

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

10.00am, Wednesday 2 May 2018

Present: Councillors Gordon, Griffiths, Mitchell, Osler (substituting for Councillor Mowat) and Staniforth.

1. Appointment of Convener

Councillor Mitchell was appointed as Convener.

2. Minutes

To approve the minute of the Local Review Body (LRB Panel 1) of 14 March 2018 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 – 42-44 Buccleuch Street, Edinburgh

Details were submitted of a request for a review for the refusal of retrospective planning permission for the alteration to existing bar through means of external opening changes at 42-44 Buccleuch Street, Edinburgh. Application number 17/04368/FUL.

Assessment

The LRB had been provided with copies of the notice of review submitted, 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 submitted by the Chief Planning Officer.

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 numbered 1a-8a being the drawings shown under the application reference number 17/04368/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 and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan (LDP):
Policy Env 4 (Listed Buildings – Conservation Areas – Development)
Policy Env 6 (Conservation Areas - Development)
Policy Des 13 (Shopfronts)
- 2) Non-Statutory ‘Guidance for Businesses’
- 3) The South Side Conservation Area Character Appraisal
- 4) The procedure used to determine the application.
- 5) The reasons for refusal and the arguments put forward in the request for a review.

The LRB carefully 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 were any similar shopfronts in the surrounding area;
- whether the development had an impact on the building or the conservation area;
- the noise the public house would cause and whether this would have an adverse impact on neighbouring residents; and
- whether the development was an improvement on the previous frontage.

Conclusion

The LRB members, having taken all the above matters into consideration, decided to not uphold the decision of the Chief Planning Officer and grant planning permission. The LRB did not agree with the Planning Officer’s assessment that the development was contrary to LDP policies Env 4 (Listed Buildings – Conservation Areas – Development), Env 6 (Conservation Areas - Development) or Des 13 (Shopfronts) as it did not have a detrimental impact on the character and appearance of the conservation area or the character of the listed building. It had not replaced a frontage of merit and was an improvement compared to the previous frontage.

Decision

To not uphold the decision by the Chief Planning Officer and to grant retrospective planning permission for the alteration to existing bar through means of external opening changes at 42-44 Buccleuch Street, Edinburgh; subject to the following informatives:

1. A ‘Notice of Initiation of Development’ shall be submitted to the Council stating the date on which the development commenced. Failure to do so constitutes a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997.
2. 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.

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

5. Request for Review – 3 Johnston Terrace, Edinburgh

Details were submitted of a request for a review for the refusal of retrospective planning permission for the change of use from class 1 shop to class 3 restaurant at 3 Johnston Terrace, Edinburgh. Application number 17/00398/FUL.

Assessment

The LRB had been provided with copies of the notice of review submitted 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 submitted by the Chief Planning Officer.

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 numbered 01-02 being the drawings shown under the application reference number 17/00398/FUL on the Council's Planning and Building Standards Online Services.

The Planning Adviser also brought to the LRB's attention new information submitted by the applicant regarding noise complaints due to the ventilation extract system which the applicant said had since been resolved. This information was included with the review documents but had not formed part of the original planning application which had been submitted. In addition, Appendix 2 which should have included a noise impact assessment did not contain this information. The LRB debated whether to continue the application for this information but decided that even if it were continued there was the outstanding issue of the tram contribution which the applicant had refused to pay. It therefore decided to not accept the new information and chose to determine the application on the basis of the original information.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan (LDP):
 - Policy Del 1 (Developer Contributions and Infrastructure Delivery)
 - Policy Ret 10 (Alternative Use of Shop Units in Other Locations)
 - Policy Ret 11 (Food and Drink Establishments)
 - Policy Env 4 (Listed Buildings – Alterations and Extensions)
 - Policy Env 6 (Conservation Areas - Development)
- 2) Non-Statutory Guidelines:
 - Guidance for Businesses
 - Developer Contributions and Affordable Housing
- 3) Old Town Conservation Area Character Appraisal
- 4) The procedure used to determine the application.

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

The LRB carefully 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 change of use from a shop to restaurant would result in increased noise levels from the property;
- if the level of noise would have an adverse impact on the amenity of neighbouring residents; and
- the applicant's refusal to pay the contribution required for being within Tram Zone 2 and whether to take this into account.

Conclusion

The LRB, having taken all the above matters into consideration, decided that the development was contrary to LDP policy Ret 11 (Food and Drink Establishments) and the non-statutory Guidance for Businesses as it had not been demonstrated that the noise created by the restaurant had been resolved and so would have a detrimental impact on the amenity of neighbouring residents. In addition, the LRB was of the opinion that the development was contrary to LDP policy Del 1 (Developer Contributions and Infrastructure Delivery) and Guidance for Developer Contributions and Infrastructure Delivery due to the refusal of the applicant to comply with the contribution required for being within Tram Zone 2. The LRB therefore agreed with the assessment of the case officer's report and was of the opinion that the proposals did not comply with the Development Plan and there were no material planning considerations that 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 for the reasons that the change of use was contrary to LDP policy Ret 11 (Food and Drink Establishments) due to the detrimental impact the increased noise levels would have on the amenity of neighbouring residents and the failure of the applicant to produce evidence stating otherwise. The proposal was also contrary to LDP policy Del 1 (Developer Contributions and Infrastructure Delivery) and the non-statutory Guidance for Developer Contributions and Infrastructure Delivery due to the refusal of the applicant to comply with the contribution requested by the Roads Authority as the property was within Tram Zone 2.

