

# Development Management Sub Committee

Wednesday 11 November 2020

**Application for Planning Permission 20/03708/FUL  
at Christmas Market, George Street, Edinburgh.  
Erection of Edinburgh's Christmas at George Street and  
Castle Street, including Christmas Market Stalls, Ice Rink,  
Plant and Boot Room, Around the Corner Bar, Box Office,  
Associated Site Offices, Stores and Ancillary Facilities  
(amended application for festive period 2021- 2022).**

**Item number**

**Report number**

**Wards**

B11 - City Centre

## Summary

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With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would result in minor harm to the setting of neighbouring listed buildings for the temporary period of time in which the development would exist on site. Notwithstanding, it is considered that there are significant economic and cultural benefits to the city resulting from the Christmas market, which arise principally because of it being located within the city centre where high footfall land uses are encouraged. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre. On balance, these benefits; which are a considerable material consideration, outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site. With reference to the abovementioned Act the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the character and appearance of the designed landscape or the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in significant harm to residential amenity. The proposal, subject to the conditions stated, is considered to be acceptable. There are no detrimental impacts on equalities or human rights. There are no material considerations which outweigh this conclusion.

## Links

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<a href="#"><u>Policies and guidance for this application</u></a>	LDEL02, LDES01, LDES05, LEN01, LEN03, LEN06, LEN07, NSLBCA, OTH, CRPNEW,
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# Report

## **Application for Planning Permission 20/03708/FUL at Christmas Market, George Street, Edinburgh. Erection of Edinburgh's Christmas at George Street and Castle Street, including Christmas Market Stalls, Ice Rink, Plant and Boot Room, Around the Corner Bar, Box Office, Associated Site Offices, Stores and Ancillary Facilities (amended application for festive period 2021- 2022).**

### **Recommendations**

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1.1 It is recommended that this application be Granted subject to the details below.

### **Background**

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#### **2.1 Site description**

The site is located on two public roads: (i) the public road of George Street on the section which runs between Charlotte Square and Castle Street; and, (ii) the public road of Castle Street on the section that runs from George Street to its junction with Rose Street. The George Street part of the site is bound to the north and south by the properties located on George Street and to the east by the junction of George Street and Castle Street and to the west by Charlotte Square. The Castle Street part of the site is bound to north by the junction of George Street and Castle Street, to the east and west by properties on either side of Castle Street and to the south by the pedestrianised section of Castle Street.

The site is adjacent to a number of listed buildings, structures and monuments:

- 33-39 Charlotte Square and 142-146 George Street with railing and lamp standards (Category A), LB28506;
- 40-46 Charlotte Square and 143 George Street with railing and lamp standards (Category A), LB28507;
- 112 George Street with railings and lamp standards (Category A), LB28883;
- 28 Castle Street with railings and lamp standards (Category A), LB28474;
- 16-20 (Even Nos) and 20A Castle Street with railings and Connery's Bar, Rose Street (Category A), LB28472;
- George Street and Castle Street, Statue of Dr Chalmers (Category A), LB27847 and
- 97-105 (Odd Nos) George Street, Bank of Scotland (Category A), LB28850.

The site is located within the Old and New Towns of Edinburgh World Heritage Site and the Historic Garden Designed Landscape Inventory Site - New Town Gardens. This application site is located within the New Town Conservation Area.

## 2.2 Site History

No relevant site history.

### Other relevant applications:

4 September 2020 - Planning application validated for the erection of Christmas market stalls, tree, associated site offices, stores and ancillary facilities at High Street and Parliament Square (as amended to cover the festive period for 2021-2022). (application reference number 20/03728/FUL)- Pending determination.

3 September 2020 - Planning application validated for the erection of Christmas market stalls, fairground attractions, box office and associated site offices, stores and ancillary facilities at East Prince Street Gardens and Mound Plaza (as amended to cover the festive period for 2021-2022). (application reference number 20/03707/FUL)- Pending determination.

## Main report

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### 3.1 Description of the Proposal

The application is for the erection of Christmas market stalls, ice rink, plant and boot room, around the corner bar, box office, associated site offices, stores and ancillary facilities. Permission is sought from 20 November 2021 to 2 January 2022. The event space is to be operational between the hours of 10am and 10pm.

The application is one of three separate applications for Christmas events proposed by the applicant in the city centre. They would operate in place of the much larger single event in East Princes Street Gardens and the Mound Piazza which had operated without planning permission last year.

The proposal includes:

#### George Street:

- ice rink
- bar with viewing deck
- plant/boot room building
- 18 single-storey stalls for trading concessions

#### Castle Street:

- box office
- Toilet facilities
- office
- stores
- generator compound
- 12 single storey stalls for trading concessions

Access to the event is for pedestrians only. Cycle access to the site will be maintained. During loading times (7am to 9.30am) a 3m eastbound lane for delivery vehicles and cycles and a 1.5m westbound lane will be maintained. Delivery vehicles will be walked in and out (eastbound only) with banksmen to ensure cycle safety and delivery vehicles will park in the designated loading / unloading areas, out-with the cycle lanes.

