

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

10.30am, Thursday 30 September 2021

Present: Councillor Chas Booth (item 1-4), Councillor Maureen Child, Councillor Robert Munn, Councillor Hal Osler, Councillor Cameron Rose.

1. Appointment of Convener

Councillor Munn was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 2) of 25 August 2021 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 Commercial Street, Edinburgh

Details were submitted of or a new decking area for external tables and chairs including a parasol with 4m cover, portable planters with perspex sound diffusers (in retrospect) at 1 Commercial Street, Edinburgh. Application number 19/04799/FUL.

At the meeting of 23 June 2021, the Panel agreed to continue consideration of the matter to allow Environmental Protection to comment on the new information provided in the updated Noise Impact Assessment submitted by the applicant in support of their appeal.

Assessment

At the meeting on 30 September 2021, following a site visit on 16 September 2021, the LRB had been provided with copies of the notice of review submitted by you 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, the report of handling and a letter from environmental protection.

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 Scheme 1, being the drawings shown under the application reference number 1904799/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 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 Policies Des 4 (Development Design – Impact on Setting);
 - Env 6 (Conservation Areas - Development);
 - Hou 7 (Inappropriate Uses in Residential Areas).
- 2) Relevant Non-Statutory Guidelines.
Listed Buildings and Conservation Areas
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB 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 colour of the planters was appropriate.
- If it was the additional area of decking which had been added during Covid for which the applicant was seeking planning permission in retrospect.
- That additional items which had been added did not form part of the Review.
- That the decking had an unsightly appearance.
- That it was clearly specified that the appellant leased the premises from Star Bars.
- That the statement from Environmental Protection advised that there was no nearby overlooking properties.
- That the objection was from a resident at Commercial Wharf and specified issues associated with access for refuse vehicles, rather than noise concerns.
- That Environmental Health confirmed that there were no noise complaints, and that there had been no recent change to this in the intervening period since the matter was last considered by the LRB panel 1 on 27 May 2020.
- That the impact on the conservation area was concerning.
- Whether the appellant had the option to resubmit their application with revised proposals.

- Whether there was a difference between refuse and the option to enforce and refuse.
- That an enforcement action would take place in the event of the LRB upholding the decision of the Chief Planning Officer to refuse planning permission.
- That the decking which was in situ when the site visit was made did not resemble what was reflected on the application as originally submitted.
- That there was a potential conflict between users of the decking and people crossing the road.
- That if a different operator may at one stage take on the premises, then the permission if granted would then pass onto the new operator.
- That the application should be overturned on the basis of Env 6.
- That the application which was presented was what would be determined by the LRB and that if there was any difference to this, the appellant would need to submit a further planning application for any differences.
- That the outside use was appropriate during Covid.
- That the decking detracted from the visual interests as set out within the Leith Conservation Character Appraisal, and the proposals would have a detrimental impact on this space between the Water of Leith and the adjacent buildings
- That the additions as seen on the site visit were of concern, which did not follow the form of the original planning application, but that the application would be assessed by the LRB based on what was outlined within the planning appeal.
- That the materials used were not of a high enough quality to have in a conservation area.
- That it was understood why the appellant would wish to encourage patrons to the water of Leith area.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, 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.

Motion

To overturn the decision by the Chief Planning Officer and to grant planning permission.

Reasons for Approval:

- Moved by Councillor Rose, seconded by Councillor Osler

Amendment

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

Voting

For the motion - 2 votes
For the amendment - 3 votes

(For the motion: Councillors Rose and Osler.)

(For the amendment: Councillors Booth, Child and Munn)

Decision

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

Reasons for Refusal:

1. The proposal is contrary to LDP policies Des 4 and Env 6 and the Council's Non Statutory Guidance for Business. The proposal is not acceptable in principle and does not preserve or enhance the character and appearance of the Leith Conservation Area. The use of the space and the siting of the furniture associated with the space has a detrimental impact on the character and appearance of the Leith Conservation Area.
2. The proposal is contrary to LDP policy Hou 7 and the Council's Non-Statutory Guidance for Business as it has a detrimental impact on the amenity of neighbouring residents

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

6. Request for Review – 1 East Mayfield, Edinburgh

Details were submitted of a request for review to form new 3-bedroom dwelling at 1 East Mayfield, Edinburgh, which was dealt with by the Chief Planning Officer under delegated powers. Application number 21/0088/FUL.

Assessment

At the meeting on 30 September 2021, the LRB had been provided with copies of the notice of review submitted by you including a request that the review proceed on the basis of an assessment of the review documents and a site visit. The LRB had also been provided with copies of the decision notice and the report of handling.

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 01-12 Scheme 1, being the drawings shown under the application reference number 21/0088/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 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 Policies:

- Env 4 (Listed Buildings – Alterations and Extensions)
- Env 6 (Conservation Areas – Development)

2) Relevant Non-Statutory Guidelines.

Listed Buildings and Conservation Areas

3) The procedure used to determine the application.

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

Conclusion

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

- Clarification was sought on former applications in association with this site.
- That there was no projection on the front of the building in previous applications.
- That the proposed zinc was possibly discordant with the existing roof colour however it was advised that the proposed zinc coloured seam would match the tiled roof and that the visual representation of this was shown to the panel.
- That the application site was outlined in red, and that there was a marking in blue which denoted any other areas on the map also owned by the applicant.
- That the planning officer in their consideration of the former and current applications and their decision to refuse planning permission had made the right decision in relation to preventing a change to prominent historic building in the city.
- That the previous decision on this site was undertaken by LRB review panel 1 of whom LRB panel 2 was independent to.
- That the new top floor flat proposed would provide an adaptation that would give the appellant further accommodation.
- That the environment issue in relation to Env 6 was of key consideration in the deliberations associated with this application.
- That in terms of massing the four chimneys gave some disguise to the proposed roof adaptation.
- That the main concern was the visibility of the additional massing on the roof, but that concern on the visibility of the addition to the roof differed depending on where a person was viewing the addition from.
- That the building was a B listed building.
- That there were concerns that the proposed colour of materials and the proposed form was inappropriate.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, 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 development did not comply with Section 59 of the Planning (Listed Building and Conservation Areas) Scotland Act 1997, Policy Env 4 of the Local Development Plan and was contrary to HES Managing Change Guidance on Roofs and non-statutory guidance on Listed Buildings and Conservation Areas as it fails to preserve the unique historic and architectural character of the listed building.
2. The development did not comply with Section 64 of the Planning (Listed Building and Conservation Areas) Scotland Act 1997, Policy Env 6 of the Local Development Plan and failed to preserve or enhance the character and appearance of the Waverley Park Conservation Area.

Dissent

Councillor Rose requested that his dissent be recorded in respect of this item.

Declarations of Interest

Councillor Chas Booth declared a non-financial interest in this item as he knew the applicant, left the virtual meeting and took no part in consideration of the item.

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