

Development Management Sub Committee

Wednesday 10 November 2021

**Application for Planning Permission 21/04953/FUL
at East Princes Street Gardens, Princes Street, Edinburgh.
Erection of Edinburgh's Christmas at East Princes Street
Gardens and the Mound Precinct including Christmas
market stalls, fairground rides associated site office, stores
and ancillary facilities (proposed for 1 year 2021-2022 and
variation on Ref: 20/03707/FUL).**

Item number

Report number

Wards

B11 - City Centre

Summary

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. The Christmas Market will be an interesting additional feature of the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and the vibrancy of the city centre. 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 proposals comply with the Edinburgh Local Development Plan. 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

<u>Policies and guidance for this application</u>	LDEL02, LDES01, LDES05, LEN01, LEN03, LEN06, LEN07, LEN12, LEN18, LEN22, OTH, CRPNEW, NSLBCA, NSGD02,
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Report

Application for Planning Permission 21/04953/FUL at East Princes Street Gardens, Princes Street, Edinburgh. Erection of Edinburgh's Christmas at East Princes Street Gardens and the Mound Precinct including Christmas market stalls, fairground rides associated site office, stores and ancillary facilities (proposed for 1 year 2021-2022 and variation on Ref: 20/03707/FUL).

Recommendations

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

Background

2.1 Site description

The site forms part of East Princes Street Gardens (EPSG) comprising parts of the top (northern) tier of the gardens and extends to include the paved hardstanding of the Mound plaza. Waverley Bridge bounds the site to the east. The remainder of East Princes Street gardens with the tree lined embankment with Market Street beyond bounds the site to the south. The Royal Scottish Academy bounds the site to the west.

The site is irregular shaped. The site includes the Category A listed Adam Black Monument (Listed Building: LB27842). The site is adjacent to the Old Town Conservation Area. The site is also adjacent to several listed buildings, structures and monuments:

Category A Listed

- Royal Scottish Academy (listed Building reference LB27744).
- Scott Monument with railings and steps (listed building reference LB27829).
- National Gallery of Scotland with Railings (listed building reference: LB27679).
- Livingston Monument (Listed building reference: LB27864).
- John Wilson Monument (Listed building reference: LB27881).
- Police Box at Royal Scottish Academy (Listed building reference: LB30243).
- Waverley Station, 4 Waverley Bridge, Former Parcels Office (17 Waverley Bridge) and Waverley Bridge (Excluding Steps) (Listed building reference LB30270).

Category B Listed

- Waverley West Signal Box at Princes Street Gardens (Listed building reference: LB52052).
- Market Street and Waverley Bridge Police Box (Listed building reference: LB30239).

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

2.2 Site History

25 October 2019 - enforcement investigation into unauthorised formation of Christmas market with associated structures. (application 19/0083/EOPDEV) A delegated closing enforcement report was prepared. The following conclusions were made in that report: Investigations undertaken in December 2019 confirmed that there was no permission in place for the use/structures and as such a breach of planning control had occurred.

Subsequently, the use ceased in January 2020 and the structures were subsequently removed not long after, thereby largely resolving the breach of planning control. However, it was discovered that landscaping works associated with the access improvements to the National Galleries was compromised by the platform associated with the market. This landscaping, which was conditioned as part of this 2018 application, along with the gardens in general, was fully remediated and thereby the breach of planning control was fully resolved.

The Delegated Enforcement Closing Report recommended that the enforcement case be closed, and no further action taken with the caveat that if at a future date works commence in the gardens without the benefit of planning permission, then formal enforcement action can be reconsidered.

Enforcement case 19/0083/EOPDEV was subsequently closed on 11 September 2020.

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

Other relevant applications:

22 September 2021 - Planning application submitted for the Erection of Edinburgh's Christmas at West Princes Street Gardens including Christmas market stalls, fairground rides, Santa's grotto, Christmas tree maze, Associated site offices, stores, and ancillary facilities (Proposed for one year 2021 - 2022). (application reference 21/04954/FUL) - pending consideration

22 September 2021 - Planning application submitted for the Erection of Edinburgh's Christmas at George Street including an ice rink, Christmas market stalls associated site offices, stores and ancillary facilities (Proposed Application for one year 2021 - 2022 & variation on granted planning permission ref 20/03708/FUL). (application reference 21/04950/FUL) - pending consideration.

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 (amended application to cover the festive period for 2021- 2022). (application reference number 20/03728/FUL)- application withdrawn

11 November 2020 - Planning permission granted 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 (amended application to cover the festive period for 2021- 2022). (application reference number 20/03728/FUL).

