

Minutes

The City of Edinburgh Planning Local Review Body (Panel 1)

10.00 am, Wednesday 1 February 2023

Present: Councillors Cameron, Gardiner, Jones and Osler.

1. Appointment of Convener

Councillor Osler was appointed as Convener.

2. Minutes

- (a) To approve the minute of the Local Review Body (Panel 1) of 16 November 2022 as a correct record.
- (b) To approve the minute of the Local Review Body (Panel 1) of 14 December 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 – 4 (2F1) Abbey Street, Abbeyhill, Edinburgh

Details were submitted for a request for a review for the proposal for change of use of existing flat from residential to short term holiday let use. No physical changes to the property at 4 (2F1) Abbey Street, Abbeyhill, Edinburgh. Application No. 22/01649/FUL.

Assessment

At the meeting on 1 February 2023, 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 and a site inspection. 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 01,02, Scheme 1 being the drawings shown under the application reference number 22/01649/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, principally:

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

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.

Guidance for Businesses

Other Relevant policy guidance

Revised Draft NPF4

Scottish Planning Policy on Sustainable Development

- 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 this was a single bed property.
- That the two appeals referred to by the applicant in their supporting statement were single bed properties. This application property was a two-bedroom flat. The plan was displayed which illustrated that there was bedroom 1 and bedroom 2.
- The relevance of NPF4, which was a material consideration was explained. NPF4 Policy 30 on tourism was relevant and this was outlined.
- Clarification was sought as to what was meant by “unacceptable” in terms amenity and NPF4?
- It was explained that it was for the Panel to judge what would be unacceptable to local amenity. The guidance referred to impact, regarding the pattern of activity, such as noise and late-night activity.

- If the Panel were to overturn the recommendations in the report, it would not be possible to condition the terms of use or to prevent it being rented out to more people at some time in the future.
- It was confirmed that the Panel would be approving the change of use but not establishing the number of occupants or nights of use.
- Although there was sympathy with the applicant, the Panel should uphold the officer's recommendations as there would be a detrimental impact on residential amenity and the Authority could not control the way in which the applicant operated the short term let.
- That a change of use was being proposed and it had been established by the officers why the application had been refused.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, the LRB were 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 the property 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)

5. Request for Review – 55 (2F1) Ashley Terrace, Edinburgh

Details were submitted for a request for a review for the proposal, which was an application for change of use of from a residence to a Short Term Let (STL). It was a retrospective application as the flat has been used as an STL since December 2021 at 55 (2F1) Ashley Terrace, Edinburgh. Application No. 22/02720/FUL.

Assessment

At the meeting on 1 February 2023, 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 only. 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 01,02, Scheme 1 being the drawings shown under the application reference number 22/02720/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, principally:

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

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.

Guidance for Businesses

Other Relevant policy guidance

Revised Draft NPF4

Scottish Planning Policy on Sustainable Development

- 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 this application for change of use of from a residential to a Short Term Let complied with design guidance.
- That in this instance, there was no physical changes to the property, so it was not necessary to consider it from a design perspective.
- There was sympathy for the applicant, but the guidance was clear and there had already been an impact on neighbouring residents. It was therefore necessary to uphold the recommendations of the planning officer.
- The applicant had indicated that they had been resident in Germany for two years, but this had no bearing on the matter. There was sympathy for the applicant, but the use and operation of the short term let could change in the future.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, the LRB were 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 the property 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 – 14 Caledonian Crescent, Edinburgh

Details were submitted for a request for a review for the proposed change of use to form short term let at 14 Caledonian Crescent, Edinburgh. Application No. 22/03008/FUL.

Assessment

At the meeting on 1 February 2023, 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 and a site inspection. 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 01-05, Scheme 1 being the drawings shown under the application reference number 22/03008/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, principally:

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

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.

Guidance for Businesses

Other Relevant policy guidance

Revised Draft NPF4

Scottish Planning Policy on Sustainable Development

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 there was one application for the proposed change of use to form a short term let, but two separate properties.
- It was explained that this application, and the adjacent property at 28 Caledonian Place, were both previously converted from one shop unit to form two separate residential units.
- That the entrance seemed to be the same for both properties.
- It was confirmed that there were two separate entrances and no shared space.
- Whether the applicant had carried out testing in respect of acoustic levels.
- It was confirmed that there was acoustic report included in the applicant's supporting information.
- This was a more complicated case than the previous ones and the case against the applicant was less robust. This property had its own entrance and had operated with no complaints from neighbours and the complaints had been of a more generic nature. However, consideration should be given to the potential impact on residential amenity and that the property in question used to be a shop.
- This was not a clear-cut case and there was sympathy with this proposal. The property had its own entrance and the applicant had carried out significant work to address noise issues. Therefore, there was disagreement with the officer's recommendations.
- Considering the policy in question, permission had been given for change of use to residential and the applicant had chosen not to take up this use. The authorised use of the property was residential since the 2016 application had been granted and implemented. The proposal would mean a loss of residential use, therefore, the application should be refused.

