

Minutes

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

10.00 am, Wednesday 19 April 2023

Present: Councillors Booth (substituting for Councillor O'Neill), Cameron, Gardiner, Jones and Osler.

1. Appointment of Convener

Councillor Jones was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (Panel 1) of 8 March 2023 as a correct record, as amended.

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 – 4 Church Hill (Strathmore House), Edinburgh

Details were submitted for a request for a review for change of use from nursing home to 6 private domestic residential dwellings including car parking, private external amenity space, refuse and recycling storage, and cycle provision at Strathmore House, 4 Church Hill, Edinburgh. Application No. 22/05336/FUL.

Assessment

At the meeting on 19 April 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, 02A, 03-08, 09A, 10-19, Scheme 2 being the drawings shown under the application reference number 22/05336/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:
 - 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 Des 12 (Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Del 1 (Developer Contributions and Infrastructure Delivery)
 - 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 Env 12 (Trees)
 - 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 3 (Private Green Space in Housing Development)
 - 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 Off-Street Car and Cycle Parking)
- 2) Relevant Non-Statutory Guidelines.
 - Edinburgh Design Guidance
 - Listed Buildings and Conservation Areas

Merchiston and Greenhill Conservation Area Character Appraisal

Managing Change: Extensions

Managing Change: Reuse and Adaption of Listed Buildings

- 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:

- As a point of information, could the water management aspect be conditioned?
- It was confirmed that it could be conditioned, but it was unclear if there were issues in this area.
- The Report of Handling noted that the Surface Water Management Plan was required but the case officer had not requested it as the application was going to be refused.
- Trees were an important part of the Merchiston and Greenhill Conservation area and their loss would be detrimental to the area, therefore, for that and other reasons, the Panel should refuse the application. The officer had indicated that there was potential damage to trees.
- There was agreement with this viewpoint, a lot of work had been carried out by officers and there were no reasons to overturn the recommendations of the planning officer.
- There was further agreement with this, especially in relation to the proposed two- storey extension element on the western elevation, which was out of keeping with the character of the listed building. One storey might have been acceptable. Additionally, it would not be possible to have a mixed decision as it would be difficult to condition other elements such as the potential flooding aspect.

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:

1. The proposed two storey extension elements scale, massing and height would fail to respect the setting of the B listed (LB27048) Strathmore House. The

proposals were therefore unacceptable with regard to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

2. The proposed two storey extension elements scale, massing and height would fail to preserve or enhance the established character of the Merchiston and Greenhill Conservation Area. The proposals were therefore unacceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
3. The proposals were contrary to LDP policy Env 6 - Conservation Areas, as the proposed two storey extension element on the western elevation's scale, massing and design would fail to preserve or enhance the established character of the Merchiston and Greenhill Conservation Area.
4. The proposals were contrary to LDP policy Env 3 - Listed Buildings - Setting, as the proposed two storey extension element on the western elevation's scale, massing and design would fail to respect the setting of the B listed (LB27048) Strathmore House.
5. The proposals were contrary to LDP policy Des 1 - Design Quality and Context, LDP policy Des 4 - Development Design - Impact on Setting and LDP policy Des 12 - Alterations and Extensions as the proposed two storey extension element would be damaging to the character of the wider townscape and landscape.
6. The proposals were contrary to LDP policy Hou 3 - Private Green Space in Housing Development, as there would be a shortfall in private amenity space provision to serve the proposed residential use on site and a satisfactory residential environment would not be created.
7. The proposals were contrary to LDP policy Env 12 - Trees, as the proposal would result in the substantive loss of mature trees on-site and their removal was not for good arboricultural reasons which would have a detrimental impact on the character of the conservation area and surrounding townscape.

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

5. Request for Review – 2 (2F2) Drumdryan Street, Edinburgh

Details were submitted for request for a review for change of use (retrospective) from residential domestic to residential commercial to operate as short term let (sui generis) at 2F2, 2 Drumdryan Street, Edinburgh. Application No. 22/03667/FUL.

