

# Finance and Resources Committee

2.00 p.m, Thursday, 18 August 2016

## Proposed lease and conservation burden at Tron Kirk, 122 High Street, Edinburgh

Item number	8.7
Report number	
Executive/routine	Routine
Wards	11 – City Centre

### Executive summary

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This report seeks authority to extend the period for Edinburgh World Heritage Trust (EWHT) to secure funding for the redevelopment of the Tron Kirk and approval to place conservation burdens on the Council's title for the Tron Kirk and Hunter Square Toilets on terms to be agreed with the Heritage Lottery Fund.

In addition, instruction is sought over the short term lease of the property.

### Links

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Coalition pledges	<a href="#">P17</a>
Council priorities	<a href="#">CP5</a> , <a href="#">CP8</a> , <a href="#">CP9</a> , <a href="#">CP12</a>
Single Outcome Agreement	<a href="#">SO1</a>

## Proposed lease and conservation burden at Tron Kirk, 122 High Street, Edinburgh

### Recommendations

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That Committee:

- 1.1 Approves the revised timescale for securing funding by EWHT and authorises conservation burdens to be placed on the Council's title for the Tron Kirk and Hunter Square toilets on terms to be agreed by the Acting Executive Director of Resources; and
- 1.2 Instructs the short term leasing strategy to be implemented by the Acting Executive Director of Resources.

### Background

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- 2.1 The Tron Kirk extends to 278.71sqm (3,000sqft) or thereby and is shown outlined red on the attached plan.
- 2.2 On 6 June 2013, the Finance and Resources Committee authorised the principle of leasing the Tron Kirk to Edinburgh World Heritage Trust (EWHT). Subsequently, the Economy Committee, on 24 June 2014, authorised the terms and conditions for the grant of a 99 year development lease to EWHT. This decision was ratified by the Finance and Resources Committee on 30 July 2014.
- 2.3 The development lease is to include the Tron Kirk building and, potentially, Hunter Square public toilets. EWHT would pay £1 per annum on condition that they restored the property to an agreed specification. EWHT would use the Tron as a visitor centre with ancillary office, retail, restaurant and cafe bar.
- 2.4 The EWHT lease is conditional on Heritage Lottery and other funding, which was to be sourced in a two year timeframe.
- 2.5 The above proposals presented an opportunity for the short term use of the building. On 17 September 2013, a report on short term leasing options was considered by the Economy Committee. This was referred to the Finance and Resources Committee on 19 September 2013, who referred it to the Corporate Policy and Strategy Committee on 1 October 2013 who, in turn, referred to Council on 24 October 2013. A motion passed by the Council authorised the short term lease of the building, for the summer festivals in 2014 and 2015 and the Christmas and New Year festivals in 2013 and 2014, until 30 September

2015. The property was to be marketed for let at other times until EWHT were ready to take possession for the longer term redevelopment.

- 2.6 The property was marketed for let and subsequently leased to Mr David Coutts t/a Edinburgh 2014 for £36,400 per annum. The building was to be used as a Victorian style retail market. On 27 August 2015, the Finance and Resources Committee noted that EWHT were not ready to take possession and therefore approved a lease extension, from 1 September 2015 to 31 August 2016, at a rent of £45,000 per annum.

## **Main report**

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### **Current Position – redevelopment proposals**

- 3.1 EWHT has submitted an application to the Heritage Lottery Fund for stage one funding and is expected to hear back on whether it is successful later this year. In the event that it is not secured, both parties will have the option to withdraw from the agreement. All legal documentation is in agreed draft form but not signed by the parties. Both the 2013 and 2014 reports on this proposal referred to a period of two years to secure funding. The timescales within the draft legal documentation allow for a long stop date of 31 October 2019 to secure 95% of the funding. Committee approval is therefore being sought to agree the revised timescale.
- 3.2 In addition, the Heritage Lottery Fund, and possibly other funders, will require a conservation burden to be placed on the Council's title of the Tron Kirk (and Hunters Square Toilets if they are included in the scheme). Grant funders often seek to protect their investment by requiring a burden on the title of a property, particularly in relation to repair and maintenance. Such burdens are usually for a limited period of time, say 15 or 20 years.
- 3.3 Under the terms of the draft lease to EWHT, responsibility for repair and maintenance will pass to the tenant. This means that, in practice, the Council will only be liable to comply with our duties under the conservation burden if EWHT cease to be tenant or default on their responsibilities. While the primary element of a burden will be in relation to repairs and maintenance, there may be ancillary issues such as rights to inspect, etc. Consequently, Committee is asked to authorise the Acting Executive Director of Resources to enter into such conservation burdens as are reasonable and necessary in order for EWHT to secure funding.

