

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

10.00am, Wednesday 24 March 2022

**Present:** Councillors Booth, Child, Dixon, Osler and Rose.

### 1. Appointment of Convener

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Councillor Rose was appointed as Convener.

### 2. Minutes

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To approve the minute of the Local Review Body (LRB Panel 2) of 23 February 2022 as a correct record.

### 3. 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)

### 4. Request for Review – 57 Broomhouse Crescent, Edinburgh

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Details were submitted of a request for review for front and rear dormers at 57 Broomhouse Crescent, Edinburgh. Application number 21/06109/FUL.

#### Assessment

At the meeting on 23 March 2022, the LRB had been provided with copies of the notice of review submitted, including a request that the review proceed on the basis of an assessment of the review documents and a site visit.

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 being the drawings shown under the application reference number 21/06109/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 that a site visit was not necessary to determine the review.

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 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.

## **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:

- That it would be permitted development if the fence had been 1 metre high, and that the applicant had stated within their appeal that they were content with a 1 metre fence height however the applicant was not happy with reasons for refusal as they felt the proposed fence was not detrimental to the character of the area or the character of the existing property.
- That the fence currently sat at 600mm.
- That there was a slope and an embankment to the property and it was queried whether it was known the height difference between the path and the fence.
- That it was confirmed that the height of the embankment was not particularly high.
- Clarification on the height of the fence the appellant wished to erect was provided and it was confirmed that the proposed height was 1.5 metres.
- That the panel needed to decide if they would uphold the Chief Planning Officer's decision and refuse the application on the basis of it being out with policy which enabled the appellant the option of building a one metre high fence which did not require planning permission as this could be undertaken under permitted development.
- That the photographs sent by the appellant, appeared to be back garden fences, and that the fence proposed was to the front elevation of the property therefore not directly comparable.
- That a one metre fence would offer a deterrent to pedestrians crossing the boundary and would still comply with policy.

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 and to refuse planning permission.

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

## **5. Request for Review –89 Charterhall Grove, Edinburgh**

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Details were submitted of a request for review for front porch amendment and rear garden amendment / additions (as amended and in part retrospect). Application number 21/03155/FUL.

### **Assessment**

At the meeting on 23 March 2022, 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.

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 being the drawings shown under the application reference number 21/03155/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 to determine the review.

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 Policy Env 4 (Listed Buildings - Alterations and Extensions)  
Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
- 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.

### **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:

- That a member queried whether the appellant's neighbour had changed their garden level which had allowed for that neighbour at 91 Charterhall Grove to occupy an elevated position and whether 89 Charterhall Grove were taking remedial action to change the level to remove the overlooking implications of works undertaken by 91 Charterhall Grove.
- That it was understood that the appellant at 89 Charterhall Grove would have an elevated view as a result of the development.
- That the objection from the neighbour next door was considered.
- That a member felt a site visit was required as this was a retrospective application which would have consequences for the appellants if the panel refused planning permission.
- That clarification was sought on the Chief Planning Officer's decision to refuse, rather than to refuse and enforce and it was advised that a separate report would be required to identify whether it would be reasonable and expedient to commence enforcement action.
- That the replacement garage was slightly too large to constitute permitted development.
- That the patio at the rear of the garden was judged by officers to be the only grounds for refusal on the basis of the impact on neighbour's privacy.
- That the porch was slightly outwith the margins of permitted development.
- That the garage height was queried.
- That a replacement garage was not the main issue - the landraising and formation of a raised platform at the rear of the garden, allowing significant overlooking was the principal point.
- That two members felt that a site visit was required.
- That the high height of the fence on top of the raised decking may create some overshadowing of neighbour's garden but would also create some privacy.
- That another member did not feel a site visit was required.
- That there was an acceptance that the rear elements – patios, garage, decking – were all interconnected and difficult to separate.
- That the front porch and ramp were able to be separated from the rear elements and could be considered acceptable.
- That a mixed decision should be issued to grant the porch but to refuse the works to the rear.

Having taken all the above matters into consideration, and although there was some sympathy for the proposals, the LRB decided to issue a mixed decision - to uphold the decision by the Chief Planning Officer and to refuse planning permission for the elements of the scheme to the rear and side of the property; and to overturn the decision by the Chief Planning Officer and to grant planning permission for the porch development and ramp to the front of the property.

## **Motion**

To undertake a site visit

- moved by Councillor Rose, seconded by Councillor Osler

### **Amendment**

To not undertake a site visit.

-moved by Councillor Rose, seconded by Councillor Osler

### **Voting**

For the Motion	-	2 votes
For the Amendment		3 votes

(For the Motion Councillors Osler and Rose.

For the Amendment: Councillors Booth, Child and Dixon.)

### **Decision 1**

To not undertake a site visit.

### **Decision 2**

To issue a mixed decision:

**(A)** To overturn the decision by the Chief Planning Officer and to grant planning permission for the porch development and front ramp to the front of the property.

### **Reason**

The proposed alterations to the front porch and the formation of an access ramp were not contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as they would not have an adverse impact on the character of the property and the surrounding area.

### **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.

- (B) To uphold the decision by the Chief Planning Officer and to refuse planning permission for the elements of the scheme to the rear and side of the property.

## Reason

The proposals were contrary to adopted Edinburgh Local Development Plan Policy Des 12: Alterations and Extensions as they would result in an unreasonable loss of privacy to a neighbouring property that would not be adequately mitigated by the proposed fence.

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

## 6. Request for Review – 2F 2 Morningside Gardens, Edinburgh

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Details were submitted of a request for a review to replace the existing aluminium windows with uPVC windows. at 2F 2 Morningside Gardens, Edinburgh. Application number 21/05446/FUL.

At the meeting on 23 March 2022, the LRB had been provided with copies of the notice of review submitted by the appellant including a request that the review proceed on the basis of an assessment of the review documents.

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 being the drawings shown under the application reference number: 21/05446/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that it had sufficient information before it to determine the review.

The LRB in its deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the adopted Edinburgh Local Development Plan:
  - Policy Env 6: Conservation Areas - Development
  - Policy Des 12: Alterations and Extensions
- 2) Relevant Non-Statutory Guidelines:
  - Guidance for Householders
  - Listed Building and Conservation Area 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.

## 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:

That the advisor confirmed that the existing aluminium windows were not original but did not feature trickle vents or horns.

That the applicant has not challenged the part of the condition requiring there to be no horns at the bottom of the upper sashes.

That the basis for the appeal was that the appellant could not find a manufacturer who could produce windows that would meet the trickle vent placement condition requiring that the vents be concealed in the meeting bars and not be visible on the face of the windows.

That given the appellant had not raised an issue with the horn condition, the trickle vent component seemed very minor and that that a trickle vent at the top of the replacement windows would not be very visible on the outside of the window, given the property was a top floor flat.

Having taken all the above matters into consideration, the LRB upheld the decision of the Chief Planning Officer and granted planning permission but varied the condition to remove the reference to trickle vents. The condition as amended reads: "The new windows shall not have horns at the bottom of the upper sash." The proposals as conditioned were deemed to conform to adopted Local Development Plan policy and to safeguard the character of the Conservation Area.

### **Decision**

To uphold the decision by the Chief Planning Officer to grant planning permission but vary the condition to remove the reference to trickle vents. The revised condition now reads: "The new windows shall not have horns at the bottom of the upper sash."

### **Reason**

In order to safeguard the character of the Conservation Area.

### **Condition**

The new windows shall not have horns at the bottom of the upper sash.

### **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)