

# Minutes

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

**10.00am, Wednesday 11 August 2021**

**Present:** Councillor Chas Booth, Councillor Maureen Child, Councillor Robert Munn (item 6), Councillor Hal Osler (items 1 -5) Councillor Cameron Rose and Councillor Ethan Young (items 1-5).

### 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 23 June 2021 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 –104 Constitution Street, Edinburgh

---

Details were submitted of a request for review for change of use from office to single open plan residential unit, internal fit out to include kitchen and minimal internal walls at 104 Constitution Street Edinburgh, which was dealt with by the Chief Planning Officer under delegated powers. Application no 20/05447/FUL.

At the meeting of 23 June 2021, the Panel agreed to continue consideration of the matter to allow Environmental Protection to comment on the new information provided in the updated Noise Impact Assessment submitted by the applicant in support of their appeal.

#### Assessment

At the meeting on 25 August 2021, 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 1-15, Scheme 1, being the drawings shown under the application reference number 20/05447/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 Hou 5 (Conversions to Residential Use)

- 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 merits around an enforceable condition for a window to support the need to overcome any noise issues from the restaurant underneath the property.
- That the pre-existing restaurant use in the property underneath the applicant's property should not be prejudiced as a result of a planning decision at a future date.
- That the applicant had responded to the challenge well in accommodating the window as part of the overall design.

It therefore overturned the decision of the Chief Planning Officer and granted planning permission, subject to additional conditions regarding floor attenuation and a non opening window.

## **Decision**

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

## Conditions

Notwithstanding the approved plans, the change of use hereby approved shall not be occupied as a residential dwelling unless:

- 1) The window identified in drawings ref. 251-MICA-PL-00-DR-A-19200/19210/19220 – Mark- up 26/04/2021 is a non-opening window. Cumulative plant noise from the restaurant and retail premises below shall comply with NR25 noise level, with the nearest openable residential window slightly open for ventilation purposes. The details of the window, including any mechanical ventilation arrangements for the room, shall be submitted to and approved in writing by the planning authority, and thereafter implemented, before development commences on site; and
- 2) The floor as identified in drawings ref. 251-MICA-PL-00-DR-A-19200/19210/19220 – Mark-up 26/04/2021 shall be attenuated to ensure internal commercial noise transmission from the restaurant and retail uses below through the ceiling/floor structure to the residential dwelling hereby permitted complies with NR15 noise level within the application property. The details of the attenuation measures shall be submitted to and approved in writing by the planning authority, and thereafter implemented, before development commences on site.

## Reason

The proposals had a reasonable prospect of providing a satisfactory residential environment in terms of LDP Policy Hou 5, provided the conditions governing noise were satisfied.

(References – Decision Notice, Report of Handling, Notice of Review and Transport Consultation Response submitted).

## 6. Request for Review – 16 Western Gardens, Edinburgh

---

Details were submitted of a request for review for c Removal of existing shed and replacement with new shed (in retrospect) – at 16 Western Gardens, Edinburgh, which was dealt with by the Chief Planning Officer under delegated powers. Application no 20/05305/FUL.

At the meeting of 23 June 2021, the Panel agreed to continue consideration of the matter to provide information to members on the size of the original shed, photos of the new shed, and to provide plans of where the overshadowing would occur in the garden next door.

## Assessment

At the meeting on 25 August 2021, 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 01-05, Scheme 1, being the drawings shown under the application reference number 20/05305/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:

- That there was no substantial over shadowing that outweighed the need for the shed.
- That the appellant had sacrificed some of their own daylight to accommodate the shed.
- That where there were neighbour disputes was difficult.
- That the shed would be a temporary issue, for a particular set of circumstances.
- The medical information received by the Panel required significant consideration.
- That the shed was very big, and whether there was confirmation that this scale of shed was required.
- Whether the authority could enforce this as a temporary planning permission.
- That the option of personal permission for the benefit of a named individual was allowed for within the circular 1998, and that the Panel asked for more detail

- That personal permissions could be used for strong compassionate grounds, for purposes which were not normally allowed, only for the benefit of a named person, for the duration that the tenant lived at the address.
- That a Panel member did not consider the overshadowing so substantial, given the temporary nature of the planning permission and the compelling grounds of the appellant.
- That the size of the shed was large, but the need for the shed for medical purposes and for usual shed use purposes would provide rational for the scale of the shed.
- That the LRB would grant the application for the name of the adult tenant and planning permission would cease when the adult tenant no longer lived at the address.

It therefore overturned the decision of the Chief Planning Officer and granted planning permission, subject to additional conditions regarding the ongoing residence of Tracy Marshall at the property.

### **Decision**

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

### **Conditions**

The planning permission and development hereby permitted was personal to Mrs Tracy Marshall and should only remain in place while she resided at the property in the circumstances detailed in application ref. 20/05305/FUL and the evidence submitted to the Local Review Body. Should those circumstances change, or Mrs Tracy Marshall no longer resides at the property, the development hereby approved shall be removed.

### **Reason**

Although the proposal did not comply with LDP policy, there were compelling compassionate/medical grounds that justified granting a personal permission as an exception to development plan policy.

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

## **7. Request for Review – 84 Cammo Road, Edinburgh**

---

Details were submitted of a request for a review for the erection of a dwelling house at 84 Cammo Road, Edinburgh. This was dealt with by the Chief Planning Officer under delegated powers. Application No. 21/00276/PPP.

### **Assessment**

At the meeting on 25 August 2021, 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 01-05, Scheme 1, being the drawings shown under the application reference number 21/00276/PPP 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 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 3 (Listed Buildings - Setting)  
  
Edinburgh Local Development Plan Policy Env 9 (Development Sites of Archaeological Significance)  
  
Edinburgh Local Development Plan Policy Env 10 (Development in the Green Belt and Countryside)  
  
Edinburgh Local Development Plan Policy Env 12 (Trees)  
  
Edinburgh Local Development Plan Policy Env 21 (Flood Protection)  
  
Edinburgh Local Development Plan Policy Hou 3 (Private Green Space in Housing Development)  
  
Edinburgh Local Development Plan Policy Hou 4 (Housing Density)  
  
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.  
Edinburgh Design Guidance

Listed Buildings and Conservation Areas

Guidance for Countryside and Green Belt

Managing Change Guidance

- 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:

- That the proposal was contrary to policy and that the submission from the applicant's planning consultant did not comply with policy Env10 of the LDP.
- That a member believed that while the application did not comply with policy Env10 policy of the LDP, that the aims and strategy of the LDP was to increase the number of new homes being built, which the application would allow for and outlined in the Scottish Planning Policy and the Edinburgh Design Guidance pointed to adopting a positive view of enabling development and making efficient use of land and the application would be adding to an existing enclave of housing.
- That the green belt was important and that policy Env 10 was important.
- That the site was not considered a gap site as it was not between anything.

Having taken all the above matters into consideration, although one member was in disagreement, 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 proposal was contrary to policy Env 10 of the adopted Edinburgh Local Development Plan (LDP) as it would involve the development of a new build dwellinghouse in a green belt location with no exceptional planning reasons given to justify its construction.

### **Dissent**

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

### **Declarations of Interest**

Councillor Hal Osler declared a non-financial interest in this item as she knew the applicant, left the virtual meeting and took no part in consideration of the item.

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