

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

10.00 am, Wednesday 8 June 2022

Present: Councillors Mitchell, Mowat, and Staniforth.

1. Appointment of Convener

Councillor Mowat was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 2) of 23 March 2022 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 – Granton Harbour West, Granton Road, Edinburgh – Formation of access roads, cycle ways and public realm areas at Granton Harbour Plots 35 and 35A, West Harbour Road, Edinburgh

Details were submitted of a for a review for formation of access roads, cycle ways and public realm areas at Granton Harbour Plots 35 and 35A, West Harbour Road, Edinburgh. Application number 21/06440/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 8 June 2022.

Assessment

At the meeting on 8 June 2022, the LRB had been provided with copies of the notice of review submitted by the appellant including a request that the review proceeded 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 21/06440/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 adopted Edinburgh Local Development Plan:

LDP Policy Del 3 (Edinburgh Waterfront) sets criteria for assessing development in Granton Waterfront and Leith Waterfront.

LDP Policy Des 2 (Co-ordinated Development) establishes a presumption against proposals which might compromise the effect development of adjacent land or the wider area.

LDP Policy Des 7 (Layout design) sets criteria for assessing layout design.

LDP Policy Des 8 (Public Realm and Landscape Design) sets criteria for assessing public realm and landscape design.

LDP Policy Des 10 (Waterside Development) sets criteria for assessing development on sites on the coastal edge or adjoining a watercourse, including the Union Canal.

LDP Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

LDP Policy Env 8 (Protection of Important Remains) establishes a presumption against development that would adversely affect the site or setting of a Scheduled Ancient Monument or archaeological remains of national importance.

LDP Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

LDP Policy Env 13 (Sites of International Importance) identifies the circumstances in which development likely to affect Sites of International Importance will be permitted.

LDP Policy Env 14 (Sites of National Importance) identifies the circumstances in which development likely to affect Sites of National Importance will be permitted.

LDP Policy Env 16 (Species Protection) sets out species protection requirements

for new development.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

LDP Policy Tra 1 (Location of Major Travel Generating Development) supports

major development in the City Centre and sets criteria for assessing major travel generating development elsewhere.

LDP Policy Tra 9 (Cycle and Footpath Network) prevents development which would prevent implementation of, prejudice or obstruct the current or potential cycle and footpath network.

- 2) Relevant Non-Statutory Guidelines.
- 3) The procedure used to determine the application; and
- 4) The reasons 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 was queried if the Council could determine the application, which was contrary to the DPEA decision, and why an application was not being presented to the Development Management sub-committee.
- It was advised that the previous application was reported to the DM Sub-Committee in March 2021, but a delay in issuing the decision letter led to the applicant appealing against non-determination with the DPEA. The proposals before the Panel, albeit the same were a local delegated application and therefore the appeal against non-determination was for the Local Review Body to consider.
- The DPEA took a different decision to the Council and dismissed the previous appeal, as it felt it was a premature application as the details on the revetment wall and the harbour infill had not been consented.
- It was advised that the appellant had not submitted any new information. The update on the site history would always form part of the Planning Advisor's update to the LRB, as helpful context.
- That the application was a deemed refusal, and that the Panel's role was to make a decision on the application.
- That clarity was sought on the delay to issue the decision letter. It was advised that the statutory timescale was not met, and that the applicant had used their right to appeal to the DPEA for non-determination.
- That the matters which the DPEA had concerns about, had been resolved by the submission of the planning application for the revetment wall, which was approved on 1 June 2022, and by the submission of the application for a mixed-use development, which would include details of the infill to the harbour. This application was awaiting determination.
- That it was acknowledged that the history and process was complex, but the application before the Panel was relatively straightforward.
- That the Chief Planning Officer's previous report was a material consideration to assist the LRB in their determination of the application.

