

Minutes

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

10.00 am, Wednesday 22 May 2024

Present: Councillors Gardiner, Jones, Osler and Staniforth.

1. Appointment of Convener

Councillor Osler was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 1) of 24 April 2024 as a correct record.

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 - 102 (Flat 6) Buccleuch Street Edinburgh

Details were submitted of a request for review for change of use to short term let for 250 nights in a calendar year (In retrospect) at Flat 6 102 Buccleuch Street, Edinburgh. Application Number. 23/04102/FULSTL.

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Decision

Decision notice imminent.

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

5. Request for Review –128 (1F2) Charterhall Road, Edinburgh

Details were submitted for a request for review for roof extension to existing maisonette dwelling at 1F2 128 Charterhall Road, Edinburgh. Application No. 23/04233/FUL.

Assessment

At the meeting on 22 May 2024, 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 letters of representation.

The LRB heard from the Planning Adviser who summarised the issues raised and presented the drawings of the development and responded to further questions.

The plans used to determine the application were 01 – 05, Scheme 1, being the drawings shown under the application reference number 23/04233/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:
 - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
 - National Planning Framework 4 Policy 14 (Design, quality and place)
 - National Planning Framework 4 Policy 16 (Quality Homes)
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Householders
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

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

- It was confirmed that no new additional information had been provided.
- Clarification was requested regarding whether the proposed roof extension could not be seen from the front elevation of the building??

- It was confirmed that the proposed extension could not be seen from the front of the elevation, and this elevation remained unchanged.
- Confirmation was sought as to whether the property was listed, and it was confirmed it was not listed.
- It was confirmed that there were no further questions.
- There was agreement with the officer's decision. Because of the roof decking, people would have access to the roof. Buildings in this area were quite uniform and when a resident moved in, they did not expect people on the roof. The roof decking was excessive and against the character of the area.
- There was disagreement with this. Looking at their photographs, there seemed to be a single storey extension in the garden on the other side, on the row, some of the properties had dormers on the front. However, there were no dormers here, there was no change to the front of this application property. Some of the rear extensions of other properties were painted white.
- The Panel requested information on a mixed decision?
- It was explained that the proposed extension was providing a door onto the roof terrace and therefore the design of the actual extension was very much integral to the roof terrace. As shown on the drawings, the roof terrace and extension were interdependent and therefore it would not be acceptable to omit the roof terrace, because there would still be an access from this extension out onto the roof terrace or onto the roof. Therefore, a mixed decisions was not acceptable.
- There was further agreement to uphold the officer's decision. There was sympathy with the applicant, who wanted to improve their property and this was a desirable place to stay, but the impact on the surrounding area was incongruous. The Panel should uphold the officer's decision.
- One member proposed to grant the application, however there is no support for this.
- The Panel agreed to refuse the application.

Having taken all the above matters into consideration and although one member was in disagreement, the LRB were of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

Decision

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

Reasons for Refusal:

1. The proposal 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; would not be acceptable in terms of scale, form, design; and would have an unacceptable overlooking impact on neighbouring amenity.

2. 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; would not be acceptable in terms of size, design, and materials; and would have a detrimental effect on neighbouring properties from overlooking.
3. The proposal did not comply with LDP policy Des 1 as the works would be an inappropriate design which is damaging to the character and appearance of the surrounding area.
4. The proposal did not comply with NPF4 Policy 14c as the works would be poorly designed and inconsistent with the six qualities of successful places as the proposal did not reinforce the distinctive local architectural style and design achieved by the wider neighbourhood.

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

Dissent

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

6. Request for Review – 15 (Flat 1) Coltbridge, Millside, Edinburgh

Details were submitted for a request for review for permission to obtain a change of use from residential for short-term letting (In retrospect) at Flat 1 15 Coltbridge, Millside Edinburgh. Application No. 23/04492/FULS.

Decision

Decision Notice imminent.

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

7. Request for Review – 9 Dewar Place Lane, Edinburgh

Details were submitted for a request for review for Change of Use of dwelling (Class 9) for short-term let use (Sui Generis) for a maximum of 10 months in the calendar year (in retrospect) at 9 Dewar Place Lane, Edinburgh. Application No. 23/03909/FULSTL.

Assessment

At the meeting on 22 May 2024, 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 holding one or more hearing sessions on specific matters. 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 23/03909/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 Report of Handling notes that the Guidance for Businesses 2023 is also relevant. However, a Judicial Review against the Council ruled on 1 December 2023 that the April 2023 Guidance for Businesses should be reduced, which means it must be disregarded in consideration of this review.

