

# Minutes

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

10.00 am, Wednesday 16 August 2023

Present: Councillors Cameron, Gardiner, Jones, Osler and Staniforth.

### 1. Appointment of Convener

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Councillor Staniforth was appointed as Convener.

### 2. Planning Local Review Body Procedure

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#### Decision

To note the outline procedure for consideration of reviews.

(Reference – Local Review Body Procedure, submitted)

### 3. Minutes

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To approve the minute of the Local Review Body (LRB Panel 1) of 14 June 2023 as a correct record.

### 4. Request for Review – 2 (Flat 1) Gardner's Crescent, Edinburgh

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Details were submitted of a request for review for retrospective change of use from Residential to Short Term Let (sui-generis) at Flat 1, 2 Gardner's Crescent, Edinburgh. Application Number. 22/04560/FUL.

The request was considered by the City of Edinburgh Planning Local Review Body (LRB) at a meeting on Wednesday 16 August 2023.

#### Assessment

At the meeting on 16 August 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 01-02, being the drawings shown under the application reference number 22/05490/FULSTL 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)
  - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
  - National Planning Framework 4 Policy 7 (Historic Assets and Places)
  - National Planning Framework 4 Policy 30e (Local Amenity and loss of Residential Accommodation)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance for Businesses
  - West End Conservation Area Character Appraisal
  - Listed Buildings and 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:

- For a point of clarity, the applicant's documentation stated that the flat was the only flat on the ground floor with a main door entry.
- It was confirmed that the access from the street was as outlined in the photos, as was the flatted block main door. The property shared its access to the street with other properties via a communal stair. The main door access from the street opened onto a communal hall.

- This property was a one bedroom ground floor flat located on the north eastern side of Gardner's Crescent. It was a short term let and would affect residential amenity. It was occupied by PHD students for 6 to 7 months of the year, they then finished their degrees it was unusual for them to stay in a flat only six months a year. This could not continue indefinitely, therefore allowing this to be a short-term let would eventually result in a loss of housing, even if the Panel could accept the statement that it was currently occupied by a PHD student. The Panel should therefore uphold the officer's recommendation and refuse the application.
- There was sympathy for the applicant, however, this could become a short term let, permanently. The flat was within a flatted block and here was no reason not to uphold the officer's recommendations.
- In the officer's report, there were clear planning grounds for upholding the officer's recommendation and refusing the application.
- It was agreed to uphold the officer's recommendations and refuse the application.

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 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 had not been justified.

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

## 5. Request for Review – 58 (Flat 8) Grassmarket, Edinburgh

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Details were submitted for a request for review for retrospective change of use from Residential to Short Term Let (sui-generis) at Flat 8, 58 Grassmarket, Edinburgh. Application No. 22/05332/FULSTL.

### Assessment

At the meeting on 16 August 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 01-02, being the drawings shown under the application reference number 22/05332/FULSTL 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)
  - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
  - National Planning Framework 4 Policy 7 (Historic Assets and Places)
  - National Planning Framework 4 Policy 30e (Local Amenity and loss of Residential Accommodation)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance for Businesses
  - The Old Town Conservation Area Character Appraisal
  - Listed Buildings and 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 was confirmed that there were no questions for the planning officer.
- That this application for retrospective change of use from residential to short term let (sui-generis), was similar to the previous application and should be refused for the same reasons. Those reasons being that the flat was in a communal stairway and the use could result in a detrimental impact on other residents in the block and the use resulted in a loss of residential accommodation.
- Despite the applicant stating that the premises would be used as a STL for only a few months a year, the change of use would allow year round use as a STL.
- The Panel should therefore uphold the officer's recommendation and refuse the application.

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 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.

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

## **6. Request for Review – 21 (3F1) Henderson Row, Edinburgh**

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Details were submitted for a request for review for change of use for use for short-term lets at 3F1, 21 Henderson Row, Edinburgh. Application No. 22/05097/FULSTL.

