

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

10.00 am, Wednesday 31 August 2022

Present: Councillors Beal, Booth, Hyslop, McNeese-Mechan and Mowat.

1. Appointment of Convener

Councillor Booth was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 2) of 8 June 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 – 49 Cluny Gardens, Edinburgh

Details were submitted of a request for review for alterations to the front garden landscaping. Increase area of pavers by removing section of grass. Increase driveway width and install new gates at 49 Cluny Gardens, Edinburgh. The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 31 August 2022.

Assessment

At the meeting on 31 August 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.

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 22/02045/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 Des 12 – Alterations and Extensions
- 2) Relevant Non-Statutory Guidelines
 - Guidance for Listed Building and Conservation Area
 - Guidance for Householders
 - The Morningside Conservation Area Character Appraisal
 - Scottish Planning Policy
- 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 the material proposed for the paving and advised it was understood to be porous block paving.
- That it was discussed whether it was possible to add a condition if granted to request that details for proposed materials used were presented to the Chief Planning Officer.
- That there was a general expectation for developments in conservation areas to favour the use of natural materials.
- That it was observed that the gate proposed was not in keeping with the conservation area.
- That the proposals exceeded the spatial thresholds as outlined within the Guidance for Householders for driveways to the front of a property.
- That while there was sympathy for the proposals the gate was out of character within the conservation area and was not considered a good design.
- That the breach of guidance meant that the Chief Planning Officer's decision should be upheld.

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 as the proposed gate would adversely impact on the setting of the villa properties which would fail to preserve the character or appearance of the conservation area.

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

5. Request for Review – 2 Cumberland Street North East Lane, Edinburgh

Details were submitted of a request for a review for a Change of use from residential to short-term let visitor accommodation at 2 Cumberland Street North East Lane, Edinburgh – application number 21/06633/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 31 August 2022.

Assessment

At the meeting on 31 August 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.

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 21/06633/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 accepted the new information.

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 1 - World Heritage Sites
 - LDP Policy Env 3 - Listed Buildings – Setting
 - LDP Policy Env 6 - Conservation Areas – Development
 - LDP Policy Hou 7 - Inappropriate Uses in Residential Areas
 - LDP Policy Tra 2 - Private Car Parking
 - LDP Policy Tra 3 - Private Cycle Parking
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Businesses
 - Guidance for Listed Building and Conservation Area
 - New Town Conservation Area Character Appraisal
 - Scottish Planning Policy
- 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 any noise tests had been conducted to understand the potential noise impact from the patio area. It was advised that no specific noise tests had been carried out, but Environmental Protection had concerns related to smoke entering the neighbouring properties and impact of noise from activity on the patio.
- That the hours of operation stated in the supporting statement incorrectly advised the operational hours of the Cumberland Bar beer garden as being until 10pm, when it is actually 9pm. It was advised that the LRB could continue consideration of the application if the panel felt it necessary to seek clarification on this point.
- That Hou 7 was the grounds for refusal relating to inappropriate uses in a residential area.
- That it was felt that the objections from Environmental Protection had significant merit and the concern around the noise reverberations beneath bedrooms of residential accommodation supported the decision of the Chief Planning Officer to refuse planning permission.
- That the noise of wheeled suitcases over cobbles from prospective guests was considered loud and there was a real chance that the noise of this could have a significant impact on neighbours.
- That there was no time limit on guests' use of the patio area and the noise generated from the use of the outdoor space may have an adverse impact for adjacent properties.
- That the Cumberland Bar was positioned around the corner from the flat and its patio area.
- That the entrance to the application property was located at the rear of the upper properties, where a quieter ambience would be expected.

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 Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let would have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

6. Request for Review –9 Inverleith Terrace, Edinburgh

Details were submitted for a request for review for internal alterations. Alterations to rear ground floor windows. Addition of Juliet balconies. French doors in basement window opening (as amended) – application number 22/00657/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 31 August 2022.

Assessment

At the meeting on 31 August 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.

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 22/00657/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 Des 1 (Design Quality and Context).