### **Current Position – short term let**

- 3.4 Clearly there will be a delay in EWHT taking possession of the property. This is expected to be, at least, a further 12 months or, on a worst case scenario, October 2019. Consequently, the existing tenant has expressed an interest in

extending the lease terms and provisional terms have been reached for a new 12 month agreement and running month to month thereafter.

3.5 The provisionally agreed terms are:

- Subjects: The Tron Kirk, 122 High Street, Edinburgh;
- Term: 12 months from 1 Sept 2016 and month to month thereafter;
- Rent: £56,000 per annum (up from £45,000 per annum);
- Use: Retail use to continue with Victorian market concept;  
Archaeology: The tenant will be required to remove the temporary floor if instructed to do so by the Council under the supervision of an Archaeological expert; and
- Other terms: As contained in a standard commercial lease.

3.6 The temporary lease of this property has historically been contentious due to its location and use, i.e., the Council decision, in October 2013, made it clear that its use was to be restricted and this would continue on any further temporary lease. It is for this reason that Committee is requested to instruct how the short term let will proceed.

3.7 Other parties have expressed an interest in using the property. Therefore, there are two options moving forward: (a) the heads of terms provisionally agreed with the existing tenants as set out in 3.5 are approved and the new lease is put in place or (b) the existing lease is terminated on 31 August 2016 and the Tron Kirk is placed on the open market inviting offers for a short term lease

## Measures of success

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- 4.1 The proposed short term lease will generate additional income for the Council and will allow the Tron Kirk to continue to be used in a manner which is complimentary to the retail offer on the Royal Mile.
- 4.2 By agreeing to appropriate conservation burdens, the Council will assist EWHT in securing the necessary funding for the restoration of the Tron Kirk.

## Financial impact

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- 5.1 Temporary rental income of £56,000 per annum payable to the General Property Account.

## Risk, policy, compliance and governance impact

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- 6.1 The short term lease of the property will continue to be put to beneficial use.

- 6.2 While the impact of the conservation burdens on the Council is mitigated by the proposed lease to EWHT, the Council will be held responsible under the terms of the burdens if EWHT cease to be tenant or defaults on its responsibilities.

## Equalities impact

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- 7.1 A possible infringement has been identified in that, by extending the current lease rather than placing the property on the open market, there is a potential impact on others who may wish to lease the Tron. However, given both the short term nature of the extension and the established nature of the tenants business with the possible effect on it if the lease is not extended, the impact on others is considered to be proportionate and justifiable.

## Sustainability impact

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- 8.1 There are no sustainability issues arising from this report.

