

Minutes

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

10.00 am, Wednesday 15 November 2023

Present: Councillors Jones, Osler and Staniforth.

1. Appointment of Convener

Councillor Osler was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 1) of 11 October 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 – 37 Craigmount View, Edinburgh

Details were submitted of a request for review for a change of use to form short term holiday let at 37 Craigmount View, Edinburgh. Application Number. 23/01031/FULSTL.

Assessment

At the meeting on 15 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 23/01031/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
- 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 suggested that the Panel condition this proposal for change of use to form short term holiday let to 5 years. This was not something that was normally recommended, therefore, how would a condition like this work, considering that planning permission went with the property?
- It was explained that time-limited conditions were generally not recommended, especially by the Scottish government. They were used in exceptional cases where there was a particular need. Members needed to consider whether the effects of the proposal over a short period of time would be acceptable, compared with a permanent basis.

- Regarding the mistake that was highlighted in the presentation, could that be clarified?
- It was confirmed that this was in the report of handling and the policies included in the National Planning Framework Policy 7, (Historic Assets and Places). That was used when it was either a listed building or located in a conservation area.
- There were no further questions.
- There was considerable sympathy for applicant. But as the planning permission went with the property, even though there was a request to a five-year limit, it would be difficult to condition. If the property was sold, somebody could challenge that condition, because if there could be a change of use, the Panel would be giving the owner the change of use, despite the condition.
- Imposing a condition was not helpful as the issue was not whether it was the length of time, but whether the property was suitable to have the change of use. With the information presented, this were insufficient grounds to place a condition, or go against the officer recommendation and grant the change of use, as the officer has explained clearly why this was refused.
- There was agreement with this. Also, that type of time period limited planning permission was smaller than 5 years, which was quite a long time for a time limited planning permission. It would still take away a residential use for those five years, so it was still in breach of NPF4. Therefore, the Panel should uphold the officers' decision.
- There was further agreement with this, so there was no further comment,

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).

5. Request for Review – 7 Dalmeny Street, Edinburgh

Details were submitted for a request for review for change property to a short-term rental (in retrospect) at 7 Dalmeny Street, Edinburgh. Application No. 22/06146/FULSTL.

Assessment

At the meeting on 15 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, being the drawings shown under the application reference number 22/06146/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
 - Edinburgh Design Guidance
 - Listed Building and Conservation Area Guidance

- 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:

- From the picture of the property, could the planning advisor point out that property and also the neighbouring commercial shops and businesses?
- It was explained that this was the Leith Walk end of Dalmeny Street, the property in question was highlighted. The property to the left was a commercial property, although perhaps empty at the moment, the property at the end, was possibly the estate agent. That was actually an earlier picture from several years ago.
- What was the property to the right the property in question?
- It was confirmed that this was a residential property.
- The officer had presented a clear-cut case and it was thought to recommend to uphold the officers' decision. It was asked if there was an alternative position.
- One member had an alternative view. This property was surrounded by commercial properties, was a very busy street, it had its own front door and was very small. The impact on amenity was absolutely minimal in terms of increased noise and activity, therefore, this member would not support the officer's recommendation to refuse this application.
- It was thought that this flat was very small, but there were single adults looking for small properties in the city and they were very difficult to find, because so many of them had become short term lets. So, whether the proposal impacted on residential amenity or not, it was contrary to NPF4 30 (a).
- It was necessary to uphold the officers' recommendations, as this change of property to a short-term rental (in retrospect).was a change of use from residential. There was no justification to make that change to a commercial usage. The officer had made the case based on NPF4 30 (a).
- There was a motion proposed to uphold the officer's recommendation and refuse the application, which received a seconder.
- There was no support for the amendment to grant the application, so, no vote could take place.

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:

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 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 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 adverse 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)

Dissent

Councillor Jones requested that his dissent be recorded in respect of the above decision.

6. Request for Review – 2 Gayfield Place, Edinburgh

Details were submitted for a request for review for change of use from residential to short term let (in retrospect) at 2 Gayfield Place, Edinburgh. Application No. 22/04991/FULSTL.

