

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

10.00am, Wednesday 2 December 2020

Present: Councillors Booth, Child, Osler and Rose.

1. Appointment of Convener

Councillor Osler was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 2) of 4 November 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 – 169 Bruntsfield Place, EDINBURGH

Details were submitted of a request for a review for the for refusal of planning permission for proposed alterations to existing takeaway and renew existing extract flue with new galvanized external duct terminated with cowl 1000mm above eaves at 169 Bruntsfield Place, Edinburgh. Application no. 20/01190/FUL

Assessment

At the meeting on 2 December 2020, the LRB had been provided with copies of the notice of review submitted, 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 20/01190/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 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 13 (Shopfronts)
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.
'Guidance for Businesses'
'Listed Buildings and Conservation Areas'
The Marchmont, Meadows and Bruntsfield 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:

- Whether there were any letters of comment, and confirmation that there was one letter from the Architectural Heritage Society for Scotland.
- If there was there enforcement action or deemed consent on the adjoining property, for the flue, as there was no consent granted.
- Clarification regarding the location of the current flue that used the chimney, as it was difficult to see on the plans.
- What kind of maintenance did these flues have, and was there any information on them from Environmental Protection?
- In accordance with Guidance, it was common practice to put flues internally into chimneys. Although there was nothing from Environmental Protection, it must have considered the issue of fire risk when preparing the guidance. Chimneys would have the appropriate safeguards.
- This was a listed building in a conservation area where the maintenance and care of the property should be paramount. This proposal would mean work on the rear of a listed building.
- The shops played a significant part in enhancing the character of the area. By improving the flue, the shop was facilitating it's use, although there were some safety issues.

- Although this was a listed building, the flue would be at the rear of the building, there were many listed buildings and buildings nearby where there were flues.

Having taken all the above matters into consideration, although one of the members was sympathetic to the proposal, 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 issue a mixed decision:

- (A)** To uphold the decision by the Chief Planning Officer and to grant planning permission for the shopfront front and stallriser only.

Reason

In order to recognise the elements of the application which were compatible with the character of the listed building and conservation area.

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 alterations on the rear elevation.

Reasons for Refusal

1. The proposal was contrary to the Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the proposed alterations would not be in keeping with the rest of the buildings, would cause unnecessary harm to the historic structure and diminution of its interest and were not justified.
2. The proposed external galvanized duct failed to preserve the character and setting of the listed building and failed to preserve or enhance the character and appearance of the conservation area.

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

Dissent

Councillor Rose requested that his dissent be recorded in respect of the above item.

5. Request for Review – 5 Cluny Gardens, Edinburgh

Details were submitted of a request for a review for the for refusal of planning permission for amendment to permission (ref: 19/04488/FUL) relating to new vehicle entrance, boundary wall and changes to external stairs to lower garden at 5 Cluny Gardens, Edinburgh.

Assessment

At the meeting on 2 December 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, 03, 04, 05, Scheme 1, being the drawings shown under the application reference number 20/03062/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 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 Conservation Areas'
The Morningside 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:

- Clarification was sought regarding the stepped access to the rear garden and what was in place and what was being proposed.

- It was advised that the steps went down to the back garden, the new steps would be subdivided so each property benefitted from a separate stepped access. The steps here had been granted consent and a wall would separate the two properties.
- A 3 metres wide section of low boundary wall and hedge would be lost to provide the proposed vehicular access.
- There were several driveways in the area and this one would not make much difference.
- The gate was a sliding cast iron gate painted black, to match the pedestrian gate, and was semi-transparent.
- This was an open street and regarding access drives, it would fit in and would not be detrimental to the character of the area.
- There was a hedge 3 metres high, which was a forbidding enclosure and to open it up with a gate would be beneficial.
- To allow the dwelling to have its own defined area and curtilage and access would not be unreasonable.
- There was a very strong theme that the stone base of the wall and hedge above, was an important part of the conservation area.
- That another break in the wall to give the amenity to both properties was not a negative proposal.
- There was already sufficient vehicular access and there was no need to add another one.

