

The City of Edinburgh Planning Local Review Body (Panel 1)

10.00 am, Wednesday 14 September 2022

Present: Councillors Cameron, Gardiner (items 5-8), Jones and Osler.

1. Appointment of Convener

Councillor Jones was appointed as Convener.

2. Minutes

- 2.1 To approve the minute of the Local Review Body (LRB Panel 1) of 10 August 2022 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 – 26 Barony Street, Edinburgh

Details were submitted of a request for a review for retrospective change of use from residential to short-term let apartment (sui generis) at 26 Barony Street, Edinburgh.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 14 September 2022. Application no. 22/01089/FUL.

Assessment

At the meeting on 14 September 2022, 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 01, Scheme 1 being the drawings shown under the application reference number 22/01089/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 to determine the review.

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, principally:
 - Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
 - Local Development Plan Policy Env 1 (World Heritage Sites)
 - Local Development Plan Policy Env 3 (Listed Buildings – Setting)
 - Local Development Plan Policy – Env 4 (Listed Buildings - Alterations and Extensions)
 - Local Development Plan Policy -Env 6 (Conservation Areas – Development)
 - Local Development Plan Policy Tra 2 (Private Car Parking)
 - Local Development Plan Policy Tra 3 (Private Cycle Parking)
- 2) Relevant Non-Statutory Guidelines.
 - Paragraph 29 of Scottish Planning Policy in terms of protecting the amenity of existing residents.
 - Guidance for Businesses
 - Guidance for Listed Building and Conservation Area
 - 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.

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 the impact on amenity on neighbours was of an excessively detrimental nature. The proposals for retrospective change of use from residential to short-term let apartment were in relation to the back door and access to the garden of a one-bedroom property. As there were no physical alterations to the property, LDP Policy Hou 7 and the potential impact on neighbouring amenity were the main concerns.
- Consideration should be given to amenity and access to the communal garden. As this was a short term let it would allow people to use that garden space alongside residents in the block.
- The new information indicated that the applicant could brick up the door, but this did not form part of the original proposal. The applicant had not yet applied to block up the door, but that was a possibility for the future.
- The Panel confirmed that they were happy to accept the new information.

- Clarification was requested on the two levels of the property and how access would take place.
- Regarding the two levels, there would be access from the pavement into the ground floor, there was a staircase that went to the lower basement level. There was a back door that went out onto the garden. The garden at the rear was on a lower level. There would be direct access to the garden from the kitchen.
- There was sympathy for the applicant as they had acted correctly by applying for a change of use and indicated that they were mindful of the impact. However, the policies should be applied and the officer's recommendations should be upheld.
- The applicant could bring back an application that included proposals to prevent access to the back garden.

Having taken all the above matters into consideration and although there was some sympathy for 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 uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal was contrary to the Local Development Plan Policy Hou 7 in respect of inappropriate Uses in Residential Areas, as the existing rear access to communal garden had the potential to interfere with the amenity of other occupiers.

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

5. Request for Review – Dalkeith Road (Phone Box by Royal Commonwealth Pool, Edinburgh)

Details were submitted of a request for a review of proposals to remove phone boxes and install street hub at Phone Box By Royal Commonwealth Pool Dalkeith Road Edinburgh. Application No. 22/01508/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 14 September 2022.

Assessment

At the meeting on 14 September 2022, 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, consultee response, post submission additional document and grounds for appeal.

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 01-03, Scheme 1 being the drawings shown under the application reference number 22/01508/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 to determine the review.

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, principally:
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - 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 Tra 9 (Road Safety)
 - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
- 2) Relevant Non-Statutory Guidelines.
 - HES guidance Managing Change – Setting
 - The South Side Conservation Area Character Appraisal
 - Guidance on Advertisements, Sponsorship and City Dressing
 - Guidance on Listed Buildings and Conservation Areas
 - The Edinburgh Design Guidance
 - The Street Design Guidance.
 - Paragraph 29 of Scottish Planning Policy in terms of sustainable development
- 2) The procedure used to determine the application.
- 3) 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:

- This was a complex application, there were 2 existing telephone boxes that should be removed that had been vandalised and contained advertising. However, BT were proposing to remove them and install a new slimline one in place. The issues were its size, illumination and that the advertising was not static.
- Clarification was sought regarding the difference in size between the telephone boxes and this proposed unit and how much pavement space would this take up

in comparison with the existing telephone boxes, considering there was advertising on those boxes.

