

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

10.00 am, Wednesday 1 November 2023

Present: Councillors Beal, Mattos Coelho (items 5-11), McNeese-Mechan, Mowat and Staniforth (substituting for Councillor Booth).

1. Appointment of Convener

Councillor Beal was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 1) of 27 September 2023 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 – 16 South Scotstoun, South Queensferry

Details were submitted of a request for a change of use from main residence to short-term letting (in retrospect) at 16 South Scotstoun, South Queensferry. Application Number. 23/01980/FULSTL.

Assessment

At the meeting on 1 November 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 01-04, Scheme 1, being the drawings shown under the application reference number 23/01980/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 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:

- The applicant stated that this property was their primary residence. Could this be checked as if this was the case, and if so, would the property require planning permission as a short term let of it was only for a temporary period?
- It was explained that the authority did not have that information, the applicant had signed a document to say that the information they had given was true.
- For domical and tax purposes, primary residents needed to be there for over 6 months of the year – did this apply?
- It was confirmed that the applicant indicated that they used the property approximately three months of the year, but they worked away and visited the property in between these times.

- The applicant stated but this was a primary residence, however, there were various definitions of a permanent residence in different legislative regimes, one for tax purposes and the other for other types. Was there a definition on this in planning terms?
- The planning advisor stated that looking at the Guidance for Business, in relation to primary residence, it was stated that if a permanent home was frequently used as a short term let, a change of use to short term let may be required. The Guidance for Business made reference to the character of use, the size of the property and the nature of the services provided. The applicant said this was their main residence, but they had to work away, and when they did return to the residence, it would be used for approximately three months of the year, so a long term let was not viable. It was not clear if they stayed there permanently for three months of the year. They just used it three months of the year.
- There was a method to apply, whereby someone who lived in their own home, and who sometimes let it out. There was nothing in the guidance regarding this type of scenario. One member was looking for wording in the guidance for short term lets to clarify this, but there was nothing in the Guidance for Business.
- It was confirmed that there had been a number of these applications for change of use from main residence to short-term letting, where people were working away and letting their properties. This applicant was living in England for nine months of year. There was no end date as such. For nine months of the year this property was used as a short term let.
- It was clear from the appeal statement that this was the applicant's main residence, and this should be considered as a change of use. This was then a change of use to a short term let, it was in a residential area, therefore the Panel should uphold the officer's recommendation.
- There was agreement with this viewpoint, it was a short term let property that the applicant sometimes resided in.
- For the Panel, it was not relevant if it was a primary residence. The Panel should decide to grant the application, or not as there was a loss of residential accommodation.
- Regarding LDP Policy Hou 7 and impact on amenity, there was statement from the neighbours that indicated that there was no evidence that this created an adverse impact, therefore, the case for Hou 7 was not made. This was a front door property; it was quiet and it was small property. Considering NPF4 Policy 30 (e), it referred to the loss of residential property. Here there was no loss of residential property.
- This property was not coming back into the market, it was being used as an alternative residence and there would be economic activity if someone was in residence. When people were working away, they wished to generate their own economic impact for themselves, this also had a knock on economic effect in the

locality. This was a short term let, it could be house, it was being used for business use.

- Did it meet the test for Hou 7 as this came in before the additional guidance for quieter residential areas? This was a marginal case, there was no impact on local amenity, it was an empty property, but once granted as a short term let, the Panel did not have the ability to then grant it for occasional use. The applicant sought to use it when then came home, this was materially different from someone buying up properties and turning them into disaggregated hotel rooms.
- The planning advisor referred to the application title, which was for a change of use from residential property to short term let. If the Panel were to overturn the decision, they would be granting consent for a change of use to short term let. If granting permission for a short term let, someone else could operate the property in a different way. Regarding relevant policies and guidance, the Panel were making a fresh decision and this should be based on the current policies and guidance.
- If the Panel was to grant this, then someone else could change the current management and use at a later date. The applicant also stated there would be no loss of residential amenity, they could let one room out and use the other one for them, when in town. It was not true to say there was no loss of residential amenity. Instead of tourist use, this could be someone's residential property, when the owner was not in residence, and it was challenged there was not a loss of residential amenity.
- If the Panel granted planning permission, then this would change the property to short term let in perpetuity. Despite the owner's intention, to live there for a number of years, the Panel would have changed it from residential use to a commercial property. It would be there in perpetuity and would mean a loss of residential accommodation. Therefore, it was necessary to uphold the officer's recommendation and refuse the application.
- Planning permission was permanent and was not based on how a property was managed. The property could be changed or managed differently. The legislation was not ideal for this type of application and did not cover this partial use, however this was not a consideration.
- No contrary position was expressed, therefore, the officer's recommendation should be upheld and the application refused.