Having taken all the above matters into consideration, although some of the members were sympathetic to the proposals, 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 uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal would adversely impact on the character and setting of the villa property, and failed to preserve or enhance the character or appearance of the Morningside Conservation Area contrary to Edinburgh Local Development Plan policy Env 6 (Conservation Areas - Development) and policy Des 12 (Alterations and Extensions) and the non-statutory guidance.

- Moved by Councillor Osler, seconded by Councillor Booth.

Amendment

To not uphold the decision by the Chief Planning Officer to grant planning permission for the reason that the proposal would not adversely impact on the character and setting of the villa property, or fail to preserve or enhance the character or appearance of the Morningside Conservation Area. Therefore, it was not contrary to Edinburgh Local Development Plan policy Env 6 (Conservation Areas - Development) and policy Des 12 (Alterations and Extensions) and the non-statutory guidance.

- Moved by Councillor Rose, seconded by Councillor Child.

Voting

For the motion - 2 votes

(Councillors Booth and Osler.)

For the amendment - 2 votes

(Councillors Child and Rose.)

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

Decision

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

Reasons for Refusal:

The proposal would adversely impact on the character and setting of the villa property, and failed to preserve or enhance the character or appearance of the Morningside Conservation Area contrary to Edinburgh Local Development Plan policy Env 6 (Conservation Areas - Development) and policy Des 12 (Alterations and Extensions) and the non-statutory guidance.

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

6. Request for Review – 2 Cramond Crescent, Edinburgh

Details were submitted of a request for a review for the for refusal of planning permission for the conversion and extension of attic, replace conservatory walls with solid walls, move conservatory, create porch to front at 2 Cramond Crescent, Edinburgh. Application No. 20/03152/FUL.

Assessment

At the meeting on 2 December 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 Drawing numbers 01-11, Scheme 1, being the drawings shown under the application reference number 20/03152/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 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)
- 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:

- Clarification that the existing porch was an open porch with a roof over.
- The proposed porch would have an enclosed element, with a larger roof over extending beyond the porch.
- According to the building line, the projection forward from the main wall was not excessive.
- This would not greatly exceed permitted development and it provided a more balanced look to the front of property.
- Permitted development allows for a small projection forward of the building line, up to 3 square metres. The proposal exceeded permitted development, because of the height and length of the pitched roof.
- The neighbouring property did not have a large development in front of it, only a small porch.
- The street seemed to be on a slight slope and consideration should be given to how would the proposals would look when ascending the street.
- The guidance was clear and stated that modest porches were acceptable. However, with this large roof extension, the proposals did not comply with guidance.
- In some neighbouring properties, the extensions were quite similar to the proposals, therefore, they were not out with the character with the area. This

was not a conservation area and the proposed porch did not protrude to a great extent and nearly complied with the criteria for permitted development.

- The neighbouring properties were mostly single dwellings, not semi-detached. It was difficult to approve this application, considering the guidelines.

Having taken all the above matters into consideration, although one of the members was sympathetic to the proposals, 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 issue a mixed decision:

- (A)** To uphold the decision by the Chief Planning Officer and to grant planning permission for:
1. The one and a half storey rear extension which was acceptable and satisfied plan policy Des 12 and the non-statutory "Guidance for Householders".
 2. The proposed rear dormer which was acceptable and satisfied plan policy Des 12 and the non-statutory "Guidance for Householders".

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 porch.

Reasons for Refusal:

The proposed porch did not comply with development plan policy Des 12 or the non-statutory 'Guidance for Householders' and was not acceptable.

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

Dissent

Councillor Rose requested that his dissent be recorded in respect of the above item.

7. Request for Review – 11 Grange Court, Edinburgh

Details were submitted of a request for a review of the refusal of planning permission for replacement windows and doors at 11 Grange Court, Edinburgh. Application No. 20/02900/FUL.

Assessment

At the meeting on 2 December 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 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 numbered Drawing numbers 1-6, Scheme 1, being the drawings shown under the application reference number 20/02900/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 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 Conservation Areas'
'The Grange 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:

- Some adjacent properties appeared to have the same timber casement windows as this property. However, it was possible that some windows may have been changed to UPVC, but these replacement windows might not have consent.

