

Minutes

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

10.00 am, Wednesday 22 February 2023

Present: Councillors Beal, Booth, Hyslop, McNeese-Mechan and Mowat.

1. Appointment of Convener

Councillor Mowat 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 18 January 2023 as a correct record.

4. Request for Review – 1 Commercial Street, Edinburgh

Details were submitted of a request for a review for the proposed new decking area for external tables and chairs including steel cladding, portable oak barrel planters with toughened glass sound diffusers, 2 parasols with 4m cover and brass lighting at 1 Commercial Street, Edinburgh. Application Number. 22/02836/FUL.

Assessment

At the meeting on 22 February 2023, 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, the report of handling and further reps.

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 22/02836/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 NPF4 and Edinburgh Local Development Plan, principally:
NPF4 Policy 7 Historic Assets and Places
Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
- 2) Relevant Non-Statutory Guidelines.
Guidance for Businesses
- 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 a site visit would be appropriate. It was determined a site visit was not necessary.
- Confirmation was sought as to whether the existing licence covering the outdoor seating area would cover the now proposed larger seating area. It was explained that the existing tables and chairs were not permanent and could be removed on a daily basis. Granting consent for the permanent structure would still require a licence.
- The existing licence was for the hours of 11am to 10pm.
- The site did not appear to be overlooked by flats, but there were flats near to site.
- It was difficult to confirm that if there were flats above the existing restaurant. It looked like it was potentially offices.
- The decking area that had been previously installed did not have planning permission. So how could they re-apply? It was explained that the detailing for this application was different in terms of the colour scheme and materials.

- Whether there was a comparison with the previous refusal and was there an image that showed the proposals in situ?
- The images were displayed which confirmed a lack of clarity.
- The previous scheme was not consistent with the character and appearance of the conservation area, but this appeared to be an improvement in terms of the colour scheme and materials.
- Whether the proposed toughened glass sound barrier would screen the noise from the diners.
- There were conflicting views on this application. The key issue was the potential impact on the conservation area. This proposal was probably an improvement but not sufficiently so to merit granting. One key issue was to determine this on planning grounds LDP Hou 7. Significantly, there was no objection from Environmental Protection. Another key issue was LDP policy Env 6 and the possible impact on the conservation area. The Panel might want to overturn this decision.
- The officer's report should be upheld and residents were dissatisfied with the way the applicant had managed the planning situation. The issue was not just tables and chairs but that the new decking area, which was more permanent.
- There was a considerable amount of outdoor seating in this part of Leith and anything that changed this area from a car park was a positive development. But there would still be impact on the conservation area.
- Residents nearby used the lane for parking, so there would be some movement of cars which would have safety issues.
- The toughened glass screens would probably not keep the sound contained, but it was agreed that the new colour scheme was an improvement.
- There were some concerns about impact on residential amenity and noise in the area. However, until 10:00 pm, there was already a significant amount of activity.

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 for the following reasons:

- (a) The proposal was not contrary to LDP policy Env 6 and Section 64 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997. The proposal would preserve and enhance the character and appearance of the Leith Conservation Area.

- (b) The proposal was not contrary to LDP policy Hou 7 and the Council's Non-Statutory Guidance for Business as it would not have a detrimental impact on the amenity of neighbouring residents.

Decision

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

Reasons:

- 1) The proposal was not contrary to LDP policy Env 6 and Section 64 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997. The proposal would preserve and enhance the character and appearance of the Leith Conservation Area.
- 2) The proposal was not contrary to LDP policy Hou 7 and the Council's Non-Statutory Guidance for Business as it would not have a detrimental impact on the amenity of neighbouring residents.

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.

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

Dissent

Councillor Beal requested that his dissent be recorded in respect of the decision for the above item.

5. Request for Review – 8 (Flat 2) Dorset Place, Edinburgh

Details were submitted for a request for permission for change of use to enable property to be offered as a short term let at Flat 2, 8 Dorset Place, Edinburgh. Application Number. 22/02965/FUL.