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

6. Request for Review – 18 Merchiston Place, Edinburgh

Details were submitted of a request for a review for the refusal of planning permission for the proposed alteration to rear outshot to form an open kitchen and dining space and additional accommodation at first floor level at 18 Merchiston Place, Edinburgh. Application number 17/05084/FUL.

Assessment

The LRB had been provided with copies of the notice of review submitted 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 submitted by the Chief Planning Officer.

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 numbered 01-06 being the drawings shown under the application reference number 17/05084/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 and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan (LDP):
 - Policy Des 12 (Alterations and Extensions)
 - Policy Env 6 (Conservation Areas - Development)
- 2) Non-Statutory Guidelines:
 - Guidance for Householders
- 3) Merchiston and Greenhill Conservation Area Character Appraisal
- 4) The procedure used to determine the application.
- 5) The reasons for refusal and the arguments put forward in the request for a review.

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

- the reasons the applicant had given for the extension and whether this could be taken into consideration;
- whether the proposed extension would be visible from the street;
- the design of the development and whether this was appropriate and in-keeping with the conservation area and the existing building;
- the size and scale of the development and whether it would be subservient to the existing building;
- the flat roof and the impact this would have on the roofscape of the conservation area; and
- the materials proposed to be used and whether these were in-keeping with the surrounding buildings in the conservation area.

Conclusion

The LRB, having taken all the above matters into consideration, decided that the development was contrary to LDP policy Des 12 (Alterations and Extensions) as the size and scale of the proposed extension meant the extension would not be subservient to the existing building and policy Env 6 (Conservation Areas - Development) as the development would have a detrimental impact on the character of the conservation area. In addition, the flat roof and materials were not compatible with the character of the area. The LRB therefore agreed with the assessment of the case officer's report and was of the opinion that the proposals did not comply with the Development Plan and there were no material planning considerations that 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 for the reasons that the proposal was contrary to LDP policies Des 12 (Alterations and Extensions) and Env 6 (Conservation Areas - Development) as the size and scale of the development meant it was not subservient to the existing building and the materials which were to be used and the flat roof were not in-keeping with the character or appearance of the conservation area.

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

7. Request for Review – 49 Manor Place, Edinburgh

Details were submitted of a request for a review for the refusal of planning permission for the proposed replacement of window to rear, alterations to front facing dormers and third floor level, installation of ventilation cupola (with associated living space) at roof top level (part in retrospect) at 49 Manor Place, Edinburgh. Application number 17/00244/FUL.

Assessment

The LRB had been provided with copies of the notice of review submitted including a request that the review proceed on the basis of an assessment of the review documents and a hearing. The LRB had also been provided with copies of the decision notice and the report of handling submitted by the Chief Planning Officer.

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 numbered 1-4 of Scheme 1 being the drawings shown under the application reference number 17/00244/FUL on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, did not feel they had sufficient information before it and agreed to undertake a site visit to the property to aid their understanding of the area and the potential impact the alterations would have on the character and appearance of the area.

The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan:
Policy Env 1 (World Heritage Site)
Policy Env 4 (Listed Buildings – Alterations and Extensions)
Policy Env 6 (Conservation Areas – Development)
Policy Hou 5 (Conversion to Housing)
Policy Des 5 (Development Design – Amenity)
Policy Des 12 (Alterations and Extensions)
- 2) Non-Statutory Guidelines:
'Listed Buildings and Conservation Areas'
- 3) New Town Conservation Area Character Appraisal
- 4) The procedure used to determine the application.
- 5) The reasons for refusal and the arguments put forward in the request for a review.

Conclusion

The LRB carefully 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 sleeping accommodation was ancillary to the office or whether a change of use had occurred which required residential amenity to be taken into account;
- whether the height, design and scale of the proposed cupola would have a detrimental impact on the character and appearance of the building and wider conservation area;
- whether the development would have any impact on the World Heritage Site; and
- whether the moving of the windows was necessary and acceptable.

The LRB members, having taken all the above matters into consideration, were of the opinion that the replacement of the window to the rear and the alterations to the front facing dormers at the third-floor level were acceptable; however, the installation of the ventilation cupola was not. The LRB agreed that the development was not contrary to policy Env 1 (World Heritage Site) as there was no impact on the Outstanding Universal Value of the World Heritage Site; and Hou 5 (Conversion to Housing) and Des 5 (Development Design – Amenity) as the bedrooms were ancillary to the office use, and that the alterations to the dormers were acceptable. It therefore overturned the decision of the Chief Planning Officer and granted a mixed decision.

