

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

10.00 am, Wednesday 19 June 2024

Present: Councillors 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 22 May 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 – 19 Inveralmond Drive, Edinburgh

Details were submitted for a request for review for the erection of a perimeter fence (dark wood) vertical slats along the west, south and north of our property boundary and the installation of electric gates at the top of the drive to Inveralmond Drive at 19 Inveralmond Drive, Edinburgh. Application No. 23/00418/FUL.

This application was a returning item from 13 December 2023.

Assessment

At the meeting on 19 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 being the drawings shown under the application reference number 23/00418/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had insufficient 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 7 (Historic Assets and Places)
 - National Planning Framework 4 Policy 8 (Green belts)
 - National Planning Framework 4 Policy 16 (Quality Homes)
 - National Planning Framework 4 Policy 20 (Blue and Green Infrastructure)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Env 10 (Development in the Green Belt and Countryside)
 - Edinburgh Local Development Plan Policy Env 12 (Trees)
 - Edinburgh Local Development Plan Policy Env 18 (Open Space Protection)
- 2) Relevant Non-Statutory Guidelines.
 - Guidance for Householders
 - Listed Buildings and Conservation Areas
 - Cramond 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:

- Had the council Tree Officer had a chance to review the new information? It was pivotal to one of the policies.
- It was confirmed that the new information in relation to the trees had not been reviewed by the council Tree Officers.
- That was a concern, whether there was an impact on the trees was one of the principal arguments being considered here. The Panel should not make a decision on the application at this meeting and should defer it to seek more information.
- It was not possible to make a proper judgement at this meeting. The Panel should continue this application to get more information, and for Officers to consider the Tree Report.
- It was decided to continue the application on this basis, as it was important for Officers to look at the new information.
- It would give the Panel a chance to look at the new information.
- Further information was required to ascertain which areas of Open Space are being impacted. NPF4 Policy 20 was being used which stated: *“Development proposals that result in fragmentation or net loss of existing blue and green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained. The planning authority's Open Space Strategy should inform this.”* More information was required regarding what precisely, in terms of the Open Space Strategy, was under question. There was the same question regarding the three LDP Policies being used, to check the impact with the new information provided.
- One member commented that ownership of the land was not a material consideration, however, clarity was sought on that issue.
- The planning advisor checked whether clarity was being sought in relation to specific information.
- The member confirmed their understanding was that the ownership of three sections were disputed, clarity was sought on what those sections are and why there was no conclusion regarding ownership.
- The legal advisor explained that the ownership of land was not a material consideration for the application. The dispute was covered in the papers already, but certification was a separate legal matter.

- The legal advisor indicated that the ownership and certification would be two distinct matters. Section 35 (4) of the 1997 Act stated that a planning authority should not entertain any application for planning permission unless the requirements were met and any person who knowingly or recklessly issues a false or misleading certificate was guilty of an offence under Section 35 (6) of the 1987 Act.
- The member confirmed that this answered the question.
- One member confirmed that they had nothing to add.
- The planning advisor clarified the points for a continuation. The application would be continued for further information: to enable the Tree Officer to review the Updated Tree Report; to look at which areas of Open Space were being impacted; for more information on the Open Space Strategy, and how this relates to the application. Also, to request more information in relation to each of the three policies used in the reasons for refusal and how they related to the application.

Having taken all the above matters into consideration the LRB were unable to reach a decision and decided to continue consideration of the application for further information:

- to enable the Tree Officer to review the Updated Tree Report;
- to look at which areas of Open Space were being impacted;
- regarding the Open Space Strategy and how this related to the application; and
- regarding the three policies that were included in the reasons for refusal and how they related to the application.

Decision

To **CONTINUE** consideration of the application for further information:

- to enable the Tree Officer to review the Updated Tree Report;
- to look at which areas of Open Space were being impacted;
- regarding the Open Space Strategy and how this related to the application; and
- regarding the three policies that were included in the reasons for refusal and how they related to the application.