Decommissioning is programmes to take place over a maximum of 10 days.

Detailed drawings, a Design Statement and a covering letter providing an overview of the proposal have been submitted with the application. These documents are available to view on the Planning and Building Standards online Services.

### *Revised scheme*

As Edinburgh's Christmas is no longer taking place in 2020, the application title has been amended to delete reference to the period 2020-2021.

## **3.2 Determining Issues**

Due to its proximity to listed buildings and being site within the New Town Conservation Area, the proposed development first requires to be assessed against Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 means that there is a strong presumption against granting planning permission for development which would harm a listed building or its setting. If engaged, the presumption can only be rebutted if the advantages of the scheme are sufficient to outweigh that strong presumption.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 means that there is a strong presumption against granting planning permission for development which would conflict with the objective of preserving or enhancing the character or appearance of the conservation area. If engaged, the presumption can only be rebutted if the advantages of the scheme are sufficient to outweigh that strong presumption.

The determining issues to consider in terms of assessing the development against Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 are:

- Would the development harm a listed building or its setting? If it would, are there any advantages of the proposal that are sufficient to outweigh the strong presumption against granting planning permission?
- Would the development conflict with the objective of preserving or enhancing the character or appearance of the conservation area? If it would, are there any advantages to the proposal that are sufficient to outweigh the strong presumption against granting planning permission?

If the Development complies with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, it then requires to be considered in terms of Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997. Section 25 requires that the determination shall be made in accordance with the development plan unless material considerations indicate otherwise.

The determining issues to consider in assessing this are:

- Do the proposals comply with the development plan?
- If the proposals do comply with the development plan, are there any compelling reasons for not approving them?
- If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

### **3.3 Assessment**

To address these determining issues, the Committee needs to consider whether:

- a) There will be no significant harm to the setting of any adjacent listed buildings and will not harm the character and visual amenity of the Conservation Area;
- b) The Christmas market appropriate on the site;
- c) There will be no significant harm to the character and appearance of the designed landscape;
- d) there will be no significant harm to the Outstanding Universal Value of the World Heritage site;
- e) Public health considerations relating to COVID-19 have been addressed;
- f) Amenity including residential amenity will not be adversely affected;
- g) There are no transport issues;
- h) Representations raise issues to be addressed;
- i) The proposal has any equalities or human rights impacts.

#### **a) Assessment against Listed Buildings & Conservation Areas Requirements**

##### **Impact on Listed Buildings**

The proposed market and attractions would be located near to a large number of listed buildings including category A listed buildings. Owing to their size, scale, positioning, form and their design and appearance, the temporary structures would have minor adverse impact on the setting of these neighbouring listed buildings, which buildings are listed in the Background section of this report.

Notwithstanding the adverse impact, by splitting the event into 3 separate events in the city the scale of the proposal on this site is not so great as to have a profound impact on the above-mentioned heritage assets. Given this and the fact that the proposal is for a temporary period of a known duration, the impact on the setting of neighbouring listed buildings would be short term and not significantly detrimental.

Nonetheless, given that there would still be a degree of harm to the setting of neighbouring listed buildings; as explained above, in terms of the legal tests consideration is required to be given to whether there are significant material considerations that justify the development in this particular location; and if so, does this outweigh any adverse impacts. It is considered that there are significant economic and cultural benefits to the city resulting from the Christmas market, which arise because of it being located within the city centre where high footfall land uses are encouraged. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre. On balance, these benefits; which are a significant material consideration, outweigh any temporary adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site.

### **Impact on Conservation Area**

The New Town Conservation Area Character Appraisal identifies the essential character as being:

*The City's collection of civic statuary provides a focus and punctuation point for many vistas creating an outdoor sculpture gallery;*

*The use of grid layout forms throughout the area provides a formal hierarchy of streets with controlled vistas and planned views;*

*The central position, grid layout and uniform building heights make the area extremely sensitive to the effects of high buildings; and*

*Terminated vistas within the grid layouts and the long-distance views across and out of the conservation area are an important feature.*

Temporary events are characteristic of the Conservation Area during the festive season. The temporary use of the site for the proposal would not detract from the character and appearance of the Conservation Area.

In addition to the other two Christmas markets currently proposed by the applicant in other parts of the city centre and other known developments in the city centre, owing to its size, form and temporary nature the cumulative impact on the character and appearance of the conservation area is not significant.

Overall, the development is not considered to conflict with the objective of preserving or enhancing the character or appearance of the conservation area.

#### **b) Assessment against the Development Plan**

##### **Use of site**

The application site is located on two public roads in the city centre. Policy Del 2 (City Centre) of the Edinburgh Local Development Plan (LDP) supports a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. Given that the proposed development is temporary it does not conflict with the key principles of Policy Del 2.

The market is not an application to increase retail floorspace because of its temporary nature.

There are no development plan policies or non-statutory guidelines that directly relate to proposals for outdoor markets.