- That it was discussed that the Council considered the revetment wall which was being built into the inner harbour, met the aspirations of the masterplan, and that the listed building application had also been approved on 1 June 2022.
- That a member felt that this appeal should be granted.
- That there was the opportunity to add conditions should the LRB wish to grant planning permission.
- That consent could be granted for a scheme, which would have conditions that no development could commence on site until planning permission had been granted for the infill of the land required to deliver the consented scheme.
- That the application was not contrary to any local development plan policies.

On the basis of the above, the Local Review Body determined to grant planning permission subject to conditions and informatives and specifically that no development could commence on site until planning permission had been granted for the infill of the land required to deliver the consented scheme.

Decision

To grant planning permission.

Conditions:-

1. No development is to commence on site until planning permission is obtained for the infill of land required to deliver the consented scheme.
2. No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis & reporting) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
3. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments, tree removal, replacement tree planting and all other planting, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site. It shall thereafter be implemented within 6 months of completion of development.
4. The development shall be carried out in accordance with the landscaping scheme approved under condition 3. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing by the Planning Authority.
5. Prior to the commencement of development, a Surface Water Management Plan and Drainage Impact Assessment shall be submitted for further consideration by the Planning Authority, demonstrating that the proposal will not increase flood risk.
6. Notwithstanding what is shown on the drawings hereby approved, the proposed residential blocks located to the east of the hotel in plot 35A are not consented.

Reasons:

1. To ensure the proposed development can be delivered.
2. In order to safeguard the interests of archaeological heritage.
3. In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.
4. In order to ensure that the approved landscaping works are properly established on site.
5. To ensure the proposal does not increase flood risk.
6. In order to define the consent hereby permitted.

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. All conditions included in Marine Licences 06806/06807 should be complied with.
5. All accesses must be open for use by the public in terms of the statutory definition of 'road' and require to be the subject of applications for road construction consent. The extent of adoptable roads, including footways, footpaths, accesses, cycle tracks, verges and service strips to be agreed. The applicant should note that this will include details of lighting, drainage, Sustainable Urban Drainage, materials, structures, layout, car and cycle parking numbers including location, design and specification. Particular attention must be paid to ensuring that refuse collection vehicles are able to service the site. The applicant is recommended to contact the Council's waste management team to agree details.
6. A Quality Audit, as set out in Designing Streets, must be submitted prior to the grant of Road Construction Consent.
7. The applicant should note that new road names will be required for the development and this should be discussed with the Council's Street Naming and Numbering Team at an early opportunity.
8. Any parking spaces adjacent to the carriageway will normally be expected to form part of any road construction consent. The applicant must be informed that any such proposed parking spaces cannot be allocated to individual properties, nor can they be the subject of sale or rent. The spaces will form part of the road and as such will be available to all road users. Private enforcement is illegal and only the Council as roads authority has the legal right to control on-street spaces, whether the road has been

adopted or not. The developer is expected to make this clear to prospective residents as part of any sale of land or property.

9. Any sign, canopy or similar structure mounted perpendicular to the building (i.e. overhanging the footway) must be mounted a minimum of 2.25m above the footway and 0.5m in from the carriageway edge to comply with Section 129(8) of the Roads (Scotland) Act 1984.

10. The City of Edinburgh Council acting as Roads Authority reserves the right under Section 93 of The Roads (Scotland) Act 1984 to adjust the intensity of any non-adopted lighting applicable to the application address.

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

5. Request for Review – GF 47 Inverleith Row, Edinburgh

Details were submitted of a request for a review for Removal of conservatory and erection of new extension to the rear. Minor interior alterations. Double glazing and reinstatement of astragals to front windows – application number 21/05265/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 8 June 2022.

Assessment

At the meeting on 8 June 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 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 21/05265/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 and did not feel a site visit was required.

