

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

10.00am, Wednesday 2 September 2020

Present: Councillors Booth, Child, Munn, Osler and Rose.

1. Appointment of Convener

Councillor Munn was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 2) of 5 August 2020 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 – Bonnington Farm, Kirknewton

Details were submitted of a request for a review for the granting with conditions of the erection of steel portal frame agricultural building at Bonnington Farm, Kirknewton. Application no 19/05171/FUL.

Assessment

At the meeting on 2 September 2020, 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 numbered 01;02;03a;04;05;06, Scheme 1, being the drawings shown under the application reference number 19/05171/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had insufficient information before it and agreed to continue the application for further information to be provided.

The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan.
Edinburgh Local Development Plan Policy DES 1 (Design Quality and Context)
Edinburgh Local Development Plan Policy DES 4 (Development Design - Impact on Setting)
Edinburgh Local Development Plan Policy DES 5 (Development Design - Amenity)
Edinburgh Local Development Plan Policy ENV 10 (Development in the Green Belt and Countryside)
Edinburgh Local Development Plan Policy ENV 11 (Special Landscape Areas)
Edinburgh Local Development Plan Policy ENV 16 (Species Protection)
Edinburgh Local Development Plan Policy ENV 21 (Flood Protection)
- 2) Relevant Non-Statutory Guidelines.
'Development in the Countryside and Greenbelt'
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

The LRB carefully considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Further clarification on the importance of the conditions and the consequences of not upholding those conditions. The Planning Adviser advised that the Bird Hazard Management Plan had been requested as the proposal was within a consultation zone around Edinburgh Airport and therefore could potentially cause interference with aircraft. This would not be requested of every development. If this condition was not upheld the proposal would require notification to the Scottish Ministers and the Civil Aviation Authority. The archaeological condition had been requested by the Council's archaeologist due to the presence of remains of early 19 century farm buildings of local archaeological interest and he had requested that these standing remains be recorded and a plan of excavation provided for any ground-breaking works.
- The members noted with concern that the applicant had claimed to be unaware of the conditions and whether it would be normal procedure to notify the applicant.
- It was felt by some members that the condition relating to the Bird Hazard Management Plan was burdensome and it had not been made explicitly clear by Edinburgh Airport why this had been requested. Guidance as referred to in the Report of Handling stated that the proposed development would either need to increase the number of birds or generate hazardous flight paths for birds and it was unclear how this applied to the proposal.

- However, there was also a concern regarding the determination of the appropriateness of the condition and it was felt that more information would be useful in order to determine whether it was a necessary condition.
- Whether it would be possible to clarify the archaeological condition in terms of LDP policy and guidance and confirmation that this could be done.
- Further clarification was requested on surface water run-off, sustainable urban drainage schemes (SUDS) and the likelihood of flood impact. The LRB were advised that it would be difficult to determine the impact from the available information but then management plan sought should identify relevant issues.
- Discussion occurred on whether the Council's archaeologist had requested areas for excavation and the Planning Adviser advised that this had been requested in his letter.
- Some members of the panel felt that the Bird Hazard Management Plan was an onerous condition and that further information was required in order to determine whether it was necessary. Other members felt that there was a risk and so the Chief Planning Officer's decision should be upheld. The members voted to continue the application.

Conclusion

Having taken all the above matters into consideration the LRB felt that they had insufficient information before it and agreed to continue consideration of the matter to request further clarification from Edinburgh Airport on how their consultation response of 13 December 2019 and requested Bird Hazard Management Plan condition relate specifically to the existing appeal site and the proposed new developments.

Motion

To uphold the decision by the Chief Planning Officer and to grant planning permission subject to:

1. The following conditions:

- (a) Development would not commence until a Bird Hazard Management Plan had been submitted to and approved in writing by the Planning Authority. The submitted plan would include details of:
 - Monitoring of any standing water within the site temporary or permanent.
 - Sustainable urban drainage schemes (SUDS) - Such schemes would comply with Advice Note 3 'Wildlife Hazards' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>).
 - Management of any flat/shallow pitched/green roofs on buildings within the site which could be attractive to nesting, roosting and "loafing" birds. The management plan would comply with Advice Note 3 'Wildlife Hazards.'
 - Reinstatement of grass areas.

- Maintenance of planted and landscaped areas, particularly in terms of height and species of plants that were allowed to grow.
- Which waste materials could be brought on to the site/what if any exceptions e.g. green waste.
- Monitoring of waste imports (although this could be covered by the site licence).
- Physical arrangements for the collection (including litter bins) and storage of putrescible waste, arrangements for and frequency of the removal of putrescible waste.
- Signs deterring people from feeding the birds.