LDP Policy Des 12 (Alterations and Extensions)

LDP Policy Env 3 (Listed Buildings - Setting)

LDP Policy Env 4 (Listed Buildings – Alterations and Extensions)

LDP Policy Env 6 (Conservation Areas - Development)

2) Relevant Non-Statutory Guidelines.

Guidance for Listed Building and Conservation Area

HES guidance:

Managing Change - Conservation Areas

Managing Change - Windows

Managing Change – Interiors

New Town Conservation Area Character Appraisal

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 the Juliet balcony arrangements, and it was advised that these were essentially a safety rail, and did not afford an area to sit out.
- That clarity was sought on issuing of a mixed decision.
- That the suitability of a mixed decision was dependent on whether the approved element could take place in isolation from the refused element of the scheme.
- That there was sympathy for lowering the window sill to create access to the back garden, and that it was considered this would have less of an impact on the conservation area, however that it was not clear the benefit on changing the fenestration pattern associated with the creation of the Juliet balconies.
- That the proposed alterations to the windows with Juliet balcony additions would be publicly visible on the rear elevation, whereas the basement level French doors would have minimal visual impact.
- That the lowering of the sill was acceptable to another member of the panel as it increased daylight within a room alongside the creation of the French doors.
- That the change of size of window for another member of the panel was not considered acceptable nor was the French doors within a conservation area, due to the breach of Env 6.

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 window alterations at ground floor level and their associated Juliet balconies; and to overturn the decision by the Chief Planning Officer and to grant planning permission for the creation of the French doors at basement level.

Decision 1

To grant planning permission for the French doors at the rear basement level only and subject to the following conditions:

Conditions

To overturn the decision by the Chief Planning Officer and to grant planning permission for the French doors in the basement window opening only, as shown on drawing (05) of January 2022.

Reason

The proposed alterations to the basement level, rear window were not contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, and Local Development Plan Policy Des12 in respect of Alterations and Extensions, as the proposals were not detrimental to the architectural character,

appearance or historic interest of the building, or to its setting they would not have an adverse impact on the character and appearance of the property and the surrounding area.

Decision 2

To uphold the decision by the Chief Planning Officer to refuse planning permission in respect of the remainder of the proposals, as shown on drawings (04/A) and (05).

Reasons:

- 1) The proposal was contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as it would have a detrimental impact on the architectural merits of the host property.
- 2) The proposal was contrary to the Local Development Plan Policy Env 3 in respect of Listed Buildings - Setting, as it would have a detrimental impact on the architectural merits of the host property, its setting and the adjacent properties.
- 3) The proposal was contrary to the Local Development Plan Policy Des 1 in respect of Design Quality and Context, as it would have a detrimental impact on the surrounding fenestration design.
- 4) The proposal was contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it would have a detrimental impact on the character and appearance of the host property.

Dissent

Councillor Beal and Councillor McNeese-Mechan requested that their dissent be recorded in respect of the decision of this item.

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

7. Request for Review – 46 Flat 2 Saughton Park, Edinburgh

Details were submitted of a request for a review for Erection of single storey garage and alteration to public footpath to provide access at 46 Flat 2 Saughton Park, Edinburgh.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 31 August 2022.

Assessment

At the meeting on 31 August 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.

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 22/01934/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 Des 12 (Alterations and Extensions)
Scottish Planning Policy
- 2) Relevant Non-Statutory Guidelines.
Guidance for Householders
- 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:

- Clarification that the reason for refusal was due to the lack of the six metres length for the driveway, as outlined within Guidance for Householders, however that a planning application for a driveway without a garage would have likely been granted.
- That careful consideration to pedestrians and their safety was important.
- That a member of the panel observed that the proposed garage was in line with the existing garage on the adjacent site, and this proposal would seek to retain a degree of coherence on the street.
- That there was sympathy for the proposals however they did not accord with the Guidance for Householders.
- That the length of the proposed driveway posed a significant breach of guidance and the risk of a large vehicle overhanging the proposed driveway was a risk to pedestrians.