### **Assessment**

At the meeting on 16 August 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 22/05097/FULSTL 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)
  - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
  - National Planning Framework 4 Policy 7 (Historic Assets and Places)
  - National Planning Framework 4 Policy 30e (Local Amenity and loss of Residential Accommodation)
- 2) Relevant Non-Statutory Guidelines.
  - Guidance for Businesses
  - The New Town Conservation Area Character Appraisal
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

## **Conclusion**

The LRB considered all the arguments put before it in respect of the proposed planning application and discussion took place in relation to the following issues:

- It was confirmed that there were no questions for the planning officer.
- This application was for retrospective planning permission for change of use of a third floor flat from residential to short term let. Due to the third floor location, visitors would go even further into the building, representing a bigger impact and more loss of residential amenity than the previous applications.

- The previous applications heard by the Panel were refused on the grounds of detrimental impact on residential amenity due to the premises being located in a communal stairway and due to the loss of residential accommodation, and this application was the same.
- It was agreed, therefore, that the Panel should uphold the officer's recommendations and refuse the application.

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 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 had not been justified.

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

## **7. Request for Review – 13 (PF3) Piersfield Grove, Edinburgh**

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Details were submitted for a request for review for change of use to short term let at PF3, 13 Piersfield Grove, Edinburgh. Application No. 22/06055/FULSTL.

### **Assessment**

At the meeting on 16 August 2023, the LRB had been provided with copies of the notice of review s, 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 01-02, Scheme 1, being the drawings shown under the application reference number 22/06055/FULSTL 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)  
National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)  
National Planning Framework 4 Policy 30e (Local Amenity and loss of Residential Accommodation)
- 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:

- It was confirmed that there were no questions for the lead planning officer.
- This application for change of use from residential to short term let was very similar to the previous applications and should be refused for same reasons. Those reasons being that the flat was in a communal stairway and the use could result in a detrimental impact on other residents in the block and the use resulted in a loss of residential accommodation.
- This property was in one member's ward, and they indicated that London Road could be described as a busy street, but Piersfield Grove was primarily a residential area.
- There was a narrative that had been developed that a property was going to be used as permanent residence, but could be sub-let. It was thought that there was a misunderstanding of what the authority was asking for in terms of planning considerations. Possibly there should be a better understanding conveyed to individuals that this was not about temporary usage of a building, this was about a permanent usage of a building.



- It was thought that the planning officer's case was robust, in terms of the economic case for this application not being valid. Therefore, the Panel should refuse the application.
- It was agreed to uphold the planning officer's decision and refuse the application.

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 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).

## **8. Request for Review – 4 (1F2) Saughtonhall Avenue West, Edinburgh**

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Details were submitted for a request for review to form 2-storey extension with workshop on ground floor and bedroom and en-suite shower room on first floor (AS AMENDED) at 1F2, 4 Saughtonhall Avenue West, Edinburgh. Application No. 23/00651/FUL.

### **Assessment**

At the meeting on 16 August 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 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, 02A, 03A, 04A, Scheme 2, being the drawings shown under the application reference number 23/00651/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)
  - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
  - National Planning Framework 4 Policy 16 (Quality Homes)
- 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:

- Within the comments for this application, it was stated that there was a change of access to the pend. Would that interfere with access to the garden and make access more difficult to the other flat. This was not mentioned in the planning report, was it the consideration of the officers that the pend had sufficient access for the other flat?
- It was confirmed that access was not altered in terms of its width, the communal access pend covered the width of the existing path. The only issue was that it would have solid walls on either side of it, but there was still a path that gave access to the rear of the property.
- This was an interesting and quite complex application. There was some sympathy for the applicant, as they were trying to improve their environment, were building on their own land and were not blocking neighbouring windows. However, there was an issue, as the applicant was intending to build and use a workshop next to neighbours that would negatively impact on their amenity. Therefore, the officer's recommendations were robust and should be upheld.
- There was agreement with the above viewpoint.

