

# Development Management Sub Committee

Wednesday 11 November 2020

**Application for Planning Permission 20/03728/FUL at High Street and Parliament Square, Edinburgh, Full planning permission for Edinburgh's Christmas including Christmas market stalls, tree, associated site offices, stores and ancillary facilities (as amended to cover the festive period for 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 harm the setting of neighbouring listed building for the temporary period of time in which they 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. With reference to the abovementioned Act the proposal is characteristic of the Conservation Area and thus 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 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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[Policies and guidance for this application](#)

LDEL02, LDES01, LDES05, LEN01, LEN03, LEN06, LEN18, CRPOLD, NSLBCA, OTH,

# Report

## **Application for Planning Permission 20/03728/FUL at High Street and Parliament Square, Edinburgh, Full planning permission for Edinburgh's Christmas including Christmas market stalls, tree, associated site offices, stores and ancillary facilities (as amended to cover the festive period for 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 forms part of the pedestrianised road of the High Street and extends to include a section of paved hardstanding of Parliament Square. The site does not include the public pavements on either side of the pedestrianised road. The High Street part of the site is bound to the north by the City Chambers; to the east by the junction of Cockburn Street and High Street, to the south by buildings on High Street and to the west by St Giles (High) Kirk and the Mercat Cross.

The site is irregular shaped. The site is also adjacent to a number of listed buildings, structures and monuments:

- High Street, Mercat Cross (Category A) LB27792;
- High Street and Parliament Square, St Giles (High) Kirk (Category A) (LB27381);
- City Chambers, 245-249 High Street (even Numbers), 253 High Street, 323 High Street 329 High Street, 2 Warriston's Close And 14 Cockburn Street, Edinburgh (Category A) (LB17597);
- High Street, City Chambers Courtyard, Alexander and Bucephalus Statue (Category A) (LB27855);
- 233-243 (Odd Nos) High Street (Category A) (LB29049);
- •221-231 (Odd Nos) High Street (Category A) (LB29048);
- 215-219 (Odd Nos) High Street (Category A) (LB29047);
- 209-213 (Odd Nos) High Street Including 1-6 (Inclusive Nos) Jackson's Close (Category A) (LB29046);
- 197-207 (Odd Nos) High Street Including 1-14 Fleshmarket Close (Category A) (LB29045);
- 192a High Street, 1 And 1a Parliament Square, Including District Courts (Formerly Police Chambers) And Including Boundary Wall and Railings (Category A) (LB27714); and,
- 3, 4 And 5 Hunter Square, Dolphin House (Category A) (LB29123).

The site is located within the Old and New Towns of Edinburgh World Heritage Site. This application site is located within the Old Town Conservation Area.

## 2.2 Site History

None relevant.

### Other relevant applications:

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

3 September 2020 - Planning application validated for the erection of Christmas market stalls, ice rink, plant and boot room, bar, box office and associated site offices, stores and ancillary facilities at George Street and Castle Street (as amended to cover the festive period for 2021-2022). (application reference number 20/03728/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, tree, associated site offices, stores and ancillary facilities. Permission is sought from 27 November 2021 to 24 December 2021. 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 has operated without planning permission last year.

The proposals include:

On High Street:

- 14 single storey stalls for trading concessions;
- Christmas tree.

On Parliament Square:

- staff welfare facilities;
- office;
- chiller;
- store;
- the erection of 3.05-metre-high horizontally boarded timber clad hoarding panels around the above temporary buildings/installations on Parliament Square.

Access to the event is for pedestrians only. Cycle access to the site will be maintained. During loading times (7am to 9.30am) delivery vehicles will be walked in and out of the site with banksmen to ensure cycle safety and delivery vehicles will park in designated areas.

The construction period will take approximately 5 days, anticipated to take place between the 22 - 26 November 2021. Decommissioning is programmed to take place over approximately 3 days anticipated to be between 26 - 28 December 2021.

