

The City of Edinburgh Planning Local Review Body (Panel 2)

10.00am, Wednesday 2 October 2019

Present: Councillors Booth, Child, Mitchell (substituting for Councillor Rose) and Osler.

1. Appointment of Convener

Councillor Mitchell was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 2) of 7 August 2019 as a correct record.

3. Planning Local Review Body Procedure

Decision

To note the outline procedure for consideration of reviews.

(Reference – Local Review Body Procedure, submitted)

4. Request for Review – 1 Freelands Farm (48m Southwest of), Newbridge, Edinburgh

Details were submitted of a request for a review for the refusal of planning permission for the erection of two semi-detached dwellings at 1 Freelands Farm (48m Southwest of), Newbridge, Edinburgh. Application no 18/04354/FUL.

Assessment

At the meeting on 2 October 2019, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of the review documents and a hearing session. The LRB had also been provided with copies of the decision notice and the report of handling submitted by the Chief Planning Officer.

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

The plans used to determine the application were numbered 1-6, Scheme 1, being the drawings shown under the application reference number 18/04354/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan
 - Edinburgh Local Development Plan Policy DES 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy DES 4 (Development Design – Impact on Setting)
 - Edinburgh Local Development Plan Policy DES 5 (Development Design - Amenity)
 - Edinburgh Local Development Plan Policy ENV 10 (Development in the Green Belt and Countryside)
 - Edinburgh Local Development Plan Policy ENV 21 (Flood Protection)
 - Edinburgh Local Development Plan Policy HOU 1 (Housing Development)
 - Edinburgh Local Development Plan Policy HOU 3 (Private Green Space in Housing Development)
 - Edinburgh Local Development Plan Policy HOU 4 (Housing Density)
 - Edinburgh Local Development Plan Policy TRA 2 (Private Car Parking)
 - Edinburgh Local Development Plan Policy TRA 3 (Private Cycle Parking)
- 2) Relevant Non-Statutory Guidelines.
 - 'Edinburgh Design Guidance'
 - 'Development in the Countryside and Green Belt'
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

The LRB carefully considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Whether the classification of the site within the Green Belt was greenfield or brownfield.
- The previously consented scheme for the steading conversion in 2002.
- The impact on the area of converting the steading to residential use.
- Whether planning permission would be required for the erection of an agricultural building in this location.
- That there was sympathy for the application but that the Local Development Plan guidance was clear under policy Env 10 and that the proposed use did not meet the stated criteria.

Conclusion

Having taken all the above matters into consideration, the LRB 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 Chief Planning Officer.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal did not involve development for agriculture, woodland and forestry, horticulture or countryside recreation. The proposal did not involve an intensification of the existing use, the replacement of an existing building with a new building in the same use, or a change of use of an existing building. The proposal was contrary to policy Env 10 of the Edinburgh Local Development Plan (LDP) and the Council's Guidance for Development in the Countryside and Green Belt; and was not acceptable in principle.

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

5. Request for Review – 3 Johnston Terrace, Edinburgh

Details were submitted of a request for a review for the refusal of planning permission for the change of use from retail to restaurant and new ventilation system (in retrospect) at 3 Johnston Terrace, Edinburgh. Application no 18/02227/FUL.

Assessment

At the meeting on 2 October 2019, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis 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 Chief Planning Officer.

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

The plans used to determine the application were numbered 01 - 02, Scheme 1, being the drawings shown under the application reference number 18/02227/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan
 - Edinburgh Local Development Plan Policy DEL 1 (Developer Contributions and Infrastructure Delivery)
 - Edinburgh Local Development Plan Policy ENV 4 (Listed Buildings – Alterations and Extensions)
 - Edinburgh Local Development Plan Policy ENV 6 (Conservation Areas - Development)

Edinburgh Local Development Plan Policy RET 10 (Alternative Use of Shop Units in Other Locations)

Edinburgh Local Development Plan Policy RET 11 (Food and Drink Establishments)

2) Relevant Non-Statutory Guidelines.

‘Guidance for Businesses’

‘The Old Town Conservation Area Character Appraisal’

3) The procedure used to determine the application.

4) The reasons for refusal and the arguments put forward in the request for a review.

The LRB carefully considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- The period of time that would need to have elapsed before deemed consent would be applicable, for commercial use.
- The rationale for applying a Tram Contribution to the premises.
- That a similar application for the same premises had been considered by LRB Panel 1, and that the determination reached was to uphold the decision of the Chief Planning Officer, due to non-payment of Tram Contribution.
- That ventilation issues associated with the previous related application had been resolved.
- The rationale for why premises of a comparable nature were exempt from the Tram Contribution.
- That there was sympathy for the applicant but that the Developer Contributions and Infrastructure Guidance was clear on the requirements to pay a contribution.

Conclusion

Having taken all the above matters into consideration, the LRB 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 Chief Planning Officer.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal was contrary to the Local Development Plan Policy Del 1 in respect of Developer Contributions, as the applicant had not concluded a legal agreement to provide the necessary tram contribution, as required by Council transport strategy.

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

6. Request for Review – 86 Orchard Road, Edinburgh

Details were submitted of a request for a review for the refusal of planning permission for the building of a boundary wall out of brick or stone alongside south boundary of property with a height of 170cm, 13 metres long, to join up two existing fences at 86 Orchard Road, Edinburgh. Application no 19/02002/FUL.

Assessment

At the meeting on 2 October 2019, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis 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 Chief Planning Officer.