Temporary outdoor markets are traditionally found in public spaces.

Given all of the above, the principle of the proposed temporary use on the site is acceptable provided the proposal does not conflict with other development plan policies, or if it does, there are material considerations that justify approving the proposal.

#### c) Impact on Designed Landscape

Owing to their size, scale, positioning, form and their design and appearance, the proposal would temporarily impact on key views within the Designed Landscape. Notwithstanding, by splitting the event into 3 separate events in the city the scale of the proposal is relatively small and consequently the impact on the heritage assets is not profound. Given this and the fact that the proposal is for a temporary period of a known duration, the impact on the character and appearance of the Designed Landscape would be short term and not significantly detrimental.

#### d) Impact on OUV of World Heritage Site

Owing to their size, scale, positioning, form and their design and appearance, the proposal would temporarily impact on key views within the World Heritage Site. Notwithstanding, by splitting the event into 3 separate events in the city the scale of the proposal is relatively small and consequently the impact on the heritage assets is not profound. Given this and the fact that the proposal is for a temporary period of a known duration, the impact on the OUV of the World Heritage Site would be short term and not significantly detrimental.

In addition to the other two Christmas markets currently proposed by the applicant in other parts of the city centre and other known developments in the city centre, owing to its size, form and temporary nature the cumulative impact on the character and appearance of the OUV of the WHS is not significant.

#### e) Public Health ' COVID-19

At present the legislation which addresses public health in the context of COVID-19 (Coronavirus disease 2019 pandemic) is the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020. As is the case with all businesses, the operator of the market would have to meet the COVID-19 legal requirements.

As is the case for all types of businesses the Government retains the powers to close markets if required and if they only consider that certain types of market should be closed, they can define this in the legislation or regulations.

The Scottish COVID-19 guidance on Safer Public Spaces; which provides specific guidance on dealing with COVID-19 in respect of all forms of markets, is guidance rather than strict legal requirements. The Council as landowner and landlord has the authority to require that the applicant demonstrate that they are complying with the Regulations and guidance before allowing them on site to construct the proposed Christmas market. Besides the planning considerations addressed covered later in this report, the proposal has wider interests for the Council to consider through other consenting and licensing regimes and any public health implications. This includes any applications by the operator or any leasee of stalls/concessions within the market for an occasional liquor license.

In terms of considering the public health impacts of COVID-19 in planning applications only the impact on neighbour amenity is a material consideration. Permission is sought for the proposal for the temporary period of 20 November 2021 to 2 January 2022. For the duration of the consent sought the COVID-19 health risks could be said to be a permanent factor and is thereby a material consideration. The broader health issues including broader COVID-19 issues are not matters for planning and are controlled by the above-mentioned health protection regulations. As clarified in the (Scottish) Chief Planner's Letter of 2 July 2020 managing the health impacts of COVID-19 falls outwith planning. The letter states that:

'Beyond the planning system, there will likely be some wider interests for businesses and local authorities to consider through other consenting and licensing regimes and any public health implications, including working within physical distancing requirements. We would draw your attention to recent guidance issued by the Scottish Government in relation to occasional licenses for licensed premises and temporary traffic regulation orders and notices. In addition, our guidance on Safer Public Spaces for Scotland published on 29 June advises on the design principles for safer urban centres and green spaces, connecting to Scotland's route map through and out of the crisis.'

Permission is sought for the proposal for the temporary period of 20 November 2021 to 2 January 2022. For the duration of the consent sought the COVID-19 health risks could be said to be a permanent factor and is thereby a material consideration. However, this is limited to considering only the application's impact on neighbour amenity. Therefore, from a COVID-19 perspective, the Planning Authority can only consider whether the application creates increased COVID-19 risks for neighbours and if so consider whether this risk can be effectively managed.

The Design Statement submitted with the application states that the proposal has been revised to include Covid-19 mitigations. However, in considering the increased COVID-19 risks for neighbours for the current proposal which is for an event in 2021-2022, a key factor to consider is that it is not known what COVID-19 restrictions will be in place by Christmas 2021. It is a reasonable assumption to make that there is likely to be some form of COVID-19 restrictions remaining in place by Christmas 2021.

The application includes the detailed layout of the structure on site. However, the actual layout of the market; in particular, the positioning of stalls/concessions and installations etc. and the passageways between them, may need to be modified to comply with whatever COVID-19 restrictions are in place at the time.

The Planning Authority should avoid a position of granting permission for a detailed layout that effectively prevents a suitable operating layout next year in terms of whatever COVID-19 restrictions are in place at that time. Therefore, if planning permission is granted, the Planning Authority should not approve the detailed layout of the market at this time. Instead, it should be made a condition of a grant of planning permission that the detailed layout of the market including position of stalls/concessions, attractions and ancillary structures etc. and passageways should be submitted for the prior written approval of the Planning Authority within a specified period of time prior to the market/attractions first coming into use/operation. The reason for this condition is to ensure that the Planning Authority is satisfied that the detailed proposal is in accordance with whatever COVID-19 restrictions apply at the time in order to minimise COVID-19 risks for neighbours.