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*

Given that Edinburgh's Christmas has been cancelled this year there is no longer a requirement to consider the application for the festive period of 2020/2021.

## **3.2 Determining Issues**

Due to its proximity to listed buildings and being a site within the Old 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:

- there will be no significant harm to the setting of any adjacent listed building and no significant harm to the character and visual amenity of the conservation area;
- the Christmas market is appropriate on the public road and on part of the civic space;
- there will be no significant harm to the Outstanding Universal Value of the World Heritage Site;
- Public health considerations relating to COVID-19 have been addressed;
- Residential amenity will not be adversely affected;
- There are no transport issues;
- Representations raise issues to be addressed;
- The proposal has any equalities or human rights impacts;

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

##### Impact on Listed Buildings

The proposed market would be located within the heart of the Old Town and consequently would be adjacent 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 and plant to be sited on Parliament Square would detract from the setting of the A-listed St Giles (High) Kirk and the A-listed Mercat Cross. In addition, owing to their size, scale, positioning, form and their design and appearance the temporary structures to be sited on both High Street and Parliament Square would have a minor adverse impact on the setting of the other listed buildings listed in the Background section of this report.

The proposal is for a temporary period of a known duration and the impact on the setting of neighbouring listed buildings would be short term. Nonetheless, given that the proposal would harm the setting of listed buildings, 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 Old Town Conservation Area Character Appraisal identifies the essential character as being:

*Key characteristics of the area as noted in the Old Town Conservation Area Appraisal include the survival of the little altered medieval `herringbone street pattern centred on the Royal Mile, a concentration of 16th and 17th century merchants' and nobles houses, important public buildings such as Canongate Tolbooth and St Giles Cathedral, the quality and massing of stonework and the density and height of picturesque multi-storey buildings.*

Temporary events are characteristic of this part of the Conservation Area. Thereby, 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 Development Plan**

#### **Use of site**

The application site is located 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 Christmas market 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.

The temporary use of this part of the High Street for events is long established. The proposal would not prevent the continued existing use of the remainder of the pedestrianised High Street or the remainder of Parliament Square. The effect of the proposed development on the leisure value and enjoyment of the civic space is not permanent and is reversible. The temporarily change of use of part of Parliament Square would not result in the permanent loss of civic space and does not conflict with the key principles of Policy Env 18 (Open Space Protection).

Given all 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 other Heritage

Owing to their size, scale, positioning, form and their design and appearance, the proposed structures would temporarily impact on views within the World Heritage Site. Notwithstanding, by splitting the event into 3 separate events in the city the scale of the proposal on this site is relatively small. 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.

The proposed ancillary structures/welfare units/plant on Parliament Square are located adjacent to the Category A-listed Mercat Cross and Category A-listed St Giles (High) Kirk. Owing to their close juxtaposition to these listed buildings measures should be put in place to protect these listed buildings from physical damage. A condition should be imposed on a grant of planning permission requiring suitable protective measures to be in place prior to development taking place on site and to remain until all the temporary structures/installations have been removed following decommissioning.

#### d) 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 27 November 2021 to 24 December 2021. 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 27 November 2021 to 24 December 2021. 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 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 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.

#### e) Amenity

Due to the nature of the proposal, there will be amplified music and a large number of people attending, including in the evening. As well as noise from the public attending the event there will be some noise during construction and removal of the units. The site is however within a city centre location and the proposal is for a temporary period. The Council's Environmental Protection Section advised that the proposal will not significantly affect the amenity of nearby residents.

The proposal includes a chiller unit sited on Parliament Square. Given that there is no residence in Parliament Square the Council's Environmental Protection Section do not consider that it would give rise to significant noise nuisance.

Any odour nuisance or other environmental health related consideration arising from the operations could be dealt with through Environmental Protection legislation.

The Council's Environmental Protection Section raise no objection to the application.