Therefore, 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:
 - 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 30 (Tourism)
 - Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
 - Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)
 - Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Businesses (January 2024)
 - Listed Building and Conservation Area Guidance
 - The West End 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 no additional information had been provided.
- This was an unusual application for a change of use of dwelling for short-term let use for a maximum of 10 months in the calendar year (in retrospect). To provide some clarification, the Panel were considering NPF4 Policy 30, and were taking into account the loss of residential accommodation, where such a loss was not outweighed by demonstrable local economic benefit.

- It was confirmed that this was the case. In this instance, the reasons for refusal did not include issues of amenity as it was a mixed use area. The only consideration was if there was a loss of residential property and whether this loss would be outweighed by the demonstrable economic benefits.
- Confirmation was sought as to the authorised use of the properties at either side of the application property.
- The planning advisor referred to the image. In the Report of Handling, it was noted that this was one of four properties, they received consent for residential use in 2000. The Report of Handling noted that the other three units in this block were in residential use, this was the only short term let within that block of four, so the properties on either side of it were residential.
- It was confirmed that the Short Term Let Control Area came into force on 5 September 2022, the other STL properties in the street were all granted on appeal in 2001.
- Confirmation was requested as to where the other STL properties were located in the street. Referring to the location plan, the planning advisor explained that the property in question was number 9 Dewar Place Lane. Across the road was located number 4, the hotel was used for accommodation and number 13 was also an authorised short term let.
- Was it the case that this became operational as a short term let, after the Control Area came into force?
- It was explained that this was correct. The application property came into operation on 10 September 2022, which was after the Control Area came into force on 5 September 2022.
- It was confirmed that there were no more questions.
- This application for a STL commenced after the STL Control Area came into force. NPF4 Policy 30 meant the Panel needed to consider the loss of housing. Granting consent would result in a loss of housing as the planning permission went with the property rather than the owner, so therefore, the Panel had to refuse this application.
- There was some confusion about the Local Review. The applicant said it was mostly used by family and only occasionally as a short term let. But the application was for a maximum of 10 months, therefore it was for a short term let. Those two remaining months could be for the quietest seasons, and the rest of it is used as a short term let and there was a loss of residential property.
- One member took a different view, as the loss of residential accommodation was outweighed by the economic benefit. To look at the street as a whole, there was a hotel, the street attracted lots of visitors, and the aggregate effect was that it was beneficial to the economy.

- There was some sympathy for applicant, but there had to be a demonstrable economic benefit to outweigh the loss of housing and this was not the case with this application. Also, the argument by the applicant was that this was to benefit the family and only occasionally to be used for a short term let, however, the application for 10 months contradicted this. The applicant would need to re-think how they would present a case for a short term let. Regarding this case, there was no information to counter what the officer stated. Therefore, the Panel should uphold the officer's recommendation.
- There was a counter proposal to uphold the applicants appeal, but this received no seconder.

Having taken all the above matters into consideration and although one member was in disagreement, the LRB were of the opinion that no material considerations had been presented in the request for a review which would lead it to overturn the determination by the Chief Planning Officer.

Decision

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

Reasons for Refusal:

The proposal was contrary to National Planning Framework 4 Policy 30(e) (ii) in respect of Loss of Residential Accommodation, as the loss of a residential property had not been justified.

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

Dissent

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

8. Request for Review – 43 Jamaica Street South Lane, Edinburgh

Details were submitted for a request for review for change of use to short term let. Proposal was retrospective. Property had been used for short term let since 20 June 2019 at 43 Jamaica Street South Lane, Edinburgh. Application No. 23/04061/FULSTL.

Assessment

At the meeting on 22 May 2024, 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, Scheme 1, being the drawings shown under the application reference number 23/04061/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 Report of Handling notes that the Guidance for Businesses 2023 is also relevant. However, a Judicial Review against the Council ruled on 1 December 2023 that the April 2023 Guidance for Businesses should be reduced, which means it must be disregarded in consideration of this review.

Therefore, 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:
 - 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 30 (Tourism)
 - Edinburgh Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas)
 - Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)
 - Edinburgh Local Development Plan Policy Tra 3 (Private Cycle Parking)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Businesses (January 2024)
 - The New Town Conservation Area Character Appraisal
 - 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:

- Members were being asked to consider Local Development Plan Policy Hou 7 (Inappropriate Uses in Residential Areas). This stated that development, including change of use, which would have a materially detrimental effect on the living conditions of nearby residents, would not be permitted, was that correct?
- The Planning Advisor confirmed that this was correct.
- Clarification was requested to confirm if this application was for change of use to short term let (retrospective). The applicant stated the property was never used as residential use, the original planning application was conversion for residential use.