The Bird Hazard Management Plan would be implemented as approved, on completion of the development and would remain in force for the life of the building. No subsequent alterations to the plan were to take place unless first submitted to and approved in writing by the Planning Authority.

Reason: It was necessary to manage the development in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Edinburgh Airport.

- (b) No demolition/development would take place on the site until the applicant had secured and implemented a programme of archaeological work (historic building survey, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which had been submitted by the applicant and approved by the Planning Authority.

Reason: In order to secure and record any archaeological artefacts within the site.

- (c) Prior to any work commencing on site a surface water management plan would be submitted for the written approval of the Council as Planning Authority. Details of the self-certification process and guidance could be found in the link below. CEC Flood Planning Self-Certification Requirements and Guidance:

http://www.edinburgh.gov.uk/info/20045/flooding/1584/flood_planning_application.

Reason: In order to ensure all concerns in relation to surface water management were addressed.

- (d) Prior to work commencing on site further details of all external materials, including colours, proposed for the external walls and roof of the development, hereby approved, would be submitted for the written approval of the Council as Planning Authority.

Reason: In order to protect the special landscape area.

2. The following informatives:

- (a) The development hereby permitted would be commenced no later than the expiration of three years from the date of this consent.
- (b) No development would take place on the site until a 'Notice of Initiation of Development' had been submitted to the Council stating the intended date on which the development was to commence. Failure to do so constitutes 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 was required be given in writing to the Council.
- (d) The Bird Hazard Management Plan should ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. The owner/occupier could not allow gulls, to nest, roost or loaf on the building. Checks would be required to be made weekly or sooner if bird activity dictated, during the breeding season. Outside of the breeding season gull activity would have be monitored and the roof checked regularly to ensure that gulls did not utilise the roof. Any gulls found nesting, roosting or loafing would require to be dispersed by the owner/occupier when detected or when requested by Edinburgh Airport Airside Operations staff. In some instances it could be necessary to contact Edinburgh Airport Airside would be required to remove any nests or eggs found on the roof.

The breeding season for gulls typically ran from March to June. The owner/occupier would be required to obtain the appropriate licences where applicable from Scottish Natural Heritage before the removal of nests and eggs.

- (e) Given the nature of the proposed development it would be possible that a crane could be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This was explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safe>)

- moved by Councillor Child, seconded by Councillor Osler

Amendment

To continue consideration of the request for review to a further meeting of the Planning Local Review Body to request further clarification from Edinburgh Airport on how their consultation response of 13 December 2019 and requested Bird Hazard Management Plan condition relate specifically to the existing appeal site and the proposed new developments.

- moved by Councillor Booth, seconded by Councillor Rose

Voting

For the motion - 2 votes

(Councillors Child and Osler.)

For the amendment - 3 votes

(Councillors Booth, Munn and Rose.)

Decision

To continue consideration of the request for review to a further meeting of the Planning Local Review Body to request further clarification from Edinburgh Airport on how their consultation response of 13 December 2019 and requested Bird Hazard Management Plan condition relate specifically to the existing appeal site and the proposed new developments.

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

5. Request for Review – 131 Mayfield Road, Edinburgh

Details were submitted of a request for a review of the refusal of planning permission for the single storey extension and balcony to rear, replacement external stair and French doors to front of property at 131 Mayfield Road, Edinburgh as part of the mixed decision issued refusing the proposed double doors on the front elevation and the proposed alterations to the fenestration and balcony to the rear elevation; and granting the proposed extension. Application no 20/00455/FUL.

Assessment

At the meeting on 2 September 2020, 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 numbered 01 - 10, Scheme 1, being the drawings shown under the application reference number 20/00455/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 and agreed to determine the review using the information circulated.

The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan.
Edinburgh Local Development Plan Policy DES 12 (Alterations and Extensions)
Edinburgh Local Development Plan Policy ENV 6 (Conservation Areas - Development)
- 2) Relevant Non-Statutory Guidelines.

'Guidance for Householders'

'Listed Buildings and Conversation Areas'

- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

The LRB carefully 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 Planning Advisor clarified that the rear extension was granted consent as part of the Mixed Decision on this proposal and therefore the Review related to the rear fenestration, proposed balcony on the rear elevation and the formation of double doors on the front elevation.
- A further look at the photograph of the 2002 extension and balcony on the adjacent property was requested. A question was raised on the materials used on the balcony and whether the use of uPVC was being considered alongside the balcony itself. The Planning Adviser confirmed uPVC was proposed and advised that the materials could be conditioned.
- A question was raised on which part of the guidance referred to balconies. It was advised that this was detailed in the Guidance for Householders.
- It was felt by some members of the panel that the proposal would not contravene LDP Policy Des 12 as it would not affect the character of the building or area and would not have a significant effect on the privacy of neighbouring properties.
- However, some members felt that the guidance was clear on the permission of the balcony and that the decision by the Chief Planning Officer should be upheld.