#### f) Transport Issues

The High Street is pedestrianised and thereby the proposal does not necessitate the closure of the road. The public footways on either side of the road are not included in the application site and thus the movement of pedestrians around the site is not inhibited by the proposal. The arrangements on High Street allow for vehicular movement including service vehicle access. The proposal raises no road safety or pedestrian safety concerns. The proposal would not obstruct access to neighbouring properties including residences.

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.

## g) Representations

### **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.
- The three Christmas markets should be considered as a single planning entity, as they form a single event organised and promoted by a single operator. - The applicant site and the planning unit for the current application is different to that of the other two Christmas market applications within other parts of the City Centre. Therefore, it is considered that each of these separate applications stand to be determined on their own merits.
- 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.
- harm to the setting of listed buildings and the historic character and appearance of the area including the conservation area and the World heritage site. - This is addressed in section a) above.
- 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.
- Would pose risks of physical damage to neighbouring listed building. - This is addressed in section c) above.
- The duration of the event; including period of erection and dismantling/decommission should be restricted. - The duration of the event can be controlled by a condition imposed on a grant of planning permission.
- 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
- Closure of roads/streets and obstructions to pedestrian movement and access to neighbouring properties. - This is addressed in section f) above.
- Loss of parking on Sundays. - This is addressed in section f) above.
- Noise nuisance and disturbance from the operation of the market including from music and during construction/dismantling. - This is addressed in section e) above.
- Odour nuisance. - This is addressed in section e) above.
- The proposal does not support local needs. - It is considered that the proposal will meet some need of the local and wider community.

- Inadequate public consultation/engagement. - The application is a 'local' application and not a major application and therefore there is no statutory requirement for the applicant to undertake formal pre application consultation.

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

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

- The development would increase the risk of transmission of coronavirus infections and therefore it raises a public health concern.
- Any pop-up bars operating in the market would be problematic to the effectiveness of COVID-19 test and trace systems.
- The Government's Social distancing rule would be difficult to maintain and enforce.
- Poor crowd control and the Government's social distancing rule being difficult to maintain and enforce.
- Splitting the Christmas market into three separate sites in the city centre would help reduce the risk of transmission of COVID-19.
- Social distancing measures could result in commodification of public spaces.

The following other non-material matters have been raised:

- Loss of open space and commodification of public space/common good land. - 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.
- The Council should not have accepted the application as it is for two separate Christmas events for two separate years. ' It is considered that the planning application is valid and therefore the Planning Authority was duty bound to accept the application.
- Would unfairly compete with existing neighbouring bars/restaurants/retailers for trade. - The sale of food and non-food items, competition between operators/providers and consumer choice is not a material planning consideration.
- No 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.
- ISO 2021 Sustainable Events Management Introduction and Awareness standards should be followed. - This is a voluntary standard for sustainable event management and is not a planning matter and therefore is not a material consideration in the determination of this application.
- The event should not be a commercial venture; but instead, it should be not for profit, profit share or charity run. - The business type of the operator is not a material planning consideration.

- Alleged past breaches of planning control and other breaches of non-planning related Council controls by the applicant. - This is not a material consideration in the determination of the application.
- mismanagement of waste/rubbish including disposal of food waste and food waste blocking drains. - There are public health matters that can be satisfactorily dealt with through legislation other than planning legislation.
- Would create opportunities for loitering and anti-social behaviour. - This is a police matter and not a material consideration in the determination of this planning application.
- There exist better alternative locations for the proposed market. - The application stands to be determined on its own merits.
- The visitors to the event are short term visitors which contributes to an increase in demand for short term lets with resultant consequences on the long-term residential leasing market and property prices. - This is not a material consideration in the determination of this application.
- A Christmas market by the operator is not wanted or needed. - This is not a material planning consideration.
- Given that public funds are used to subsidise the market the accounts of the applicant/operator should be made available for public scrutiny. - How the applicant/operator funds the event and the financial affairs of the applicant in respect of the proposal are not a material planning consideration.
- 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. Whether there are other different models of Christmas markets that could operate in the city is not a material consideration in the determination of this application.
- There should be no development on land that is soft landscaped. - the site is entirely hardstanding/public road and no soft landscaped area would be affected.