#### f) Amenity

The proposal includes two generator compounds comprising: (i) generators and refrigeration plant sited at the far west end of George Street; and, (ii) generators on Caste Street in a position near to Rose Street. The generators in Castle Street would be sited near to residential properties in Castle Street and also near to residential properties in Rose Street. Owing to the close juxtaposition of them to these neighbouring residences, there is potential for undue noise nuisance to these residences. In order to address this the agent has confirmed that their client is agreeable to swapping the Castle Street generator compound with the proposed market stall cluster located further to the north of it. Additionally, the applicant proposes to erect 3m high walls of timber hoarding around both generator compounds to mitigate noise. The Councils Environmental Protection Section are supporting of these mitigation measures which; if implemented, will ensure that there is no undue noise impact on neighbouring residential properties. These mitigation measures can be controlled by planning conditions.

In the case of the plant compound located at the west end of George Street, there is a hotel in close juxtaposition at 35-39 Charlotte Square (The Roxburghe Hotel). In 2017 a generator and refrigeration plant were positioned at this location in association with an 'Ice Kingdom Display' and no complaints were received by the Council. However, given the high noise levels the ice-rink refrigeration plant will generate, there is a concern with potential for noise nuisance to occupiers of the hotel. In order to mitigate noise nuisance from the plant it should be made a condition of a grant of planning permission that the exact positioning of the plant and generators on the site and the acoustic containment of the plant is such that an acoustic attenuation of NR35 is achieved within the guest bedrooms of the hotel between 23:00 hours and 07:00 hours with the windows closed. Subject to this, there would be no undue noise nuisance to occupiers of the neighbouring hotel or any residential property. The Council's Environmental Protection Section are supporting of this recommended control and subject to the condition being imposed they raise no objection to the application.

Owing to the nature of the proposal, there will be amplified music and a large number of people attending, including in the evening. Any noise nuisance relating to this could be addressed with the operator informally by the Council's Environmental Protection Section.

### g) Transport Issues

To facilitate the proposal the western part of George Street would have to be closed to eastbound traffic. The temporary closure of the road does not raise any transportation concerns. A permit to close the road would be required to be obtained from the Council in advance of its closure. The proposal does not raise any road safety concerns.

There will be no restrictions to pedestrian flow on the pavements adjacent to the site. The proposal raises no pedestrian safety concerns.

The site is exceptionally well placed for public transport and is located next to a local centre where high footfall land uses are encouraged. Consequently, the proposal does not raise any significant parking issues or public transport issues.

The Council's Transportation Section raises no objection to the application.

### h) Representations

#### **Material Representations - Objection:**

Material Representations - Objection:

The following material planning matters have been raised:

- Consider the cumulative impact of similar proposals in relation to EIA. - The Planning Authority has screened the proposal for EIA and has concluded that an EIA is not required.
- An EIA is required due to last year's market. - A separate screening opinion ref.19/06081/SCR was issued for last year's market.
- A Heritage Impact Assessment is required. - Adequate information has been submitted with the application in order for the Planning Authority to understand the exact nature of the proposal and to consider the application including its impact on the setting of listed buildings and other heritage assets.
- An EIA is required, and this was confirmed in the report to the Policy & Sustainability Committee. - The Director clarified that this statement reflected the only proposals that the Planning Authority had seen at the time and did not reflect the potential for smaller Christmas Markets as is now proposed.
- Would cause obstructions to pedestrian movement. - This is addressed in section g) above.
- Commodification of public space. - Whether there exists any legal impediment to the Council as landowner to grant a lease to the applicant/operator for the temporary use of the land is a legal matter and not a planning matter.
- Would cause delays to bus services. - This is addressed in section e) above.
- Noise pollution. - This is addressed in section f) above.
- Harm to residential amenity. - This is addressed in section f) above.
- Detract from the character of the city, harmful to character and visual amenity of the area. - This is addressed in sections a), c) and d) above.
- Would spoil Princes Street Gardens. - This is addressed in section c) above.

- Does not make a positive contribution to the community; but instead, it harms the community. - The Planning Authority has not been presented with any evidence to substantiate this claim.
- The applicant has not undertaken any consultation with the local residents. - The application is a 'local' application and there is no statutory requirement for the applicant to undertake formal pre-application consultation.
- In the past when Christmas markets have been dismantled and the sites vacated, they have been left in a poor condition and not adequately restored. - The Council as landowner through broader consenting and licencing regimes would ensure expeditious remediation of any damage incurred at no cost to the Council or Council taxpayers.
- The proposal does not support local needs. - It is considered that the proposal will meet some need of the local and wider community.
- The increase in carbon dioxide emissions resulting from the proposal would conflict with the Council's carbon emission target. - The Planning Authority has not been presented with any evidence to substantiate this claim.

