

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

10.00 am, Wednesday 16 November 2022

Present: Councillors Cameron, Gardiner, Jones and Osler.

1. Appointment of Convener

Councillor Cameron was appointed as Convener.

2. Planning Local Review Body Procedure

Decision

To note the outline procedure for consideration of reviews.

(Reference – Local Review Body Procedure, submitted)

3. Minutes

To approve the minute of the Local Review Body (LRB Panel 1) of 12 October 2022 as a correct record.

4. Request for Review – 14 Elliot Place, Edinburgh

Details were submitted for a request for review for a proposed two-storey extension at 14 Elliot Place. Application No. 22/01971/FUL.

Assessment

At the meeting on 16 November 2022, 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 01-05, Scheme 1 being the drawings shown under the application reference number 22/01971/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

Other Relevant policy guidance

Scottish Planning Policy on 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:

- Clarification was sought on the previous application and why the applicant did not proceed with the development. It was advised that the applicant had decided that the plans would encroach too far into the rear garden.
- Due to the use of Des 12, further explanation was sought on how this property fitted in with the area given it was not a bungalow like other dwellings and noted that it was located on the corner plot. It was advised on Elliot Place there was a clear building line on Elliot Place, and to the east on Craiglockhart Road. It was acknowledged that in an area where there were clear building lines, this house was uniquely positioned and aligned.
- It was advised that a panel member felt there was a struggle to accept the reasons for refusal given the uniqueness of the property's situation on the street.
- The reason for the creation of the new entrance was queried, and it was advised that there was no information in respect of this. The presumption was made by a panel member that this may be a safer access.
- An aerial view of the site was requested.
- A panel member felt that the application of Des 12 had been overzealous, and that the decision to refuse planning permission should be overturned.

- A further panel member felt the grounds for refusal were not strong enough, particularly with respect to the removal of an outbuilding
- Two panel members felt that Des 12 did apply, and that the decision of the planning officer should be upheld.

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 Des 12 in respect of Alterations and Extensions, as it was not of an acceptable scale, form or design and was detrimental to the character of the neighbourhood.
2. The proposed works to the dwelling were not in accordance with the Development Plan. The works were not compatible with the existing dwelling and surrounding neighbourhood character. There were no material considerations which indicated that the proposal should be granted. Therefore, the proposal was not acceptable.

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

5. Request for Review – 77A George Street, Edinburgh

Details were submitted for a request for review for the part change of use from Class 1 (shop) to Class 1 (shop /deli) and Class 3 (restaurant) at 77A George Street, Edinburgh. Application No. 22/02158/FUL.

Assessment

At the meeting on 16 November 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 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 01-04, Scheme 1 being the drawings shown under the application reference number 22/02158/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 12 (Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)
 - Edinburgh Local Development Plan Policy Env 4 (Listed Buildings - Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
 - Edinburgh Local Development Plan Policy Ret 7
 - Edinburgh Local Development Plan Policy Ret 9 (Alternative Use of Shop Units)
 - Edinburgh Local Development Plan Policy Ret 11 (Food and Drink Establishments)
- 2) Relevant Non-Statutory Guidelines.
 - City Centre Shopping and Leisure Supplementary Guidance
 - Managing Change In the Historic Environment - Conservation Areas.
 - Managing Change In the Historic Environment - External Fixtures.

Other Relevant policy guidance

Scottish Planning Policy on 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:

- An element of Class 1 retail (deli) occupying 25% of the ground floor was included but this was ancillary to the main Class 3 restaurant use. Clarity was sought on the numbers and limit for the non-retail policy test; it was confirmed that at present 50% of the units in the defined frontage were in non-retail use and that the policy threshold of one third had been significantly breached.
- That a panel member felt it was unsatisfactory that the policy had been breached already on the street and clarification was sought on the breach the policy for the one third of non-shop uses as set out in the LDP and the Supplementary Guidance. A verbal explanation was provided to advise that 50% of the units in the defined frontage were Class 1 retail and that 50% were in non-retail use.
- Another panel member sought clarification on how the policy was measured in respect of number of Class one units and sought clarification that the dominant use of the building was the measure by which the adherence to policy would be measured. If the retail element was to be moved to the rear of the building, it was queried whether planning would have any control of this. It was advised that the Class one deli area was set out clearly in the proposed floor plan drawing, and that if this moved or reduced, it was advised that there would be sufficient detail to take enforcement action
- A panel member, in respect of the current split of frontages on this segment of George Street queried whether the scale of the combined floorspace of the units in the defined frontage was known; it was clarified that it is the number of units and not their floorspace that is used to assess the non-retail threshold test.
- In respect of Ret 11, clarification on the application of this policy's tests as the reason for refusal was requested. It was advised that the overconcentration of uses was the element of the policy Ret 11 being applied, yet the information presented within the report of handling did not highlight the impact on residential.
- That a panel member felt that Ret 9 was inadequate grounds for refusal.
- That a panel member reflected on the relaxation to the sequential test for class one premises on Princes Street, however that any change to policy should be made holistically rather than for an individual planning application and felt that the decision of the Chief Planning Officer should be upheld.
- That a panel member felt that Ret 9 did apply, however the application of Ret 11 was unclear.
- That the majority of the panel felt that due to the non-retail unit proportion test not being met already on the street, and that as the policy threshold had already