Conclusion

Having taken all the above matters into consideration, the LRB was 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.

Motion

To issue a mixed decision:

- (A)** To uphold the decision by the Chief Planning Officer and to grant planning permission for the proposed rear extension subject to:

The following informatives:

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of the consent.
- (b) No development should take place on the site until a 'Notice of Initiation of Development' had been submitted to the Council stating the intended date on which the development was 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 have been given in writing to the Council.
- (B)** To uphold the decision by the Chief Planning Officer and to refuse planning permission for the proposed double doors on the front elevation and the proposed alterations to the fenestration and balcony to the rear elevation.

Reasons for Refusal:

The proposal was contrary to policies Env 6 Conservation Areas - Development and Des 12 Alterations and Extensions of the Edinburgh Local Development Plan.

- moved by Councillor Booth, seconded by Councillor Child

Amendment

To issue a mixed decision:

- (A)** To not uphold the decision by the Chief Planning Officer and to grant planning permission for the single storey extension and balcony to rear and replacement external stair, subject to:

1. The following condition:

The uPVC would be replaced by materials approved in writing by the Planning Authority before work would be commenced on site.

Note: samples of the materials could be required.

Reason: In order to enable the planning authority to consider this matter in detail.

2. The following informatives:

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of the consent.
- (b) No development should take place on the site until a 'Notice of Initiation of Development' had been submitted to the Council stating the intended date on which the development was 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 have been given in writing to the Council.

- (B)** To uphold the decision by the Chief Planning Officer and to refuse planning permission for the proposed double doors to the front of the property.

Reasons for Refusal:

The proposal was contrary to policies Env 6 Conservation Areas - Development and Des 12 Alterations and Extensions of the Edinburgh Local Development Plan.

- moved by Councillor Rose, seconded by Councillor Osler

Voting

For the motion - 3 votes

(Councillors Booth Child and Munn.)

For the amendment - 2 votes

(Councillors Osler and Rose.)

Decision

To issue a mixed decision:

(A) To uphold the decision by the Chief Planning Officer and to grant planning permission for the proposed rear extension subject to:

The following informatives:

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of the consent.
- (b) No development should take place on the site until a 'Notice of Initiation of Development' had been submitted to the Council stating the intended date on which the development was 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 have been given in writing to the Council.

(B) To uphold the decision by the Chief Planning Officer and to refuse planning permission for the proposed double doors on the front elevation and the proposed alterations to the fenestration and balcony to the rear elevation.

Reasons for Refusal:

The proposal was contrary to policies Env 6 Conservation Areas - Development and Des 12 Alterations and Extensions of the Edinburgh Local Development Plan.

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

6. Request for Review – 37 Burns Street, Edinburgh

Details were submitted of a request for a review of the refusal of planning permission for the the part change of use to form artists residence within existing studio building at 37 Burns Street, Edinburgh. Application no 20/01176/FUL.

Assessment

At the meeting on 2 September 2020, 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 numbered 01-03, Scheme 1, being the drawings shown under the application reference number 20/01176/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 and agreed to determine the review using the information circulated.

The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan.
Edinburgh Local Development Plan Policy DES 5 (Development Design - Amenity)
Edinburgh Local Development Plan Policy DES 12 (Alterations and Extensions)
Edinburgh Local Development Plan Policy ENV 6 (Conservation Areas - Development)
Edinburgh Local Development Plan Policy HOU 5 (Conversion to Housing)
- 2) 'Edinburgh Design Guidance'
'Guidance for Businesses'
'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.

The LRB carefully considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- Whether there had been a response from Environmental Protection. The Planning Adviser confirmed that he was not aware of any response and there was no response in the papers before the LRB.
- Clarification was sought on the kitchen and bathroom facilities already being in place. The Planning Adviser confirmed this to be the case.
- It was questioned whether LDP Policy Des 5 would apply to the proposal as it would not be a new building. The Planning Adviser felt that the policy could still inform the decision due to the creation of a new residential planning unit.
- It was felt that the proposal would not meet the provisions of LDP Policies Des 5 and Hou 5 as a satisfactory residential environment could be achieved and housing would be compatible with nearby uses.

Conclusion

Having taken all the above matters into consideration, the LRB determined that the proposal would not be contrary to LDP Policy Des 5 and Hou 5 as a satisfactory residential environment could be achieved.

Decision

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

The following informatives:

- (a) The development hereby permitted should be commenced no later than the expiration of three years from the date of the consent.
- (b) No development should take place on the site until a 'Notice of Initiation of Development' had been submitted to the Council stating the intended date on which the development was 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 have been given in writing to the Council.

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