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

The plans used to determine the application were numbered 01, 03, 04, 05, 06, Scheme 1, being the drawings shown under the application reference number 19/02002/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan
Edinburgh Local Development Plan Policy DES 12 (Alterations and Extensions)
- 2) Relevant Non-Statutory Guidelines.
'Guidance for Householders'
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

The LRB carefully considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- The current height of the fence and what height would be deemed Permitted Development.
- Whether it was appropriate to apply Local Development Plan Policy Des 12 in considering this application.
- That permission had already been granted for the wall in a previous application.
- That there were several high walls in the area and so the application would be in keeping with the area.
- Whether the use of materials could be conditioned.

Conclusion

Having taken all the above matters into consideration, the LRB finally determined that the proposals would be acceptable as the applicant had already been granted permission for the 1.7m wall in a previous application.

It therefore overturned the decision of the Chief Planning Officer and granted planning permission subject to the additional condition.

Decision

To not uphold the decision by the Chief Planning Officer and to grant planning permission subject to:

1. The following conditions:

- (a) A detailed specification of all the proposed materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site.

Note: samples of the materials may be required.

Reason:

In order to enable the planning authority to consider this matter in detail.

2. The following informatives:

- (a) The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
- (b) 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.
- (c) 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)

7. Request for Review – 45 Oxgangs Brae, Edinburgh

Details were submitted of a request for a review for the refusal of planning permission for the change of use from open space / amenity land to garden use at 45 Oxgangs Brae, Edinburgh. Application no 19/02353/FUL.

Assessment

At the meeting on 2 October 2019, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis 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 Chief Planning Officer.

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

The plans used to determine the application were numbered 01, Scheme 1, being the drawings shown under the application reference number 19/02353/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan
Edinburgh Local Development Plan Policy ENV 18 (Open Space Protection)
- 2) Relevant Non-Statutory Guidelines.
'Guidance for Householders'
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

The LRB carefully considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Whether a site visit was required in order to obtain a better understanding of the area.
- Whether there was more that could be done to clarify how the open space was used and whether its loss would affect the amenity of surrounding residents.
- That it would contravene Local Development Plan Policy Env 18 which was clear on the permitted use of a public space.
- A contrary opinion was that the land was not being utilised and so it would not have a detrimental impact on the amenity of other residents.
- Whether the applicant could be requested to submit evidence relating to the biodiversity characteristics of the land and that the area had no amenity or leisure value. It was determined that this would be difficult to evidence.

Conclusion

Having taken all the above matters into consideration, the LRB determined that the proposal would not be contrary to Local Development Plan Policy Env 18 as the use of the site would not result in a significant impact on the quality of open space or amenity of the surrounding area.

It therefore overturned the decision of the Chief Planning Officer and granted planning permission.

Decision

To not uphold the decision by the Chief Planning Officer and to grant planning permission subject to:

The following informatives:

- (a) The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
- (b) 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.
- (c) 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)

8. Request for Review – 2 and 4 Piersfield Terrace, Edinburgh

Details were submitted of a request for a review for the refusal of planning permission for the Section 42 planning application to 'not comply' with restrictive conditions for servicing at the Morrisons Supermarket, at 2 and 4 Piersfield Terrace, Edinburgh. Application no 18/09849/FUL.

Assessment

At the meeting on 2 October 2019, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of the review documents and a hearing session. The LRB had also been provided with copies of the decision notice and the report of handling submitted by the Chief Planning Officer.

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

The plans used to determine the application were numbered 01, Scheme 1, being the drawings shown under the application reference number 18/09849/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan
Edinburgh Local Development Plan Policy HOU 7 (Inappropriate Uses in Residential Areas)
Edinburgh Local Development Plan Policy RET 5 (Local Centres)
- 2) The procedure used to determine the application.
- 3) The reasons for refusal and the arguments put forward in the request for a review.

The LRB carefully considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- That the members were concerned by the repeated breaches of planning conditions.
- That the applicant had not shown any evidence that they had put in measures to alleviate the noise.
- That activity undertaken to date had not respected the needs of neighbouring properties.

Conclusion

Having taken all the above matters into consideration, the LRB 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 Chief Planning Officer.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

1. The proposal was contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the proposed extended servicing hours would have a materially detrimental effect on the living conditions of nearby residents.
2. The proposal was contrary to the non-statutory Guidance for Businesses as it would lead to an increase in noise and disturbance to the detriment of the living conditions of nearby residents.

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

9. Request for Review – 2 South Gyle Crescent

Details were submitted of a request for a review for the refusal of planning permission for the relocation of existing office car park with associated works, boundary treatments and structures (as amended), at 2 South Gyle Crescent, Edinburgh. Application no 19/01641/FUL.

Assessment

At the meeting on 2 October 2019, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis 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 Chief Planning Officer.

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

The plans used to determine the application were numbered 01 – 02, 03A, Scheme 1, being the drawings shown under the application reference number 19/01641/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan
Edinburgh Local Development Plan Policy DEL 4 (Edinburgh Park/South Gyle)
Edinburgh Local Development Plan Policy DES 2 (Co-ordinated Development)
Edinburgh Local Development Plan Policy TRA 2 (Private Car Parking)
- 2) Relevant Non-Statutory Guidelines.
'Edinburgh Design Guidance'
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

The LRB carefully considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Whether there had been any communication between planning officers and the applicants with regards to a co-ordinated approach to development of the wider site that considered permeability and encouraged active travel.
- That the only advantage of the application was that there was a slight reduction in the number of parking spaces.
- That the application was contrary to policy and had not been fully thought out.

Conclusion

Having taken all the above matters into consideration, the LRB 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 Chief Planning Officer.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal did not comply with the development principles for South Gyle and policies Tra 2, Des 2 or Del 4 part a) and g) of the Edinburgh Local Development Plan or the Edinburgh Design Guidance. A large expanse of surface car parking close to the perimeter of the site would exceed the maximum parking standards of the EDG, detrimental to the visual amenity of the area and failing to make a positive contribution to the changing character of this area. There were no material considerations that outweighed the conclusion.

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