Assessment

At the meeting on 15 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 22/04991/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
 - Edinburgh Design Guidance
 - Listed Building and Conservation Area Guidance
 - 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 there was no additional information and there were no questions from members.
- In the submission, the applicant has put in a number of applications that were granted, but these were prior to NPF4 being adopted in February this year. So, there had been a change in policy and as NPF4 was adopted, that superseded guidance in this respect. Because there was no reference to NPF4, it was important to acknowledge that there was a change in policy and due to this, there was a change in the way that applications had been reviewed. It was not being done retrospectively.
- This application for change of use from residential to short term let (in retrospect) was fairly clear cut on two points. With regards to amenity, it would

have a negative impact. Additionally, it was surrounded by residential flats and there was a loss of residential accommodation. Therefore, the Panel should support the officer's recommendation to refuse the application.

- There was agreement with this viewpoint. The applicant had submitted a paper that was submitted to the Planning Committee on 14th of June about the economic impacts of short term lets. This stated that, economically, the gross value added effects were greater for residential uses than short term lets across all property types in all areas. This undermined any economic argument for short term lets, particularly in a housing crisis, the economic benefits would struggle to outweigh the loss of residential areas.
- There were no contrary view 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 has not been justified.

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

7. Request for Review – 76 (1F2) Grassmarket, Edinburgh

Details were submitted for a request for review for application for change of use to short term let (in retrospect) at 1F2 76 Grassmarket, Edinburgh. Application No. 22/06140/FULSTL.

Assessment

At the meeting on 15 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, 03, Scheme 1, being the drawings shown under the application reference number 22/06140/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
 - The Old Town Conservation Area Character Appraisal
 - 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 Grassmarket was not considered to be a residential area, so it was thought that in terms of the LDP Policy Hou 7, the Panel were looking at the secondary part of this, which made reference to preventing any further deterioration in living

conditions in more mixed use areas, which nevertheless has important residential functions. It was presumed that it was that aspect rather than the strongly residential aspect that was being considered in terms of Hou 7.

- It was confirmed that this was the case.
- With regard to the Panel having sufficient information to proceed, the planning advisor indicated that the flat adjacent was owner-occupied. Was it known whether the other flats were owner occupied, rented, or short term lets?
- It was explained that there was no statement from the appellant or information in the report of handling to confirm that.
- One member thought that in terms of making their decision, it would be important to know that, as otherwise, they had insufficient information.
- The Panel had the information in respect of what was suitable in terms of the flat itself and they had sufficient information to determine that application. It was not thought that having an understanding of what was next door was necessary. This was about the change of use for this particular property, not what was next door to it. Even though Hou 7 was used as a reason for refusal, it was more about the neighbouring impact and there was a mixed stairwell there and the predominant uses within that would be residential.
- It was felt that there was sufficient information to make a decision. The Panel knew there was at least one residential property that could be affected by people coming and going, even if the current owner did not have a problem with this. So, more information on the flats nearby would not change this position.
- The planning advisor explained that if the majority of councillors were of the view that there was sufficient information, that view would stand.
- The applicant said that this would not be suitable for the residential market, because of its proximity to a pub, but that must be true of the adjacent flat which was owner-occupied.
- One member thought that this was a very busy area, with restaurants, cafes and pubs. It would have helped them make their decision if they knew the status of the other flats. However, on that basis, they were very sympathetic with the applicant because, this was predominantly an area of commercial businesses. Therefore, the impact on amenity was minimal and as the previous member pointed out, the flat next to them was affected as well. They were also above a pub and therefore they bought that property, probably knowing that to be the case. This member intended to come down in favour of the applicant in this instance.
- One member moved to uphold the officer's recommendations. The officer had set out a very clear case, there was an impact on the existing amenity, this was

a residential property and there was no justification for changing it from a residential to a more commercial usage.

- Another member seconded this and drew attention to Patrick Geddes vision for the city, which was one where everyone could live in the city centre and a part of that was maintaining residential properties here. It was understood that there was the desire to make city centre properties into short term lets, because they were very attractive to visitors, however, they were also very attractive for residents. These residents should have a right to have spaces to live within the city centre.
- One member proposed that the Panel did not accept the officer's recommendation to refuse the application for change of use to short term let (in retrospect) on the grounds that there was minimal impact on amenity. They reiterated that they did not have sufficient information with regards to the status of the other flats in the block and wanted to state that for the record.
- There was a motion proposed to uphold the officer's recommendation and refuse the application, which received a seconder.
- There was no support for the amendment to grant the application, so no vote could take place.