(References – Local Review Body 13 December 2023 (item 10); Decision Notice and Report of Handling, Notice of Review and supporting documents and further Representations, submitted)

5. 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 No. 23/04356/FUL.

At the meeting of 22 May 2024, the LRB agreed to continue consideration of the application for 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.

Assessment

At the meeting on 19 June 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, and the further written submissions. 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

Listed Buildings and Conservation Area

- 3) The procedure used to determine the application.
- 4) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

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

- Whether there could be a site visit for this application as the presentation was highly technical. It would be advantageous to see what was in place and to provide reassurance.
- As there was no further support for a site visit, it was agreed that a site visit was not necessary.
- That the additional information was quite detailed. Had the Tree Officer been able to review the information, had this been considered and had there been response from officers?
- It was confirmed that the information that had subsequently been submitted had not been before the council Tree Officers.
- Whether the members had been given the new information for this meeting.
- It was confirmed that the Panel was content to accept the new information.
- There was a question regarding technical issues. From the drawings, where were the trees in relation to the proposed extension?
- The planning officer displayed the plans and was asked to delineate where the roots were and how they would be affected.
- It was explained that the extension was sandwiched between the garage and the house and that was where the root protection area of the two highlighted mature trees and the protective fencing were to go. There was new information which stated how to safeguard the root protection area during construction, and also referred to the construction method of the extension, which was cantilevered. The construction method for the extension meant there were no actual foundations, it sat above the ground level, cantilevered between the two existing buildings.

- That there would be no impact on the roots with that arrangement?
- It was confirmed that the Tree Report stated that if the construction was carried out in accordance with the information provided, this would include the following measures. The positioning of the floor joists, being above the ground, protecting that Root Protection Area, machinery not being within that area, protective fencing being there at all times and then feeding the roots with slow release pellets, and a permeable membrane. In this way the impact of the construction on the trees could be overcome.
- Would it be possible to grant this application but condition it so that the above measures were enacted to protect trees?
- It was advised that it had been previous practice to condition an application and to specify that the construction must be carried out in accordance with information that was included in an application to ensure the protection of trees.
- There were concerns raised about the construction zone in relation to retained trees, the construction method and the suspension of joists. The Tree Care Report suggested that the council arboricultural officer should have access to the site and pass any recommendations direct to the developers. A series of different specialists were going to be involved in this and everybody would need to pay attention to the work. This should be conditioned and then inspected by the Council.
- It was confirmed that it would be possible to add a condition that it would be monitored and implemented according to information in the Tree Report.
- In respect of impact on amenity, could the original drawings be displayed and could it be clarified where the extension was going to be, and could it be seen from the road?
- The planning advisor displayed the street view. The extension sat to the rear of the house, adjacent to the single storey garage. It was possible to see the roof of the garage from a certain vantage points, which meant it may also be possible to see a little of the upper part of the extension. The elevation onto Oswald Road was displayed illustrating the existing garage and the extension.
- It was confirmed that there were no further questions.
- It was thought that if the construction was done as described then the tree roots would be protected. Therefore, the Panel should overturn the officer's decision and grant consent with the condition which had been discussed, that it must be constructed in the way described and that it would be subsequently inspected by the authority to ensure compliance.

- There was concurrence with the above comments with respect to amenity and the overall impact on the Conservation Area. A very modern block of flats was located nearby and the view of the proposed extension was negligible from the street. So, it did not have an adverse impact on the Conservation Area.
- This applicant wanted to extend their amenity and had expended a huge amount of effort into minimising the impact on the surrounding area at quite considerable expense and they had listened to the concerns that were raised previously. Because of this, the Panel would be overturning the officer's decision.
- It was confirmed that in terms of the tree policies, which were NPF4 Policy 6 and NPF4 Policy 12, and LDP Policy Env 12, that due to the additional information provided that the Panel had requested and also the conditions that they had imposed, the Panel felt it was sufficient in mitigating the concerns raised by officers towards impact on the trees and the conservation area.
- The planning advisor confirmed that in terms of the condition, the Panel wanted to ensure that the proposals were built in accordance with the Tree Care Plan that was submitted dated the 6th of June 2024. Therefore, the wording would be: the two highlighted mature trees on the site shall be protected during the construction period by erection of fencing, in accordance with BS: 5837 of 2012 and in accordance with the tree root protection plan prepared by Future Tree Care, on the 6th of June 2024 and submitted in support of this application. Additionally, that the local authority Arboricultural Officer, will have access to the site and pass on any recommendations direct to the developers Arboriculturalist during implementation of the proposals, and the reason for that is in order to protect two identified mature trees and thereby safeguard the character and appearance of the conservation area.

