

Minutes

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

10.00 am, Wednesday 14 June 2023

Present: Councillors Booth (substituting for Councillor O'Neill), Cameron (items 5-9), Gardiner (items 4-8), Jones and Osler.

1. Appointment of Convener

Councillor Booth was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (Panel 1) of 19 April 2023 as a correct record, subject to amendment (see appendix).

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 –27 Bankhead Terrace (Unit 4), Edinburgh

Details were submitted for a request for review on behalf of Mr Smith of Cornucopia EH11 Ltd, for Change of Use from administration office (Class 4) to private adult club (Sui Generis) at Unit 4 27 Bankhead Terrace, Edinburgh. Application No. 22/04345/FUL.

Assessment

At the meeting on 14 June 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 22/04345/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 5 (Development Design - Amenity)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
 - Local Development Plan Policy Emp 8 (Business and Industry Areas)
 - NPF4 Policy 1 (Global Climate and Nature)
 - NPF4 Policy 26 (Business and Industry Uses)
- 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:

- What was the present usage for the site and what would this use fall under?
- The proposed use was sui generis so it did not fall under any use class, it could not convert to another use without the benefit of a further planning application. The current authorised use was for business and industry, where industry, storage and class 4 offices, such as an administration office would be acceptable.
- Confirmation regarding the nature of the employment was sought. It was confirmed that there were 12 part time workers and 22 volunteers but there was no specification for their exact roles.
- There were two reasons for refusal, one was the business and industrial use class, the other was regarding public safety, the applicant had raised questions about that. Could this be clarified in terms of planning legislation.
- The report of handling made references to representations which referred to people leaving the club late at night. The premises are situated within a Business and Industry area of the city and the representations suggested that it

might be unsafe for users to leave late at night as it was quiet and there was a lack of passive surveillance.

- It was thought that there should be more clarity regarding public safety issues.
- It was confirmed that this issue had been examined, however, the report of handling did not give further details. There were letters of representation which suggested there was an issue regarding public safety. The report of handling was no more explicit than that.
- There were questions regarding LDP Policy Emp 8 as a reason for refusal. The second sentence stated that it was contrary to this policy, as it would result in an unacceptable loss of a business and/or industrial floor space. Was it the correct that this was situated within a Business and Industry area of the city.
- It was confirmed that this was the case.
- LDP Policy Emp 8 was clear about the change of use away from industrial/business usage, therefore Emp 8 suggested that it was not supported. It indicated that small scale proposals for ancillary uses that support local businesses and provided services for their employees might be supported as an exception to this policy. However, the argument was not made by the appellant that this applied to this use.
- Regarding the point about providing ancillary services to the workers in the area, the business uses would close around 6pm. The Club would not be open during the business/industry operating hours. An example of a suitable ancillary use might be a gym for the staff at lunchtime.
- There was some dubiety about the relevance of LDP Policy Emp 8, it was clear that changes of use would not be supported in these areas. There were some exceptions to that policy, but this did not apply to this application.
- There were questions about transport links which were in existence. But considering the time of the operation, these links would not be as good. Considering transport policies, this application was about development in relation to leisure activity, how much analysis had been done regarding the transport element of this, considering the length of the journey to this establishment?
- Transport had confirmed that it had no objections. Maps were provided in the papers by the appellant which gave information about the walking distance to bus stops.
- Whether any checks have been carried out in relation to the hours of operation and had checks been carried out to determine if transport links were available during these hours.
- All the information available was in the Report of Handling.

- It was thought that the tram stop was within walking distance, but tram operations finished at midnight.
- There was some sympathy for the applicant, but it would be difficult to overturn the recommendations from the officer. There were concerns about safety and hours of business. There were generally good transport links, but this was not the case late at night. For this reason, the application should be refused.
- It was important to protect these spaces for industry and business use. The use of sui generis was not appropriate in this location. Not all industry could fit in to mixed use areas, which was why the Authority protected these areas for the blue-collar jobs. That was the main reason for refusal.
- The public safety aspect could have been further explored in the report. Because the surrounding businesses would be shut during the hours of operation, there would be no passive surveillance, and therefore public safety risks. This application might be refused on these grounds. However, the development plan reason was a strong ground for refusal to protect industrial space in the City.
- There was agreement with the view expressed. The proposals were contrary to LDP Policy Emp 8 and there were no reasons given to ignore this. The public safety argument had not been proved, but most public transport would not be running when this club was operating and there might be public safety issues or transport issues. There was surprise that Transport colleagues did not put in more detailed comments. On balance, the officer's recommendations should be upheld and the application refused.
- It was confirmed that the application was being refused on both grounds cited in the Report of Handling.