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

- The proposal is supported.
- The Christmas tree is supported

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

The Design Statement submitted with the application details measures to facilitate access for disabled people within the event. It is considered that these measures are 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 harm the setting of neighbouring listed building for the temporary period of time in which they 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. With reference to the abovementioned Act the proposal is characteristic of the Conservation Area and thus 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 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.

### Committee Considerations

Committee consideration is required as the recommendation is that planning permission be granted.

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

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

#### **Conditions :-**

1. Planning permission is hereby granted for the proposal between 27 November 2021 and 24 December 2021 only.
2. The temporary market shall only operate between the hours of 10am and 10pm on the dates specified in condition 1.
3. The temporary buildings, installations and associated temporary structures and plant hereby approved shall be removed from the site by no later than 28 December 2021.
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, other installations and ancillary structures and plant to be sited within the market and delineated on the layout plan on page 14 and listed in the text on page 15 of the Design Statement, dated September 2020, docketed to this planning permission.

(ii) a written specification of how the layout of the stalls/concessions, installations and ancillary structures and plant within the market delineated on the aforesaid 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/installations delineated on the layout plan on page 14 and listed in the text on page 15 of the Design Statement, dated September 2020, docketed to this planning permission, the quantum of structures/installations erected/sited within 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 application drawings, prior to development commencing on site details of measures to be put in place to protect the neighbouring Category A-listed Mercat Cross and the Category A-listed St Giles (High) Kirk from physical damage from the proposals on Parliament Square; including during the period of construction and dismantling, shall be submitted for the prior written approval of the Planning Authority. The protective measures approved by the Planning Authority shall be put into place prior to development commencing on site and they shall remain in place until all the temporary structures/installations approved by the grant of this planning permission have been removed from the site following decommissioning.

**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 residential amenity and the visual amenity of the area.
4. To ensure that the detailed layout of the market including various structures, stalls/concessions and ancillary structures and plant and the passageways between them complies with the COVID-19 (Coronavirus) Regulations in place at the time when the market/attractions first start trading/operating, in the interests of minimising the risk of transmission of COVID-19 to occupants of neighbouring properties.
5. To safeguard neighbouring listed buildings from physical damage.

## **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 they will contact the Council's Transportation Section 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) must 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 proposed layout of the market on High Street should allow for emergency vehicle access.

## **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. Twenty-six representations were received comprising twenty four objections including one from the Cockburn Association, one raising a general comment and one 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>	4 September 2020
<b>Drawing numbers/Scheme</b>	01, 04, 05, 06, Design Statement,  Scheme 1

**David R. Leslie**  
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## **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 18 (Open Space Protection) sets criteria for assessing the loss of open space.

**The Old Town Conservation Area Character Appraisal** emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community

**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**

# Appendix 1

## **Application for Planning Permission 20/03728/FUL At High Street And Parliament Square, Edinburgh, Full planning permission for Edinburgh's Christmas including Christmas market stalls, Tree, associated site offices, stores and ancillary facilities (as amended to cover the festive period for 2021-2022).**

### **Consultations**

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CEC Environmental Protection - Date: 29/09/2020

Environmental Protection has no objection to this application.

#### Assessment

The application is temporary for November, December and January 2020/21 and the corresponding months in 2021/22. The proposal will result in an increase in footfall and associated noise from the public as well as some noise during construction and removal of the units. However, the noise from this proposal is not considered to be excessive and it is our view it will not significantly affect the amenity of nearby residents. The plans also include a chiller unit at Parliament Square. This could be a potential problem but as there is no residential accommodation at this location, it is not envisaged it would cause complaints.

The event will be licensed and that may provide an option should any unforeseen issues arise that necessitates a resolution. Although it is anticipated that any issues requiring resolution would be addressed informally.