Having taken all the above matters into consideration and although there was some sympathy for the applicant and one of the members was in disagreement, the LRB were of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

Decision

To uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

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 welling as a short stay let would result in an unacceptable impact on 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).

Dissent

Councillor Jones requested that his dissent be recorded in respect of the above decision.

8. Request for Review – 18 Niddrie Mill Terrace, Edinburgh

Details were submitted for a request for review for application for change of use for short term lets (in retrospect) at 18 Niddrie Mill Terrace, Edinburgh. Application No. 23/01369/FULSTL.

Assessment

At the meeting on 15 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 23/01369/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:

- Clarification was requested on the address of the property.
- Referring to the site description, it was explained that the site was a two storey, two bedroom end of terrace house at 18 Niddrie Mill Terrace. Although page 2 of the Notice of Review stated this as being 13 Niddrie Mill Terrace, the agent had confirmed in writing that that was their error and the property was 18 Niddrie Mill Terrace.
- The surrounding area was residential, with the property located on a cul-de-sac accessed from Niddrie Mill Drive to the north, it was not located within any protected area.
- It was confirmed that there were no further questions.
- It was proposed that the Panel supported the officer's recommendations.
- As there was no alternative suggestion, the Panel was in agreement to support 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, and Confirmation of Correct Address on LRB Form, submitted).

9. Request for Review – 8 (GF1) Royal Circus, Edinburgh

Details were submitted for a request for review for retrospective application to change use to short term lets on studio flat at GF1 8 Royal Circus, Edinburgh. Application No. 23/00697/FULSTL.

Assessment

At the meeting on 15 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 01 – 02 Scheme 1, being the drawings shown under the application reference number 23/00697/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
 - 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:

- The applicant had stated that this flat was not going to be let out on a regular basis, this was going to be a minimum of one month. Clarity was sought, as this was a change of use. Despite what the applicant stated, if this was granted as a change of use, the Panel did not have the ability to say how and when an actual property could be used, if it was granted for a short term let. It was the actual usage, not the length of usage, which would be receiving planning permission.
- It was confirmed that it was the use of the property that was an issue and any attempt to place conditions which limited or promoted a minimum period of stay would have to be carefully considered, as to whether or not they were reasonable. They could be open to challenge through appeal or by an application to amend or remove those conditions.
- Could a condition be made with respect to this, that a minimum of one month be implemented?
- Members would have to consider whether that condition would be reasonable. The point to consider was the use as a short term let rather than a residence and short term lets generally operate at any period of time from one night upwards. The current management of it appeared to be that they looked for one month minimum. However, if the building was sold to another operator, or they changed their business model, or they could look to have stays of any duration, it was the management of the property which governed that, rather than the use as a short term let.
- For clarification, was this more a regulation perspective rather than a planning consideration?
- The planning advisor explained that it was considered that this was the case.
- For further clarification, if the property changed hands in terms of ownership, could the next owner revert to a minimum of one night stay?
- It was explained that any condition could be appealed within a certain period of time or could be applied to be removed at any stage. But the Panel had to consider very carefully whether conditions were reasonable, given that the

application was purely for the short term let use. Ultimately, any condition depended on its enforceability, and it was questionable whether such a condition would be so.

- The Panel should adhere to planning considerations. There was a slight difference in terms of a 2, 3 nights/days.
- It was confirmed that there were no more questions.
- There were other concerning aspects with this application for the retrospective change of use from residential to short term let (sui generis), which was obviously the shared use of the stairwell. There was nothing to prevent individuals from accessing this as it was a shared residential stairwell, so it did not matter what was on the ground floor. Therefore, it was necessary to uphold the officer's recommendations as the case was quite clear. There was also a concern raised by some of the local individuals. Even though most of the neighbours did not raise objections, there were policies in place. The officer's recommendations had clearly considered the policy and they were correct in their assessment.
- This application might take on board the problems with conditions, but it did raise questions, because this was a completely different type of let. There was a market for this and if the Panel went down this route of refusing applications like this, it raised some questions.
- There was agreement with upholding the officer's recommendations. If the Panel allowed planning permission, or if they imposed a condition, this condition would not be enforceable. It would be difficult to prove that it was being upheld or not. One of the aspects of conditions being reasonable was that they could be enforced. This would not be possible, so the Panel could not condition this to be a different type of short term let. Therefore, the Panel should uphold the officer's position.
- It was proposed to uphold the officer's recommendation and it was confirmed that there was no alternative view.