Assessment

At the meeting on 22 February 2023, 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 -02, Scheme 1 being the drawings shown under the application reference number 22/02965/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 NPF4 and Edinburgh Local Development Plan, principally:
 - NPF4 Policy 30 Tourism
 - Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
 - 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.
 - Guidance for Businesses
 - Edinburgh Design 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:

- The crucial issue, regarding the proposed change of use to enable property to be offered as a short term let, was shared access.
- There was not only shared access to a common hallway, but access into the gardens which would have a double impact on residential amenity. Additionally, there might be additional noise by short-term let visitors.

Having taken all the above matters into consideration, the LRB were 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 the property as a short stay let would have a materially detrimental effect on the living conditions and amenity of nearby residents.

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

6. Request for Review – 61 (3F1) Falcon Avenue, Edinburgh

Details were submitted for a request for a for a roof extension at 3F1, 61 Falcon Avenue, Edinburgh. Application Number. 22/04429/FUL.

Assessment

At the meeting on 22 February 2023, 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, the report of handling and further representations.

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 01-07, Scheme 1 being the drawings shown under the application reference number 22/04429/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 NPF4 and the Edinburgh Local Development Plan, principally:
 - NPF4 policy 14 Design, Quality and Place
 - NPF4 policy 16 Quality Homes
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - 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:

- It was confirmed that a site inspection of this property was not required.
- It was stated that the proposed materials for the proposed roof extension did not suit this building, but there were other buildings nearby that used this material.
- Planning policies made reference to taking the positive aspects of the context of the area and maybe matching that. The property at the back had some timber elements, but this particular property was obviously a stone-built tenement with a traditional slate roof.
- Clarification was sought regarding the positioning of the air source heat pump. It was confirmed that this was 8 metres from the nearest neighbouring window.
- It was understood why the applicant wanted to build a roof extension. Nevertheless, the Panel should uphold the officer's decision on the grounds of LDP Policies Des 1 and Des 12.
- There was agreement for this point of view as there would be a detrimental impact to the existing tenement. If anything, the report underplayed the impact on residential amenity. There was uncertainty about the principle of this. Here was a valuable street in terms of architectural homogeneity.
- The tenement should be kept in its present state. This might create a precedent. Also, there were concerns about the possible impact of noise
- There would be significant impact on the cupola roof. Not only with the proposals be visible from other properties, but proposal would also impact on the light entering the cupola and therefore the stairwell. This was a security consideration for residents and visitors when they went into the stairwell, which the report underplayed.
- It was important to retain the main architectural features of the building.

Having taken all the above matters into consideration and although there was some sympathy for the proposals, the LRB were 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 failed to comply with policy Des 12 of the Edinburgh Local Development Plan as its design and form, choice of materials and positioning was not compatible with the character of the existing building, and it would be detrimental to neighbourhood character.
2. The proposal failed to comply with policy Des 1 of the Edinburgh Local Development Plan as its design and form, choice of materials and positioning was not compatible with the character of the existing building, and it would be detrimental to neighbourhood character.

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

7. Request for Review – 1B (Flat 11) Grassmarket, Edinburgh

Details were submitted of a request for permission for a change of use from residential to short-term let (in retrospect) at Flat 11, 1B Grassmarket, Edinburgh. Application Number. 22/04143/FUL.

Assessment

At the meeting on 22 February 2023, 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 01-02, Scheme 1 being the drawings shown under the application reference number 22/04143/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 NPF4 and the Edinburgh Local Development Plan, principally:
 - NPF4 Policy 30 Tourism
 - Edinburgh Local Development Plan Policy Del 2 (City Centre)
 - Edinburgh Local Development Plan Policy Env 1 (World Heritage Sites)
 - Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)
 - 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 Tra 3 (Private Cycle Parking)

Edinburgh Local Development Plan Policy Tra 4 (Design of Off-street Car and Cycle Parking)

2) Relevant Non-Statutory Guidelines.

The Old Town Conservation Area Character Appraisal

Listed Buildings and Conservation Area Guidance

Guidance for Businesses

Managing Change in the Historic Environment: Guidance on the principles of listed buildings

Managing Change in the Historic Environment: Setting

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 spiral stair was needed to access the studio flat.
- It was confirmed that the residents used that stairwell.
- Whether there was a policy for refusing studio flats.
- It was confirmed that this was not the case as it was necessary to consider different options for providing accommodation of differing sizes.
- That the Draft National Planning Framework 4 (NPF4) had not been approved at the time of the report. Would using this as a reason for refusal complicate matters, or was LDP Policy Hou 7 in respect of inappropriate uses in residential areas, sufficient?
- It was confirmed that NPF4 Policy 30 now formed part of the Local Development Plan.
- As NPF4 formed part of the Local Development Plan, the Panel could use this in their decision making, therefore it would be appropriate to use, also, it strengthened the decision.
- It was thought that the officer's decision should be upheld.