Assessment

At the meeting on 19 April 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 22/03667/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 Del 2 (City Centre)
 - 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
- 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:

- Would a personal permission to operate as short term be appropriate?
- It was advised that Planning is a land use tool, and that Scottish Government was against using personal consents for permanent buildings. If consent was granted the use of the premises for a Short Term Let could occur 365 days a year.
- There was sympathy for the applicant, this was a well-run establishment, but the flat was in a shared stair, and it was necessary to consider the other residents. Therefore, the Panel should uphold the recommendations of the planning officer.
- There was agreement with this view, there was clear guidance on this, the planning permission did not go with applicant, but with the building. The Authority could not control what might happen in the future, if a personal permission was granted.

- There was further agreement with this. It would not be advisable to issue personal permission when there were common stairs as a factor. It would be difficult to manage noise and there might be developments in future which would compromise the amenity of the other residents. Therefore, the recommendations of the planning officer should be upheld.
- It was confirmed that it was possible to include NPF4 30 as grounds for refusal.
- It was concluded that the guidance was clear and that the Panel supported the officer's recommendations.

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

The proposal was contrary to the Development Plan, specifically NPF4 Policy 30 Tourism b) iii and e) ii and LDP Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let would result in the loss of residential accommodation and 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 – 1A Glenogle Road, Edinburgh

Details were submitted for a request for a review, for change of use (retrospective) from residential to short-term let use (Sui Generis) at 1A Glenogle Road Edinburgh. Application No. 22/03432/FUL.

Assessment

At the meeting on 19 April 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 01-02 Scheme 1 being the drawings shown under the application reference number 22/03432/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 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 2 (Private Car Parking)
 - Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Businesses
 - Managing Change in the Historic Environment: Interim Guidance on the principles of listed building consent.
 - 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:

- Was it the case that this property was previously a shop and there was a conversion to residential use in 2001?
- It was confirmed that the premises were granted permission for change of use from shop to residential use in 2001. The applicant would have required to implement the consent to residential within 3 years. Therefore, from the date of conversion to 2017, when the short term let commenced, the premises would have been in residential use. Therefore, the application was for a change of use from residential to short term let.
- Whether there was some evidence, such as an electoral roll to indicate that someone was in residence. It was advised that this information was not included in the Review papers.
- The officer's report was sound, and the Panel should uphold the officer's decision.

- A considerable amount of information had been supplied. This was where the new policies of NPF4 Policy 30 were relevant. This property was in a residential area and the applicant would proposing to take housing away where it was needed. The panel should support the officer's recommendations and also add the relevant NPF4 policies.
- This was more of a border line case than the previous application, it was main door, there was no communal door or garden, so the argument for loss of amenity was not as strong. It was necessary to consider if there was loss of residential accommodation, because the applicant has stated that there was not.
- From 2001 till the present, the property was residential, and therefore NPF4 Policy 30 did apply. There was sympathy for the applicant, it was a well-run property, but for the reasons stated, it would not be appropriate to grant personal permission. It was more of a borderline case, but on balance the officer's recommendations were sound. The appropriate NPF4 Policies should be Policy 30, paragraph b) iii and e) ii.
- This was a quiet area, and the adjacent property ownership might change and there were properties with adjoining walls.
- This application was finally balanced, but when considering the new guidance, it was necessary to consider the benefits of residential accommodation.

Having taken all the above matters into consideration, and although there was sympathy for the applicant, 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 the Development Plan, specifically NPF4 Policy 30 Tourism b) iii and e) ii and LDP Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of the property as a short stay let would result in the loss of residential accommodation and 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).

7. Request for Review – 5 New Street (Unit 5), Edinburgh

Details were submitted for a request for a review, for fixed canopy structure above 1st floor front terrace at Unit 5, 5 New Street, Edinburgh. Application No. 22/04254/FUL.