- It was explained that the 2016 planning permission was granted for a part change of use from garage and storage, with alterations to form an apartment at the upper level.
- It was confirmed that there were no more questions.
- Regarding impact on amenity, this was mainly a residential area. The applicant's argument was not accepted that it was not a loss of residential as it was not in residential use. There was a loss of residential accommodation. On those two grounds this member would support the officer's recommendation to refuse the application for retrospective change of use to short term let.
- The applicant stressed the fact that Kay's Bar was located nearby, but it was around the corner and most people going there would access it from India Street, which was much closer than coming through this quiet, highly residential area. Introducing a short term let would impact on amenity plus it was a clear loss of residential accommodation. So, there was agreement with the previous comments.
- The property was behind Herriot Row and it was clearly a very small, narrow cobbled street with not a huge amount of vibrancy on it. Therefore, it was proposed to uphold the officer's recommendations and no contrary view was expressed.

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 term 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 term let would result in an adverse 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).

9. Request for Review – 3 London Road, Edinburgh

Details were submitted for a request for review for 2 No. stores created and external pergola (in retrospect) at 3 London Road, Edinburgh. Application Number. 23/02729/FUL.

Decision

Decision notice imminent.

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

10. Request for Review – 37 (3F1) Milton Street Abbeyhill, Edinburgh

Details were submitted for a request for review for change of use to short term letting at 3F1 37 Milton Street Abbeyhill, Edinburgh. Application Number. 23/04674/FULSTL.

Decision

WITHDRAWN at the request of the applicant.

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

11. Request for Review – 36 South Oswald Road, Edinburgh

Details were submitted for a request for review for proposed rear extension, garage conversion, attic roof light and replacement of all window glass at 36 South Oswald Road, Edinburgh. Application Number. 23/04356/FUL.

Assessment

At the meeting on 22 May 2024, 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 01-08, Scheme 1, being the drawings shown under the application reference number 23/04356/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:
 - National Planning Framework 4 Policy 1 (Sustainable Places Tackling the climate and nature crises)
 - National Planning Framework 4 Policy 6 (Forestry Woodlands and Trees)
 - National Planning Framework 4 Policy 7 (Historic Assets and Places)
 - National Planning Framework 4 Policy 14 (Design, quality and place)
 - National Planning Framework 4 Policy 16 (Quality Homes)
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Env 12 (Trees)
- 2) Relevant Non-Statutory Guidelines.
 - The Grange Conservation Area Character Appraisal
 - Managing Change in the Historic Environment – Extensions
 - Managing Change in the Historic Environment – Windows
 - Managing Change in the Historic Environment – Boundaries
 - Managing Change in the Historic Environment - Roofs
- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

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

- It was confirmed that there was no additional information.
- The members might need more information about the cantilever beams as the case hinged on that for this application for the proposed rear extension and garage conversion.
- It was explained that the submission from the applicant included a statement about the cantilevered beams, but detailed drawings were not available to show the construction method. The Tree Report from May 2023 also referred to a process and a method of protecting the tree protection roots, but again the details regarding implementation of the works were not before the Panel to consider.

- This application hinged on the impact on trees and there were a number of questions, but the Panel needed to judge what was in front of them.
- It was confirmed that this was correct, but if members felt that they required further information, they could ask for further written submissions.
- One member indicated that they would prefer to have additional information on the cantilever aspect of the proposal as the application hinged upon the impact on the trees and how the root protection area of the affected trees would be protected.
- It was agreed that it would not be fair to make that judgement without this additional information, so it would be helpful. The Panel requested a statement about the foundations, how they would be developed and how they would work with the root protection of the trees in the long term.
- It was thought to continue this application while additional advice was sought from officers. This proposal received a seconder.
- One member thought that there was sufficient information to proceed, but this received no seconder.
- The planning advisor specified that the Panel was continuing the application to get additional information on the proposed construction of the cantilevered beams and how the root protection area would be protected during construction.
- It was requested that the Panel should get additional information on the construction of the cantilevered beams and how the root protection area would be protected also in long term as this might detrimentally affect the trees.

Having taken all the above matters into consideration and although one member was in disagreement, the LRB were unable to reach a decision and decided to continue consideration of the application to get additional information on the proposed construction of the cantilevered beams and how the root protection area of the affected trees will be protected during construction and in the long term.

Decision

To **CONTINUE** consideration of the application to get additional information on the proposed construction of the cantilevered beams and how the root protection area of the affected would be protected during construction and in the long term.

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

Dissent

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