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 property 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 4 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).

5. Request for Review – 4 (GF) Priestfield Road, Edinburgh

Details were submitted for a request for a change of use from to short-term let (in retrospect) at 4 (GF) Priestfield Road, Edinburgh. Application No. 22/05694/FULSTL.

Assessment

At the meeting on 1 November 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 01A, 02, Scheme 1, being the drawings shown under the application reference number 22/05694/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

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 possible to see that the kitchen door of the two bedroom flat on the ground floor appeared to open to shared space at back of property. Was there a shared garden at front and was there any pictures of the rear or where the kitchen door led to?
- It was confirmed that the papers indicated there was no communal back garden and the private front garden was in not in proximity to other gardens. There seemed to be some access area at the rear of the property. The plans indicated that there was no communal garden, although there appeared to be a kitchen door that led out.
- Apparently, this was not a residential area, could this be clarified?
- It was explained that the street was predominantly residential, comprising two storey terraced villas and there were several guest houses in the street. The applicant suggested there were other uses in the surrounding area, the immediate surrounding area all appear to be residential properties. But there were other uses in the wider area.
- With some of these applications, the question of amenity was complex as to whether it would be disruptive to neighbouring amenity. But the loss of residential property was clear, there was a housing crisis in the city and the economic benefits did not outweigh the loss of residential property. Although the applicant said this was not suitable for families as this property was small, part of the housing crisis was that young people without families could not get residential accommodation, because so many of these properties became short term lets. Although the amenity question was unclear, there would be a loss of residential accommodation if the Panel were to grant this. Therefore, the Panel should uphold the officer's recommendations.
- There was agreement with the above viewpoint. This would be a suitable property for a small family and had a sitting and dining room. If planning permission was granted, this could be marketed as a four bedroom space, and

in good weather, the occupants might gather in the garden and cause impact on residents. Therefore, the officer's recommendation should be upheld.

- It was thought that the size of the property was irrelevant, there was a need for accommodation of different sizes, there was no economic case for this property, it was suitable for residential use, there was shared space and the proposals were contrary to LDP Policy Hou 7 and NPF4 policy 30 (e).
- There were no contrary views, therefore, the Panel should uphold the officer's recommendation and 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:

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 property 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 4 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 – 46 (2F3) Cockburn Street, Edinburgh

Details were submitted for a request for a change of use from residential to short term let (in retrospect) at 2F3, 46 Cockburn Street, Edinburgh. This was dealt with by the Chief Planning Officer under delegated powers. Application No. 23/01450/FULSTL.

Assessment

At the meeting on 1 November 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 23/01450/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 Old Town 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:

- Whether the flats in the common stair were all residential accommodation?
- It was explained that there was no specific information about the other properties in the block, it was not possible to confirm if they were short term lets or residential properties and there was no statement from the applicant regarding this.
- The applicant said they wanted to return to stay in this property at some point, it might be beneficial for them to have a long term let rather than a short term let. The Panel should therefore uphold the officer's recommendations.
- There was agreement with this viewpoint. This type of property might have been suitable for a private let, before the advent of short term lets, therefore, the Panel should uphold the officers' recommendations.

- This was a shared stair, the argument for economic benefits had not been made and the management of the property was not a factor. There was sympathy for owners who wanted to retain their property as a main residence, however, the Panel could not account for how the property might be managed in future. Therefore, it was necessary to uphold the officer's recommendations.
- There were no other comments and it was agreed to 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 of local amenity and the loss of a residential property has not been justified.

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

7. Request for Review – 20 (Flat 5) Timber Bush, Edinburgh

Details were submitted for a request for a change of use from to short-term let (in retrospect) at Flat 5, 20 Timber Bush, Edinburgh. This was dealt with by the Chief Planning Officer under delegated powers. Application No. 22/06243/FULSTL.

Assessment

At the meeting on 1 November 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 22/06243/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 Leith 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:

- There were no questions from the Panel.
- This application for retrospective planning permission for the change of use from residential to short term let was similar to the other cases considered. This was not about the management of the property, if the property was sold, planning permission still applied, therefore, management of the property could not be taken into account.
- This property was in shared stairwell, access was gained via a shared stair and communal front door entrance and the change of use from residential to short term would affect other people in the block. Therefore, the Panel should uphold the recommendation of the planning officer as LDP Policy Hou 7 applied. Additionally, NPF4 Policy 30 (e) applied as there was no economic benefit demonstrated.