Assessment

At the meeting on 19 April 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, 04 Scheme 1 being the drawings shown under the application reference number 22/04254/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
NPF4 Policy 7 Historic assets and places
Edinburgh Local Development Plan Policy Des 5 (Development Design - Amenity)
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 4 (Listed Buildings - Alterations and Extensions)
Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
- 2) Relevant Non-Statutory Guidelines.
The Old Town Conservation Area Character Appraisal
Managing Change in the Historic Environment – Setting
Managing Change in the Historic Environment : Fixtures
- 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 Panel sought clarification regarding the proposal it was being asked to consider as part of the Review. It was confirmed that the proposal being considered was a reduced version of the canopy that was currently on site.
- The Report of Handling indicated that the listed building has an attractive frontage and for visibility, the original application for conversion had permitted a glass balustrade around the first floor terrace. The proposed new structure would obscure views of the listed façade.
- It was explained that the original application for a canopy covering the entire first floor terrace was refused and enforced. The applicant then submitted another application for reduced size of canopy, which was now before the Panel for consideration.
- The images of the canopy, submitted by the applicant, demonstrated that the width of the canopy resulted in it coming quite close to the edge of the building. The canopy covered a seated area to provide for people to eat and drink out on the terrace.
- Could it be clarified if there had there been an LBC application for the revised proposal?
- It was confirmed that on 8 November 2022, the Authority refused the LBC, which was appealed to the DPEA and on 14 April 2023, the Reporters had dismissed the LBC appeal.
- Whether the original application came to Committee.
- It was explained that it was refused and enforced, so it probably was submitted to the Development Management Sub-Committee.
- The windows and gables of the adjoining building, seemed excessively close, had this been considered?
- It was explained that the adjacent property was a hotel, so it was not considered, in terms of amenity, unlike a residential property. The terrace already existed, therefore it was just the canopy that the panel were assessing.
- It was incongruous in relation to the former school building which it was sited on. There was agreement with the officer's decision to refuse the application.
- This application was more borderline case and compared with the original application, the impact on this listed building was less negative. However, it still made a negative impact on the setting of the listed building and should therefore be refused. It would also be necessary to add the relevant NPF4 policies.
- It was confirmed that NPF4 Policy 7 on historic assets could be added as a reason for refusal.

- The panel seemed to be in agreement, although this was a balanced application, it was necessary to uphold the officer's recommendations.

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

Reasons:

1. The proposal was contrary to the development plan, specifically NPF4 Policy 7c) and d) as it did not protect and enhance the setting of the listed building or the conservation area.
2. The application was contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the proposed canopy structure would have a harmful impact on the architectural character and setting of the listed building.
3. The application was contrary to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the proposed canopy structure would fail to preserve or enhance the character or appearance of the Old Town Conservation Area.
4. The proposal was contrary to the LDP policy Env 3 (Listed Buildings - Setting), as it would have a detrimental impact on the setting of the listed building.
5. The proposal was contrary to the LDP policy Env 4 (Listed Buildings - Alterations and Extensions), as it would diminish the special interest of the listed building.
6. The proposal was contrary to the LDP policy Env 6 (Conservation Areas - Development), as it would fail to preserve or enhance the special character or appearance of the conservation area.

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

8. Request for Review – 3 Waverley Bridge (Roof Terrace, Waverley Mall), Edinburgh

Details were submitted for a request for a review, for temporary use of the Waverley Market roof top for pop-up Festival Village, including erection of structures and provision of cafe, bars, food and drink uses, retail kiosks, toilets, seating and ancillary facilities and works at Roof Terrace, Waverley Mall, 3 Waverley Bridge, Edinburgh. Application No. 22/04639/FUL.