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).

10. Request for Review – 6 Stafford Street, Edinburgh

Details were submitted for a request for review for change of use: Sui Generis flatted residential to short-term let accommodation (in retrospect) at 6 Stafford Street Edinburgh. Application No. 22/06066/FULSTL.

Assessment

At the meeting on 15 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 22/06066/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

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:

- Clarification was requested on the location of the flat was and were the neighbouring properties residential?
- It was confirmed that the entrance was the door between Paper Tiger and O'Brien's, and the property would be in the area above Paper Tiger. The application site was a two-storey terraced townhouse with accommodation in the roof space at 6, Stafford Street. Therefore, from the floor plan, the entrance hall was the ground-floor access, the main space on the first floor and then the attic bedroom. So, the entrance was a main door.
- Was it the case that the flats adjacent were residential?
- It was explained that there was no confirmation in the report of handling if the adjacent buildings were residential or were office or other uses.
- The applicant stated that they in a no-win situation here with regards to the loss of residential accommodation, outweighing the economic benefits. What then would constitute the economic benefits outweighing the loss of residential accommodation?
- The planning advisor explained that firstly, there was the need to see a robust statement of the potential economic benefits and in what way they would outweigh the use of the property as a residential property. So there had to be a calculation of the benefits to the local economy and there would need to be a comparison of that with the benefits to the local economy of a residential use. Secondly, there was the issue of the way in which the property was marketed.

So, that was part of the management of the property, rather than the use of the property.

- Were applicants aware that they would need to make the economic case?
- It was explained that it was quite clear from the policy that that was a consideration and therefore they would need to address it.
- One member thought that there was a minimal impact on amenity, there was a cafe and shops below, and the street was of a very busy and commercial nature. So, without knowing if the adjacent flats were residential or not, there was a strong case in support for the applicant. There was also the issue of economic benefits, whereby the applicants thought they were in a no-win situation. If the Panel continued to refuse applications of this type, then a lot of these properties were going to be changed to residential and therefore there would be economic impact. With regards to amenity, they would support the application and not support the officer's recommendation for refusal.
- One member would support the officer's recommendation partly because it was necessary to assume the flats either side of it were residential and therefore there was the amenity question. But even though the amenity issue could be questioned, there were only two neighbouring properties, but there would still be a loss of residential property. Regarding the argument that it had never been anything but a short term let, if an individual were to buy a new-build house and then operate it as a shop against planning permission, this would still be a loss of residence. There would still be a loss of residential property and the economic benefits did not outweigh the loss of that residential property. Therefore, the Panel should uphold the officer's decision.
- The planning advisor explained that to provide clarification, the reason for refusal was NPF4 Policy 30 (e) (ii) in respect of loss of residential accommodation. Amenity was not used as a reason for refusal in this case.
- One member proposed that the Panel upheld the officer's recommendations, because the test for refusing the application had been met.
- Another member had a counterproposal that the Panel supported the applicant's reasons for granting permission and overturn the officer's recommendation for refusal.
- One member seconded the proposal to refuse the application.
- There was no support for the amendment to grant the application, so a vote could not take place.

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 National Planning Framework 4 Policy 30(e) (ii) in respect of Loss of Residential Accommodation, as 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 Jones requested that his dissent be recorded in respect of the above decision.

11. Request for Review – 198 Willowbrae Road, Edinburgh

Details were submitted for a request for review change of use from residential to short term let (in retrospect) at 198 Willowbrae Road, Edinburgh. Application No. 23/01137/FULSTL.

Assessment

At the meeting on 15 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 23/01137/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:

- It was confirmed that there were no questions for the planning advisor.
- That this was quite a clear case and it was recommended that the Panel upheld the officers' recommendations in this case 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.

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