

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

10.00 am, Wednesday 13 December 2023

Present: Councillors Gardiner, 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 13 December 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 – 5 (Flat 4) Albyn Place, Edinburgh

Details were submitted of a request for review for use of flat for short-term let use (Sui Generis) and residential flat (in retrospect) at Flat 4 5 Albyn Place, Edinburgh. Application Number. 23/03460/FULSTL.

Assessment

At the meeting on 13 December 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 23/03460/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 Report of Handling notes that the Guidance for Businesses 2023 is also relevant. However, a Judicial Review against the Council ruled on 1 December 2023 that the April 2023 Guidance for Business should be reduced, which means it must be disregarded in consideration of this review.

Therefore, 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)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
 - 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
 - The New 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:

- The Panel confirmed that it was happy to proceed on the basis of the information provided and that it had sufficient evidence to suggest that a change of use to short term let had occurred.

- Regarding the plan for the flat, there appeared to be no landing on the stair, was there any further information on the staircase and what level was the flat located?
- It was confirmed that this was a third floor flat, and it seemed that the flat occupied the entire floor. It would appear there was a communal stair from below, coming up to the third level.
- It was explained that there was no specific information regarding the authorised use of the other three flats in the common stairwell, but the applicant said that this common stairwell was via a shared stair and access.
- There was impact on individuals, this was a shared stairwell, and there was material change of use, therefore, the Panel should uphold the decision of the planning officer. LDP Policy Hou 7 was very applicable in this case, the applicant had said that there was access to the other residents. Even if the applicant were mindful of their behaviour, a change of use meant there could be a change of owner in future and another owner might not be so mindful of others in the block.
- There was agreement with the above viewpoint. There had been similar applications, long before the changes in legislation were implemented. There was a communal stair, there was a change of use and the impact on amenity would be significant and unacceptable.
- The Panel should uphold offer decision in terms of LDP Policy Hou 7.
- No alternative position was expressed.

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

Decision

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

Reasons for Refusal:

1. The proposal was contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short 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.

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

5. Request for Review – 71 Ashley Drive, Edinburgh

Details were submitted for a request for review for loft conversion including addition of rear dormer (resubmission relating to 22/04098/FUL) at 71 Ashley Drive, Edinburgh. Application No. 23/02078/FUL.

Assessment

At the meeting on 13 December 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01-05, Scheme 1 being the drawings shown under the application reference number 23/02078/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 Des 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
 - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
 - National Planning Framework 4 Policy 14 (Design, quality and place)
 - National Planning Framework 4 Policy 16 (Quality Homes)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Householders
- 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 Panel confirmed it was content to proceed on the basis of the information provided and to accept the additional information.

- Clarification was requested on the statement from the applicant regarding the streetscape or view of the front elevation, whereby the applicant stated that the proposed roof extension could not be seen from the front elevation.
- The Planning Advisor illustrated the property from the street view, identifying it as a semi-detached house in an area of predominantly bungalows with hipped roofs. There had been changes to roofs of nearby bungalows and the supporting statement gave examples of other properties in the area.
- Whether the proposed loft conversion including addition of rear dormer extension could be seen from the front of the building.
- The Planning Advisor explained that due to the proposed roof form, it would be possible to see the alterations from the street.
- A view of the site was presented, the property was in the corner of a cul-de-sac, and had neighbours on either side.
- There were no further questions.
- There was no problem with this application, from the plan, it was evident that this was not in a conservation area and other extensions were quite common in this area. It might be possible to overturn the officer's decision. The extension would allow people to stay in their homes when their families expanded. The changes were not so dramatic to refuse the proposals. Therefore, the Panel should overturn the officer's recommendations and allow planning permission.
- There was sympathy with this. There would not be much impact, the property was located in a cul-de-sac and the applicant wanted to retain the hipped roof to the front. This alteration was not especially noticeable and it was important to allow people to stay in their residence. It should be noted that there was a level of adjustment in the area, this was not so out of keeping with the character of the area.
- Although the front elevation was somewhat awkward and there were issues with the ridge line and the windows, these were not sufficient grounds to refuse the application. Even though it could have been handled better and other properties were more graceful, with extra space for headroom.
- This was finely balanced, it was thought that the shape was slightly awkward, but the need to stay in the home and add an additional bedroom was important.
- The Panel should not uphold the officer's decision as it did not go against Policy. It might not be typical of the area, however, with respect to LDP Policy Des 1, in relation to new design, considering the surrounding area, the proposal was not so particular that it stood out.

- With respect to NPF4 Policies 14 and 16 g, it was thought these were being harshly interpreted, and one member did not support LDP Policies Des 1 and Des 12 as reasons for refusal.
- The majority of the members agreed to overturn the officer's recommendations and grant the application. Although one member was in disagreement, there was no seconder, therefore, no alternative proposal was made. Therefore, the Panel agreed to grant the application.