Assessment

At the meeting on 19 April 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 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 being the drawings shown under the application reference number 22/04639/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
NPF4 Policy 7 Historic assets and places
Edinburgh Local Development Plan Policy Del 2 (City Centre)
Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
Edinburgh Local Development Plan Policy Des 4 (Development Design - Impact on Setting)
Edinburgh Local Development Plan Policy Des 5 (Development Design - Amenity)
Edinburgh Local Development Plan Policy Env 1 (World Heritage Sites)
Edinburgh Local Development Plan Policy Env 3 (Listed Buildings - Setting)
Edinburgh Local Development Plan Policy Env 15 (Sites of Local Importance)
Edinburgh Local Development Plan Policy Env 18 (Open Space Protection)
Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
Edinburgh Local Development Plan Policy Ret 7 (Entertainment and Leisure Developments - Preferred Locations)
- 2) Relevant Non-Statutory Guidelines.
The New Town Conservation Area Character Appraisal
The Old Town Conservation Area Character Appraisal
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:

- This proposed temporary use of the Waverley Market roof top for pop-up Festival Village was a difficult application to consider. There had been some facilities in this venue over a number of years and there was sympathy for the applicant, but there were too many unsatisfactory aspects, including the proposed materials and the lack of sufficient information. It was necessary therefore, to uphold the officer's recommendations. The comments from the police should also be taken into consideration, about their concerns for a temporary usage which was for three years. Additionally, there was insufficient information to allay the concerns of the officers.
- The principle of this application was acceptable, but the details unsatisfactory, especially regarding statement from Environmental Protection about how noise impact could be minimised. Nor had the objections from Network Rail been addressed. However, it was hoped that the applicant would come back and address some of the concerns with a new application.
- Waverley Valley was very important to the City and this application was not of sufficient quality for a world heritage site. The idea of a temporary three-year consent was itself a contradiction. When the original structure was in existence, it had gardens on the roof to maintain the separation of the Old and the New Town. The reasons for refusal in the report were robust and here should be something of higher quality proposed. Perhaps the applicant could consider an alternative venue.
- There was agreement with the previous comments regarding the lack of quality and the temporary aspect. There had been a time when there was nothing on top of Waverley Mall. Merely because there had been a structure in the past, there was no reason to grant consent now. The principle of temporary usage itself was acceptable, but this area had become more congested and there were other also issues regarding access. The Panel should therefore uphold the officer's recommendations.
- This application was good in principle, but there were too many areas of concern, such as access to the station. Therefore, the Panel were minded refuse this application.
- It was also necessary to add NPF4 Policy 7 on historic assets and places.

Having taken all the above matters into consideration, and although there was some sympathy for the applicant, 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 development plan, specifically NPF4 Policy 7c), d) and l) as it did not protect and enhance the setting of the surrounding listed buildings, the conservation area or the World Heritage Site.
2. Over a continuous period of three years the proposal would have a detrimental impact on the character and appearance of the New and Old Town conservation areas and was therefore contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Local Development Plan Policy Env 6 (Conservation Areas - Development).
3. Over a continuous period of three years the proposal would have an adverse impact on the setting of a number of nearby listed buildings and was therefore contrary to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Local Development Plan Policy Env 3 (Listed Buildings - Setting).
4. Over a continuous period of three years the proposal would have a detrimental impact on the Outstanding Universal Value of the Edinburgh World Heritage Site contrary to Local Development Plan Policy Env 1 (World Heritage Sites).
5. Over a continuous period of three years the proposal did not represent a high-quality design that safeguarded the historic environment and was therefore contrary to Local Development Plan policies Del 2 (City Centre) and Ret 7 (Entertainment and Leisure Developments - Preferred Locations).
6. The proposal was of a poor-quality design which is inappropriate over a period of three continuous years and damaging to the special character and appearance of the site and its surroundings. The proposal was therefore contrary to Local Development Plan policies Des 1 (Design Quality and Context) and Des 4 (Development Design - Impact on Setting).

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