Having taken all the above matters into consideration, the LRB determined to overturn the decision of the Chief Planning Officer and granted planning permission for the following reasons:

- 1) The proposal would not be contrary to NPF4 Policy 6 in that it would not result in an adverse impact on the mature trees on site.
- 2) The proposal would not be contrary to NPF4 Policy 7 in that it would not have an adverse impact on the character and appearance of the conservation area or would have any damaging impact on the mature trees on site.
- 3) The proposal was not contrary to the Local Development Plan Policy Env 12 in respect of Trees, as there would be no damaging impact on the mature trees on site.

Decision

To **NOT UPHOLD** the decision by the Chief Planning Officer and to **GRANT** planning permission for the following reasons:

- 1) The proposal would not be contrary to NPF4 Policy 6 in that it would not result in an adverse impact on the mature trees on site.
- 2) The proposal would not be contrary to NPF4 Policy 7 in that it would not have an adverse impact on the character and appearance of the conservation area, nor would the proposal have any damaging impact on the mature trees on site.
- 3) The proposal was not contrary to the Local Development Plan Policy Env 12 in respect of Trees, as there would be no damaging impact on the mature trees on site.

Conditions

- 1) The two highlighted mature trees on the site should be protected during the construction period by erection of fencing, in accordance with BS 5837:2012 and in accordance with a tree protection plan prepared by Future Tree Care, on 6 June 2024 and submitted in support of this application.
- 2) That the Local Authority Arboricultural Officer, would have access to the site and pass on any recommendations direct to the developers Arboriculturist during implementation of the proposals, in accordance with the information provided in the tree protection plan prepared by Future Tree Care, on 6 June 2024 and submitted in support of this application.

Reason

1. To protect two identified mature trees and thereby safeguard the character and appearance of the Conservation Area.
2. To protect the two identified mature trees and thereby safeguard the character and appearance of the Conservation Area.

Informatives

(a) The development hereby permitted should be commenced no later than the expiration of three years from the date of this consent.

(b) No development should take place on the site until a 'Notice of Initiation of Development' had been submitted to the Council stating the intended date on which the development was to commence. Failure to do so constituted a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997.

(c) As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a Notice of Completion of Development must be given in writing to the Council.

(References – Local Review Body 22 May 2024 (item 11); Decision Notice and Report of Handling, Notice of Review and supporting documents, submitted)

6. Request for Review – 1A Coltbridge Terrace, Edinburgh

Details were submitted for a request for review of garage conversion to residential at 1A Coltbridge Terrace, Edinburgh. Application No. 23/04442/FUL.

Assessment

At the meeting on 19 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 01-03 being the drawings shown under the application reference number 23/04442/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 7 (Historic Assets and Places)
 - Edinburgh Local Development Plan Policy Des 1 (Design Quality and Context)
 - Edinburgh Local Development Plan Policy Des 12 (Alterations and Extensions)
 - Edinburgh Local Development Plan Policy Hou 1 (Housing Development)
 - Edinburgh Local Development Plan Policy Hou 4 (Housing Density)
 - Edinburgh Local Development Plan Policy Hou 5 (Conversion to Housing)
 - Edinburgh Local Development Plan Policy Tra 2 (Private Car Parking)

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

Managing Change in the Historic Environment: Setting

Managing Change - Conservation Areas

Section 14 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

2) Relevant Non-Statutory Guidelines.

