

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

10.00am, Wednesday 30 September 2020

Present: Councillors Booth, Child, Osler and Rose.

1. Appointment of Convener

Councillor Booth was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 2) of 2 September 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 – 22 Drum Street, Edinburgh

Details were submitted of a request for a review for the for refusal and enforcement of planning permission for the variation of treatment to elevations: change from render and stone to lime mix wet dash harling at 22 Drum Street, Edinburgh. Application no 20/02107/FUL.

Assessment

At the meeting of 30 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, Scheme 1, being the drawings shown under the application reference number 20/02107/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.
'Listed Buildings and Conservation 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:

- More detail was requested on the original random rubble stonework wall and proposed surface treatments in relation to the conservation area as there was a concern that the LRB did not have sufficient information in order to reach a decision. The Planning Adviser advised that the applicant had applied cement mortar to the exterior of the property with the intention of a lime mix wet dash harling being applied, although this had not been given planning permission. The LRB decided that, as the building had only been partially modified, it would not be useful to continue to the application for photographs to be circulated and that the LRB had sufficient information to reach a decision.
- That random rubble stonework cottages were now rare in this area and formed an important part of the character of the conservation area and therefore 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.

Decision

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

Reasons for Refusal:

The proposals would be harmful to the appearance of the building and the character and appearance of the conservation area. The proposed development was contrary to Policy Des 12 (Alterations and Extensions) and Policy Env 6 (Conservation Area - Development) of the Edinburgh Local Development Plan and Edinburgh Council's Guidance on Listed Buildings and Conservation Areas.

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

5. Request for Review – 37 Manor Place, Edinburgh

Details were submitted of a request for a review for the for refusal of planning permission to form new roof terrace, glass balustrade and an access door on the existing roof at 37 Manor Place, Edinburgh. Application no 20/01844/FUL.

Assessment

At the meeting of 30 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 1-5, Scheme 1 being the drawings shown under the application reference number 20/01844/FUL on the Council's Planning and Building Standards Online Services.

The Planning Adviser also brought to the LRB's attention new information regarding the examples of other roof terraces in the city provided by the appellant. The LRB decided to accept the new information and considered this as part of their deliberations.

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 1 (World Heritage Site)
Edinburgh Local Development Plan Policy ENV 4 (Listed Buildings - Alterations and Extensions)
Edinburgh Local Development Plan Policy ENV 6 (Conservation Areas - Development)
- 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.

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:

- Clarification was requested on whether the letter of comment from the community council would mean it should be considered as a statutory consultee. The Planning Adviser advised that the community council would have to request to be a statutory consultee for individual cases.

- Although there was sympathy for the applicant trying to enhance the living conditions of the property, the LRB felt that as the proposal would fundamentally alter a listed building, and taking into account the comments from Historic Environment Scotland, the decision by the Chief Planning Officer should be upheld.
- However, one member felt that the proposal would enhance the premises and would not impede on the visual appearance of the World Heritage Site unless viewed from above.

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.

Decision

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

Reasons for Refusal:

1. The proposal was contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the introduction of the glass barriers, a large area of roof decking and a large roof access hatch on the front roof slope failed to preserve or enhance the character and appearance of the conservation area which was particularly important in terms of its roofscapes
2. The proposal was contrary to the Local Development Plan Policy Env 1 in respect of Old and New Towns World Heritage Site, as a key characteristic of the Site was the stepped/ pitched angled roofscapes articulated by various traditional features. The introduction of glass barriers, decking and access hatch would undermine this attribute and potentially harm the WHS as the cumulative impact of these smaller interventions could have a negative impact.
3. The proposal was contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the formation of the roof terrace and associated works were not justified and caused a diminution of the special interest of the listed building by the addition of decking, glass barriers and a large roof access hatch which were not in keeping with the character of the building and so failed to preserve it and its setting.

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

Dissent

In accordance with Standing Order 22.13, Councillor Rose requested that his dissent to the above decision be recorded.

6. Request for Review – 4 Windsor Street Lane, Edinburgh

Details were submitted of a request for a review for the for refusal of planning permission for the removal of condition 2: "The boundary wall shall be finished in stone

to match adjoining stone walls. The height of the boundary shall measure 1.8m.” at 4 Windsor Street Lane, Edinburgh. Application no 20/01041/FUL.

Assessment

At the meeting of 30 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, Scheme 1, being the drawings shown under the application reference number 20/01041/FUL on the Council’s Planning and Building Standards Online Services.

The Planning Adviser also brought to the LRB’s attention new information regarding the appellant’s statement that they would be willing to provide better quality fencing. The LRB decided to accept the new information and considered this as part of their deliberations.