been significantly breached, the decision of the chief planning officer should be overturned and the application granted.

Having taken all the above matters into consideration and although one of the members was in disagreement, the LRB determined to overturn the decision of the Chief Planning Officer and granted planning permission as an exception to LDP Ret 9 as the policy threshold had already been significantly breached.

Decision

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

Reason

As a justified exception to LDP Ret 9 as the non-retail policy threshold had already been significantly breached.

Planning conditions

- 1) The ventilation details as specified within report 3996-SAV-GST-ZZ-SPEC-M-001 and dated 4/8/21 should be installed and operational prior to start of operations on site.
- 2) The ventilation extraction system noise mitigation measures specified within noise impact assessment 14898399/rmg/R1 and dated 7th June 2022 should be installed and operational prior to start of operations on site.
- 3) Plant noise (as measured 1m from source) should comply with the highlighted noise specification when installed and operational on site - see Council Portal and consultation for exact specification. Reason: to ensure the development meets the appropriate environmental standards for odour and noise.

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) The applicant shall contribute the sum of **£15,756** to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report, the sum to be indexed as appropriate and the use period to be ten years from the date of payment; a legal agreement to secure this contribution shall be concluded within six months from the date of this decision letter.

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

Dissent

Councillor Gardiner requested that his dissent be recorded in respect of the above decision.

6. Request for Review –, 10 Glenlockhart Bank, Edinburgh

Details were submitted for a request for a review to convert existing redundant swimming pool building into a separate private family dwelling house within the curtilage of an existing house. (As amended) at 10 Glenlockhart Bank, Edinburgh. Application No. 21/06240/FUL.

Assessment

At the meeting on 16 November 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 01a-02a,03-11, Scheme 2 being the drawings shown under the application reference number 21/06240/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 4 (Development Design - Impact on Setting)
 - Edinburgh Local Development Plan Policy Des 5 (Development Design - Amenity)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Env 21 (Flood Protection)
 - Edinburgh Local Development Plan Policy Hou 1 (Housing Development)
 - Edinburgh Local Development Plan Policy Hou 4 (Housing Density)

Edinburgh Local Development Plan Policy Hou 5 (Conversion to Housing)

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.

City Centre Shopping and Leisure Supplementary Guidance

Other Relevant policy guidance

Scottish Planning Policy on 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:

Clarification on Hou 5 and the compliance was requested.

- A panel member observed that the former swimming pool structure had been in existence for forty years, and that while it did not change the character of the area, the proposal offered to upgrade the appearance. This panel member felt that the creation of a further dwelling would recycle the existing structure, and the environmental gains from the building being repurposed was observed. Aesthetically the proposed dwelling met with a panel member's favour.
- A panel member was minded to uphold the chief Planning Officer's decision to refuse planning permission, as the panel member felt the residents of the proposed new dwelling did not have adequate amenity space.
- That a panel member felt that the design of the building did not comply with Des 1.
- That a panel member spoke in support of the proposals and advised that additional elements to the basic structure would be added.

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 relevant adopted Local Development Plan Policies in respect of Design Quality and Context, as the development should negatively impact the character and appearance of the area around it.
2. The proposal was contrary to the relevant adopted Local Development Plan Policies in respect of Development Design- Impact on Setting, as the street had a settled townscape character, and the proposal did not have similar characteristics to the surrounding buildings and urban grain.
3. The proposal was contrary to the relevant adopted Local Development Plan Policies in respect of Housing Development as the proposal was not compatible with other policies in the plan.
4. The proposal was contrary to the relevant adopted Local Development Plan Policies in respect of Housing Density, as the proposal could not respect the established density and layout of the area.