### **Non-Material Representations - Objection:**

The following broad issues relating to COVID-19 are not material planning considerations:

- Splitting the market up into smaller markets at different locations in the city increases the risks of the transmission of COVID-19 to different parts of the city.
- Splitting the market up into smaller markets at different locations in the city reduces the risks of transmission of COVID-19 to different parts of the city.
- Any pop-up bars operating in the market would be problematic to the effectiveness of Covid-19 test and trace systems.
- Physical arrangements will need to be put in place to control crowds and to ensure compliance with Covid-19 regulations/guidance.
- Would contravenes Government rules/regulations relating to the COVID-19 Pandemic.
- Poor crowd control and the Government's social distancing rule being difficult to maintain and enforce.

The following additional non-material planning issues have been raised:

- There are better locations for a Christmas market in the city. - The application stands to be determined on its own merits.
- The operating company is not Scottish. - This is not a material planning consideration. An enhanced security and people management for all aspects of the Winter Festivals should be a priority in respect of public protection. - Matters of security and public protection are dealt with through other licensing regimes and/or are police matters and therefore are not material considerations in the determination of this application.
- The proposal is profit driven. - This is not a material planning consideration.
- Concerns about the structural safety of the installations. - Structural safety of the temporary buildings and installations is controlled by Buildings Standards legislation and not planning legislation and therefore this is not a material consideration in the determination of this application.

- The accounts of the applicant/operator should be made available for public scrutiny as the event is financially subsidised by the Council - The funding of the event and the financial affairs of the applicant is not a material consideration in the determination of this application.
- There is an on-going independent examination of conduct of city officials in respect of allegations of exceeding their authority/neglecting their remit. - This is not a material consideration in the determination of this application.
- Any Christmas market should be a Council organised, funded and run event instead of a private venture. - The application stands to be determined on its own merits.
- Would generate rubbish - This is controllable through legislation other than planning legislation.
- Poor quality, non-locally produced/manufactured and over-priced merchandise is sold. Quality control of merchandise/goods and affordability and value for money are not planning matters.
- Poor pay and working conditions of employees - Employee pay and working conditions is controlled by legislation other than planning legislation and therefore this is not a material planning consideration.
- Would not benefit local businesses. - This is not a planning matter.
- The operating company is not Scottish. - This is not a material planning consideration.
- The proposal would conflict with the Council's "Million Tree City" aspirations" as there would be construction near mature trees and inadequate tree root protection zones identified. - There are no trees on the site or in overhanging the site that would be impacted on by the proposals.
- mismanagement of waste/rubbish. - Public health concerns and nuisance resulting from waste mismanagement and inappropriate disposal of waste can be satisfactorily dealt with through legislation other than planning legislation.
- odour nuisance. - If odour nuisance were to arise this can be satisfactorily dealt with by Environmental Health legislation.

#### **Non-Material Representations - Support:**

- On proviso social distancing can be maintained then the proposal is beneficial to the area.
- Will be good for the economy.

#### **i) Equalities and Rights Issues:**

The Design Statement submitted with the application details measures to facilitate access for disabled people within the event. These measures are considered to be adequate. The proposal does not raise any significant issues in terms of qualities and human rights.

#### **CONCLUSION**

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would cause minor harm to the setting of neighbouring listed buildings for the temporary period of time in which the development would exist on site.

Notwithstanding, it is considered that there are significant economic and cultural benefits to the city resulting from the Christmas market, which arise principally because of it being located within the city centre where high footfall land uses are encouraged. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre. On balance, these benefits; which are a considerable material consideration, outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site. With reference to the abovementioned Act the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the character and appearance of the Designed Landscape or the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in significant harm to residential amenity. The proposal, subject to the conditions stated, is considered to be acceptable. There are no detrimental impacts on equalities or human rights. There are no material considerations which outweigh this conclusion.

It is recommended that this application be Granted subject to the details below.

### **3.4 Conditions/reasons/informatives**

#### **Conditions:-**

1. Planning permission is granted for the limited period of between 20 November 2021 and 2 January 2022 only.
2. The temporary market and attractions including timber stalls, ice rink and ancillary structures shall only operate between the hours of 10am and 10pm on the dates specified in condition 1.
3. The temporary structures and installations and ancillary structures, plant and generators shall be removed from the site within 10 days of the date of expiry of the temporary period specified in condition 1.
4. No development shall take place on site unless and until the following is submitted to the Planning Authority between the period of the 05 October 2021 and the 06 November 2021 and written confirmation is subsequently received from the Planning Authority that the details are approved:
  - (i) Notwithstanding that delineated on drawings and documents docketed to this planning permission, a revised detailed site layout plan delineating the precise layout of the stalls/concessions, attractions including fairground rides, other installations and ancillary structures and plant to be sited within the market and delineated on the plan on page 12 and listed on page 13 of the Design Statement, dated September 2020, docketed to this planning permission.