- It was confirmed that this was digital advertising, which involved the erection of a double-sided digital advertising display unit with rotating content. The advert would be housed within a BT "InLink" unit. The image would change and it would be illuminated night and day. The present boxes were static even though they had advertising. The new one would be much taller and was narrower than the existing boxes. (a comparison with traffic lights was given). The existing and new telephone boxes were compared, the line of the road was north/ south and the new structure sat further out onto the pavement.
- One of the issues was the impact on a Grade A listed building, but it was not possible to see the impact on the building from the photos.
- It was the setting of the building that was the issue, because of the street hub's location outside the front of it and whether the Panel considered this as obtrusive in front of the A listed building.
- Clarification was sought as to how this would be fully accessible, in terms of imparting information to people and if this was to go ahead, would the old phone boxes be removed.
- It was confirmed that the digital sign sat on the site of the old phone boxes, so they would have to be removed. The applicant had indicated that it provided an accessible design, including hearing induction loops, braille embossed and TalkBack functionality.
- Regarding the listed building aspect, the Commonwealth Pool was built in the late 1960s/early 1970's. The City did not have many Grade A listed buildings of this era and this would be a rare example.
- It could not be confirmed how many 1970's listed buildings there were, but this was considered to be of sufficient importance to be listed Grade A category in 1996.
- Regarding the open space area in front of the building, this was an integral part of the design. The open space and the steps were an important part of the design concept.
- The advertising panel would sit in the public realm. The issue would be the impact of the proposals on the setting of the A listed building. It sat within the public realm of that listed building
- Clarification was requested on the example cited of exceptional circumstances of a case in London.
- It was confirmed that the appellant was citing a successful appeal that took place in London, and reference was given to the inspector's view regarding scale and setting.

- Clarification was requested about the setting and how long the Edinburgh Leisure signage had been on display, in front of the building.
- It could not be confirmed when this image was taken. The photo montage was part of the appellant's case. The structure referred to seemed to be of a permanent nature and one of the photos seemed to displaying railings.
- There were several issues with the phone boxes, which included anti-social behaviour. It was necessary to protect the historic element of the City and any buildings that were listed. It was the case that Edinburgh Leisure had some signs on display, but they were only of a temporary nature. This proposal would cause brightness and attract attention. This was a complex issue and the Panel should uphold the officer's decision as this proposal would have a worse impact on setting.
- The Panel should support this application, although this was a Category A listed building. There should be good WiFi for the City and the hub would provide this. It would be sustainable, there was no evidence of anti-social behaviour and the space was used mainly for people cycling and running. It was also welcome that the existing telephone boxes would be removed.
- The officer's report should be upheld. It was a good report, it took on board the importance of the building and the proposal would be detrimental to that setting with lit advertisements. Once the structure was in place, it would be in place permanently. The two aspects were not linked, BT could just remove the boxes, if they were no longer used. The setting of the building was important and it was rare for a building to be Category A Listed. The Commonwealth Pool was important nationally and internationally and was held in great affection. It was necessary to protect the City's heritage.
- The proposal was not obtrusive and it should be granted as there were exceptional circumstances.

Having taken all the above matters into consideration and although two of the members were in disagreement, the LRB determined that the proposals were not obtrusive, ensured sustainability and accessibility, did not detract from the conservation area and there were exceptional circumstances. Therefore, the proposals were not contrary to the Local Development Plan Policies Des1 Design - Quality and Context, Des 5 Development Design – Amenity, Env 6 in respect of Conservation Areas – Development and Non-statutory guidelines on Adverts and Sponsorship.

Motion

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

Reasons for Refusal:

1. The proposal did not comply with LDP policy Des 1 Design - Quality and Context as it was likely to have a high impact in visual terms to the detriment of the area.
2. The proposal did not comply with LDP policy Des 5 Development Design -

Amenity as it was likely to adversely impact on the amenity of neighbouring properties.