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

- 1) The development plan, including the relevant policies of the adopted Edinburgh Local Development Plan:
 - LDP Policy Env 6 (Conservation Areas- Development)
 - LDP Policy Env 4 (Listed Buildings – Alterations and Extensions)
 - LDP Policy Des 5 (Development Design - Amenity)
 - LDP Policy Env 12 (Alterations and Extensions)
- 2) Relevant Non-Statutory Guidelines.
- 3) The procedure used to determine the application; and
- 4) The reasons 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 clarification on the Listed Building and Conservation Areas Guidance was sought to confirm that this guidance set out that extensions should not normally exceed 50% of the width of any elevation and clarification was sought that Guidance for Householders set out that rear extensions should not occupy more than one third of the depth of the applicant's original rear garden area.
- That it was advised that the application marginally exceeded the limits described in the Guidance for Householders as the proposed extension occupied more than one third of the depth of the applicant's original rear garden area.
- The garden layout was queried, and the planning advisor highlighted that the LRB were to consider the plans submitted rather than the applicant's design statement when determining the application.
- That there was a previously granted scheme for the removal of conservatory and an extension of the 8.4 metre in depth granted on 3 March 2022.
- That there application 21/05267/LBC was refused, however this did not form part of the Planning Officer's report of handling, as this information was not available at the point of the report being written, however did form part of the planning advisor's presentation on the most recent site history for helpful context for the LRB.
- That there was an option to continue the review to allow for more information on the refused scheme to be presented to the panel.
- That a member considered the application to be partly compliant with the Householder Guidance and Listed Building and Conservation Areas guidance and was minded to overturn the Chief Planning Officer's decision and grant planning permission.
- That clarification on the planning permission requirements for front and rear gardens were advised and it was highlighted that within conservation areas or the curtilage of a listed building the requirement for planning permission differed.
- That clarification on conditioning the landscaping plan was sought.

On the basis of the above, the Local Review Body determined that the proposal was not contrary to LDP Des 12 and Env 6 as it was not detrimental to the character and appearance of property or the conservation area as the extension was only a minor breach in terms of the guidance. The Panel determined to grant planning permission subject to conditions and informatives.

Decision:

To overturn the decision of the Chief Planning officer and to grant planning permission, subject to the following.

Conditions:-

1. A fully detailed landscape plan, including details of all hard and soft surface and boundary treatments, tree removal, replacement tree planting and all other

planting, shall be submitted to and approved in writing by the Planning Authority before work is commenced on site. It shall thereafter be implemented within 6 months of completion of development.

Reasons:

In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site and that the approved landscaping works are properly established on site.

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.

Declaration of Interest

Councillor Osler declared a non-financial interest as she had exchanged correspondence with the applicant and did not feel it would be appropriate to determine this appeal. Councillor Osler left the virtual meeting during the LRB's consideration of the above item.

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

6. Request for Review –Flat 2 1 Magdalene Drive, Edinburgh

Details were submitted of a request for a review to convert grassed area to garden / driveway / patio area, using porous monobloc pavers. Screened area to rear to use for seating and beds for planting down each side – application number 21/05239/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 8 June 2022.

Assessment

At the meeting on 8 June 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 21/05239/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 adopted Edinburgh Local Development Plan:
Local Development Plan Policy Des 12 (Alterations and Extensions)
- 2) Relevant Non-Statutory Guidelines.
- 3) The procedure used to determine the application; and
- 4) The reasons put forward in the request for a review.

Conclusion

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

- That it was queried when the work took place and confirmed the work took place ahead of planning permission being sought.
- That it was queried whether enforcement action took place.
- That there was no information on the site history but that it was likely that the planning permission application was invited as there had been an enquiry made.
- That The Equalities Act would be a material consideration in determining this application.
- That the applicant had decided to appeal the Planning Officer's decision.
- That it was queried whether an on street disabled parking space application would be available as an option for the applicant. However it was advised that such matters were not a planning matter.
- That it was queried whether an application that did comply with the size criteria set out in the non-statutory guidelines would have been acceptable.
- That securing access over the pavement via a drop kerb for the applicant to use the parking space was queried and it was advised that if the permission was granted the applicant could apply for a dropped kerb permit and the painting of the white lines.
- That the transport officers would consider the overhanging element of the parking space when making a consideration as to the safety of the parking space.
- That the Guidance for Householders, specified that traditional tenements would not be considered for conversion of the front garden into a parking space, however that this property was not considered a traditional tenement.