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

7. Request for Review – 42 Macdowall Road, Edinburgh

Details were submitted of a request for a review for a two-storey extension to replace existing porch of upper villa plus new driveway at 42 Macdowall Road, Edinburgh. Application No. 22/00461/FUL.

Assessment

At the meeting on 16 November 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 01-09, Scheme 1 being the drawings shown under the application reference number 22/00461/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 5 (Development Design - Amenity)

2) Relevant Non-Statutory Guidelines.

Guidance for Householders

Other Relevant policy guidance

Scottish Planning Policy on 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:

- That clarification on the access to the extension proposed on the first floor was through a bedroom access, and that this was advised was not a planning matter.
- That a panel member thought that the Chief Planning Officer's view should be upheld.

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.

Reason for Refusal:

1. The proposal is contrary to the Local Development Plan Policy Des 5 in respect of Development Design - Amenity, as the works would result in an unreasonable of neighbouring amenity.
2. The proposal was contrary to the Local Development Plan Policy Des 12 in respect of Alterations and Extensions, as the works were not compatible with the existing dwelling and surrounding neighbourhood character.

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

8. Request for Review – 227 & 229 Portobello High Street, Edinburgh

Details were submitted of a request for a review for the proposed alterations extension and use of a hot food takeaway and an office to form a restaurant at 227 & 229 Portobello High Street, Edinburgh. Application No. 21/04749/FUL.

Assessment

At the meeting on 16 November 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 01-08, Scheme 1 being the drawings shown under the application reference number 21/04749/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:
 - Plan Policy Des 12 Edinburgh Local Development (Alterations and Extensions)

 - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)

 - Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)

 - Edinburgh Local Development Plan Policy Ret 3 (Town Centres)

 - Edinburgh Local Development Plan Policy Ret 11 (Food and Drink Establishments)
- 2) Relevant Non-Statutory Guidelines.

Other Relevant policy guidance

Scottish Planning Policy on 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.

Having taken all the above matters into consideration, the LRB was unable to make a final decision and determined to continue consideration of the matter and to assess impact on neighbouring residential amenity, following a site visit.

Decision

To continue consideration of the matter to a further meeting of the Local Review Body (Panel 1) to assess impact on neighbouring residential amenity, following a site visit.

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

9. Request for Review – 39 Ravelston Dykes Road, Edinburgh

Details were submitted of a request for a review to form new opening with glazed door and screens, plus new external timber frame and glass canopy at 39 Ravelston Dykes Road, Edinburgh. Application No. 22/01619/FUL.

Assessment

At the meeting on 16 November 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 01-14, Scheme 1 being the drawings shown under the application reference number 22/01619/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 12 Edinburgh Local Development (Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)
 - 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.

Managing Change In the Historic Environment - Conservation Areas.

Managing Change In the Historic Environment - Windows

Other Relevant policy guidance

Scottish Planning Policy on 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:

- That a panel member initially wished to uphold the refusal.
- That a panel member was unsure of the application, and highlighted the building was not a c-listed building and indicated that the sun porch was not favoured in design terms.
- That another panel member thought that the decision should be overturned as it did not impact negatively in terms of the neighbouring areas.
- That a panel member felt it was a marginal decision, and that the down takings would apply to the portion of the building from the 1980s, however gave consideration to the building being within the curtilage of a listed building.
- That the Planning advisor indicated that the building was not within the curtilage of a listed building and showed the panel the map to indicate where listed buildings which were adjacent were situated. It was advised that the proposals did not impact the setting of the other listed buildings.
- That it was not felt by a panel member that the reasons were significant enough to refuse planning permission.

Having taken all the above matters into consideration, the LRB determined to overturn the decision of the Chief Planning Officer and granted planning permission as the proposals would not have an unacceptable impact on the design of the host property

and were compliant with LDP Policy Des 1 and the proposal did comply with LDP Policy Des 12 as it would not have a detrimental impact on the character and appearance of the host property. It was also agreed the proposals would not adversely affect the character and appearance of the Conservation Area.

Decision

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

Reason

- 1) The proposals would not have an unacceptable impact on the design of the host property and were compliant with LDP Policy Des 1.
- 2) The proposal did comply with LDP Policy Des 12 as it would not have a detrimental impact on the character and appearance of the host property.

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 and supporting documents, submitted).