Having taken all the above matters into consideration, the LRB were 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 NPF4 Policy 30 in respect of Tourism and Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let will 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).

8. Request for Review – 45-47 Shandwick Place, Edinburgh

Details were submitted of a request on behalf of Santorinia Investments for change of use from Class 1 to Class 3 with ancillary hot food take away and installation of rear mounted kitchen extract flue at 45 - 47 Shandwick Place, Edinburgh. Application Number. 22/02672/FUL.

Assessment

At the meeting on 22 February 2023, 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 01-07, Scheme 1 being the drawings shown under the application reference number 22/02672/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 NPF4 and the Edinburgh Local Development Plan, principally:
 - NPF policy 27 – City, town, local and commercial centres
 - NPF4 policy 28 - Retail

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 6 (Conservation Areas - Development)

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

Edinburgh Local Development Plan Policy Ret 9 (Alternative Use of Shop Units - Primary Frontages in the City Centre in Town Centres)

Edinburgh Local Development Plan Policy Ret 11 (Alternative Use of Shop Units in Other Locations)

2) Relevant Non-Statutory Guidelines.

The New Town Conservation Area Character Appraisal

City Centre Shopping and Leisure Supplementary Guidance - Policy CC 4

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 Draft National Planning Framework 4 (NPF4) made reference to shopping areas.
- NPF4 Policies 27 and 28 on City Centre Town Local Commercial Centres addressed shopping centres. Policy 27 encouraged the development in cities and town centres, which should be vibrant, healthy, creative and enterprising. Development proposals should improve the vitality and viability of town centres, including proposals that increased the mix of uses. Proposals for non-retail uses would not be supported if these services undermined the character and amenity of the area.
- Policy 28 talked about encouraging investment to the most suitable locations, ensuring that centres were vibrant and supported a range of uses, not to the detriment of retail. These policies were consistent with existing LDP policies.
- That the property above seemed to be residential accommodation.
- This was a 2-storey building, but the plan did not give the relevant context.
- It was confirmed that Shandwick Place did not have much residential accommodation with only 9 such properties.

- If the Panel were to overturn the decision, how could they address this issues of amenity and noise and would it be possible to condition it?
- If the Panel were to condition it, then it would be necessary to find a suitable solution for noise abatement, but it was necessary to have that information beforehand. When adding a condition, the Panel had to be careful that this would provide a viable solution.
- It might be the case there was acceptable level of noise, there did not seem to be residential accommodation above, but the Panel did not have that information. This should not be approved in principle. The property had been on the market for some months. This was no longer a vibrant street, but it was a successful street for other uses. Considering the plans, there did not seem to be residential accommodation above this property. It had to be determined what else would be disturbed on a vibrant street.
- Regarding the potential noise aspect, what was behind the premises and would that affect any possible condition that the Panel might impose?
- Consideration should be given to any kind of noise impact and where the rear mounted kitchen extract flue would be exiting to.
- Considering the options for the panel, the amenity aspect had not been tested. The Panel could refuse or grant the application, but it might be unwise to grant the application, because they did not have all the necessary information.
- Would it be possible to get information for a better layout plan and where the flue exited? To make a proper assessment, it might be necessary to visit this property and also to get a technical report.
- Was there any scope for a reduced class 3 licencing, if the issue was noise from the extract flue? This approach had been used in the past whereby the applicant could only use a certain type of equipment.
- Regarding cooking on premises, it was probably not that which the applicant was looking for. They wanted an ancillary hot food takeaway, therefore that suggestion was not a plausible way forward.
- There was support for a site visit to check out amenity.
- That LDP Plan Policy Ret 9 would still apply, therefore, a site visit would be advantageous.
- The Panel determined to continue the application for further information regarding noise and ventilation, to seek further information regarding the policies in NPF4 and to visit the site to establish what was to the rear of the premises.