Listed Buildings and Conservation Areas

Edinburgh Design Guidance

Coltbridge and Wester Coates 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 was no new information for the application for garage conversion to residential.
- The Edinburgh Design Guidance required a minimum internal floor area of 52 square metres for a one bedroom unit, was that statutory guidance?
- It was explained that the Edinburgh Design Guidance was non-statutory guidance.
- It was confirmed that there were no further questions.
- There had been good examination of this application. There were a number of concerns, such as the size of the apartment and impact on individuals living in the vicinity, this was not an appropriate site, there had been garage conversions in the past which were appropriate, but there was no justification for the conversion in this case, therefore the Panel should uphold officer's recommendations.

- There was agreement with the above comments. The amenity was not good enough for future occupiers and could not be approved. Therefore, the Panel should uphold the officer's recommendations.
- It was agreed that the Panel would 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 would result in an unreasonable loss of neighbouring amenity and was contrary to LDP Policy Des 5 and the Edinburgh Design Guidance.
2. The back-land development would disrupt the spatial character of the wider area. The proposal was contrary to LDP Policies Hou 1, Des 4 and Hou 4 and the Edinburgh Design Guidance.
3. The proposal was contrary to NPF4 policy 7 as the proposed dwelling does not preserve or enhance the character of the conservation area.
4. The proposal was contrary to LDP policy Hou 3 - Private Green Space in Housing Development, as it failed to make adequate provision for green space on-site to meet the needs of future residents.
5. The proposal would harm the character of the listed building and its setting and will adversely impact on its special architectural and historic interest. The proposal would not preserve the character and appearance of the conservation area. It was not acceptable with regards to Section 14 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

7. Request for Review – 4A (Flat 2A) East Suffolk Road, Edinburgh

Details were submitted for a request for review change of use from residential to a short term let (in retrospect) at Flat 2A 4A East Suffolk Road, Edinburgh. Application Number. 23/05252/FULSTL.

Assessment

At the meeting on 19 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 being the drawings shown under the application reference number 23/05252/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 Business should be reduced, which means it must be disregarded in consideration of this 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 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 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 was no additional information to consider for this application for change of use from residential to a short term let (in retrospect) and that there were no questions to officers.
- It was thought that this application was straightforward. There was residential accommodation within the flatted block, there was shared access, impact on amenity and there were no reasons to overturn the officers' decision in this case. Therefore, the Panel should support the officer's recommendations and refuse the application.
- There were no contrary views 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).

8. Request for Review –36 (Flat 9) Grindlay Street, Edinburgh

Details were submitted for a request for review change of use to short term let (in retrospect). The property has been let out as a STL since May 2017 at Flat 9 36 Grindlay Street, Edinburgh. Application Number. 23/05207/FULSTL.

Assessment

At the meeting on 19 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 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 23/05207/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 Business should be reduced, which means it must be disregarded in consideration of this 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 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)

Edinburgh Design Guidance

Listed Buildings and Conservation Areas

The West End Conservation Area Character Appraisal

Managing Change in the Historic Environment: Guidance on the principles of listed building consent.

Managing Change in the Historic Environment: Setting

- 3) The procedure used to determine the application.

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

Conclusion

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

- It was confirmed that there was no additional information for this application for change of use to short term let (in retrospect).
- Was it the case that there was a total of 57 square metres for this flat and could this be clarified from the plans as it did not seem very large?
- It was confirmed that this was correct. There were no internal images of the property, only the external views.
- The applicant stated that other flats in the stair were also operating as short term lets, but they did not seem to have made that this case for this, was that correct?
- It was explained that this was correct. The supporting information did look in detail at the surrounding commercial uses on the ground floor and across the street.
- Was it then assumed that they were probably residential properties?
- It was advised that there was nothing in the papers which was contrary to that as part of the review.
- It was confirmed that there were no more questions.
- That there was a strong case for overturning the officer's decision and to make this property a short term let. This street was very busy in evenings, because of its proximity to the Usher Hall the Lyceum Theatre and the Traverse Theatre. It was beneficial to tourists and for people working in the Traverse Theatre on short term basis, for which it was affordable. There was a strong argument for tourism and as it was a small flat, the impact on amenity was negligible.
- One member took the opposite view. They did not accept that this flat was not viable as a residential flat, not all residents were overly concerned about noise and liked living in a central, vibrant location. Residential amenity was impacted as it was different having some noise on the lower floors and people coming on a top floor short term let. Therefore, both the officer's reasons for refusal were sound and the Panel should refuse this application.