Having taken all the above matters into consideration, and although one of the members was in disagreement, the LRB determined to overturn the decision of the Chief Planning Officer and granted planning permission as:

- 1) The proposals were appropriate in terms of design and NPF4 Policy 14 c and 16 g as the proposals would not have a detrimental impact on the character and appearance of the surrounding area, nor on the amenity of the neighbouring properties.
- 2) The proposals were not contrary to LDP Policies Des 1 and Des 12 as the proposals will not have a detrimental impact on the character and appearance of the surrounding area, nor on the amenity of the neighbouring properties.

Decision

To not uphold the decision by the Chief Planning Officer and to grant planning permission.

Reasons

- 1) The proposals were appropriate in terms of design and NPF4 Policy 14 c and 16 g as the proposals would not have a detrimental impact on the character and appearance of the surrounding area, nor on the amenity of the neighbouring properties.
- 2) The proposals were not contrary to LDP Policies Des 1 and Des 12 as the proposals would not have a detrimental impact on the character and appearance of the surrounding area, nor on the amenity of the neighbouring properties.

Informatives

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of this consent.
- (b) No development should take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constituted a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997.
- (c) As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a Notice of Completion of Development must be given in writing to the Council.

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

6. Request for Review – 38 Duddingston Row, Edinburgh

Details were submitted for a request for review for change of use from residential to short term let at 38 Duddingston Row, Edinburgh. Application No. 22/06387/FULSTL.

Assessment

At the meeting on 13 December 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01A, Scheme 1 being the drawings shown under the application reference number 22/06387/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 Report of Handling notes that the Guidance for Businesses 2023 is also relevant. However, a Judicial Review against the Council ruled on 1 December 2023 that the April 2023 Guidance for Businesses should be reduced, which means it must be disregarded in consideration of this review.

Therefore, 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.
 - None.
- 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 Panel confirmed that it was happy to proceed on the basis of the information provided.
- This application for the property was change of use from residential to short term let. However, in the papers there was no site history and no history requesting a change of use.
- It was explained that the information submitted with the Application for Review stated that the property was previously in use as a day centre, but the application in front of the panel was for a change of use from residential to short term let. The Planning Advisor confirmed that Class 9 houses of the Use Classes Order includes the use of a house for care for up to 5 residents.
- This was not a commercial change of use, it was not classified as a nursery in the usual sense, it might have been care of children, but it was still under residential.
- The Planning Advisor indicated that it was not clear from the review documents if the day centre was for children or adults, but irrespective of this the application before the Panel was it was for the change of use from residential to short term let and this is what had to be considered.
- Clarification was requested on the entire building, regarding the property next to it and whether that was also in the process of applying for a short term let.
- It was confirmed that it was correct that the next application related to that property in question.
- It was agreed that there were no more questions.
- It was clear that this proposal represented a loss of residential use as it came in at a date which meant that the Judicial Review did not impact on the decision. The Panel should uphold the officer's decision. If both properties were short term let, this would not have an impact on their amenity. This was a fairly quiet residential area, if there were people coming and going at various hours, as was the case with short term lets, this would be disruptive to surrounding residential properties. It was also possible to back up LDP Policy Hou 7 with that aspect. Therefore, the Panel should uphold the officer's decision.
- There was agreement of this. There was also concern raised regarding transport links.
- The Panel should uphold the reasons for refusal stated in the officer's report.
- It was asked if the Convener was seeking to add transport to the reasons for refusal.

- The Convener confirmed that this was not the case and they were only referring to transport links.
- There was agreement to uphold the officer's recommendations and no alternative view was expressed.

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

Decision

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

Reasons for Refusal:

1. The proposal was contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this 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 property 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).

7. Request for Review – 38 Duddingston Row, Edinburgh

Details were submitted for a request for review for change of use from residential to short term let at 38A Duddingston Row, Edinburgh. Application No. 22/06386/FULSTL.

Assessment

At the meeting on 13 December 2023, the LRB had been provided with copies of the notice of review, including a request that the review proceed on the basis of an assessment of the review documents only. The LRB had also been provided with copies of the decision notice and the report of handling.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01A, Scheme 1 being the drawings shown under the application reference number 22/06386/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 Report of Handling notes that the Guidance for Businesses 2023 is also relevant. However, a Judicial Review against the Council ruled on 1 December 2023 that the

April 2023 Guidance for Businesses should be reduced, which means it must be disregarded in consideration of this review.