3. The proposal was contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it would have a detrimental impact on the character and appearance of the conservation area.
4. The proposals were contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts are not supported on street furniture other than on bus shelters in appropriate locations.

- Moved by Councillor Osler, seconded by Councillor Gardiner.

Amendment

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

Reasons

The proposals were not obtrusive, ensured sustainability and accessibility, did not detract from the conservation area and there were exceptional circumstances. Therefore, the proposals were not contrary to the Local Development Plan Policies Des1 Design - Quality and Context, Des 5 Development Design – Amenity, Env 6 in respect of Conservation Areas – Development and Non-statutory guidelines on Adverts and Sponsorship.

Condition

1. Prior to commencement of the installation of the Street Hub, the existing telephone boxes should be removed.

Reason

1. In the interests of visual amenity.

Informatives

- Moved by Councillor Cameron, seconded by Councillor Jones.

Voting

For the motion - 2 votes

For the amendment - 2 votes

(For the motion: Councillors Gardiner and Osler.)

(For the amendment: Councillors Cameron and Jones.)

Casting Vote

As there were an equal number of votes for the Motion and Amendment, the Convener used his casting vote in favour of the Amendment.

Decision:

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

Reasons

The proposals were not obtrusive, ensured sustainability and accessibility, did not detract from the conservation area and there were exceptional circumstances. Therefore, the proposals were not contrary to the Local Development Plan Policies Des1 Design - Quality and Context, Des 5 Development Design – Amenity, Env 6 in respect of Conservation Areas – Development and Non-statutory guidelines on Adverts and Sponsorship.

Condition

1. Prior to commencement of the installation of the Street Hub, the existing telephone boxes shall be removed.

Reason

- 1 In the interests of visual amenity.

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 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 be given in writing to the Council.

(References – Decision Notice, Report of Handling, Notice of Review, supporting documents, consultee response, post submission additional document and grounds for appeal, submitted).

6. Request for Review – 59 Gilmore Place, Edinburgh

Details were submitted of a request for a review for change of use from house to short stay visitor accommodation at 59 Gilmore Place Edinburgh. Application No. 21/06232/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 14 September 2022.

Assessment

At the meeting on 14 September 2022, 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 01-06, Scheme 1 being the drawings shown under the application reference number 21/06232/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 to determine the review.

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, principally:
 - Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
 - Local Development Plan Policy Env 6 (Conservation Areas – Development)
 - Local Development Plan Policy Tra 2 (Private Car Parking)
 - Local Development Plan Policy Tra 3 (Private Cycle Parking)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Businesses
 - Guidance for Listed Building and Conservation Area
 - Marchmont, Meadows & Bruntsfield Conservation Area Character Appraisal.
 - Paragraph 29 of Scottish Planning Policy in terms of sustainable development
- 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:

- Despite the applicant's supporting statement, which indicated that the neighbouring residential property would not be adversely affected, if there was permission granted for a short term let, there was no way of enforcing the proposed management policy. Consent went with the property not the operator.
- It was stated that the property was recently used as an HMO, but the licence was only until 2014.
- The application was for change of use from house to short stay visitor accommodation, therefore, it was probably used for residential purposes from 2014.
- What was the fundamental reason for the application being refused?
- Although there would be no alterations to the premises, it was being refused on the grounds of LDP Policy Hou 7 and non-statutory guidelines on business use. It should also be considered if this was acceptable use in a residential area. The property had seven bedrooms and there would be access to the rear garden.

The proposed use would be detrimental to the amenity of local residents, especially with regard to outdoor space and noise.

- The applicant had no intention of providing access to the rear garden, but there was a conservatory that would give access. Therefore, the guest room, kitchen and dining room could access the conservatory and the rear garden. The guest room would probably have some sort of locked door.
- It was confirmed that the residents would have access to the kitchen, then the conservatory and the rear garden.
- There was no intended physical alteration to stop access to garden. As well as entry to the garden, consideration should also be given but also the number of potential guests, causing a potential disturbance.
- According to the guidance the Panel should consider the area, and size of the property, including the number of occupants.
- The Panel should uphold the officer's decision because of the rear garden issue, the size of the unit and that the number of people in transit which would be detrimental to the area.
- Although the officer's decision should be upheld, the Panel should commend the applicant for their intention to take measures to ensure good practice. However, it could not be ensured that this would be of a permanent nature. There could be noise issues and impact on neighbouring amenity.