- The current authorised use was for residential accommodation and it was strongly felt that the officer's recommendations should be upheld. The applicant had applied for residential use and chose to use it as a short term let. Therefore, they were operating in breach of the terms of use.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, the LRB were 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 is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let would have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

7. Request for Review – 28 Caledonian Place, Edinburgh

Details were submitted for a request for a review for the proposed change of use to form short term let at 28 Caledonian Place, Edinburgh. Application No. 22/03007/FUL.

Assessment

At the meeting on 1 February 2023, 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 and a site inspection. 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 01-05, Scheme 1 being the drawings shown under the application reference number 22/03007/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, principally:
Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

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.

Guidance for Businesses

Other Relevant policy guidance

Revised Draft NPF4

Scottish Planning Policy on Sustainable Development

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 as to what the proposal was for as it appeared the premises were a shop, but the application was for a change of use from residential to form short term let.
- The decision notice from the 2016 planning application was displayed. This confirmed that the previous application was for a change of use from a shop to two flats.
- That the discussion on the previous application (22/ 03008/FUL – 14 Caledonian Crescent) was relevant to this proposal. Therefore, it was necessary to uphold the officer's decision.
- It was necessary to be clear about what the Panel was considering. The new legislation stated that the Authority should encourage sustainable tourism. When owners applied to make a change of use from shops to flats, they might have intended to let the flats or engage in short-term letting. Therefore, the Panel should give the applicant the benefit of the doubt and grant the application.
- There was respect for the above comments with regard to applicants' being able to decide on the future use of their properties. However, this was an opportunity to retain the property as residential use and the recommendations of the planning officer should be upheld.
- When considering this application on its own merits, it should be refused on grounds of NPF4 and the loss of residential use. The guidance was quite clear and the application should be refused.

Having taken all the above matters into consideration and although there was some sympathy for the proposals and one of the members was in disagreement, the LRB were 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 the property as a short stay let would have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

Dissent

Councillor Jones requested that his dissent be recorded for this decision.

8. Request for Review – 6 Castle Google Rigg (At Land 80 Metres South Of), Edinburgh

Details were submitted for a request for a review to erect 6x dwellings at Land 80 Metres South of 6 Castle Gogar Rigg, Edinburgh. Application No. 22/02294/FUL.

Assessment

At the meeting on 1 February 2023, 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 and holding one or more hearing sessions. 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 01-22, Scheme 1 being the drawings shown under the application reference number 22/02294/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had insufficient information before it to determine the review, and requested continuation for further written submissions.

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, principally:

Edinburgh Local Development Plan Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features)

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 3 (Listed Buildings - Setting)

Edinburgh Local Development Plan Policy Emp 6 (International Business Gateway)

Edinburgh Local Development Plan Policy Env 12 (Trees)

Edinburgh Local Development Plan Policy Env 16 (Species Protection)

Edinburgh Local Development Plan Policy Env 18 (Open Space Protection)

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 Tra 2 (Private Car Parking)

Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)

Edinburgh Local Development Plan Policy Tra 4 (Design of Off-Street Car and Cycle Parking)

2) Relevant Non-Statutory Guidelines.

Edinburgh Design Guidance

Other Relevant policy guidance

Revised Draft NPF4 Scottish Planning Policy on Sustainable Development

Managing Change in the Historic Environment - Setting

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 as the policies set out in the Revised Draft National Planning Framework 4 (NPF4) were a material consideration, more information was required, especially in respect of biodiversity.

- This was clearly an issue and should be addressed, but there seemed to be sufficient information to proceed.
- Regarding the request for more information, whether a site visit would be helpful.
- Although NPF4 was a material consideration, it was not yet policy. If the Panel required more information, it would be possible to ask for further written submissions from the Authority and from the applicant.
- It was noted that, if the matter was continued for more information on NPF4, it should be taken into account that this might be approved on 13 February 2023 and would form part of the Development Plan. The Panel should be considering the application with that in mind.
- It was confirmed that Planning would write to the applicant and the application would be continued for further written submissions on NPF4.