- There was agreement with this viewpoint. This was one of the clearest applications in terms of impact on loss of amenity. This would not disadvantage the owners, because they would be able to use and enjoy the property for six months of the year. Therefore, the Panel should uphold the officer's recommendations.
- There were no other comments made. It was agreed to uphold the officer's recommendations and 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:

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 – 12 Raeburn Mews, Edinburgh

Details were submitted for a request for review for a change of use from residential to short-term let (in retrospect) at 12 Raeburn Mews, Edinburgh. Application No. 23/01489/FULSTL.

Assessment

At the meeting on 1 November 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 23/01489/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 New Town Conservation Area
- 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 reference to flatted properties was included in the non-statutory Guidance for Business and not related to this property, as it was a two-storey mews building with its own main door entrance in a terrace. This was not a flatted property.
- Apparently, there was no external space. Regarding the photographs of the front door, was there a street at the front or a communal patio type area? Because it was a mews building, it was thought that it might be a communal patio type area.
- It was explained that there was a collection of mews properties around the courtyard access, there was vehicular access into courtyard area. It seemed to be more like a street, none of it was private. It was cobbled at the centre, There

was patio areas at the front of the properties, residents did not seem to use it for sitting out.

- This was a more difficult case to consider, because it was a mews building with its own main door entrance, what would happen if the applicant was given permanent planning permission in future? It was possible that people sitting outside in the summer would cause noise and there was no greenery to soften this.
- This was another instance of a case that the disruption to amenity was not being as well made as when there was a flat in a shared stairwell. However, it would represent a loss of residential property. If permission was granted for a short term let, it would become commercial property. The Panel should uphold the officer's decision as this would be a loss of a primary residence.
- It was thought that this was a densely populated residential area with more activity, with people coming and going, which would affect neighbouring properties significantly. Planning permission applied to the property and not the person. The property might be sold and the decision could not be based on the management of the property. Additionally, the economic case had not been made, therefore, it was necessary to uphold the decision of the officer.
- As no contrary views were expressed, it was agreed to uphold the officer's decision and 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:

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 property as a short term 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 4 Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short term 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).

9. Request for Review – 10 Inverleith Terrace Lane, Edinburgh

Details were submitted for a request for review for a change of use dwelling to short-term let (in retrospect) at 10 Inverleith Terrace Lane, Edinburgh. This was dealt with by the Chief Planning Officer under delegated powers. Application No. 22/03634/FUL.

Assessment

At the meeting on 1 November 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 01A, 02, 03, Scheme 1, being the drawings shown under the application reference number 22/03634/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.
 - Listed Buildings and Conservation Areas
 - Guidance for Business
 - The Inverleith Conservation Area
- 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 property at 10 Inverleith Terrace Lane was a newly constructed (2019) two-storey mews building, constructed in the garden of 10 Inverleith Terrace. It had been built in the garden of the owner, was it currently a separate planning unit? And would the decision of the LRB make it into a separate unit?
- It was confirmed that it was built as a separate unit. Planning did not deal with title deeds and if the applicant decided to sell a portion of their garden, this was not a matter for Planning to consider. Considering the planning permission in 2015, consent was granted to subdivide the garden and form a two storey mews house. The application property was directly accessed off Inverleith Terrace Lane, it was clear it was a separate unit.
- Whether the property was recognised in planning terms as a separate home, if it was on an electoral registrar and could post be delivered there. The property had building number 10 attached to it.
- The planning advisor confirmed that it had a separate address and was at the bottom of the garden of number 10 Inverleith Terrace, fronting onto Inverleith Terrace Lane.
- Whether there were the other residential properties Inverleith Terrace Lane?
- The planning advisor referred to the plan and explained that there was a further residential property at number 12 Inverleith Terrace Lane. There were also some garages, and the yard at Tanfield with other lock up garages. Number 12 seemed to be the only other residential property and there was a letter of support from this property.
- One member was not convinced that the case for residential amenity had been made. This was a stand-alone building, there were not many nearby neighbours, but it was still a loss of residential accommodation. Even though the applicant said they would not sell it or let it out long term if not allowed to use as a short term let. No one stayed in a property forever, if it was allowed to be a short term let, it would be lost permanently. Planning permission was granted in 2015 to build a residence, not a short term let. The building should stay as a residential property, the city needed housing of all types and there would be a clear loss of residential accommodation. Although the case for loss of amenity was not clear, the Panel should uphold the officer's recommendations on the basis of loss of residential accommodation.
- One member was uncomfortable about the use of LDP Policy Hou 7 as there was evidence that there was no impact on amenity. There was a comprehensive statement about the economic benefits and NPF4 Policy 30 (e) referred to this. Despite the value of the property, there was a housing crisis, in a housing emergency it was necessary to build at every level. The economic statement demonstrated there would be economic benefits both for the individual and small local businesses.

