

# Minutes

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

**10.00 am, Wednesday 11 October 2023**

**Present:** Councillors Gardiner (items 2-3 and 5-8), Graham (substituting for Councillor Cameron), Jones, Osler and Staniforth.

### 1. Appointment of Convener

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Councillor Staniforth was appointed as Convener.

### 2. Minutes

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To approve the minute of the Local Review Body (LRB Panel 1) of 13 September 2023 as a correct record.

### 3. Planning Local Review Body Procedure

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#### Decision

To note the outline procedure for consideration of reviews.

(Reference – Local Review Body Procedure, submitted)

### 4. Request for Review – 6A Canaan Lane, Edinburgh

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Details were submitted of a request for review for a Short term let (in retrospect) at 6A Canaan Lane, Edinburgh. Application Number. 22/05767/FULSTL.

#### Assessment

At the meeting on 11 October 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 22/05767/FULSTL 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:
  - 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)
  - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
  - National Planning Framework 4 Policy 7 (Historic Assets and Places)
  - National Planning Framework 4 (Policy 30 (Tourism))
- 2) Relevant Non-Statutory Guidelines.
  - Listed Buildings and Conservation Areas
  - Guidance for Business
  - The Morningside Conservation Area Character appraisal
- 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 requested as to whether the application property was attached to the hotel, and was it being used as an auxiliary use of Lane Hotel, and whether the authorised use of the property was residential.
- It was confirmed that the applicant stated the premises were converted from office to residential use in 2017. And whilst the application property was now used by the Lane Hotel as additional accommodation space, 6a Canaan Lane remained physically separate from the hotel. The application property had its own separate entrance and there was no interlinking door between the property and the hotel.

- That the application site was in close proximity to residential properties, could it be confirmed where were the residential properties?
- The planning advisor showed images of the hotel and the surrounding area. It was not possible to confirm what was residential and what was commercial usage. There was an architect's office within the courtyard and residential properties. There seemed to be residential properties along Canaan Lane.
- It was possible to see the arguments for the economic benefits of the proposed short term let, but there were also benefits of retaining residential properties. People could live and work there and contribute to the economy. It was not possible to see how the economic benefits would outweigh the loss of residential space. There were comments in support of this application, however, it was necessary to think about the future, the hotel might not always be the owner of this property and impact on residential amenity might occur if another owner were to run it. Therefore, the Panel should uphold officer's recommendations and reject the appeal.
- There was agreement with the above viewpoint. There was sympathy for the applicant. Previously, an office had been converted to residential use. However, this did not justify the change of use and for the loss of residential use, therefore, the Panel should uphold officer's recommendations.
- There were no comments to the contrary, therefore it was agreed that the Panel should uphold the officer's 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 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.
2. The proposal was contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let would result in an unacceptable impact on local amenity and the loss of a residential property had not been justified.

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

### **Declaration of Interest**

Councillor Gardiner declared a non-financial interest in the above item as he knew the applicant.

## **5. Request for Review – 5 Comely Bank Avenue, Edinburgh**

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Details were submitted for a request for review for change of use from residential to short-term let at 5 Comely Bank Avenue, Edinburgh. Application No. 22/04442/FUL.

### **Assessment**

At the meeting on 11 October 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 22/04442/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:
  - 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)
  - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
  - National Planning Framework 4 (Policy 30 (Tourism))
- 2) Relevant Non-Statutory Guidelines.
  - Guidance for Business
- 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 regarding the access to the communal stairwell and garden, given that this was a main door flat.
- It was explained that the flat had a secondary access, which gave direct access into the common stairwell and out to the garden.
- That this was more straightforward than the previous application. There were letters of objection. The property was located within a residential area, with immediate residential neighbours, it was accessed via a private front door and the flat was located in a traditional tenement block and had access to the communal garden and stair. Both the officer's reasons for refusal were clear and the officer's decision should be upheld.
- One member accepted the previous argument. This was not straightforward, as the city wanted more residential accommodation, however, the owners said they would keep it as a second home. Therefore, the Authority was in a no-win situation with regards to this legislation.
- That its current use by owners was not relevant to the fact that if it remained a residential property, it might become someone's primary home in the future. However, as a short term let, this would not be the case.
- This was a very dense residential area, close to Stockbridge and homes in this area were much sought after. There was no mixed use in this area, which was of a very highly residential nature.
- There was agreement with the above viewpoint. This was a residential property in a residential block and would make a good residential property in future, even if it was sold. However, if there was change of use to STL the residential use would be lost forever. It was not really material who owned at present, but it would be lost as a residential use if the Panel allowed it. There was agreement that this was very clear cut case.
- There was additional agreement with the view expressed. From the objections, it was evident that there was a sense of community in the area. There was an understanding that this was a very residential area and it would be beneficial if the property should remain as that.
- On that basis, the Panel should uphold the officer's recommendations and reject the appeal.
- There were no contrary views expressed.

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:**

1. 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.
2. The proposal was contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let would result in an unacceptable impact on local amenity and the loss of a residential property had not been justified.

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

## **6. Request for Review – 7 Pier Place, Edinburgh**

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Details were submitted for a request for review on behalf of Bannerman Developments for planning permission and change of use for an existing main door holiday let to a short term holiday let (in retrospect) at 7 Pier Place, Edinburgh. Application No. 22/05833/FULSTL.

### **Assessment**

At the meeting on 11 October 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 22/05833/FULSTL 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:

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)

National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)

National Planning Framework 4 Policy 7 (Historic Assets and Places)

National Planning Framework 4 (Policy 30 (Tourism))

2) Relevant Non-Statutory Guidelines.