Having taken all the above matters into consideration the Panel were unable to make a decision and decided to continue consideration of the application for further written submissions to allow both the planning officer and the applicant/agent the opportunity to consider the proposals in regard to the policies set out in the Revised Draft National Planning Framework 4 (NPF4).

Motion

For continuation for a site visit and further written submissions

- Moved by Councillor Jones
- Seconded by Councillor Cameron

Amendment

Against continuation for a site visit and further written submissions

- Moved by Councillor Osler,
- Seconded by Councillor Gardiner

Vote 1

For a site visit - 2 votes

Against a site visit – 2 votes

(For a site visit - Councillors Cameron and Councillor Jones)

(Against a site visit - Councillors Gardiner and Osler)

Casting Vote

The votes being equal, the Convener used her casting vote in favour of the amendment.

Decision 1

To reject the request for a site visit.

Vote 2

For continuation for further written submissions – 3 votes

Against continuation for further written submissions – 1 vote

(For continuation for further written submissions - Councillors Cameron, Gardiner and Jones)

(Against continuation for further written submissions - Councillor Osler)

Decision 2

To continue for further written submissions

Decision

To continue consideration of the application for further written submissions to allow both the planning officer and the applicant/agent the opportunity to consider the proposals in regard to the policies set out in the Revised Draft National Planning Framework 4 (NPF4).

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

9. Request for Review – 555 (1F1-1F12, 2F1-2F22, 3F1-3F17 & 4F18-4F34) Gorgie Road, Edinburgh

Details were submitted for a request for a review for a Section 42 Application for Variation of Condition 1 of Planning Permission ref: 21/04098/FUL to permit Sui Generis use of premises as Student Accommodation and Short-stay Accommodation for let to non-students at any time of year for a temporary period of 5 years at 1F1-1F12, 2F1-2F22, 3F1-3F17 & 4F18-4F34, 555 Gorgie Road Edinburgh. Application No. 22/03465/FUL.

Assessment

At the meeting on 1 February 2023, 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 only. 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 01-05, Scheme 1 being the drawings shown under the application reference number 22/03465/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

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

2) Relevant Non-Statutory Guidelines.

Guidance for Businesses

Other Relevant policy guidance

Revised Draft NPF4

Scottish Planning Policy on Sustainable Development

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:

- There was some lack of clarity about the separation of student and short-stay accommodation in the application. Would a visit or continuation for more information be useful?
- It was explained that the plans were visible on the planning portal. There was no distinct separation between students and short term let residents. As part of the proposals and discussions, it was evident that the property could be used for short term accommodation, homeless people, or students, but nothing was firmly established. However, it was noted that there would be a site manager present at all times.
- That it was not possible to condition this application as there was only one entrance and there would be shared usage.
- It was explained that the applicant had applied for a removal of a condition. The application permitted Sui Generis use of premises as Student Accommodation and Short-stay Accommodation for let to non-students at any time of year for a temporary period of 5 years.
- They were asking that the Authority change the condition that was previously put on from two years to five years. It was the condition that they were asking to remove, the actual application title remained the same, it being a combined use.
- After the information provided by the Lead Officer, there was no need for any further information.
- Although there seemed to be some complexity to the case, it was necessary to uphold the officer's recommendations.
- There was a lack of clarity, regarding the resolution of the two use classes and the officer's recommendations should be upheld.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, the LRB were 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 LDP policy Hou 7 (Inappropriate Uses in Residential Areas) as it would have a materially detrimental effect on the living conditions and amenity of student residents.

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

10. Request for Review – 6 Windsor Street Lane, Edinburgh

Details were submitted for a request for a review for change of use from mews dwelling (Class 9) to short term let visitor accommodation at 6 Windsor Street Lane, Edinburgh. Application No. 22/02463/FUL.

Assessment

At the meeting on 1 February 2023, 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 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 01, Scheme 1 being the drawings shown under the application reference number 22/02463/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, principally:
 - Edinburgh Local Development Plan Policy Env 1 (World Heritage Sites)
 - 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 Hou 7 (Inappropriate Uses in Residential Areas)

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.

Guidance for Businesses

Other Relevant policy guidance

Revised Draft NPF4

Scottish Planning Policy on Sustainable Development

Managing Change in the Historic Environment - Setting

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:

- The proposal did not comply with LDP Policy Hou 7 or the thirteen principles outlined within Paragraph 29 of the Scottish Planning Policy on Sustainable Development, as it would not protect the amenity of the existing development. Therefore, the officer's recommendations should be upheld.
- There was broad agreement to uphold the officer's recommendations and to refuse the application.

Having taken all the above matters into consideration, the LRB were 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 Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let would have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

