

# Minutes

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

10.00 am, Wednesday 31 May 2023

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

### 1. Appointment of Convener

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Councillor Booth was appointed as Convener.

### 2. 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)

### 3. Minutes

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To approve the minute of the Local Review Body (LRB Panel 1) of 3 May 2023 as a correct record.

### 4. Request for Review – 16 (GF) Albany Street, Edinburgh

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Details were submitted of a request for review for change of use from residential to short-term let (in retrospect) at 16 (GF) Albany Street Edinburgh. Application Number. 22/04261/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 31 May 2023.

#### Assessment

At the meeting on 31 May 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 on specific matters. 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, 02A, Scheme 1 being the drawings shown under the application reference number 22/04261/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 NPF4 and Edinburgh Local Development Plan, principally:
  - NPF4 Policy 30
  - Edinburgh Local Development Plan Policy Del 2 (City Centre)
  - Edinburgh Local Development Plan Policy Env 1 (World Heritage Sites)
  - Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)
  - 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
  - The New Town Conservation Area Character Appraisal
  - 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 the Panel were content to accept the new information provided by the applicant, which was a revised appendix, listing previous occupants of the property.

- Would it be possible to confirm the existing use class and was there a commercial use in the past?
- It was confirmed that according to the submitted information from the valuation board, the property had been operating as a self-catering unit and it had also been used as an office. The application stated that it was a change of use from residential to a short term let.
- Clarification was asked regarding business use. The property had been registered as short term catering since 2010, there was surprise that that applicant asked for change of use. If the panel were to refuse the application, would this nullify any certificate of lawfulness?
- It was confirmed that they could still submit a certificate of lawfulness. It was explained that the applicant would need to provide evidence that it had been operating continuously for 10 years as a self-catering unit. If the Planning Authority was content with the evidence submitted with the Certificate of Lawfulness, then the use would be considered lawful.
- With regards to a personal permission, it was confirmed that the guidance from the Scottish Government stated that personal permission should only be granted in exceptional cases, such as for compassionate reasons. For example, for a listed building, disabled access might not be appropriate, but this would be considered as exceptional circumstances if the occupant required disabled access to the building and the works were reversible.
- The applicant was claiming that there were no amenity issues from neighbours because it was a well-run, well managed property. But from the planning perspective, the permission concerned the use of the land, not the management of the property.
- It was confirmed that planning permission went with the property, not with a person. Another owner might operate the STL use differently in the future.
- On information regarding the surrounding properties, and how many of these were residential and how many were business use, was not available.
- Regarding the grounds for refusal, this decision to refuse was made prior to implementation of NPF4. But for subsequent applications the Panel had applied policy NPF4 Policy 30 (e) ii in their decision making. This property was used as a home when not used as a short term let.
- The applicant said there was a split of usage 48/52%, as referred to in the papers.
- The grounds for refusal were on impact on amenity, however, the neighbours stated there was no problem.

- Anything relating to short-term let legislation meant there was a relationship between planning and licensing, for the latter the licence is always personal to the management. Therefore, a change of management could be dealt with by a new licence application. Any conditions imposed would be more appropriate through the licensing regime, and that would be a conversation for a different committee.
- The grounds for refusal for impact on amenity had not been demonstrated, the property continued as the applicant's residential property part of the time. Therefore, the application should be granted.
- The property seemed well managed, however, there was concern that permission went with the property. A future owner might not be so careful with neighbouring amenity. The application should be refused, as there could be issues with neighbours and shared stairs.
- It was probably not the case that NPF4 Policy 30 (e) ii applied as there was not a loss of housing, however, LDP Policy Hou 7 did apply.
- One member thought that the application should be granted as the grounds for refusal did not apply, this was continuing use of the property, and the proposals would not have a detrimental impact.

Having taken all the above matters into consideration, and although there was some sympathy for the applicant and one member 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 this dwelling as a short stay let would have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

### **Dissent**

Councillor Mowat requested that her dissent be recorded for the above decision.

## **5. Request for Review – 28 Drumsheugh Gardens, Edinburgh**

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Details were submitted for a request for review for office extension to rear of building at 28 Drumsheugh Gardens, Edinburgh. Application Number. 22/01288/FUL.

## **Assessment**

At the meeting on 31 May 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/01288/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 NPF4 and Edinburgh Local Development Plan, principally:
  - NPF4 Policy 7 Historic assets and places
  - NPF4 Policy 14 Design, quality and place
  - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
  - 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 on Listed Buildings and Conservation Areas
  - Managing Change in the Historic Environment - Extensions
- 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:

- It was confirmed that it was a B listed building and lies in the New Town Conservation Area.

