at basement/sub-basement level below ground floor uses at 12 Earlston Place, Edinburgh (Application No.13/04615/FUL) subject to standard conditions and informatives:

### **Informatives**

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a Notice of Initiation of Development has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a Notice of Completion of Development must be given in writing to the Council.

(Reference – Decision Notice, Report of Handling and Notice of Review, submitted.)

## 4. Request for Review – 10B Queensferry Street, Edinburgh

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Details were provided of a request for a review of the refusal of planning permission for the change of use from Retail (Class 1) to Food and Drink (Class 3) at 10B Queensferry Street, Edinburgh (Application No. 13/09881/FUL).

### Assessment

At the meeting on 2 April 2014, the LRB had been provided with copies of the notice of review including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling submitted by the Acting Head of Planning and Building Standards.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development.

The plans used to determine the application were numbered 01 being the drawings shown under the application reference number 13/03981/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, decided a site inspection was required and visited on 2 April. The LRB on their return also agreed that further information on daylight measurements, access, useable space and a cross-section drawing of the proposal was required and continued the matter to a future date. The LRB reconvened on 4 June and in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh City Local Plan:
  - Policy Env 4 (Listed Buildings – Alterations and Extensions)
  - Policy Env 6 (Conservation Areas Development)
- 2) The Non-Statutory Guidelines on 'Listed Buildings and Conservation Areas'.
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward by you in your request for a review.

### Conclusion

The LRB carefully considered all the arguments put before it in respect of the proposed planning application.

The LRB having taken all of the above matters into consideration, did not agree with the officer's assessment and was satisfied that the proposed Class 3 use would not contravene criteria a) regarding the percentage of non-retail uses in the frontage, as there was little current interest in the property and limitations for future use due to the restricted size of the site.

The LRB, having taken all the above matters into consideration, were of the opinion that the material considerations that it had identified were of sufficient weight to allow it

to overturn the original determination by the Acting Head of Planning and Building Standards and to grant planning permission.

### **Decision**

To not uphold the decision by the Acting Head of Planning and Building Standards and to grant planning permission for the change of use from Retail (Class 1) to Food and Drink (Class 3) at 10B Queensferry Street, Edinburgh (Application No.13/03981/FUL) subject to standard conditions and informatives, and an additional condition that:

- (i) The use hereby approved shall not be taken up until a kitchen ventilation system, run internally, and with no requirement for an external flue, capable of achieving 30 air changes per hour and ducting effluvia to eaves level, is installed and operational.

### **Informatives**

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a Notice of Initiation of Development has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a Notice of Completion of Development must be given in writing to the Council.

(References – Decision Notice, Report of Handling and Notice of Review, submitted.)

## **5. Request for Review – 555 Castlehill, Edinburgh**

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Details were provided of a request for a review of the refusal of planning permission for the creation of a new additional entrance doorway at 555 Castlehill, Edinburgh (Application No. 14/00155/FUL).

### **Assessment**

At the meeting on 4 June 2014, the LRB had been provided with copies of the notice of review submitted by you including your request that the review proceed on the basis of an assessment of the review documents and a site inspection. The LRB had also been provided with copies of the decision notice and the report of handling submitted by the Acting Head of Planning and Building Standards.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development.

The plans used to determine the application were numbered 01-03 being the drawings shown under the application reference number 14/00155/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, agreed that it had sufficient information before it, did not require to hold a site inspection, and would therefore determine the review using the information circulated to it.

The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh City Local Plan:
  - Policy Des 11 (Alterations and Extensions)
  - Policy Env 4 (Listed Buildings – Alterations & Extensions)
  - Policy Env 6 (Conservation Areas Development)
- 2) The Non-Statutory Guidelines on ‘Listed Buildings and Conservation Areas’.
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward by you in your request for a review.

### **Conclusion**

The LRB carefully considered all the arguments put before it in respect of the proposed planning application.

The LRB, having taken all the above matters into consideration, agreed with the assessment of the issues in the case officer’s report and was of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Acting Head of Planning and Building Standards.

### **Decision**

To uphold the decision by the Acting Head of Planning and Building Standards and to refuse planning permission for the creation of a new additional entrance doorway at 555 Castlehill, Edinburgh (Application No. 14/00155/FUL).

### **Reasons for Refusal**

1. The proposal is contrary to Edinburgh City Local Plan Policy Des 11 in respect of Alterations and Extensions, as the form and positioning of the doorway is not compatible with the character of the existing building.
2. The proposal is contrary to Edinburgh City Local Plan Policy Env6 in respect of Conservation Areas – Development, as the new doorway will not preserve or enhance the existing elevation of the building which has a strong rhythm of window bays and not door bays within the conservation area.
3. The proposal is contrary to Edinburgh City Local Plan Policy Env4 in respect of Listed Buildings- Alterations and Extensions, as the new doorway will disrupt the front elevation, which is strongly biased towards windows bays and not door bays.

(References – Decision Notice, Report of Handling and Notice of Review, submitted.)