- There was agreement with the above comments. In some areas of the city, people accepted a certain level of vibrancy, but that did not mean that the impact on residential amenity should be increased. People moving into an area did not expect noise in a stairwell and their rights to have a certain level of amenity should be protected. There were other residential flats in the area and the Panel should uphold the officer's recommendations.
- It was proposed that the Panel refused the application.
- There was support for this proposal as in the absence of any other information, given the properties around were designated residential properties, it had to be assumed they were operating as residential properties.
- One member disagreed with this, but there was no support for this counter proposal.

Having taken all the above matters into consideration and although there was some sympathy for the applicant and 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 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).

Dissent

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

9. Request for Review – 235 - 237 Leith Walk, Edinburgh

Details were submitted for a request for review for change of use from Class 1 (retail) to mixed-use Class 3 (ground floor) and existing Class 1A (cellar) at 235 - 237 Leith Walk Edinburgh. Application Number. 23/03406/FUL.

Assessment

At the meeting on 19 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 and a site inspection. The LRB had also been provided with copies of the decision notice and the report of handling.

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

The plans used to determine the application were 01-03, Scheme 1 being the drawings shown under the application reference number 23/03406/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had insufficient information before it to determine the review and under Regulation 15 requested further written submissions.

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 14 (Design, quality and place)
 - National Planning Framework 4 Policy 27 (City, Town and Local Commercial Centres)
 - 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 Hou 7 (Inappropriate Uses in Residential Areas)
 - Edinburgh Local Development Plan Policy Ret 11 (Shopping Policies)
- 2) Relevant Non-Statutory Guidelines.
 - 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:

- Whether the condition referred to by the applicant was the further information received by members.
- It was confirmed that this was part of the supporting information for this review for this application for change of use from Class 1 (retail) to mixed-use Class 3 (ground floor) and existing Class 1A (cellar) and had been suggested by the appellant.
- Whether the Panel was content to accept the additional information and was there sufficient information to proceed.
- It was thought that there was not sufficient information to proceed, the applicant had not supplied sufficient information and that was the basis for the refusal of the application. One member was inclined to ask the applicant to supply the information, or the Panel could not proceed.
- It was explained that as part of the application, there was communication between the Case Officer, Environmental Protection and the applicant, and it was suggested that Environmental Protection required that further information was required to determine the application. The applicant said that they were not going to submit the Noise Impact Assessment and Ventilation details because they did not think it was necessary.
- The e-mail from the applicant was referred to, requesting further communication with planning to clarify matters. Was there any further response from planning?
- An offer had been presented by the applicant and it would be helpful to discuss this further. It was necessary to know whether there was any further response and if officers went back to the applicant.
- It was thought that there was sufficient information to continue, but at this stage, one member was happy to accept the condition that applicant suggested that would address local amenity.

- It was thought that the Panel should continue the application for more information and accept the condition that the applicant suggested. Would Environmental Protection be content with this?
- The planning advisor referred to the comments from Environmental Protection. They said that further details were required to ensure that the proposal would not have a materially detrimental effect on the living conditions of nearby residents. A noise impact assessment to demonstrate that the general commercial activities of the business would not negatively impact on nearby receptors was required. Also, the Panel could either condition the proposed equipment which related to potential odours created by cooking, or the applicant would need to provide a full ventilation system for full class 3. Therefore, it was two issues that Environmental Protection were raising.
- There was concern with the proposed condition. The applicant had run this operation well for a number of years, but there could be a different owner at some stage. The Panel should go back to the case officer and ask if further discussions had taken place with the applicant. And if so, what response there was from the applicant and determine if Environmental Protection was content with the proposed condition.
- The planning advisor stated that they understood that the Panel was suggesting continuation of the application, to go back to the officers and ask if any further discussions took place and also to go back to Environmental Protection and ask them if the Panel put on a restricted cooking condition, if they would be content to approve the application.