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 for further

information from the applicant on noise and ventilation, the impact of NPF4 and a site visit.

Decision

To continue consideration of the matter for further information from the applicant regarding the potential impact of noise and ventilation on neighbouring properties, the impact of the NPF4 policies 27 and 28, and for a site visit.

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

9. Request for Review – 5 West Tollcross , Edinburgh

Details were submitted of a request for a review for mixed used development with ground floor restaurant (Class 3) and take-away (Sui Generis) and 3x apartments on upper floors at 5 West Tollcross, Edinburgh. Application Number. 22/01705/FUL.

Assessment

At the meeting on 22 February 2023, 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 22/01705/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 NPF4 and the Edinburgh Local Development Plan, principally:
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy Des 2 (Co-ordinated Development)
 - 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 6 (Sustainable Buildings)
 - Edinburgh Local Development Plan Policy Del 2 (City Centre)

Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)

Edinburgh Local Development Plan Policy Env 8 (Protection of Important Remains)

Edinburgh Local Development Plan Policy Env 9 (Development of Sites of Archaeological Significance)

Edinburgh Local Development Plan Policy Env 21 (Flood Protection)

Edinburgh Local Development Plan Policy Hou 1 (Housing Development)

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 Hou 7 (Inappropriate Uses in Residential Areas)

Edinburgh Local Development Plan Policy Ret 11 (Alternative Use of Shop Units in Other Locations)

Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)

Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)

Edinburgh Local Development Plan Policy Tra 4 (Design of OffStreet Car and Cycle Parking)

2) Relevant Non-Statutory Guidelines.

Guidance for Businesses

Edinburgh Design Guidance

Managing Change in the Historic Environment: Guidance on the Principles of Listed Building Consent

Managing Change in the Historic Environment: Setting

West Tollcross Development Brief (January 2006)

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:

- One member was impressed with the proposed green wall and thought that there was a huge need for affordable housing in this area. There had been a

significant change from what had existed to a more environmentally focussed design. This was in keeping with an area that had changed its use over time and this was a natural evolution in that area. They were looking at new designs.

- This was affordable housing where it was needed, but it failed to address potential noise impact. There were also issues with the design of the property, so it should be refused. If the design was modified, this might be a way forward.
- The proposals were described as affordable housing by the applicant, however, it was confirmed that this was not affordable housing as required by the local authority.
- There were some welcome aspects to this application, but the fundamental problem was the concentration of restaurants and takeaways in Tollcross, therefore, Panel should uphold the officer's decision and refuse the application.
- Housing should be affordable. There was a need for a fire station in the centre of the town, such as the one at Tollcross. Also, another operator might come along and operate the takeaway in a different manner. The idea of having a green wall in this area was attractive, but not one which was north facing. The proposals could prejudice development on adjacent sites.
- There was some indication that this was a positive development and should be granted, because of the need for affordable housing.

Having taken all the above matters into consideration and although there was some sympathy for the proposals and one of the members was in disagreement, the LRB were 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 Hou 7 in respect of Inappropriate Uses in Residential Areas, as it would have a detrimental impact on residential amenity by way of noise and disturbance.
2. The proposal was contrary to the Local Development Plan Policy Ret 11 in respect of Food and Drink Establishments, as it would intensify the concentration of food and drink establishments adversely affecting amenity.
3. The proposal was contrary to the Local Development Plan Policy Des 5 in respect of Development Design - Amenity, as it would harm neighbouring residential developments and not provide future occupiers with an acceptable level of amenity

4. The proposal was contrary to the Local Development Plan Policy Des 2 in respect of Co-ordinated Development, as it would compromise the effective development of adjacent land and the regeneration of West Tollcross.
5. The proposal was contrary to Local Development Plan policies Des 1, Des 2, Des 5, Des 4 and Hou 4 in respect of design as the scale form and design was not compatible with the characteristics of the wider townscape, the proposal, it failed to draw on the positive qualities of the area and would be damaging to the character and appearance of the surrounding area.
6. The proposal was contrary to Local Development Plan Policy Hou 3 - Private Green Space in Housing Development as it would not provide a satisfactory living environment.