Therefore, 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.
None.
- 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 Panel confirmed that it was happy to proceed on the basis of the information provided.
- There were no questions from members.
- There was an overwhelming case in terms of residential loss, however, regarding amenity, these bungalows were well spaced out. The idea that this would impact on noise levels, in terms of people arriving late at night, was completely different from tenements in the centre of the City. Therefore, the Panel should not overplay the amenity aspect.
- There was some agreement with this, but residents in tenements were used a certain level of vibrancy and one size did not fit all. In bungalows in suburban areas, residents were more mindful and less used to disturbance as it would be less likely to occur on a regular basis.
- Considering the discussion with the next-door property, the Panel should uphold the officer's recommendations. This was underpinned in this case, as the Panel upheld the officer's recommendation in the previous application and there would be even more impact if the property next door remained residential.

- No contrary view was expressed.

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

Decision

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

Reasons for Refusal:

1. The proposal was contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this 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 property 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).

8. Request for Review – 17 Fowler Terrace, Edinburgh

Details were submitted for a request for review for change of use from office to short term let at 17 Fowler Terrace, Edinburgh. Application No. 23/00087/FULSTL.

Assessment

At the meeting on 13 December 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 23/00087/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 Report of Handling notes that the Guidance for Businesses 2023 is also relevant. However, a Judicial Review against the Council ruled on 1 December 2023 that the April 2023 Guidance for Businesses should be reduced, which means it must be disregarded in consideration of this review.

Therefore, 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.

None
- 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 Panel confirmed that it was happy to proceed on the basis of the information provided.
- There was a question regarding the doorway to the shared garden.
- It was explained that when viewing the floorplan, there appeared to be a bedroom that had a door leading into the shared rear garden.
- Clarification was sought regarding how many properties shared garden, It was advised that it was not possible to state, as that information was not available in the Review papers.
- Clarification was sought regarding the history of the premises and whether it had been a shop. The Planning Advisor indicated that in 2006 there was an application for alterations and change of use from existing shop to form 2 one bedroom flats and this was refused. In 2007, there was an application for change of use from shop to office. The property had been operating as an office. The current authorised use was office use as commercial premises.
- A view of the image of the front of the building was requested. One of the impacts was on a residential area. Was there anything that illustrated what the frontages were. This was an office and was there an image which showed what was on the ground levels in the surrounding area.

- The Planning Advisor explained that the report of handling noted that most of the surrounding area was composed of 4 storey residential accommodation. There was a general grocer's store on the opposite corner of Fowler Terrace and two commercial offices at the corner of Fowler Terrace and Watson Crescent.
- There were no further questions.
- This application for a change of use from office to short term let (sui-generis) was more complex. There was no loss of residential accommodation and there was sympathy with the applicant as they had applied for residential use previously and had been turned down. But now there was new legislation and policies. There were issues surrounding the garden and access to shared amenity, as well as limited green space. There seemed to be access to the garden for the tenemental buildings and, therefore, LDP Policy Hou 7 applied. Although there were some businesses, this area was mainly residential and quiet. Along with the access to the shared garden, impact on amenity, this was a change of use in terms of commercial use, albeit not a loss of residential use.
- It was agreed that the impact on the shared garden of a short term let use would be different from use as an office. There were different people coming and going. While the property had its own access door, it was nestled among residential properties. Short term lets could be quite disruptive if located in the middle of tenements, even when they have their own access. On grounds of amenity, the Panel should uphold officer's decision.
- This application was finally balanced, the applicant had carried out a noise impact assessment, which was a positive development. It was accepted this was in a residential area, but the premises had its own entrance. There was inclination to support the applicant and ask the Panel to overturn the officer's recommendations.
- The Panel should refuse the application. It was commendable that the applicant carried out a noise impact assessment, suggesting conditions. However, the conditions were unreasonable, unenforceable and difficult to manage. These owners were very considerate, but the property could change hands and could be managed by anybody; there would be a long term impact to be considered about any decision. LDP policy Hou 7 was applicable for the reasons stated and the Panel should uphold the officer's decision.
- There was a proposal to refuse the officer's recommendations and grant the application. There was no loss of residential accommodation and amenity and on balance of the noise impact assessment, noise was not that great.
- There was a counter proposal to uphold the officer's recommendations and refuse the application, which received a seconder.
- There was no seconder for the proposal to grant the application, therefore, it fell.

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 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)(i) in respect of Local Amenity as the use of this dwelling as a short term let would result in an unacceptable impact on local amenity.

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

Dissent

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

9. Request for Review – 6 (1F1) High Street, Edinburgh

Details were submitted for a request for review for use of flat for short-term let use (Sui Generis) and residential flat (in retrospect) at 1F1, 6 High Street Edinburgh. This property is available for letting all year. Application Number. 23/03731/FULSTL.

Assessment

At the meeting on 13 December 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, holding one or more hearing sessions on specific matters 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 23/03731/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 Report of Handling notes that the Guidance for Businesses 2023 is also relevant. However, a Judicial Review against the Council ruled on 1 December 2023 that the

April 2023 Guidance for Businesses should be reduced, which means it must be disregarded in consideration of this review.