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) Owing to its substandard length, vehicles parked on the proposed driveway in front of the proposed garage may not be able to be fully drawn in and if not, they would overhang the adjacent public footway causing an obstruction and a

potential hazard to pedestrians using the footway, contrary to the Council's approved non-statutory Guidance for Householders, November 2021. For this reason, the proposed driveway did not accord with the principle of the SPP of 'supporting design and the six qualities of successful place' of which one of the six qualities was easy to move around.

- 2) Given that a vehicle parked on the proposed driveway had the potential to overhang the adjacent public footway, causing an obstruction and a potential hazard to pedestrians using the public footway, and that visually impaired people were more likely than non-visually impaired people to be at risk from such an obstruction and hazard, the proposed driveway conflicted with section 149 of the Equalities Act 2010.

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

8. Request for Review – 112 Viewforth , Edinburgh

Details were submitted of a request for review for Formation of new car parking space, alterations to boundary wall, erection of iron railings, gate and erection of cycle shed at 112 Viewforth, Edinburgh.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 31 August 2022.

Assessment

At the meeting on 31 August 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.

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 21/06535/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 (Edinburgh Waterfront) sets criteria for assessing development in Granton Waterfront and Leith Waterfront.
 - LDP Policy Des 12 (Alterations and Extensions)
 - Scottish Planning Policy
- 2) Relevant Non-Statutory Guidelines.

Guidance for Householders

Guidance for Listed Building and Conservation Area

The Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal

- 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 was sought on the consent for the removal of the trees, which was confirmed as having been previously granted.
- That ingress and egress to the proposed parking space was observed as being problematic.
- That it was clear to a panel member that a driveway access should not be formed within 15 metres of a junction and that this was a reflected within road traffic legislation, but clarification was sought on how the LRB could reflect this within a planning determination.
- That the Planning Advisor explained that in the Guidance for Householders it made specific reference to not allowing the formation of vehicular access within 15 metres of a junction.
- That it was queried the size parameters for a bike shed and noted that the proposed bike shed exceeded the permitted development dimensions
- Due to the application being refused, the applicant had not provided further detail on the dimensions of the bike shed, and this detail had not been requested by the Chief Planning Officer. If the panel chose to overturn the decision of the Chief Planning Officer, and grant planning permission, the applicant would be invited to submit further details concerning the bike shed.
- That the guidance was clear, that the parking space should not be formed within 15 metres of a junction.
- That a panel member felt that there was so much wrong with the proposed parking space and that in a tenemental area where it was unusual to have vehicles moving over the pavement to park, pedestrians would not be aware to be vigilant to the potential dangers of car movements. The angle by which the vehicle would need to ingress and egress the parking space gave further cause for pedestrian safety.
- That the aspiration for the appellant to create an electric vehicle charging spot was admirable.

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 the Local Development Plan as loss of the stone boundary wall would adversely impact on the setting of the tenement properties which would fail to preserve the character or appearance of the conservation area.

- 2) The proposal was contrary to the City Council's Guidance for Householders in regard to access and parking as it would be the detriment of road safety due to its location near to a road junction and orientation of car parking spaces.

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

9. Request for Review – 20 Woodburn Terrace , Edinburgh

Details were submitted of a request for review for an erection of single storey garage and alteration to public footpath to provide access at 22 Woodburn Terrace, Edinburgh.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 31 August 2022.

Assessment

At the meeting on 31 August 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 22/00210/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 that 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 Hou 1 (Housing Development)
 - LDP Policy Des 5 (Conversion to Housing).
 - LDP Policy Des 1 (Design Quality and context)
 - LDP Policy Des 4 (Development Design- Impact on Setting)
 - LDP Policy Des 5 (Development design- Amenity)

LDP Policy Tra 2 (Private Car Parking)

LDP Policy Tra 3 (Private Cycle Parking)

2) Relevant Non-Statutory Guidelines.