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 NPF 4 Policy 26, as it would fail to encourage, promote and facilitate business and industry uses.
2. The proposal would be unacceptable by virtue of its impact on public safety.

3. The proposal was contrary to the Local Development Plan Policy Emp 8 in respect of Business and Industry Areas, as it would result in an unacceptable loss of a business and/or industrial floor space.

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

5. Request for Review – 22 (Flat 5) Calton Road, Edinburgh

Details were submitted for a request for review on behalf of Mr Makda for change of use from dwelling to short-term let at Flat 5, 22 Calton Road, Edinburgh. Application No. 22/04145/FUL.

Assessment

At the meeting on 14 June 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 ,Scheme 1 being the drawings shown under the application reference number 22/04145/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 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)
 - NPF4 Policy 30 (Tourism)
 - NPF4 Policy 1 (Sustainable Places)
 - NPF4 Policy 7 (Historic Assets and Places)
- 2) Relevant Non-Statutory Guidelines.
 - Listed Building and Conservation Area Guidance
 - 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:

- A street view of 22 Calton Road was requested.
- The Lead Planning Officer illustrated the plans of the property and explained that Calton Road was primarily residential with student accommodation and some offices. There were some photos in the papers that showed the entrance and the stairwell.
- There were no other questions for the Lead Planning Officer.
- Clarification was requested as this was an application in retrospect, but it had not yet been used as a short term let.
- It was confirmed that this was the case.
- The reasons stated for refusal were clear and were consistent with policy, therefore, there were no reasons to overturn the recommendations of the planning officer.
- There was general agreement with this. There was clear guidance provided regarding loss of residential accommodation and no reasons given to overturn the officer's recommendations.
- The report was clear. The proposals were contrary to LDP Policy Hou 7 and National Planning Framework 4 Policy 30(e) ii, therefore, there were no reasons to overturn the officer's recommendations.

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 proposal was contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this property as a short stay let would have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal was contrary to National Planning Framework 4 Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling as a short stay let would result in an unacceptable impact on local amenity and the loss of a residential property had not been justified.

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

6. Request for Review – 31 Duddingston View, Edinburgh

Details were submitted for a request for review to erect a rear extension to dwellinghouse and install a new mansard roof over whole of existing and extension footprint to create additional living accommodation on upper floor at 31 Duddingston View, Edinburgh. Application No. 23/00222/FUL.

Assessment

At the meeting on 14 June 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 01-06, Scheme 1 being the drawings shown under the application reference number 23/00222/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 12 (Alterations and Extensions)
 - NPF4 Policy 1 (Global Climate and Nature)
 - NPF4 Policy 14 (Amenity of the Surrounding Area and Inconsistent with the Six Qualities of Successful Places)
 - NPF4 Policy 16 (Character of the Home and the Surrounding Area)
- 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 agreed that the new information regarding the photographs which had been submitted would be accepted.
- Clarification was sought as the application that was approved by the LRB at 17 Duddingston View. What reasons were given then for overturning the officer's decisions in 2011? It was over 10 years ago and prior to the present plan.
- It was confirmed that the 2011 application was determined under a different LDP and non-statutory guidance.
- The Panel was required to consider this application in accordance with the current LDP Policy Des 12 and NPF4 Policy 14c.
- It was agreed That the frontage was highly visible from the street and the proposed extension would cause substantial impact on visual amenity.

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 proposals were contrary to policy 16 (g) (i) of National Planning Framework 4 as they would have a detrimental impact on the character of the home and the surrounding area in terms of size, physical impact and design.
2. The proposals were contrary to NPF 4 Policy 14c as the works would be detrimental to the amenity of the surrounding area and inconsistent with the six qualities of successful places as the proposal did not reinforce the distinctive local architectural style, design, materials, and traditional sense of place achieved by the neighbourhood.
3. The proposals were contrary to policy Des 12 of the adopted Edinburgh Local Development Plan (LDP) as in their design and form, choice of materials and positioning they were not compatible with the character of the existing building and will be detrimental to neighbourhood amenity and character.
4. The proposals were contrary to the Council's Non-Statutory Guidance for Householders as they were not compatible with the character of the existing building and would have a detrimental impact on the character and appearance of the surrounding neighbourhood.

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

7. Request for Review – 87 Grassmarket, Edinburgh

Details were submitted for a request for review to amend opening hours to 2.00am at 87 Grassmarket, Edinburgh. Application No. 22/06028/FUL.