- This proposal for a short term let would be an interesting use of the property and would help fill a gap. It would contribute to the local economy more than if it was a two bedroom residential property. The Panel had to make a decision as to whether the economic benefit of the premises being a short term let outweighed the economic benefit of the property remaining in residential use, given that it had the relevant information. LDP Policy Hou 7 was not relevant as there was no impact on residential amenity, there was not much residential active in the vicinity, and it was located in a busy lane. There would be significant economic benefits to be considered.
- One member was not persuaded by the case for economic benefits as this only applied if they were delivered locally. In terms of housing amenity, this building was what used to be known as a Granny Flat in the person's garden, but it was its own stand-alone property and it could become home for someone. The proposals would represent a housing loss. It could be seen as an individual house. On this basis, it was probably necessary to uphold the officer's decision.
- There was more sympathy for this application. There was an economic case for it, but the figures did not quite add up. There would be a loss of a residential property, which was what planning permission was granted for in 2015. The management of the property was not the issue as it could be sold and managed differently. 3,750 occupied nights and person nights in 3 ½ years was a large number of visitor nights spent in this property, it was close to other residential properties and it would damage the quietness of this quiet lane. Therefore, it was necessary to uphold the officer's recommendation.
- Regarding the wording of NPF4 Policy 30 (e), it was necessary to demonstrate that the economic benefits demonstrably outweighed the loss of residential accommodation. But in a housing crisis, the local economic benefits would have to massively outweigh the loss of housing. This might not always be the case, but given the current housing crisis situation in Edinburgh, the economic benefit did not outweigh the loss of residential accommodation.
- This was a matter of degree, whether the loss of residential accommodation was outweighed by the potential economic benefits. Comprehensive figures were provided, and the Panel had to go with the report that was before them. Where there was housing crisis emergency, it may be there was no figure sufficient. But the short term let would bring three times the local economic benefit, such as various taxes, visitor spending, helping local businesses, local income for local people and council tax. Three times as much income was quite a compelling argument. The Panel needed to be clear on that as they made a decision.
- There was some sympathy for the above point of view. NPF4 Policy 30 was a relatively new policy and this was the challenge facing the Panel.
- It was confirmed that supporting information had been submitted by the applicant, and there was a substantial financial information. It was for the Panel

to interrogate that information and determine where the balance would fall in terms of potential economic benefits outweighing loss of housing.

- This information was new and was not available when the decision on the planning application was made. The guidance was developing, the applicant did not have this guidance when they made their initial application and they had to make their appeal in response to that. This was new policy and the Panel had to consider that. Considering NPF4 Policy 30 (e), it had to be considered when did the economic benefit of a short term let outweigh the loss of residential accommodation, and if three times the current income was sufficient. The Panel had to come to decision on that and three times was a significant sum. The Panel owed it to this appeal to give full consideration, because of the economic statement.
- One member thought that three times the economic benefit outweighed the presumption against the loss of residential housing and did not think there would be significant impact on amenity so they would propose to overturn the officer's decision and granting planning permission.
- One member took the opposite view as economic benefits did not outweigh the loss of residential accommodation. Housing brought its own economic benefit and other benefits, especially when there was a housing crisis. Although this might change in the future, at present it was not thought that that the economic benefits outweighed the loss of residential accommodation. The member advocating the grant of planning permission was quite right that this was a decision which had to be made at this meeting. The decision was to decide to balance whether the economic benefits outweighed the loss of residential accommodation.
- It was thought that the figures for the economic benefits did not add up, therefore, support could not be given to the motion to grant the application. There was no support for the member's motion for granting the application, therefore the Panel decided to uphold the officer's recommendation and refuse the application.

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

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 property 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 4 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).

Dissent

Councillor Mowat requested that her dissent be recorded in respect of the above decision.