- (ii) a written specification of how the layout of the stalls/concessions, attractions including fairground rides, other installations and ancillary structures and plant within the market delineated on the site layout plan (i) has been laid out to comply with the COVID-19 regulations/restrictions in place at the time of submission of the revised site layout plan (i).

Notwithstanding the structures/attractions/plant delineated/listed on pages 12 & 13 of the Design Statement dated September 2020 and docketed to this planning permission, the quantum of structures, concessions, attractions and associated structures and plant delineated on (i) and specified in (ii) above and subsequently erected/sited on the site shall; if necessary, be reduced in order to comply with the COVID-19 regulations/restrictions in place at the time of submission of the revised site layout plan (i) and written specification (ii).

- 5. Notwithstanding that delineated on drawing UB-ECH 20-003B submitted with the application, the generators within the Castle Street part of the site shall not be sited in the location delineated on that plan; but instead, they shall be sited further north on the site in the location delineated as stalls 1-6.
- 6. Prior to the generators first coming into operation the 3m high timber hoarding to be erected around the perimeter of the generator compounds shall be erected and thereafter retained for the duration of this temporary planning permission.
- 7. Notwithstanding the location of the George Street ice rink plant and generators delineated on drawing UB-ECH 20-003B and the detailed of them specified on other application drawings, the positioning of them on the site and the acoustic containment/enclosures installed/erected around them shall achieve an acoustic attenuation of NR35 within the neighbouring hotel at 35-39 Charlotte Square (The Roxburgh Hotel) between 23:00 hours and 07:00 hours. The noise measurements shall be taken within the guest bedrooms of the hotel with the windows closed.

**Reasons:-**

- 1. To restrict the duration of the development to the temporary periods sought.
- 2. In the interests of safeguarding the amenity of neighbouring noise sensitive properties.
- 3. In order to safeguard visual amenity.
- 4. To ensure that the detailed layout of the market including various structures, stalls/concessions, attractions, installations and ancillary structures and plant and the passageways between them complies with the COVID-19 Regulations in place at the time when market/attractions first start trading/operating, in the interests of minimising the risk of transmission of COVID-19 to occupants of neighbouring properties.

5. In the interests of safeguarding the amenity of neighbouring noise sensitive properties from undue noise nuisance.
6. In the interests of safeguarding the amenity of neighbouring noise sensitive properties from undue noise nuisance.
7. In the interests of safeguarding the amenity of occupants of the neighbouring hotel from undue noise nuisance.

### **Informatives:-**

It should be noted that:

1. The applicant will repair any damage to the kerbs and footways when accessing and exiting the site. In this regard he will require to contact the Central Local Area Manager to agree the extent of the dilapidation survey and the required roads permits required during the erection and dismantling of the market.
2. Any sign, canopy or similar structure mounted perpendicular to the building (i.e. overhanging the footway) shall be mounted a minimum of 2.25m above the footway and 0.5m in from the carriageway edge to comply with Section 129(8) of the Roads (Scotland) Act 1984.
3. The City of Edinburgh Council acting as Roads Authority reserves the right under Section 93 of The Roads (Scotland) Act 1984 to adjust the intensity of any non-adopted lighting applicable to the application address.
4. The applicant/operator(s) should consult with the tram team regarding construction timing. This is due to the potential access implications of construction / delivery vehicles and likely traffic implications as a result of diversions in the area which could impact delivery to, and works at, the site. Tram power lines are over 5m above the tracks and do not pose a danger to pedestrians and motorists at ground level or to those living and working in the vicinity of the tramway. However, the applicant should note that there are potential dangers and, prior to commencing work near the tramway, a safe method of working must be agreed with the Council and authorisation to work obtained. Authorisation is needed for any of the following works either on or near the tramway:
  - Any work where part of the site such as tools, materials, machines, suspended loads or where people could enter the Edinburgh Tram Hazard Zone. For example, window cleaning or other work involving the use of ladders;
  - Any work which could force pedestrians or road traffic to be diverted into the Edinburgh Trams Hazard Zone;
  - Piling, using a crane, excavating more than 2m or erecting and dismantling scaffolding within 4m of the Edinburgh Trams Hazard Zone;
  - Any excavation within 3m of any pole supporting overhead lines;

- Any work on sites near the tramway where vehicles fitted with cranes, tippers or skip loaders could come within the Edinburgh Trams Hazard Zone when the equipment is in use;
- The Council has issued guidance to residents and businesses along the tram route and to other key organisations who may require access along the line. (See full guidance on obtain to get permission to work near a tram way at: - <http://edinburghtrams.com/community/working-around-trams>)

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

## **Risk, Policy, compliance and governance impact**

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5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

## **Equalities impact**

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### **6.1 The equalities impact has been assessed as follows:**

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

## **Sustainability impact**

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### **7.1 The sustainability impact has been assessed as follows:**

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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### **8.1 Pre-Application Process**

Pre-application discussions took place on this application.

### **8.2 Publicity summary of representations and Community Council comments**

The application was advertised on the 18 September 2020. Forty five representations were received comprising forty two objections to the application including an objection from the Cockburn Association, one raising a general comment and two in support of the application.