- Clarification regarding details of the slapping and the resulting loss of historic fabric was sought. It was advised that there were three original windows, and a door opening, and the slapping would result in some stonework being removed.
- It could not be confirmed whether these were the original windows, but it was possible to display the image of the property.
- Clarification was sought about the location of the proposed extension and how this functions with the adjacent site and parking. The location of the extension was demonstrated by the planning advisor, on the plans for the application. Access to the adjacent site would not be impeded.
- Whether the status of the listed building consent for the property could be checked out. It was established that there was no Listed Building Consent application for the extension.
- If this was the case, the applicant would not be able to proceed with the proposal even if the Panel were to grant the application, as they would first need a listed building consent.
- Regarding guidance for listed buildings in conservation areas, it was stated that new extensions which cover more than 50% of the width of the elevation would not be acceptable. The applicant had submitted photos indicating other properties that had rear elevations for the entire width of their property. It was not clear whether they had planning permissions, therefore, to what extent should the Panel give weight to that?
- It was unclear when these other extensions occurred or when planning permission was granted and what legislation was then in place. Also, the panel should not use precedence to guide their decision.
- It was thought this was a tricky application to consider. There was some sympathy for the applicant as there was there a substantial number of properties in the street with rear extensions. The proposed extension was subservient, but it did exceed 50% of the width of the rear elevation. However, it did not seem to be an offensive extension.
- This proposed extension exceeded 50% of the rear elevation and on this basis alone it should be refused. Considering the other extensions in the street, most of them seem to less than 10 years old. If the Panel were to grant this might create a precedent.
- There was agreement with the 50% aspect of this. There was also the issue of removing existing entrances, as they could not revert to the present set-up. This member was not convinced by the example of the neighbouring older extensions as they would probably predate the current guidelines. Therefore, the application should be refused.

- It was thought that the Panel should uphold the decision of the officer for the reasons provided in the Report of Handling.
- There was major concern that there was not a listed building consent as this was an important building. It was not so much the design of the extension, it was the lack of consideration for the historical fabric for the slapping to facilitate the proposal. It was not thought that this application had been considered properly, the applicant had not applied for listed building consent and there had not been a proper assessment of the listed building. The loss of historic fabric was quite significant and it was necessary to guard against this. Therefore, the Panel should uphold the officer's recommendations and refuse the application.
- As there was a lack of support for overturning the officer's recommendations, it was agreed to uphold the recommendations and refuse the application.

Having taken all the above matters into consideration, and although there was some sympathy for the applicant, 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:**

1. The proposal was contrary to the non-statutory guidance on Listed Buildings and Conservation Areas as it would cover more than 50% of the rear elevation, forming an over-dominant addition to the building and adversely affecting its character.
2. The proposal was contrary to LDP policy Env 4 Listed Buildings - Alterations and Extensions as it would result in the loss of historic fabric.

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

## **6. Request for Review – 305 Easter Road, Edinburgh**

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Details were submitted for a request for review for change of use from residential to short-term let at 305 Easter Road, Edinburgh. Application Number. 22/04410/FUL.

### **Assessment**

At the meeting on 31 May 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, the report of handling and further representations.

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 22/04410/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 NPF4 and Edinburgh Local Development Plan, principally:
  - NPF4 Policy 30 Tourism
  - Edinburgh Local Development Plan Policy Del 2 (City Centre)
  - 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.
- 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:

- Could it be confirmed that for the application for retrospective planning permission for the change of use, was a business proposition and not secondary let?
- From the information provided, it could be assumed that it was secondary let.
- Could it be clarified that the applicant had said that they had locked the door to the garden, but they had advertised access to the garden.
- It was confirmed that the applicant had said there was a view of the garden, but no access.
- It was thought that NPF4 Policy 30 (e) ii would apply when considering this application.
- Although it had been referred to as a second floor flat in a section of the papers, it was in fact a ground floor flat.



- There was some sympathy for the applicant, but it was necessary to determine the application on planning grounds. It was a well-run establishment, but it had the potential to have an adverse effect on the amenity of the residents. The decision should also take into account NPF4 Policy 30 (e) ii and the application should be refused.
- There were no contrary views expressed by panel members.
- The application should be refused as it was contrary to LDP Policy Hou 7 and NPF4 Policy 30 (e) ii as there would be both a loss of residential accommodation and a loss of residential amenity.

Having taken all the above matters into consideration, and although there was some sympathy for the applicant, 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 Development Plan and NPF4 Policy 30 Tourism e) ii and LDP Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let would result in the loss of residential accommodation and would have a materially detrimental effect on the living conditions and amenity of nearby residents.

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