- According to public comments, there had been no plastic windows or doors except for their French Windows. It seemed that there were some UPVC in the vicinity, but the LRB should make a decision based on policies, not precedent.
- These buildings were constructed in 1970's and used materials and styles that matched the adjacent historic buildings.
- It was unfortunate that there were no pictures for all of Grange Court, as the development was not characteristic of the wider conservation area.
- It was difficult to state which buildings had UPVC windows or doors, although the vast majority did not.
- UPVC windows were not appropriate in a listed building or a conservation area setting, but when drawing up boundaries for a conservation area, it was difficult to include old buildings and to exclude modern buildings.
- The building in question was built in the 1970s and not traditional. Policies should not be excessively rigid in such circumstances, to prevent residents from making energy saving alterations and timber framed windows were much more expensive than UPVC windows.
- In terms of maintenance and saving heat, there was sympathy for the applicant, but although the policies in relation to UPVC were too stringent, they should be applied.

Having taken all the above matters into consideration and although one of the members was opposed to granting the application, the LRB determined that the proposal was not detrimental to the character and appearance of the conservation area and not contrary to Edinburgh Local Development Plan policies Des 12 and Env 6.

It therefore overturned the decision of the Chief Planning Officer and granted planning permission.

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 this 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 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.

This determination did not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

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

Dissent

Councillor Rose requested that his dissent be recorded in respect of this item.

8. Request for Review – 3 Ladysmith Road, Edinburgh

Details were submitted of a request for a review of the refusal of planning permission for garden office and deck to rear of lower flat (part retrospective) (as amended) at 3 Ladysmith Road, Edinburgh. Application No. 20/00793/FUL.

Assessment

At the meeting on 2 December 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 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 numbered 01, 02B, Scheme 3, being the drawings shown under the application reference number 20/00793/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 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)
- 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:

- There was some confusion about the nature of the proposals and clarification was provided. There was an office and bike store. This included steps down into the garden, access out at the upper level and steps to the roof of the garden office.
- With the potential for loss of privacy, the applicant offered to fully enclose the roof terrace which would prevent access to the roof of the office, thereby preventing it from being used for sitting out. These were the revised plans that were submitted.
- In the papers of the review that was submitted, there were images of the previous summerhouse that stood in this location.
- If this amended application was refused, the applicant could submit an alternative application which would address the issues.
- If the bike store was removed, the steps would come directly from the door into the garden. There would be no need for a landing area so close to the office building and no stepped access to the roof of the office.
- Whether there was a tenanted door and would there be access from this door into the garden to use the bike shed?
- Considering that the roofed terrace was intended as a green roof, how would maintenance access be anticipated with the removal of the steps?
- There was no issue with the steps coming down above the bike store, but the size of the garden office and bike shed was over development and there would be a loss of privacy.
- The only problem was the roof terrace. It did not seem that the building was out of character of the area and only some neighbours were objecting to the proposals.
- This was not a conservation area and the proposals provided amenity for owners with the bike shed and office.
- The amended proposals prevented the roof of the office being used for sitting out and addressed the majority of the issues. Only the extension of the stairs, into the garden had issues for neighbouring amenity and this was not significant.
- There was also the issue of overdevelopment. Individuals should be encouraged to use space, but this was not a good use of space. As this was retrospective, there was concern about late amendments at this stage.
- It would be beneficial that the applicant held discussions with officers and submitted a better proposal with a less negative impact.

Having taken all the above matters into consideration, although some of the members agreed with the proposals, 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 uphold the decision by the Chief Planning Officer to refuse planning permission.

Reason for Refusal

The proposal was contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it was not compatible with the existing building and would be detrimental to the neighbourhood character.

- Moved by Councillor Osler, seconded by Councillor Child.

Amendment

To not uphold the decision by the Chief Planning Officer to refuse planning permission for the reason that the proposal was not contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it was not incompatible with the existing building and would not be detrimental to the neighbourhood character.

- Moved by Councillor Rose, seconded by Councillor Booth.

Voting

For the motion - 2 votes

(Councillors Child and Osler.)

For the amendment - 2 votes

(Councillors Booth and Rose.)

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

Decision

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

Reason for Refusal

The proposal was contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it was not compatible with the existing building and will be detrimental to the neighbourhood character.

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