A full assessment of these representations can be found in the main report in the Assessment Section.

## Background reading/external references

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- To view details of the application, go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

<b>Statutory Development Plan Provision</b>	The adopted Edinburgh Local Development Plan.
<b>Date registered</b>	3 September 2020
<b>Drawing numbers/Scheme</b>	01, 04, 05, 06, 07, 08, Design Statement,  Scheme 1

**David R. Leslie**  
 Chief Planning Officer  
 PLACE  
 The City of Edinburgh Council

Contact: Adam Thomson, Planning Officer  
 E-mail: adam.thomson@edinburgh.gov.uk

## **Links - Policies**

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### **Relevant Policies:**

LDP Policy Del 2 (City Centre) sets criteria for assessing development in the city centre.

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

LDP Policy Env 1 (World Heritage Site) protects the quality of the World Heritage Site and its setting.

LDP Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Env 7 (Historic Gardens and Designed Landscapes) protects sites included in the national Inventory of Gardens and Designed Landscapes and other historic landscape features.

**Non-statutory guidelines** 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

### **Other Relevant policy guidance**

**The New Town Conservation Area Character Appraisal** states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

# Appendix 1

## **Application for Planning Permission 20/03708/FUL At Christmas Market, George Street, Edinburgh Erection of Edinburgh's Christmas at George Street and Castle Street, including Christmas Market Stalls, Ice Rink, Plant and Boot Room, Around the Corner Bar, Box Office, Associated Site Offices, Stores and Ancillary Facilities (amended application for festive period 2021- 2022).**

### **Consultations**

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Historic Environment Scotland - Date 30/09/2020

Thank you for your consultation which we received on 09 September 2020. We have assessed it for our historic environment interests and consider that the proposals affect the following:

Edinburgh World Heritage Site Boundary (100018438),

GEORGE STREET AND CASTLE STREET, STATUE OF DR CHALMERS (LB27847),  
33-39 (INCLUSIVE NOS) CHARLOTTE SQUARE AND 142-146 GEORGE STREET  
WITH RAILINGS AND LAMP STANDARDS (LB27847),  
40-46 (INCLUSIVE NOS) CHARLOTTE SQUARE AND 143 GEORGE STREET WITH  
RAILINGS AND LAMP STANDARDS (LB28507),  
115 GEORGE STREET WITH RAILINGS (LB28854),  
117 TO 121 GEORGE STREET CHURCH OF SCOTLAND OFFICES (LB28854),  
125 GEORGE STREET WITH RAILINGS AND LAMP STANDARDS (LB28856),  
112 GEORGE STREET WITH RAILINGS AND LAMP STANDARDS (LB28883)  
THE NEW TOWN GARDENS (GDL00367).

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

#### Our Advice

The application is for the erection of an ice rink, timber stalls and ancillary structures along the West end of George Street and part of Castle Street, as part of Edinburgh's Christmas Market. We note that the current application is part of wider proposals that also include facilities in the High Street and East Princes Street Gardens, the latter provision being much reduced from previous years.

Taking into account the time-limited consent and temporary nature of the proposals, in this instance we consider that the proposals for George Street and Castle Street would be unlikely to have a significant impact on the OUV of the World Heritage Site, or the setting of the Category A listed assets noted above.

However, should an application come forward to either extend the period of consent, or make such an arrangement permanent, we may take a different view.

Planning authorities are expected to treat our comments as a material consideration, and this advice should be taken into account in your decision making. Our view is that the proposals do not raise historic environment issues of national significance and therefore we do not object. However, our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.

#### Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at [www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/](http://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/). Technical advice is available through our Technical Conservation website at [www.engineshed.org](http://www.engineshed.org).

Please contact us if you have any questions about this response. The officer managing this case is Mario Cariello who can be contacted by phone on 0131 668 8917 or by email on [mario.cariello@hes.scot](mailto:mario.cariello@hes.scot).

Edinburgh World Heritage 13 October 2020

The principal focus of Edinburgh World Heritage is the impact on the Outstanding Universal Value (OUV) of the 'Old and New Towns of Edinburgh' World Heritage Site (the World Heritage Site or 'WHS'). Therefore, proportional comment may be made on impact upon individual heritage assets (e.g. Listed Buildings and Conservation Areas), but only to the extent that this impacts upon the city's overall OUV. The Local Planning Authority should therefore give additional consideration to individual heritage assets affected, beyond the scope of our comments, in line with planning policy and legislation.

This application lies within the context of two associated applications for dispersed Christmas markets in the city (references 20/03707/FUL and 20/03728/FUL). For the benefit of the Planning Department, we have provided separate responses to these associated consultations, though clearly they merit consideration as a cumulative whole.

#### SUMMARY OF OUTSTANDING UNIVERSAL VALUE

The OUV of the World Heritage Site is well-established in the UNESCO inscription, and will therefore not be repeated here.