- There was considerable sympathy from one member with the applicant. LDP Policy Des 12, in relation to the character of the areas, was somewhat subjective and there was no objection to the application on that ground, but the workshop would affect residential amenity, so it was problematic in that respect.
- The Panel should uphold the officer's recommendations and refuse the application. In terms of character, the appeal would be more convincing, if the applicant could prove it was common to the immediate area, rather than other sections of the city. There was no precedent in planning considerations, but the proposals for the extension and workshop would not fit into the immediate character of the area.
- The main issue was about impact on amenity and that was not one of the grounds refusal given, therefore, could the lead officer advise whether this should be applicable. As this was not a conservation area, it was unclear how robust was the character of the area as a ground for refusal.
- There would be impact on neighbouring amenity, as the proposed extension and workshop was next to their living environment. This was not necessarily domestic usage and it was not the case that the applicant was extending a kitchen or living space that would then be utilised within a residential area. However, workshops could be quite problematic and there would be an impact on an individual's amenity.
- It was confirmed this application was not an application for a change of use. The proposed workshop would be ancillary to the domestic use of the property, the Panel would not be granting consent for car repairs or an industrial workshop. It had to be questioned if amenity was a strong enough reason for refusal. If there was an issue of noise, Environmental Protection would become involved. But proposed workshop would still be classified as domestic use.
- Because of the explanation given, one member thought that the Panel should not uphold the officer's recommendation. Although it did not fit into the character of the area, there was an element of subjectivity more than in the other areas which had been discussed.
- No other members agreed with this viewpoint, and the officer's recommendation to refuse was upheld.

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 did not comply with NPF4 Policy 16g as the works would have a detrimental effect on the character of the home and surrounding area and would not be acceptable in terms of size and design.
2. The proposal did not comply with LDP policy Des 12 as the works would not be in keeping with the existing building or character of the wider area and would not be acceptable in terms of scale and form.
3. The proposal was contrary to the non-statutory Guidance for Householders as its scale, form, and position would appear incongruous in this context and adversely impact on the character and appearance of the existing building and neighbourhood character.

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

## **9. Request for Review – 31 Stenhouse Drive, Edinburgh**

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Details were submitted for a request for review for change of use to short term let (in retrospect) at 31 Stenhouse Drive, Edinburgh. Application No. 23/00079/FULSTL.

### **Assessment**

At the meeting on 16 August 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 23/00079/FULSTL 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)

National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)

National Planning Framework 4 Policy 30e (Local Amenity and loss of Residential Accommodation)

- 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:

- There was a question regarding transport. When discussing an application that was centrally based, the Panel did not normally discuss access, as there was public transport available. The application for change of use to short term let (in retrospect) was in a residential area and if an individual was a transient visitor, should the Panel consider how they would reach the residential area?
- It was explained that LDP Policies Tra 2 and 3 were referred to in the report, but Transport had said there were no issues in respect of transport. However, accessibility and noise might be an issue.
- The question was more about the use of cars as there was concern about vehicles accessing a property within a residential area. This property was not particularly close to trams and there was only limited bus transport, therefore, visitors might require the use of cars.
- It was confirmed that there would be additional movement throughout the day and night as there would be a turnover of guests. This might cause more car usage, as well as servicing.
- This application had slightly less impact on residential amenity than the other short-term lets as the property was accessed by a private front door. However, the flat was in a block, therefore, there were other residents directly above and the noise could be disruptive. The Panel should, therefore, uphold the officer's recommendations and refuse the application.
- There was agreement with the view expressed. The economic case of loss of housing was not outweighed by the benefits from tourism. The city needed houses. It was necessary to uphold the officer's recommendation.
- There was no contrary view expressed and it was agreed to refuse the application.

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 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 had not been justified.

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