10. Request for Review – 110 Spring Gardens, Edinburgh

Details were submitted for a request for review to change the use of the existing flat to a flat for short-term letting at 110 Spring Gardens, Edinburgh. This was dealt with by the Chief Planning Officer under delegated powers. Application No. 23/00570/FULSTL.

Assessment

At the meeting on 1 November 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 - 03, Scheme 1, being the drawings shown under the application reference number 23/00570/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 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:

- What year did the property in question get permission for change of use from commercial unit to residential use?
- It was confirmed that on 3 Aug 2016, permission was granted for change of use from a shop unit to a flat.
- The application for the retrospective change of use from residential to short term let would mean there would be a loss of residential property, and the issue of loss of amenity was clearer too than in some of the previous applications. The Panel had previously visited an area where even though access was not shared, the flats were nestled together and having short term let visitors would be disruptive to neighbours. This was a similar situation, the property was nestled with other flats, it was not detached, it was one where there were people coming and going and potential party goers could cause noise. Short term lets would be quite disruptive here, even though there was no shared access.
- It was thought but there would be a loss of residential accommodation. Although there was a variety of commercial uses located nearby, the surrounding area was predominantly residential and there were residential properties in the immediate surrounding area. Therefore, the Panel should uphold the officer's recommendation and refuse the application.
- No contrary view was expressed and the Panel was content to uphold the recommendation of the planning officer and 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:

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, supporting documents and further representations, submitted).

11. Request for Review – 4 Barony Place, Edinburgh

Details were submitted for a request for review for a change of use to a short term let during period of non-occupation at 4 Barony Place, Edinburgh. This was dealt with by the Chief Planning Officer under delegated powers. Application No. 23/01383/FULSTL.

Assessment

At the meeting on 1 November 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 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 23/01383/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 New Town Conservation Area

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:

- One member indicated that the Local Review statement from the applicant referred to, in some areas, a different property located at Well Court in the Dean Village. On this basis, did the Panel want to consider this Local Review or give the applicant an opportunity to resubmit their application or just accept what was in the papers. It was confirmed that reference was made to Dean Village in the appellant's statement in page 256 of the papers, Well Court in page 258 and Barony Place in page 259.
- It was thought that this was possibly significant. This might not change the decision, but for reasons of fairness, the appellant should perhaps be given opportunity to submit a revised statement.
- The planning advisor indicated that in the supporting statement, it was for the appellant to decide what they included, but the Panel had to decide if this was of enough significance to affect their decision. The Local Review form referred to the correct location of property, and it had to be decided whether that error in the statement would make a difference to the Panel's decision.
- One member thought that it did not make sufficient difference to require re-submission.
- It was thought it might be necessary to ignore the references to Dean Village and Well Court and this would not influence the Panel's decision.
- It was agreed that the Panel should consider the application at the current meeting and ignore the references to Dean Village and Well Court when making their deliberations.
- That the wording in the application was unusual. The application was for a change of use from residential to short term let during periods of non-occupation for longer term rentals (approximately 26 weeks of the year). Could it be clarified that this would have any real impact. If the Panel passed this application would this make it a short term let?

- It was confirmed that the application was for a change of use from residential to short term. It might be possible to add a condition to restrict the time limit, but the applicant was not specific enough regarding the time limit they referred to as they referred to approximately 26 weeks, therefore, the Panel would be granting consent for a change of use.
- It was asked who did non-occupation refer to as it was not specified. As there was some new legislation in place, this was leading to some lack of clarity in some applications.
- It was advised that the property was, on occasion, occupied by staff and used as a short term let in between these times. Having received clarification, this would mean a loss of residential accommodation, non-occupation was ill defined, as was the time period and in future another owner might use it as a short term let throughout the year. Therefore, the Panel should uphold the officer's recommendation and refuse the application.
- There was agreement of this viewpoint, this was not about the management of the property, it could be resold and managed differently. Management of a property could not be part of the Panel's consideration and there was a loss of residential accommodation. It was necessary to uphold the officer's recommendation and refuse the application.
- The Panel had received information in the response, which provide some figures to consider, but these were not specific. The times of non-occupation had been included to address LDP Policy Hou 7 and the loss of amenity, and the economic argument for loss of property. It diminished that contribution to state it outweighed the loss of residential accommodation. The evidence was not there, there was nothing to outweigh the loss of residential accommodation in this application. One member thought that should be stated for the benefit of consistency.
- There were no contrary views expressed and there was agreement to uphold the officer's recommendation 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 property 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 4 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, supporting documents and further representations, submitted).