Edinburgh World Heritage has broken this down into 5 overarching qualities which can be found on our website. Due to the nature and location of the proposed development, the following elements of

World Heritage Sites Outstanding Universal Value are most likely to be affected.

- 'A Model City': The Old and New Towns embody the changes in European urban planning from inward looking, defensive walled medieval cities, through 18th and 19th centuries formal Enlightenment planning, to the 19th century revival of the Old Town with its adaptation of a Baronial style of architecture in an urban setting.
- 'Monumental City': The city's fine collection of neo-classical monuments that reflect its status as Scotland's capital. These monuments contribute to the richness and diversity of the townscape and their subjects represent a variety of personalities who were significant in their time. George Street and Castle Street are at the heart of Edinburgh's First New Town and retain a high degree of both its historic character and authenticity of both urban layout and historic architecture. As such, these areas make a significant contribution to the overall OUV of the World Heritage Site and to the contribution to OUV made by their many associated heritage assets (including the New Town Conservation Area, New Town Gardens designated landscape and many listed buildings).

## IMPACT ON OUTSTANDING UNIVERSAL VALUE

The proposals would result in the infilling of public realm specifically designed for high quality open space with structures which are not in keeping with their quality and character of environment.

Therefore, we consider that the proposals would cause harm to the OUV of the World Heritage site as a result of disrupting key views, setting of individual historic sites and public realm character.

It is acknowledged that this harm is temporary in nature. Given that we understand the Christmas markets will not be going forward this year, the application principally relates to holiday period of 2021-22 for a period of approximately 59 days (including construction and deconstruction).

## RELEVANT POLICY & LEGISLATION

In addition to the duties, legislation and policies relating to individual heritage assets, the following are those most pertinent to the World Heritage Site in this case (not exhaustive):

- Duty to protect, conserve and present OUV for future generations (UNESCO)
- Where a development proposal has the potential to affect a World Heritage Site, or its setting, the planning authority must protect and preserve its Outstanding Universal Value (Scottish Planning Policy, 147)
- The siting and design of development should take account of all aspects of the historic environment (Scottish Planning Policy, 140)
- Development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted. This policy requires development

to respect and protect the outstanding universal values of the World Heritage Sites and their settings. Setting may include sites in the immediate vicinity, viewpoints identified in the key views study and prominent landscape features throughout the city (Edinburgh Local Development Plan, Policy Env 1 World Heritage Sites)

- Ensure that the Outstanding Universal Value of the WHS is taken into account in planning decision (WHS Management Plan 2017-22)

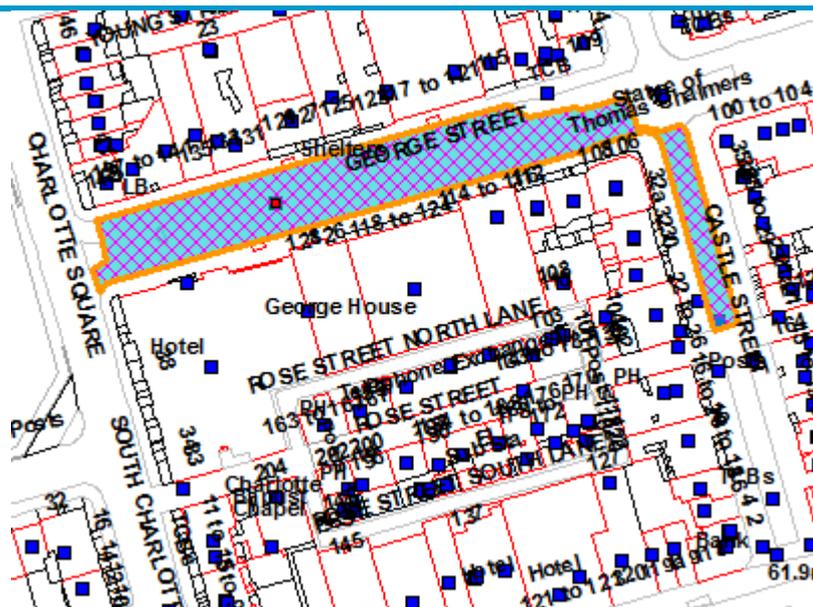
## RESULTANT POSITION

In relation to previous year's Christmas markets, we acknowledge that the current applications (please refer to associated references cited above) are of a lesser intensity and more dispersed throughout the city. This is welcome from a heritage perspective. On this basis, and with an understanding of the wider context balanced needs within the city, we do not wish to object to this lesser degree and temporary harm.

We would stress that future years should take the opportunity to put people, quality and place at the heart of the process – moving away from tall fairground rides and other structures in sensitive historic settings, and towards a tasteful approach that reinforces the unique offer of Edinburgh as a high quality and historic visitor destination. We would welcome round-table early discussions in future to help achieve this.

As always, we advise you engage the heritage expertise within your planning department to inform the wider heritage considerations of this application as well as detailed considerations and opportunities for design/layout enhancement.

## Location Plan



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**END**