Assessment

At the meeting on 14 June 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, Scheme 1 being the drawings shown under the application reference number 22/06028/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 12 (Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Env 6 (Conservation Areas - Development)
 - 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 Hou 7 (Inappropriate Uses in Residential Areas)
 - NPF4 Policy 1 (Global Climate and Nature)
 - NPF 4 Policy 27 (Residential Amenity of the Proposal)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Businesses
 - HES guidance - Managing Change - 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:

- Clarification was asked if the properties on the upper floors and to the side of the takeaway, were residential.
- The Report of Handling stated that there was residential accommodation located above the commercial property. There was access pends on either side of the application property, which had been referred to in the representations by local residents.
- It was confirmed that the application was to extend the opening hours of the hot food takeaway from 12:00am to 2am. The current closing time was at 12.00 midnight.
- There was some sympathy for the applicant, but this was a clear-cut case of extending the opening hours from 12:00am to 2am. The Panel should uphold the officer's recommendations and refuse the application. The above properties were residential, and the proposal would adversely impact on them.
- It was necessary to uphold the officer's recommendations. The existing level of residential amenity should be maintained and there was a need to maintain balance. People who lived in the centre of City should accept a certain level of vibrancy, but residential amenity should also be considered. Additionally, the agreed hours of trading had appeared to have been broken. The officer's recommendations should be upheld.
- It was the case that the Grassmarket was one of the oldest residential areas in the City and should be protected. Any extension to opening hours would be detrimental to the surrounding houses and it was necessary to protect the community. There should be a balance between helping business and protecting the community. There might be grounds for enforcement, but this was for the residents to take action. The Panel should support business but not beyond what was in place at present.
- There was concern about traders apparently operating beyond the permitted hours of opening and what action had been taken. But this was not within the remit of this Panel.
- It was confirmed that enforcement action was not part of the Panel's decision-making process.
- There was agreement with the viewpoint from members in relation to the appellant's claim that LDP Policy Hou 7 was not applicable. Referring to Hou 7, this was a mixed-use area, letters of representation made it clear that the

extended hours would lead to a further deterioration of residential amenity. LDP Policy Hou 7 and the other policies which had been cited did apply.

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 likely to increase late night noise and activity to the detriment of neighbouring residential amenity, contrary to Local Development Plan Policy Ret 11 and the Council's 'Guidance for Businesses'.
2. The proposal was likely to increase late night noise and activity to the detriment of neighbouring residential amenity, contrary to Local Development Plan Policy Hou 7 and the Council's 'Guidance for Businesses'.
3. The proposal was contrary to NPF4 Policy 27, as it would erode living conditions and have a detrimental impact on neighbouring residential amenity.

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

8. Request for Review – 12 Springvalley Gardens, Edinburgh

Details were submitted for a request for review for proposed change of use from office to short-term holiday let accommodation at 12 Springvalley Gardens, Edinburgh. Application No. 22/04432/FUL.

Assessment

At the meeting on 14 June 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, Scheme 1 being the drawings shown under the application reference number 22/04432/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, and although two of the members were in disagreement, felt that they had insufficient information before it to determine the review and determined to undertake a site visit.

Having visited the site on 14 June, 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 12 (Alterations and Extensions)
 - 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)
 - NPF4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
 - NPF4 Policy 14 (Liveable Places Design, Quality and Place).
 - NPF4 Policy 30 (Productive Places Tourism)
- 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:

- From the site visit, it was confirmed that there was no roof terrace on the property.
- The proposal had been largely implemented, as the property had been converted to living accommodation.
- It was confirmed that when planning permission was granted in 2019, it was for a change of use of office to residential, but the three years to begin the planning consent had lapsed, so the authorised use was still office use, even though the applicant had converted it.
- It was confirmed that the works were out with the permitted period for conversion to residential. The works looked very new, having seen them on site.
- Clarification was required on the course of events if the Panel was to overturn the officer's decision and the property was made into residential use.
- It was confirmed that it was not authorised as a residential use, but the applicant could apply for planning permission for that type of use.

- The layout of the windows was explained, including the ones which were part of the application site and those on the adjoining properties. It was possible to see the windows in the pend, some of which were in separate occupancy, it was not clear what these rooms were.
- It was felt that the site visit had been useful. Although the premises had their own door, the proposal was in close proximity to the neighbouring windows. The site visit had made it possible to see the reasons for refusal. If there was a change of use to short term let, this could have an impact on residential amenity and there was an interlocking of various part of the building. The Panel should go with the officer's report. Although there was no loss of housing, this was a reasonable place to live and the proposals could have a negative impact on the other residential properties.
- It was confirmed that the decision being considered was based on current policy, so NPF4 was in force and should be taken into account.
- There was some concern regarding the grounds for refusal. Regarding the impact on residential amenity, there was some dubiety that this was a residential area, and it was difficult to uphold LDP Policy Hou 7. The grounds were fairly weak. NPF4 would probably be applicable, but whether it would be strong enough without LDP Policy Hou 7 to refuse the application was open to question. For this reason, the officer's decision on this application should probably not be upheld.
- This was a borderline case. NPF4 Policy 30 (e) ii did not apply, but the Panel could consider LDP Policy Hou 7 and National Planning Framework 4 policy 30(e) part (i) as grounds for refusal. This street had a commercial garage, but in the evening, the garage was not operating, therefore, there would be less impact on amenity. There was a considerable number of ceilings and windows in close proximity, and many of the objectors were living in close proximity to the property. Although this was a borderline case, the Panel should uphold the officer's decision to refuse the application, due to the negative impact on residential amenity.
- There would be impact on residential amenity, which was contrary to guidance. The proposal would be outside local residents' windows and the wishes of local residents should not be ignored.
- One member indicated that they would abstain from this as they were not fully supportive of LDP Policy Hou 7 as a reason for refusal.
- After further consideration, there was no contrary position expressed by members to refusing the application.