Having taken all the above matters into consideration and although there was some sympathy 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 uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

The proposal was contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this large property as a short stay let would result in noise and disturbance which should have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

7. Request for Review – 21 Napier Road, Edinburgh

Details were submitted of a review for application to approve matters and specified in condition 1 of planning permission in principle 19/02753/PPP at 21 Napier Road Edinburgh. Application No. 21/04838/AMC.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 14 September 2022.

Assessment

At the meeting on 14 September 2022, 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 01b, 02b, 04c, 05a, 06b, 07, 08, 09, 10, 11, 12c, 13b,14, Scheme 2 being the drawings shown under the application reference number 21/04838/AMC 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 LRB in their deliberations on the matter, considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan, principally:
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features)
 - 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 6 (Conservation Areas - Development)
 - Edinburgh Local Development Plan Policy Env 12 (Trees)
 - Edinburgh Local Development Plan Policy Env 16 (Species Protection)
 - Edinburgh Local Development Plan Policy Env 21 (Flood Protection)
 - Edinburgh Local Development Plan Policy Tra 2 (Private Parking)
 - Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)
 - Edinburgh Local Development Plan Policy Tra 4 (Cycle parking)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance on Listed Buildings and Conservation Areas
 - The Edinburgh Design Guidance
 - The Merchiston and Greenhill 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:

- There was agreement with the recommendation in the officer's report. The principle had been agreed that the grounds of the existing house were large enough to hold the building, but the design could be improved.
- There were two elements to the proposal, which were the new chapel and priest accommodation in the grounds of the existing house. This seemed somewhat incongruous. A proposal which was more harmonious was required, therefore, the applicant should come back with an application with an improved design.

Having taken all the above matters into consideration and although there was some sympathy for 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 uphold the decision by the Chief Planning Officer to refuse planning permission.

Reasons for Refusal:

1. The proposal did not comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it did not preserve or enhance the character of the conservation area.
2. The proposal was contrary to the adopted Local Development Plan Policy Env 6 in respect of Conservation Areas-Development, as it would not preserve or enhance the special character or appearance of the conservation area.
3. The proposal was contrary to the adopted Local Development Plan Policy Des 1 in respect of Design Quality and Context, as the development was inappropriate design damaging to the character and appearance of the area around it.
4. The proposal was contrary to the adopted Local Development Plan Policy Des 4 in respect of Development Design- Impact on Setting, as the proposal would not have a positive impact on its surroundings, including the character of the wider townscape and landscape.
5. The proposal was contrary to Local Development Plan Policy Des 3 in respect of Development Design - Incorporating and Enhancing Existing and Potential Features, as it had not been demonstrated that existing characteristics and features in the surrounding built environment had been identified and incorporated in the proposed buildings design.

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

8. Request for Review – 331 South Gyle Road, Edinburgh

Details were submitted of a request for a review for a proposed single storey extension to rear of existing end terraced villa at 331 South Gyle Road Edinburgh. Application No. 22/01608/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 14 September 2022.

Assessment

At the meeting on 14 September 2022, 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 01-03, Scheme 1 being the drawings shown under the application reference number 22/01608/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 to determine the review.

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, principally:
Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
- 2) Relevant Non-Statutory Guidelines.
Guidance for Householders
Paragraph 29 of Scottish Planning Policy in terms of sustainable development
- 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 officer's recommendation to refuse the application should be upheld because the works would result in an unreasonable further reduction in neighbouring amenity in terms of daylight and sunlight.

- The applicant could possibly submit a re-design, so that the roof would have less impact on the neighbouring garden and this might resolve the overshadowing issue.

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 proposal was contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as it would result in unreasonable loss of neighbouring amenity in respect of daylight and sunlight.

(References – Decision Notice, Report of Handling, Notice of Review and supporting documents, and Further Representations, submitted).