## 6. Request for Review – 16 Comiston Terrace, Edinburgh

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Details were provided of a review of the refusal of planning permission for the replacement of five windows at 16 (3F1) Comiston Terrace, Edinburgh (Application No. 14/00359/FUL).

### Assessment

At the meeting on 4 June 2014, the LRB had been provided with copies of the notice of review including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling submitted by the Acting Head of Planning and Building Standards.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development.

The plans used to determine the application were numbered 01, 02 being the drawings shown under the application reference number 14/00359/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, agreed that it had sufficient information before it, and would therefore determine the review using the information circulated to it.

The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh City Local Plan:
  - Policy Des 11 (Alterations and Extensions)
  - Policy Env 6 (Conservation Areas Development)
- 2) The Non-Statutory Guidelines on 'Listed Buildings and Conservation Areas'.
- 3) The Morningside Conservation Area Character Appraisal.
- 4) The procedure used to determine the application.
- 5) The reasons for refusal and the arguments put forward by you in your request for a review.

### Conclusion

The LRB carefully considered all the arguments put before it in respect of the proposed planning application.

The LRB, having taken all the above matters into consideration, agreed with the assessment of the issues in the case officer's report and was of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Acting Head of Planning and Building Standards.

## **Decision**

To uphold the decision by the Acting Head of Planning and Building Standards and to refuse planning permission for replacement of five windows with UPVC at 16 (3F1) Comiston Terrace, Edinburgh (Application No. 14/00359/FUL).

## **Reasons for Refusal**

The proposal is contrary to Policy ENV 6 of the Edinburgh City Local Plan as it will neither maintain nor enhance the character or appearance of the conservation area. The proposal is also contrary to the Council's Guidelines on Listed Buildings and Conservation Areas as it is clearly stated that the use of UPVC on a non-listed building within a conservation area is unacceptable.

(References – Decision Notice, Report of Handling and Notice of Review, submitted.)

## City of Edinburgh Local Review Body

10.00 am, Wednesday, 18 June 2014

### Present

Councillors Brock, Perry, Mowat (Chair) and Ross.

### 1. Chair

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Councillor Mowat was appointed as Chair.

### 2. Planning Local Review Body Procedure

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#### Decision

To note the outline procedure for consideration of reviews.

(Reference – Local Review Body Procedure, submitted.)

### 3. Request for Review – 106 Hanover Street, Edinburgh

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Details were provided of a request for a review of the refusal of planning permission for the change of use from Class 4 Office to Class 7 Guest House at 106 Hanover Street Application No. 13/05111/FUL).

#### Assessment

At the meeting on 7 May 2014, the LRB had been provided with copies of the notice of review including a request from the applicant that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling submitted by the Acting Head of Planning and Building Standards.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development.

The plans used to determine the application were numbered 01 – 03 (Scheme 1) being the drawings shown under the application reference number 13/05111/FUL on the Council's Planning and Building Standards Online Services.



The LRB, having considered these documents, decided to continue consideration of the matter for a satisfactory inspection of the completed noise impact assessment and clarification on the level of access provided by the residents of the property above to allow the required noise impact assessment to be undertaken.

The LRB reconvened on 18 June 2014 and in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh City Local Plan:  
Policy Hou 8 (Inappropriate Uses in Residential Areas).
- 2) The procedure used to determine the application, including consultation responses received from Transport and Environmental Assessment.
- 3) The reasons for refusal and the arguments put forward in the request for a review.

### **Conclusion**

The LRB carefully considered all the arguments put before it in respect of the proposed planning application.

The LRB took into consideration the applicant's arguments that the proposal would not have a detrimental effect, materially or otherwise, on the living conditions of nearby residents, as the proposal was essentially for "sleeping use" under a flat. The LRB also gave careful consideration to the terms of the further report and other comments provided by the applicant's acoustic consultants which suggested that the existing traditional timber floor structure would provide sufficient sound insulation to protect the residents of the flat above the application subjects.

However, the LRB also considered that it would be necessary to restrict the use of the premises to the specific use applied for in order to ensure that there would be no detrimental impact on the residents above, which could be caused by other uses in the same use class. The LRB therefore imposed the condition stated above.

The LRB having taken all of the above matters into consideration, did not agree with the officer's assessment and was satisfied that the proposed Class 7 Guest House would not have a significant adverse impact on neighbouring residential amenity.

### **Decision**

To not uphold the decision by the Acting Head of Planning and Building Standards and to grant planning permission for the change of use from Class 4 Office to Class 7 Guest House at 106 Hanover Street Edinburgh (Application No.13/05111/FUL) subject to standard conditions and informatives, and an additional condition that:

### **Condition**

- (i) Notwithstanding the terms of Class 7 (Hotels and Hostels) of the schedule to the Town & Country Planning (Use Classes) (Scotland) Order 1997, the change of use shall be restricted to guest house use only.

### **Reason**

- (i) In order to protect the amenity of neighbouring residents.

## **Informatives**

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a Notice of Initiation of Development has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a Notice of Completion of Development must be given in writing to the Council.