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 ENV 3 (Listed Buildings - Setting)
Edinburgh Local Development Plan Policy ENV 6 (Conservation Areas - Development)
- 2) Relevant Non-Statutory Guidelines.
‘Edinburgh Design Guidance’
‘Listed Buildings and Conservation 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 LRB considered whether to accept the new information regarding the applicant’s offer of better quality fencing as they did not feel it would have any bearing on the decision. After advice from the Planning Adviser the LRB determined that although it would not have bearing on their decision, they would accept the new information.

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.

Decision

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

Reasons for Refusal:

1. The proposal was contrary to the Local Development Plan Policy Env 3 in respect of Listed Buildings - Setting, as the use of a timber fence was not an appropriate boundary treatment against the setting of the listed buildings.
2. The proposal was contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as the use of a timber fence was not an appropriate material for the character of the conservation area.
3. The proposal was contrary to the Local Development Plan Policy Des 5 in respect of Development Design - Amenity, as there was a need to ensure 1.8 high stone wall was erected to safeguard neighbouring amenity from overlooking.

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

7. 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.

This request for review was continued from the meeting of the Planning Local Review Body (Panel 2) of 2 September 2020 for further clarification from Edinburgh Airport on how their consultation response of 13 December 2019 and requested Bird Hazard Management Plan condition related specifically to the existing appeal site and the proposed new developments.

Assessment

At the meeting on 30 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, the report of handling, the requested further information from Edinburgh Airport and appellant response.

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 Planning Adviser also brought to the LRB's attention new information regarding the appellant's request that condition 2 in the Report of Handling be replaced with a watching brief on any ground breaking works by a qualified archaeologist. The LRB decided to accept the new information and considered this as part of their deliberations

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:

- Whether the new information with regards to the replacement condition would be acceptable. The Planning Adviser advised that a response from the Council's archaeological officer would be required to determine this.
- That the letter from the archaeological officer on the requirements for condition 2 in the Report of Handling related to particular buildings and whether it was possible to receive further clarification on this. The LRB were advised that it was a long-term farming area and that while the removal of buildings was permitted development, the proposed building required planning permission and therefore it was an opportunity to have archaeological excavation recorded and retained in situ.
- Further clarification was sought on where the buildings of archaeological concern were situated. The Planning Adviser demonstrated the eastern side of the proposal on the map.

- Whether there had been any consultation response from Council flooding officers on the condition 3 on the Surface Water Management Plan. The Planning Adviser confirmed that there had been no response. The appellant had advised they would use existing drainage in their proposal.
- The LRB considered whether it would be worthwhile to continue the application in order to consult the archaeological officer on the replacement of condition 2 in the Report of Handling with a watching brief on ground breaking works by a qualified archaeologist. It was felt that it would be unreasonable to delay the decision on the application any further.
- The LRB considered whether condition 2 could be replaced with the requested replacement condition before deciding that it should remain attached to the application.

Conclusion

Having taken all the above matters into consideration, the LRB determined that condition 1 in the Report of Handling could be removed as the further response from Edinburgh Airport had indicated that condition 1 relating to the Bird Hazard Management Plan was not required. The LRB also determined that condition 3 in the Report of Handling could be removed as the proposal would use existing site drainage, there had been no comment from Council flooding officers and the site did not lie within the SEPA flood risk zone.

It therefore overturned the decision of the Chief Planning Officer and granted planning permission, removing condition 1 and 3 in the Report of Handling, subject to the conditions listed below.

Motion

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

1. The following conditions:

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

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

- (b) 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, shall 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 shall be commenced no later than the expiration of three years from the date of this consent.
- (b) No development shall 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 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 must be given in writing to the Council.
- (d) Given the nature of the proposed development it is possible that a crane may 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 is 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 Booth

Amendment

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

1. The following conditions:

- (a) A watching brief on any ground breaking works would be provided by a qualified archaeologist.

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

- (b) 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, shall 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 shall be commenced no later than the expiration of three years from the date of this consent.
- (b) No development shall 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 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 must be given in writing to the Council.
- (d) Given the nature of the proposed development it is possible that a crane may 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 is explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safe>)

- moved by Councillor Rose, seconded by Councillor Osler

Voting

For the motion - 2 votes

(Councillors Booth and Child.)

For the amendment - 2 votes

(Councillors Osler and Rose.)

In the division, 2 members having voted for the motion and 2 members for the amendment, the Convener gave his casting vote for the motion.

Decision

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

1. The following conditions:

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

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

- (b) 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, shall 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 shall be commenced no later than the expiration of three years from the date of this consent.
- (b) No development shall 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 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 must be given in writing to the Council.
- (d) Given the nature of the proposed development it is possible that a crane may 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 is explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safe>)

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