Having taken all the above matters into consideration, the LRB were unable to reach a decision and decided to continue consideration of the application to ask the case officer if any further discussions took place with the applicant regarding ventilation and noise issues. Also, to ask Environmental Protection to confirm that if a restricted cooking condition was imposed, it would be content to approve the application.

Decision

To **CONTINUE** consideration of the application to ask the case officer if any further discussions took place with the applicant regarding ventilation and noise issues. Also, to ask Environmental Protection to confirm that if a restricted cooking condition was imposed, it would be content to approve the application.

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

10. Request for Review – 2 Porteous' Pend, Edinburgh

Details were submitted for a request for review for change of use to short term let (in retrospect) at 2 Porteous' Pend, Edinburgh. Application Number. 23/05137/FULSTL.

Assessment

At the meeting on 19 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, a hearing session 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 23/05137/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 Business should be reduced, which means it must be disregarded in consideration of this 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 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 Buildings and Conservation Areas

The Old 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 was no additional information for this application for change of use to short term let (in retrospect).
- Clarification was requested that according to the Edinburgh Design Guidance, the recommendation for floor space for a residential flat was about 50 square metres, was this correct?
- It was confirmed that according to Edinburgh Design Guidance, minimum space standards for new properties for a studio dwelling was 36 square metres and for a one bedroom dwelling it was 52 square metres. Referral was made to the plan. In the Report of Handling (ROH) for the change of use application, the case officer noted that the proposal complied with the standards for a studio dwelling. The layout shows a sliding door, but it was not enclosed in the way that a single bedroom would be.
- Because the initial application in 2017 was for residential use, the planning officer, when considering the application, would not have to consider the potential disruption to amenity for short term let. They did not have the information that it would be operated as a short term let even though that may have been the applicant's intention.
- It was explained that a planning permission was granted for the change of use and alterations from a double garage to a residential studio apartment. That was the description of the development at the time.
- It was confirmed that there were no more questions.
- There was some sympathy with the applicant, however, it was not possible to deny the impact of the short term let on amenity, there had been an objection from a neighbour about the impact on amenity and there were concerns raised about the shared courtyard. This member was not sure that it was loss of residential use, but there was an impact on amenity and they were inclined to uphold officer's recommendations.

- This application was finely balanced, it was located in a mixed use area, the impact on amenity was not significant, but there was an objection from a neighbour.
- That the Panel should uphold the officer's recommendation. There was impact on amenity, the officer had set up a case why this application was refused and there were no reasons not to uphold the officer's decision.
- As there was no contrary view expressed, it was decided to uphold the officer's decision 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

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).

11. Request for Review – 313 Webster's Land, Edinburgh

Details were submitted for a request for review for use of flat for short-term let use (Sui Generis) and residential flat (in retrospect) at 313 Webster's Land, Edinburgh. Application Number. 23/03626/FULSTL.

Assessment

At the meeting on 19 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 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 23/03626/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 Business should be reduced, which means it must be disregarded in consideration of this 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 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 Buildings and Conservation Areas
 - The Old 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:

- What was the total square metres of floor space of the flat?

- The Planning Advisor stated that that information was not available in the Report of Handling for this application.

- It was not thought that the total floor area was insufficient. There were there quite large bedrooms and a lounge. This was the equivalent of a one bedroom flat, and obviously, this property was historic.
- It was confirmed that there were no further questions or comments.
- It was thought that the officer had set out a clear case for this refusal, therefore, the Panel should uphold their decision and refuse the application.
- There was 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

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 that had not been justified.

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