Guidance for Business

Listed Building and Conservation Area Guidance

Newhaven Conservation Area.

Managing Change in the Historic Environment: Guidance on the principles of listed building consent.

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 applicant had indicated that this main door holiday let was too small to be used as a permanent residence. If planning permission was granted for this property to be built now, would this comply with modern space standards for long term residential premises?
- Although overall floor space dimensions were not shown on the plans, it was explained that a new build bedsit required a minimum floor area of 32 square metres. Anything above that would be considered acceptable. The application property appeared to show a reasonable living space, including a kitchen, shower space, living room and a bedroom. The premises were listed and located within the Newhaven Conservation Area.
- Regarding the history of the property, it was granted residential use some time, despite its size, it was therefore considered suitable for residential use.

- Whether there was any relevant site history of this property and was it residential use from the beginning?
- This information regarding its conversion to residential use was not available, but if the plans were considered, it could be seen it was a modern conversion, therefore, it seemed to be residential for some time and that was its authorised use.
- The claim by the applicant that the property was excessively small was not accurate and there was a need for one bedroom apartments in the city. NPF4 Policy 30 (e) was a relevant reason for refusal as there was a loss of residential space. LDP Policy Hou 7 might be applicable as there was a potential impact on amenity, even though this was a busy commercial street.
- There was some sympathy for the applicant. It was next to a busy commercial development and there were no objections from neighbours. However, it represented a permanent change from residential use, therefore, there was no justification for allowing this proposal to be granted.
- It was decided to uphold the officer's recommendations and refuse the appeal and there was no contrary view expressed.

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 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.
2. The proposal was contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let would result in an unacceptable impact on local amenity and the loss of a residential property had not been justified.

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

## **7. Request for Review – 29A Raeburn Place, Edinburgh**

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Details were submitted for a request for review for change of use to short-term lets and Airbnb. at 29A Raeburn Place, Edinburgh. Application No. 22/04883/FUL.



## Assessment

At the meeting on 11 October 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 01A, 02 – 05, Scheme 2, being the drawings shown under the application reference number 22/04883/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:
  - 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)
  - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
  - National Planning Framework 4 Policy 7 (Historic Assets and Places)
  - National Planning Framework 4 (Policy 30 (Tourism))
- 2) Relevant Non-Statutory Guidelines.
  - Guidance for Business
  - Listed Building and Conservation Area Guidance
  - The New Town Conservation Area
  - Managing Change in the Historic Environment: Guidance on the principles of listed building consent.
  - 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:

- This was a quite clear case, there were adjoining neighbours, the commercial properties nearby would not be operating all night and there would be disruption from visitors, if the change of use from residential to short term let was permitted. There would be impact on amenity and there would be a clear loss of residential accommodation. Therefore, the Panel should uphold the officer's decision.
- It was thought by one member that the determination of this application was less clear. This property was located in Stockbridge and there was a mixture of commercial use and a level of vibrancy. There was some sympathy with the applicant, because they had produced a very good record. Despite this, there was a change of use from residential and this was not justified. Therefore, the Panel should uphold the officer's recommendation as there was no supporting evidence to justify the change of use.
- No contrary view was expressed.
- It was thought that the Panel should uphold the others recommendation and refuse the application, and there were no comments to the contrary.

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 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.
2. The proposal was contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let would result in an unacceptable impact on local amenity and the loss of a residential property had not been justified.

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

## 8. Request for Review – 112A (3F3) West Bow, Edinburgh

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Details were submitted for a request for review for change of use of flat to short term holiday let or a flat at 3F3, 112A West Bow, Edinburgh. Application No. 22/04934/FUL.

### Assessment

At the meeting on 11 October 2023, the LRB had been provided with copies of the notice of review submitted by you including a request that the review proceed on the basis of an assessment of the review documents, holding one or more hearing sessions on specific matters a site inspection and further written submissions 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 – 02, Scheme 1, being the drawings shown under the application reference number 22/04934/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:
  - 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)
  - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
  - National Planning Framework 4 Policy 7 (Historic Assets and Places)
  - National Planning Framework 4 (Policy 30 (Tourism))
- 2) Relevant Non-Statutory Guidelines.
  - Guidance for Business
  - Listed Building and Conservation Area Guidance
  - The New Town Conservation Area

Managing Change in the Historic Environment: Guidance on the principles of listed building consent.

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:

- It was confirmed that the Panel were content to accept the new information.
- Reference was made to parking standards and that cycles could be parked inside the property. Did that mean in the communal stair or in the flat?
- Considering the interior of the property, it would be possible to park cycles in the flat or possibly in the communal stair, but this could cause potential conflict with neighbours.
- It could be seen that this might be an attractive location for a short term, as this area was compelling for tourists. But there were several hotels in walking distance and residents would like to live in the city centre too. This proposal for the change of use from residential to short term let would represent a loss of that opportunity and a loss of residential accommodation, therefore, the Panel should uphold the officer's recommendations and refuse the application.
- There was concurrence with the above viewpoint. The Grassmarket Residents Association's objection said that one in three of the properties in the area were short term lets, which was quite a high number.
- There could not be a thriving city centre residential area if there was not accommodation and there was a strong demand for people to stay in the area. This was straightforward, there was a shared stairwell, and people living within this residential amenity should be able to feel secure. One of the problems of this proposal was that there would be a flow of people to the flat and this would have a negative impact on residential amenity. There was sympathy for the applicant, but there were no outweighing factors to overturn officer's recommendations.
- There were no more comments, and it was decided that the Panel should uphold the officer's recommendations and refuse the appeal.

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 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.
2. The proposal was contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let would result in an unacceptable impact on local amenity and the loss of a residential property had not been justified.

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