Guidance for Listed Building and Conservation Area

Managing Change in the Historic Environment: Setting

The Morningside Conservation Area Character Appraisal

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 there was no report of handling, however that there has been an excellent presentation from the Planning Advisor.
- The policies related to loss of privacy were requested and these were advised as being Des 5 Development Design and Amenity.
- That there were a number of gable ended windows at upper levels on the adjacent tenemental block adjoining the proposed development, and the visual impact of this was that a person would not be able to view into the gable ended windows from the proposed ground floor development. It was confirmed that the windows were sufficiently high so as not to result in a loss of privacy.
- That the proposed development met the standards for a two bedroom however clarification on LDP Policies Tra 2 and Tra 3 was sought.
- For a two-bedroom unit the expectation was 66 square metres of floorspace and this development was marginally lower at 64 square metres.
- In terms of LDP Policy Tra 2 The Council would encourage low car use, there was a driveway and the appellant could situate a cycle parking space in the proposed development.
- Clarification was sought on the rear of the proposed property and balcony feature alongside any impact this would have on neighbour amenity.
- That it was advised that the balcony did not extend across the entirety of the proposed development, but partially across the rear of the proposed development.
- That it was queried the assessment of the proposed development within the context of the conservation area. A map of the conservation area was requested to understand if the proposed development sat within the East or West of the Conservation area. A map was shown to the panel which confirmed that the property was situated within the North of the Conservation Area.
- LDP Hou 5 was considered in terms of the property's proximity to open space. It was confirmed the open balcony area would count as outdoor space.
- That given there was permission already in place for a conversion to housing The principle of the land use was acceptable within the area which was already

predominately residential, however this would only be acceptable if it met with other policies within the LDP.

- That the location of the development was considered in relation to the proximity to open space, and Blackford pond and Morningside Cemetery were observed as open spaces near to the proposed development.
- That a neighbour's boiler was vented through the wall, and that a neighbour had lodged an objection to the application on these grounds. It was advised that this would be a private issue, or possibly for building standards, and not a planning concern.
- That it was noted as regrettable that the application was not determined within the timescale, however it was inappropriate development in a conservation area, the design of the box onto a tenement was not considered acceptable, notwithstanding that this part of the conservation area was generally an area consistent with a mix of styles, the impact on setting was negative, the marginal breach in terms of the area of the new dwelling.
- That there was a member of the panel who minded to approve the application, and acknowledged it was an improvement on what the garage which was already in situ. That the concerns around amenity were serious, however while the dwelling was slightly smaller than guidance, it was recognised that the decision to approve planning permission was a minority view within the panel membership.
- That it was inexcusable to not conform with housing standards. If this development was approved, it impeded a future improved development being developed on the site. The proposed development was not considered worthy enough in terms of design in a conservation area and a panel member was minded to refuse planning permission.
- That there were initial concerns related to privacy which the presentation has provided reassurances on these matters however concerns in relation to the proposed development persisted with the lack of open space and access to open space for the development a panel member did not feel it complied with LDP Policy Env 6.

Having taken all the above matters into consideration, the LRB determined that the proposals were contrary to the Development Plan and was of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn this decision.

Decision

To refuse planning permission for the following reasons:

Reasons for refusal:

- 1) The proposal was contrary to Local Development Plan Policy Env 6 in respect of Conservation Areas – Development, as the design was not appropriate for this location, and it did not preserve or enhance the special character of the conservation area.

- 2) The proposal was contrary to Local Development Plan Policy Hou 5 in respect of Conversion to Housing (a), as a satisfactory residential environment was not achieved due to the inadequate space standards for a two bedroom dwelling.

- 3) The proposal was contrary to Local Development Plan Policy Des 1 in respect of Design Quality and Context, as the design did not draw upon the positive characteristics of the surrounding area.

- 4) The proposal was contrary to Local Development Plan Policy Des 2 in respect of Co-ordinated Development, as the proposals would compromise the effective development of adjacent land.

- 5) The proposal was contrary to Local Development Plan Policy Des 4 in respect of Development Design – Impact on Setting, as the height, scale, proportions and materials did not have a positive impact on its surroundings.

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