## **4. Request for Review – 32 Learmonth Avenue, Edinburgh**

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Details were provided of a request for a review of the refusal of planning permission to alter and extend existing ground floor flat into a private garden at 32 Learmonth, Edinburgh (Application No. 13/04924/FUL).

### **Assessment**

At the meeting on 7 May 2014, the LRB had been provided with copies of the notice of review submitted by the applicant, including a request that the review proceed on the basis of an assessment of one or more hearing sessions, a site inspection and the review documents. The LRB had also been provided with copies of the decision notice, the report of handling and further representations submitted by the Acting Head of Planning and Building Standards.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development.

The plans used to determine the application were numbered 01 (Scheme 1) being the drawings shown under the application reference number 13/05111/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, decided that a site inspection was required. The LRB reconvened on 18 June 2014 and in their further deliberations on the matter considered the following:

1. The development plan, including the relevant policies of the Edinburgh City Local Plan:  
Policy Des 11 (Alterations and extensions).  
Non-Statutory Guidelines on "Guidance for Householders".

- 3) The procedure used to determine the application; the planning history of the site and its surroundings, and the representations received.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

## **Conclusion**

The LRB carefully considered all the arguments put before it in respect of the proposed planning application.

The LRB took into consideration the applicant's arguments that a recent decision to grant consent for a similar planning application in near replica circumstances and in close proximity to the appeal site should be taken into consideration in determination of this case. The LRB also took account of other extensions to similar ground floor properties in the immediate vicinity and to the impact of all of these developments had on the character of this area. Having requested further detailed comment from the planning advisor and having viewed the case officer's photographs of the site and surrounding area, the LRB resolved that the site visit which they had intended to carry out was not in fact necessary and that they had sufficient information before them to determine the application.

The LRB, having taken all the above matters into consideration, did not agree with the officer's assessment and was of the view that the design and form of the extension was compatible with the existing building; the proposal would not visually detract from the appearance of the back green area; the proposal would not be detrimental to neighbourhood amenity and character, and the extension did not represent an undesirable form of development that changed the existing tenemental form, which the LRB did not consider to be unblemished, given the extensions already approved in that area.

The LRB were of the opinion that the material considerations that it had identified were of sufficient weight to allow it to overturn the original determination by the Acting Head of Planning and Building Standards and to grant planning permission.

## **Decision**

To not uphold the decision by the Acting Head of Planning and Building Standards and to grant planning permission to alter and extend existing ground floor flat into a private garden (Application No. 13/04924/FUL), subject to standard conditions and informatives.

## **Informatives**

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a Notice of Initiation of Development has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a Notice of Completion of Development must be given in writing to the Council.

## 5. Request for Review – 9 Gilmerton Place, Edinburgh

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Details were provided of a review of the refusal of planning permission for the proposed two storey extension at the rear of the premise, to form new kitchen and bedroom extension at upper at 9 Gilmerton Place, Edinburgh (Application No. 14/01414/FUL).

### Assessment

At the meeting on 18 June 2014, the LRB had been provided with copies of the notice of review submitted by the applicant and a request that the review proceed on the basis of an assessment of the review documents, further written submissions, one or more hearing sessions and a site inspection. The LRB had also been provided with copies of the decision notice and the report of handling, submitted by the Acting Head of Planning and Building Standards.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development.

The plans used to determine the application were numbered 01-03 (Scheme 1) being the drawings shown under the application reference number (14/01414/FUL) on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, agreed that it had sufficient information before it, did not require further written submissions, one or more hearing sessions or to hold a site inspection, and would therefore determine the review using the information circulated to it.

The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh City Local Plan:  
Policy Des 11 (Alterations and Extensions)  
Non-Statutory Guidelines on "Guidance for Householders".
- 2) The procedure used to determine the application.
- 3) The reasons for refusal and the arguments put forward in the request for a review.

### Conclusion

The LRB carefully considered all the arguments put before it in respect of the proposed planning application. The LRB carefully considered the particular circumstances of the applicant's client as set out by her, but did not consider that these were sufficient grounds to set aside planning policy in this case, given the adverse impact of the proposals on the amenity of neighbours and the character of the area identified by the case officer. The LRB noted the fact that a modified proposal could be carried out as permitted development.

The LRB, having taken all the above matters into consideration, agreed with the assessment of the issues in the case officer's report and was of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Acting Head of Planning and Building Standards.

### **Decision**

To uphold the decision by the Acting Head of Planning and Building Standards to refuse planning permission for a proposed two storey extension at the rear of the premise, to form new kitchen and bedroom extension at upper floor at 9 Gilmerton Place (Application No 14/01414/FUL).

### **Reasons for Refusal**

1. The proposal was contrary to Edinburgh City Local Plan Policy Des 11 in respect of Alterations and Extensions, as its two storey form would dominate the rear garden and introduced an extension that was not in keeping with neighbourhood character. It also caused unreasonable harm to neighbouring amenity due to loss of daylight into and overlooking of neighbouring properties.