On the basis of the above, the Local Review Body determined to grant planning permission for the reason that the proposal did not adversely impact on the

neighbourhood amenity and was acceptable on equalities grounds and complied with the Equalities Act 2010.

Motion

To overturn the decision of the Chief Planning officer and to grant planning permission.

- moved by Councillor Mowat, seconded by Councillor Osler

Amendment

To uphold the Chief Planning Officer's decision and refuse planning permission.

-moved by Councillor Booth, seconded by Councillor Key

Voting

For the Motion - 2 votes

For the Amendment 2 votes

(For the Motion: Councillors Mowat and Osler.

For the Amendment: Councillors Booth and Key.)

In the division, 2 members having voted for the motion and 2 members for the amendment the Convener gave her casting vote for the Motion.

Decision

To overturn the decision of the Chief Planning officer and to grant planning permission.

Reason:

The proposal did not adversely impact on the neighbourhood amenity and was acceptable on equalities grounds and complied with the Equalities Act 2010.

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

7. Request for Review – 22 Ravelston Dykes Road, Edinburgh

Details were submitted of request for a review for new porch extension to rear elevation of house – application number 21/05936/FUL at 22 Ravelston Dykes Road, Edinburgh which the appellant requested was withdrawn

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 8 June 2022.

Decision

To note that the appellant withdrew the request for review.

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

8. Request for Review – 36 York Road, Edinburgh

Details were submitted of a request for a review to build new extension to the front of the property - application number 21/06475/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 8 June 2022.

Assessment

At the meeting on 8 June 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 21/06475/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 adopted Edinburgh Local Development Plan:
 - LDP Policy Env 6 (Conservation Areas – Development)
 - LDP Policy Env 12 (Trees)
 - LDP Policy Des 12 (Alternations and Extensions)
- 2) Relevant Non-Statutory Guidelines.
- 3) The procedure used to determine the application; and
- 4) The reasons 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 proposed porch was located to the front of the house, but would not be visible from the pavement, and clarification on what this meant was requested, to understand the height of the porch.
- That the extension would be obscured by the wall.
- That there was a possibility when viewing this development from one point of the road that part of the porch may be visible.
- That this was a non-traditional house located in the Trinity Conservation Area.

- That it was queried if the wall was listed. It was confirmed that the wall was listed, but was a feature within the Trinity Conservation Area and was therefore protected.
- That a Member may consider a site visit, to assess the visibility of the proposal.
- That the wall height would shield the proposed development.
- That a Member was happy with the proposals and minded to overturn the Chief Planning Officer's decision.
- That a Member would struggle to uphold LDP policies Env12 and Env6 which were the basis for the Chief Planning Officer's decision to refuse planning permission.
- That a member felt the wall and trees were what made the most contribution to the conservation area and there was no threat to either as part of the application.
- That the applicant had offered as part of the application to provide for the protection of the trees through the tree report.

On the basis of the above, the Local Review Body determined to overturn the officer's recommendation and grant planning permission.

Decision

To overturn the decision of the chief planning officer and to grant planning permission.

Reasons

1. The proposal was not contrary to LDP Des 12 and was of an acceptable scale, form and design and was not detrimental to the character of the neighbourhood.
2. That the proposal was not contrary to LDP Env 6 as it preserved the special character of the conservation area.
3. That the proposal was not contrary to Env 12 because the tree report submitted with the application had put in adequate protection for the existing trees.

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. That the LRB had welcomed the tree report and the commitments outlined within the report formed part of the planning consent.

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