Decision

To issue a mixed decision as follows:

- (A)** To not uphold the decision by the Chief Planning Officer and to grant planning permission for the replacement of window to rear and alterations to front facing dormers at third floor level.

Informatives:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
 2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997.
 3. 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.
- (B)** To uphold the decision by the Chief Planning Officer and to refuse planning permission for the installation of ventilation cupola on the roof.

Reason

The LRB agreed that the installation of the cupola was contrary to LDP policies Env 4 (Listed Buildings – Alterations and Extensions), Env 6 (Conservation Areas – Development) and the non-statutory guidance on Listed Buildings and Conservation Areas as it was incongruous to the building and roofscape of the wider area, and had a detrimental impact on the appearance of the listed building and conservation area.

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

8. Request for Review – 103 Restalrig Road, Edinburgh

Details were submitted of a request for a review for the refusal of planning permission for the proposed extension to house over existing single storey extension to full height of existing roof ridge and to incorporate a gable end to the side street elevation and installation of external staircase at 103 Restalrig Road, Edinburgh. Application number 17/04750/FUL.

Assessment

The LRB had been provided with copies of the notice of review submitted 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 submitted by the Chief Planning Officer.

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 numbered 01, 02 and 03A of Scheme 2 being the drawings shown under the application reference number 17/04750/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 and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan:
Policy Des 12 (Alterations and Extensions)
- 2) Non-Statutory '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.

The LRB carefully considered all the arguments put before it in respect of the proposed planning application and discussion took place on access to the bedrooms and how this necessitated the need for a rear staircase.

Conclusion

The LRB, having taken all the above matters into consideration, decided that the development was contrary to LDP policy Des 12 (Alterations and Extensions) as the proposed extension was not in-keeping with the character of the area or the existing building. The LRB therefore agreed with the assessment of the case officer's report and was of the opinion that the proposals did not comply with the Development Plan and there were no material planning considerations that 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 for the reasons that the proposal was contrary to LDP policy Des 12 (Alterations and Extensions) as it was not in-keeping with the character or appearance of the area and was not compatible with the existing building.

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

9. Request for Review - 20 Whitson Grove, Edinburgh

Details were submitted of a request for a review for the refusal of planning permission for the proposed erection of a single dwelling house on garden ground (with various outbuildings currently used as storage) at 20 Whitson Grove, Edinburgh. Application number 17/03597/FUL.

Assessment

The LRB had been provided with copies of the notice of review submitted by you 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 submitted by the Chief Planning Officer.

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 numbered 01-02 being the drawings shown under the application reference number 17/03597/PPP on the Council's Planning and Building Standards Online Services.

The LRB, having considered these documents, felt that they had sufficient information before it and agreed to determine the review using the information circulated. The LRB in their further deliberations on the matter considered the following:

- 1) The development plan, including the relevant policies of the Edinburgh Local Development Plan:
Policy Des 1 (Design Quality and Context)
Policy Des 4 (Development Design – Impact on Setting)
Policy Hou 1 (Housing Development)
Policy Hou 4 (Housing Density)
Policy Env 21 (Flood Protection)
- 2) Non-Statutory Guidelines:
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.

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

- the spatial pattern of the area which consisted of mostly four-in-a-block and whether the proposed single-dwelling house would be in-keeping with this;
- whether the proposed house would constitute over-development of the area and was of an appropriate density;
- the potential loss of amenity of residents by developing space which was currently used as a garden;
- the impact the new house would have on the setting of existing houses in the area; and
- whether the flood risk was of a sufficient level to be taken into consideration.

Conclusion

The LRB, having taken all the above matters into consideration, decided that the development was contrary to LDP policies Hou 1 (Housing Development) and Hou 4 (Housing Density) as it was not in-keeping with the spatial pattern of the area. The LRB was also of the opinion that it was contrary to LDP policies Des 1 (Design Quality and Context) and Des 4 (Development Design – Impact on Setting) as the single dwelling house was not compatible with the character of the surrounding area. However, it did not think there was sufficient justification to refuse on the grounds of LDP policy Env 21 (Flood Protection) as the risk of flooding was so low, no weight could be given to this. The LRB therefore agreed with the assessment of the case officer's report and was of the opinion that the proposals did not comply with the Development Plan and there

were no material planning considerations that 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 in principle for the reasons that the proposal was contrary to LDP policies Hou 1 (Housing Development) and Hou 4 (Housing Density) as the proposed house was not in-keeping with the spatial pattern or typical housing density in the surrounding area. The LRB was also of the opinion that the development was contrary to policies Des 1 (Design Quality and Context) and Des 4 (Development Design – Impact on Setting) as a single dwelling house was not compatible with the character of the surrounding area.

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