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

Dissent

Councillor McNeese-Mechan requested that her dissent be recorded in respect of the decision for the above item.

10. Request for Review – 221 Webster’s Land, Edinburgh

Details were submitted of a request for a review for the proposed change of use from residential to short-term let at 221 Webster's Land, Edinburgh. Application Number. 22/04558/FUL.

Assessment

At the meeting on 22 February 2023, 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 01-02, being the drawings shown under the application reference number 22/04558/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 NPF4 and the Edinburgh Local Development Plan, principally:
NPF4 Policy 30 Tourism

Edinburgh Local Development Plan Policy Del 2 (City Centre)
Edinburgh Local Development Plan Policy Env 1 (World Heritage Sites)
Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)
Edinburgh Local Development Plan Policy Env 8 (Protection of Important Remains)
Edinburgh Local Development Plan Policy Hou 1 (Housing Development)
Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
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.

Guidance for Businesses

The Old Town Conservation Area Character Appraisal

Managing Change in the Historic Environment: Interim Guidance on Conservation Areas

3) The procedure used to determine the application.

4) The reasons for refusal and the arguments put forward in the request for a review.

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:

- It might be necessary to add Policy 30 of National Planning Framework 4 (NPF4) as a reason for refusal.
- This property had always been used for small number of people for a limited time, but it was not possible to add a condition to that effect.
- The decision of the officer should be upheld. Policy 30 of NPF4 should be added as a reason for refusal.

Having taken all the above matters into consideration, the LRB were 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, with the addition of policy 30 of NPF4 as a reason for refusal.

Decision

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

Reasons for Refusal:

The proposal was contrary to NPF4 Policy 30 in respect of Tourism and Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short stay let would 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).

11. Request for Review – 7 (GF) Strathearn Place, Edinburgh

Details were submitted of a request for a review for the removal of existing extension and internal alterations. Erection of a new extension and garden room to the rear of the property at 7 (GF) Strathearn Place, Edinburgh. Application Number. 22/03235/FUL.

At the meeting of 18 January 2023, the Panel agreed to continue the matter to allow consideration of the DPEA appeal decision on the listed building application in due course.

Assessment

At the meeting on 22 February 2023, 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, further representations and the DPEA decision on the Listed Building Consent 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 1-3, Scheme 1 being the drawings shown under the application reference number 22/03235/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 NPF4 and the Edinburgh Local Development Plan, principally:
 - NPF4 Policy 7 – Historic assets and places
 - 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 4 (Listed Buildings - Alterations and Extensions)

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

- 2) Relevant Non-Statutory Guidelines.
 - Listed Buildings and Conservation Area Guidance
 - Other Relevant policy guidance
 - Merchiston & Greenhill Conservation Area Character Appraisal
 - Managing Change in the Historic Environment – Extensions
 - Managing Change in the Historic Environment – Interiors
 - Managing Change in the Historic Environment – Roofs
- 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:

- Confirmation was provided regarding the Listed Building Consent having been appealed to the DPEA and that appeal had been dismissed by the Reporter.
- Given the DPEA's decision and that the refusal was based on the impact on the listed building, the Panel should uphold the officer's decision. However, the DPEA also said there was no impact on the conservation area.
- There was agreement with that suggestion. The panel should retain Env 4 as a reason for refusal, however as the impact on the character and appearance of the Conservation Area was not significant that reason for refusal should be removed.
- The Panel should remove Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, from the decision as grounds for refusal.

Having taken all the above matters into consideration, the LRB were 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, for the following reasons:

- 1) The proposal was contrary to the Development Plan and NPF4 Policy 7 and Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the proposal would have a detrimental impact on the architectural merits of the property.

- 2) The proposal was not acceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 or the development plan and non-statutory guidance.

Decision

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

Reasons for Refusal:

- 1) The proposal was contrary to the Development Plan and NPF4 Policy 7 and Local Development Plan Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the proposal would have a detrimental impact on the architectural merits of the property.
- 2) The proposal was not acceptable with regards to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 or the development plan and non-statutory guidance.

(References – Planning Local Review Body of 18 January 2023 (Item 9); Decision Notice, Report of Handling, Notice of Review and supporting documents, submitted).