Therefore, Environmental Protection has no objections to this application.

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),  
192A HIGH STREET and 1 AND 1A PARLIAMENT SQUARE, INCLUDING DISTRICT  
COURTS (FORMERLY POLICE CHAMBERS) AND INCLUDING BOUNDARY WALL  
AND RAILINGS (LB27714),  
MERCAT CROSS (LB27792),  
197-207 (ODD NOS) HIGH STREET INCLUDING 1-14 FLESHMARKET CLOSE  
(LB29045),  
209-213 (ODD NOS) HIGH STREET INCLUDING 1-6 JACKSON'S CLOSE (LB29046)

( 215-219 (ODD NOS) HIGH STREET (LB29048)  
221-231 (ODD NOS) HIGH STREET (LB29049),  
233-243 (ODD NOS) HIGH STREET, City Chambers (LB29049),  
245-249 High Street (even numbers), 253 High Street, 323 High Street, 329 High Street,  
2 Warriston's Close and 14 Cockburn Street (LB17597).

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 stalls, ancillary structures and a Christmas tree, as part of Edinburgh's Christmas Market, which would be sited on the West section of the High Street with its junction with Parliament Square. We note that the current application is part of wider proposals that also include facilities in George Street, Castle 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 the High 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.

In addition, from the information provided, it is unclear whether there is a physical impact upon the category A listed Mercat Cross. We note the boundary of the proposed works appears to abut this historic structure, and therefore suggest your Council seeks assurances that appropriate measures are taken to protect this significant civic structure.

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).

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 20/03708/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 Site¿s 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.
- `Authentic City¿: The survival and condition of Edinburgh¿s historic buildings, many being authentic examples of their time ¿ a noteworthy and rare quality.
- `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.

The High Street and Parliament Square are at the heart of Edinburgh¿s highly characteristic Old Town and retain a high degree of both its historic character and authenticity of both urban layout (relating to the 17th creation of Parliament Square and the `medieval spine¿ of the High Street) 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 Old Town Conservation Area, Category A listed St Giles Cathedral and many other listed buildings).

## IMPACT ON OUTSTANDING UNIVERSAL VALUE

The proposals would result in the infilling of public realm characterized by its 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 35 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)

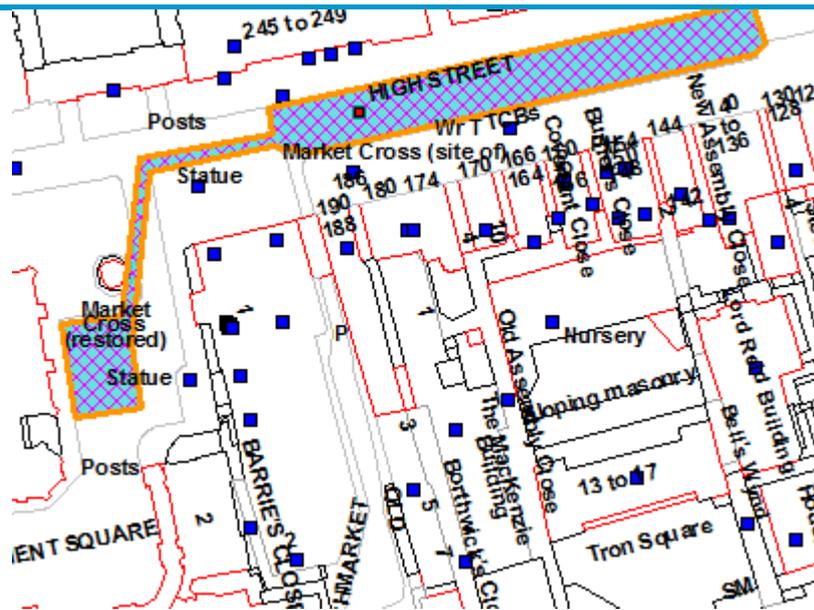
## RESULTANT POSITION

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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