Therefore, 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
 - 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:

- It was agreed that the Panel had sufficient information to proceed on the basis of the information provided and that it had sufficient evidence to suggest that a change of use to short term let had occurred.
- It was asked about the access to the property. It was above a pub, but how many other residential properties are accessed through the same stairwell?
- It was confirmed that access was by a shared ground floor door and a communal stair, which served three other residential properties.
- It was noted that visitors complained about the noise rather than the neighbours complaining about noise. It was very noisy all year round at all times, however, there would be a loss of residential accommodation and the Panel should support the officer's recommendation to refuse the application.
- There was agreement that this proposal for use of flat for short-term let use (Sui Generis) and residential flat (in retrospect) would cause a loss of residential

accommodation and an impact on amenity. Even if there was existing external noise in this area, there was a difference between that type of noise and having a short term let in one's shared stair, with people coming and going on a regular basis, which would be a bigger impact on amenity. That level of impact on amenity and disruption should be considered with regard to their neighbours, therefore, the Panel should uphold the officer's recommendations.

- It was thought that there was a material change of use due to the fact that there is an impact on amenity, there was a shared stairwell. People sometimes lived in vibrant areas and accepted a level of vibrancy. However, there was a difference between external and internal vibrancy. People might accept external noise, but that did not mean that their amenity should also be compromised. There was a change of use and a loss of residential. The officers had met the test on this and it was recommended that the Panel upheld the officer's decision.
- Many of these old properties in areas such as the Old Town had small communal stairs and were never built as commercial premises, they have always been residential. There was potential of noise from people constantly coming and going. Planning permission could not control the property if it operated as a commercial premises. This could be very disruptive to neighbours on the stair. There had been a lot of correspondence from residents to Councillors over the years on this matter. There would be impact on residential amenity.
- Although the point was made in this application that the loss of residential accommodation would be negligible, it is the cumulative effect of turning over properties to short term lets that would have a huge impact on residential stock in areas of the City. The officer's argument was clear and the Panel should go along with this.
- It was thought to uphold the officer's recommendations and no alternative view was expressed.

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

Decision

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

Reasons for Refusal:

1. The proposal was contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short 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.

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

10. Request for Review – 19 Inveralmond Drive, Edinburgh

Details were submitted of a request for review for the erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary. The installation of electric gates at the top of the drive to Inveralmond Drive at 19 Inveralmond Drive, Edinburgh - application no: 23/00418/FUL.

The handling of this Local Review is currently the subject of a complaint. Therefore the Decision Notice for this Local Review will not be released until the complaint investigation is concluded.

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

11. Request for Review – 9 (2F2) Raeburn Place, Edinburgh

Details were submitted for a request for review for use of flat for short-term let use (Sui Generis) and residential flat (in retrospect) at 2F2 9 Raeburn Place, Edinburgh. Application No. 23/03908/FULSTL.

Assessment

At the meeting on 13 December 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, holding one or more hearing sessions on specific matters 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 23/03908/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 Report of Handling notes that the Guidance for Businesses 2023 is also relevant. However, a Judicial Review against the Council ruled on 1 December 2023 that the April 2023 Guidance for Businesses should be reduced, which means it must be disregarded in consideration of this review.

Therefore, 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
The New 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:

- It was agreed that the Panel had sufficient information to proceed on the basis of the information provided and that it had sufficient evidence to suggest that a change of use to short term let had occurred.
- How many residents were there in the stairwell?
- It was explained that this property was a second floor flat in a three-storey flatted block and there were three further residential properties that could be accessed via this communal stair.
- It was confirmed that there were no more questions.
- This was a vibrant, mixed-use area, but there were other residents living in the stairwell and there would be impact on amenity. This application was for the use of flat for short-term let use (Sui Generis) and residential flat (in retrospect). There would be a material change to the usage of this property and Hou 7 was relevant, therefore the Panel should uphold the officer's recommendations.
- There were no more comments and it was thought to uphold the officer's recommendations.

- There was a request for more information regarding the timing, as to whether the application was retrospective, and in relation to the change in the legislation.
- The Legal Advisor indicated that the change of use had occurred prior to the Control Area coming into force. One member wanted more information on this point to determine the application.
- The member requesting the additional information indicated that they did not have an alternative proposal and the Legal Advisor had provided the information they required confirming that this change of use commenced prior to the 5th of September 2022.
- It was agreed that there had been a material change due to the impact on amenity of residents in the shared stairwell, therefore, LDP Policy Hou 7 was applicable, therefore, the officer's recommendations should be upheld and the application should be refused.
- There was no alternative position.

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 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.

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