

Hi Blair

Thanks I've replied in yellow for ease to follow

From: Blair Ritchie <Blair.Ritchie@edinburgh.gov.uk>

Sent: Tuesday, March 12, 2024 10:29 AM

To: Paul Hughes <paul@glenetiveprojects.co.uk>

Subject: local review body

Dear Mr Hughes,

**THE CITY OF EDINBURGH PLANNING LOCAL REVIEW BODY
REQUEST FOR REVIEW – APPLICATION NO 23/03776/FULSTL.
COLTBRIDGE GARDENS, EDINBURGH**

REQUEST FOR REVIEW – 6

TOWN AND PLANNING (SCOTLAND) ACT 1997 AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006

I refer to your request for review on behalf of Mrs Marsden for change of use from residential to short term let (Sui Generis). The proposal is for the entire house, which is secondary property (in retrospect) at 6 Coltbridge Gardens, Edinburgh. This was dealt with by the Chief Planning Officer under delegated powers.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 21 February 2024.

Decision

To **CONTINUE** consideration of the matter for further information from the applicant to justify why a temporary planning permission for the change of use from residential to short term let (Sui Generis) for 12 months would be a suitable compromise and the purpose of the temporary permission.

Assessment

At the meeting on 21 February 2024, 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, being the drawings shown under the application reference number 23/03776/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:
National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)

National Planning Framework 4 Policy 30 (Tourism)

Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)

Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)

2) Relevant Non-Statutory Guidelines.

Guidance for Businesses (January 2024)

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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 additional information was there? The applicant is sympathetic to concerns of the local residents and they are unsure what to do with the house as it has been in the family for 50 years/. They felt 12 months would allow them to understand what to do. IF there were issues and any complaints then the 12 months license would not be renewed and any issue would cease.
- It was confirmed that the additional information was the comments of support that were appended to the Appeal Statement. They were not formal representations to the application, or further representations in respect of the appeal, but they were included as part of the Appeal Statement. 3 neighbours contacted myself directly to support the application .I can have contact you if you wish?
- Clarification was requested about the applicant proposing a temporary planning permission for 12 months and how would this work? The planning would simply lapse in 12 months and we would need to reapply

- The Legal Advisor explained that it could be competent in certain situations, it was not a case that it was not possible, but whether it was appropriate. The Planning Circular explained when a temporary consent of that nature might be appropriate and would apply. From my understanding planning permission can get granted for 12 months and this could be enforced by CEC enforcement team
- It was advised that according to 'Planning Circular 4/1998: the use of conditions in planning permissions', the reason for granting a temporary permission can never be that a time-limit is necessary because of the effect of the development on the amenity of the area.

The time limit is to assess the impact of development , if the impact is severe ie anti social noise, complaints and police then the impact is great and the planning would not be regranted.

- The Planning Authority controlled requests for short term lets for the reasons of amenity and loss of housing. If this was not a permanent loss of a residential property and the alternative was the property being empty, granting planning permission may be appropriate in this case. The property may be sold or the owner may relocate and occupy therefore the 12 months would allow this.
- The Legal Advisor explained that the Panel could request further information from the Applicant and from Officers on this proposal. This was a matter for the LRB to consider. Noted
- If the Panel were to grant planning permission, for the retrospective change of use from residential dwelling to short term let accommodation (Sui Generis), then that permission stayed with the property. There was nothing to stop the owner from passing the property on to a different operator who might be less reputable and there could be more impact on neighbours. The change of use could be enforced with a section 75 burden on the title and this could a burden specific to the owner.

If the property is sold within 12 months then . The planning will terminate and they will need to reapply.

- It was confirmed that this was correct, the planning permission stayed with the land and the property. noted

- It was agreed that there were no further questions. **noted**
- It would be possible to seek further information from the Applicant to justify why a temporary consent for a change of use for 12 months would be justified and if there were special circumstances in this instance. The owner may sell / or relocate the 12 months would allow this to be decided. **noted**
- This property had its own entrance and own garden. It was unusual that the immediate neighbours had written to say that they supported this proposal. **A strict code of conduct and management is in place and the neighbours use the property for their families to stay so they see the benefit**
- If refused, the Applicant could resubmit a different application. The Planning Circular provided clear guidance that although a temporary permission was legal, it should only be considered in special circumstances. Although this was a well-run short term let, the issue was about land use, not the management of the property. The applicant could sell the property to a different operator and this could cause problems for amenity. There would be a loss of residential accommodation if the Panel were to grant consent. Therefore, there were no strong reasons to overturn the officer's recommendations.

noted

- It was thought that this was a quiet area. Considering the management of the operation of the property, that was a matter for Licensing, not a planning issue. The property could be transferred to a different owner and could be managed differently. Regarding the temporary planning permission, the Panel had to consider the same criteria in any case for planning permission, there would still be loss of residential accommodation and a detrimental effect on amenity. There were no reasons to overturn the officer's decision.

noted

- **One** member wanted a continuation as there were no amenity issues. Even if it was the case that if the property changed ownership and it could be problematic, it was necessary to determine the reasoning behind the applicant's proposal for a compromise. Regarding the compromise, this would only be a temporary use and it would not be a permanent loss of accommodation as it would still maintain the property. The Panel should continue consideration of this application to get that information.

- Another member supported continuation of the matter because this would still be a residence and it was necessary to get clarification from the applicant. **Noted see above**
- One member wanted to refuse the application. It was open to the applicant to set out in their application why they thought a compromise was appropriate, but they did not. The applicant could make a new application, but by refusing this specific application the Panel would be refusing what was presented.

After much discussion the Panel was unable to reach a decision. The LRB decided to continue consideration of the matter for further information from the applicant to justify why a temporary planning permission for the change of use from residential to short term let (Sui Generis) for 12 months would be a suitable compromise and the purpose of the temporary permission.

Contact

Please contact Blair Ritchie by e-mail blair.ritchie@edinburgh.gov.uk if you have any queries about this letter.

Yours sincerely

I trust this is helpful, any further information please let me know

Kind regards

Paul

Blair Ritchie

for the Clerk to the Review Body

Notes:

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within six weeks of the date of the decision.
- 2 If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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Working Pattern: Tuesday, Wednesday, Thursday (am)





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