Having taken all the above matters into consideration, and although there was considerable 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.

Motion

For continuation for a site visit.

- Moved by Councillor Booth
- Seconded by Councillor Osler

Amendment

Against continuation for a site visit.

- Moved by Councillor Gardiner,
- Seconded by Councillor Jones

Voting

For a site visit - 3 votes

Against a site visit – 2 votes

(For a site visit - Councillors Booth, Cameron and Councillor Osler)

(Against a site visit - Councillors Gardiner and Jones)

Decision 1

To agree to the request for a site visit.

Decision 2

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

Reasons:

1. The proposal was contrary to 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.
2. The proposal was contrary to National Planning Framework 4 policy 30(e) part (i) in respect of local amenity, as the use of this dwelling as a short stay let would result in an unacceptable impact on local amenity and surrounding area.

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

9. Request for Review – 113 Upper Craigour, Edinburgh

Details were submitted for a request for review for proposed change of use from residential to short term let (in retrospect) at 113 Upper Craigour, Edinburgh. Application No. 22/04718/FUL.

Assessment

At the meeting on 14 June 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 22/04718/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, and although two of the members were in disagreement, felt that they had insufficient information before it to determine the review and determined to undertake a site visit.

Having visited the site on 14 June, the LRB in their deliberations on the matter, considered the following:

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 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)
 - NPF4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
 - NPF4 Policy 30 (Productive Places Tourism)
- 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:

- One of the members excused themselves from this item as they missed some of the presentation, due to internet connection issues.

- It was thought that the plan included in the application was not entirely correct, as it seemed to suggest that the application site was L-shaped, but the floor plan was rectangular.
- The applicant had requested a personal permission, but the guidance advised against this. Could clarification be given on when personal consent might be appropriate.
- The recommendations by the Scottish Government stated that personal consent might be granted for compassionate circumstances, such as the need for special access on a listed building. But for a change of use, the permission went with the property.
- The site visit had been informative. There was a large level of shared amenity space, this property was located in a quiet residential area in Upper Craighour and there were insufficient grounds to overturn the officer's recommendations, which were robust.
- There was agreement with this viewpoint. There was substantial shared amenity and there was no evidence of wheelchair access being in place. Although there was some sympathy and this property was near the hospital, but on balance, the grounds given by the applicant were insufficient to overturn the officer's recommendations.
- This was not suitable for an accessible short-term let or even becoming a residential property for disabled access, adaptations would have to be made. Therefore, the application should be refused.
- Personal consent was not appropriate for this application. There were no objections from neighbours and this was a well-managed property, therefore, there was some sympathy for the applicant. There was a need to determine this on planning grounds. The property could change hands and a less scrupulous owner might not be so careful with the amenity of residents. Therefore, the Panel should refuse this on planning grounds, as it was contrary to LDP Policy Hou 7 and National Planning Framework Policy 30(e).

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.

Motion

For continuation for a site visit.

- Moved by Councillor Cameron
- Seconded by Councillor Jones

Amendment

Against continuation for a site visit.

- Moved by Councillor Osler,
- Seconded by Councillor Booth

Voting

For a site visit - 2 votes

Against a site visit – 2 votes

(For a site visit - Councillors Cameron and Councillor Jones)

(Against a site visit - Councillors Booth and Osler)

Casting Vote

The votes being equal, the Convener used his casting vote in favour of the motion.

Decision 1

To agree to the request for a site visit.

Decision 2

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

Reasons for Refusal:

1. The proposal was contrary to 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.
2. The proposal was contrary to National Planning Framework Policy 30(e) in respect of local amenity and loss of residential accommodation, as the use of this dwelling as a short stay let would result in an unacceptable impact on local amenity and the loss of a residential property has not been justified.

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

Appendix

To amend wording of decision for item 7 on page 11 of the minute to

“Decision

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