## Consultation and engagement

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- 9.1 N/A

## Background reading/external references

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N/A

## Hugh Dunn

Acting Executive Director of Resources

Contact: Mark Bulloch, Senior Estates Surveyor

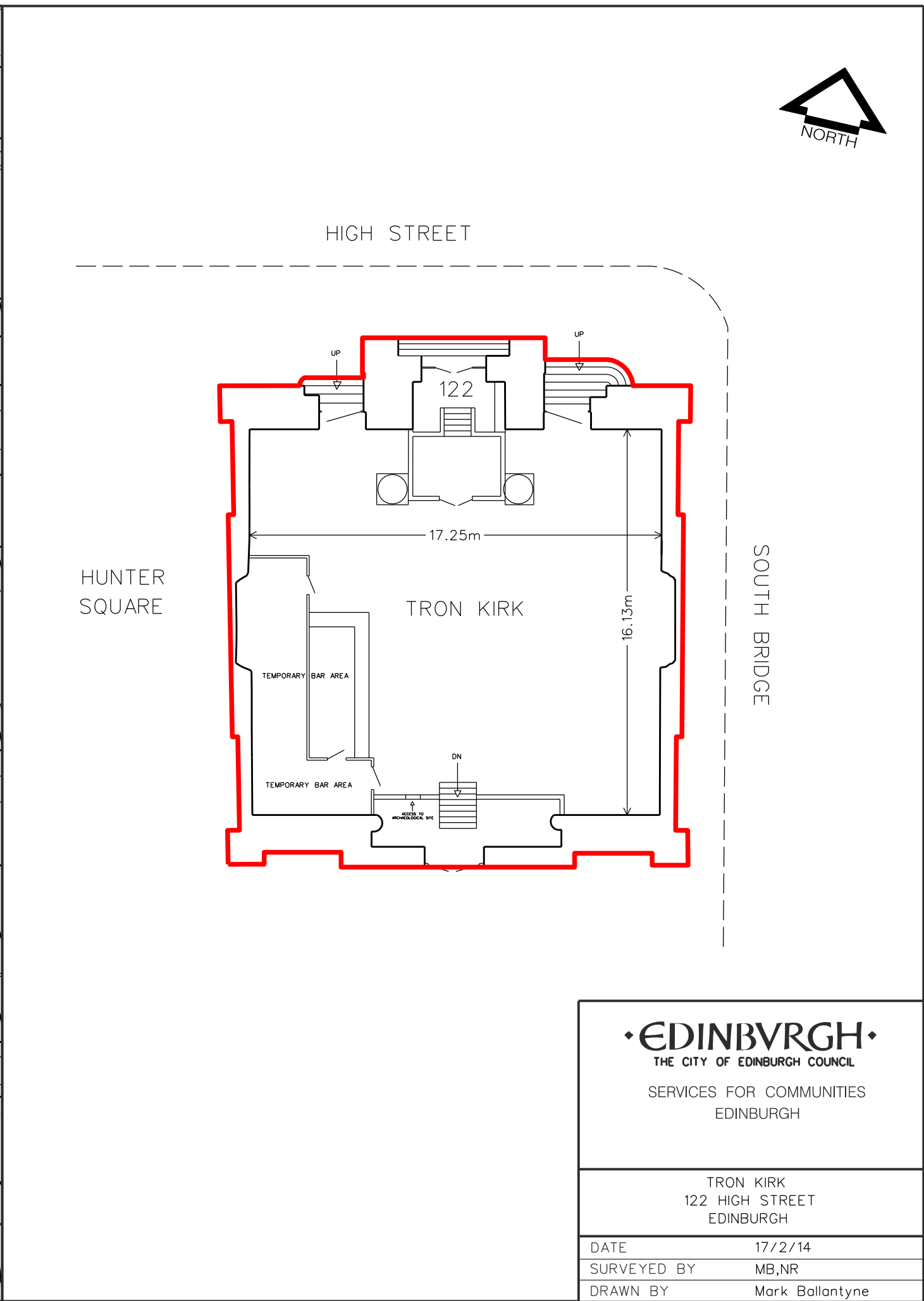
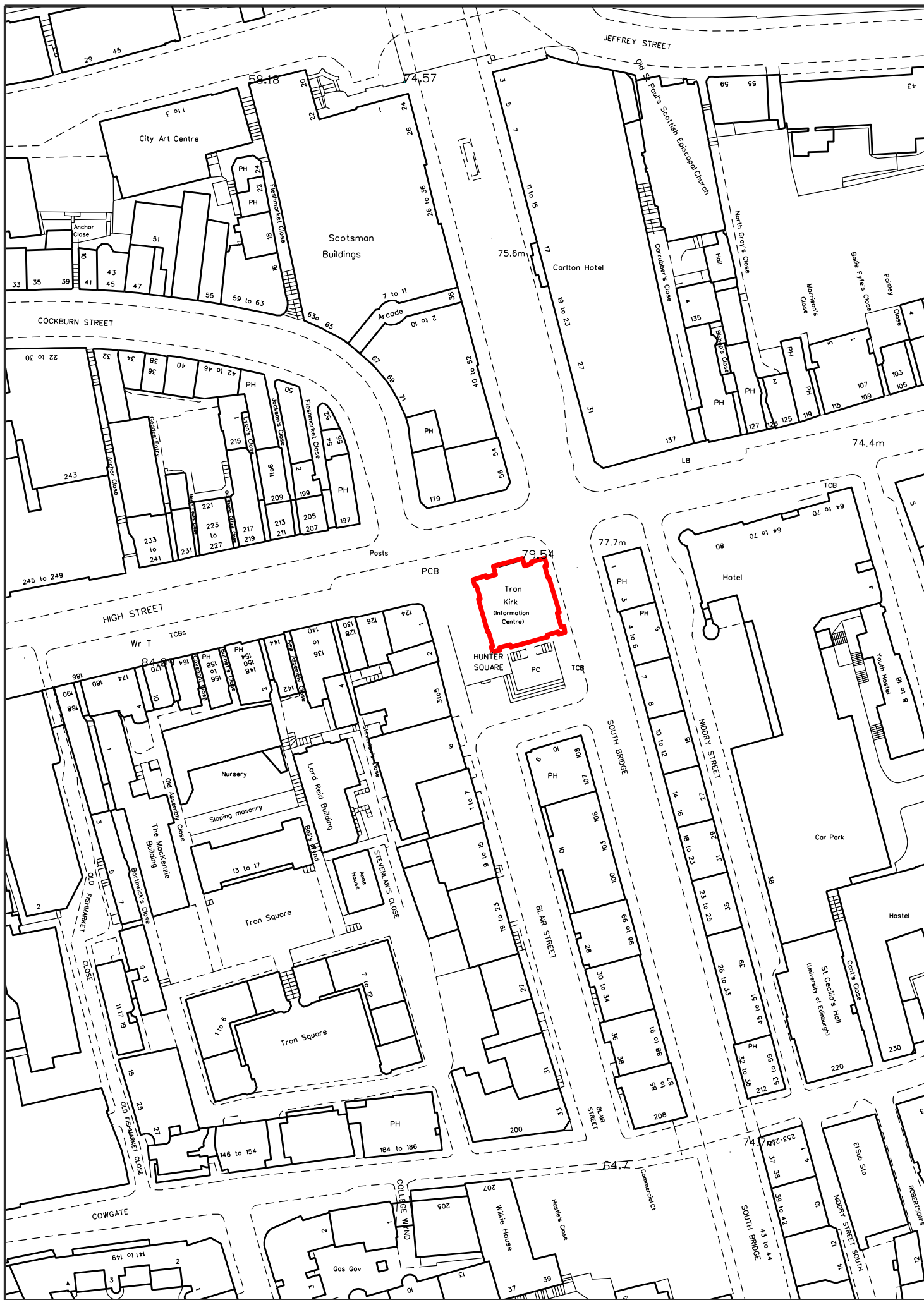
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## Links

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<b>Coalition pledges</b>	P17 – Continue efforts to develop the city’s gap sites and encourage regeneration.
<b>Council priorities</b>	CP5 – Business growth and investment. CP8 – A vibrant, sustainable local economy. CP9 – An attractive city. CP12 – A built environment to match our ambition.
<b>Single Outcome Agreement</b>	SO1 – Edinburgh’s Economy delivers increased investment, jobs and opportunities for all.
<b>Appendices</b>	Location Plan



<b>• EDINBURGH •</b> THE CITY OF EDINBURGH COUNCIL	
SERVICES FOR COMMUNITIES EDINBURGH	
TRON KIRK 122 HIGH STREET EDINBURGH	
DATE	17/2/14
SURVEYED BY	MB,NR
DRAWN BY	Mark Ballantyne
SCALE	1:200 @ A3 SIZE
NEG. NO.	A4/136a.dgn

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