Main report

3.1 Description of the Proposal

The application is for the erection of Christmas market stalls/concessions, fairground rides, box offices, associated site offices, stores and ancillary facilities. Permission is sought from 20 November 2021 to 5 January 2022. The market and attractions would 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 in 2019.

The current proposal includes:

Top Tier of East Princes Street Gardens (EPSG):

Previously consented:

- box offices
- toilet facilities
- fairground attractions - (40-metre-high big wheel and 52-metre-high star flyer placed either side of the Scott Monument) generator compound and staff facilities
- exit gate

Additional Proposals

- additional stalls located at the base of the big wheel
- 20 additional stalls and an attraction located between the Big Wheel and the Scott Monument
- An additional attraction located between the Star Flyer and eastern boundary of the gardens- adjacent to Waverley Bridge.

Mound Piazza:

Previously consented

- entrance gate
- 27 single storey stalls for trading concessions
- staff facilities

Additional Proposals

- 5 additional trading stalls
- Reduced ticketing checks and queuing area

Additionally, a variety of boundary treatments including 3.05 metre high horizontally boarded timber clad hoarding panels, are proposed within the site to direct the public and improve the flow of patrons around the site, improve legibility, and to encourage the public to stay within the development area.

Access to the event is for pedestrians only. There will be no cycle access. Service vehicle access for East Princes Street Gardens is via the Mound Plaza and is limited to deliveries only. Security officers will be on hand to control and allow access. All deliveries will be received between 10pm and 10am.

The applicant advises that waste collection is to be managed by a certified sub-contractor. Separate waste facilities are to be made available for members of the visiting public and stall holders/staff.

Decommissioning is programmed to take place over a maximum of 14 days. Remediation works are to be undertaken by the Council with the costs met by the applicant.

Detailed drawings including a site layout plan, 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.

3.2 Determining Issues

Due to its proximity to listed buildings and being a 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 building and no significant harm to the character and visual amenity of the conservation area;
- b) the Christmas market is appropriate on part of the garden and civic space;
- c) there will be no significant harm to the character and appearance of the Designed Landscape or on the Outstanding Universal Value of the World Heritage site;
- d) trees, landscaping and biodiversity will not be harmed;
- e) residential amenity will not be adversely affected;
- f) there are no transport issues;
- g) there is no detrimental impact on archaeology;
- h) representations raise issues to be addressed.

a) Impact on Listed Buildings

The proposed market facilities and fairground rides would be located immediately adjacent to a large number of listed buildings including category A listed buildings.

A number of stalls are located on the paved area adjacent to the A-listed Royal Scottish Academy. The star flyer and big wheel would be placed on the upper level of the Garden either side of the A-listed Scott Monument. The revised application now under consideration increases the number of attractions and stalls within the upper garden area and in particular in the vicinity of the Scott Monument.

The star flyer would also be adjacent to the A-listed Livingston Monument. Stalls would be positioned adjacent to the A-listed John Wilson Monument and the A-listed Adam Black Monument. Owing to their size, scale, positioning, form and their design and appearance, the temporary structures would have a detrimental impact on the setting of the A-listed Royal Scottish Academy, the A-listed Scott Monument, the A listed Livingston Monument, the A listed John Wilson Monument and the A-listed Adam Black Monument.

Owing to their size, scale, form, design and appearance the proposal would also have an adverse impact on the setting of the other neighbouring listed buildings listed in the Background section of this report. However, the impact on them would be not as intense as they are located further away from the proposal. The Christmas market including star flyer and big wheel has operated on the site adjacent to these listed buildings for a number of years during the festive season and has become characteristic of the setting of those listed buildings during the festive season. The proposal is for a temporary period of a known duration and the impact on the setting of these neighbouring listed buildings would be short term.

Notwithstanding the detrimental impact on the above mentioned heritage assets, by splitting the event into 3 separate events in the city the scale of the current proposal on this site is significantly reduced from previous years and consequently the impact on the heritage assets is not as profound as in previous years. The scale of the currently proposed temporary development is considerably smaller than that of Christmas market that operated in East Princes Street Gardens in 2019 and smaller than Christmas markets that have operated in East Princes Street Gardens in previous years.

Nonetheless, given that there would be harm to the setting of neighbouring listed buildings, in terms of the above legal test's 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. The Christmas Market will be an interesting additional feature of the city centre, that people from Edinburgh and beyond will benefit from. It will contribute very positively to the life of the city and the vibrancy of the city centre. It is likely to draw people to the city centre who might not otherwise go there and therefore there will be economic benefit to surrounding businesses.

The proposal is for a Christmas Market for Edinburgh. As such it is appropriate that it is located in a city centre location. Given its proximity to bus routes, bus station, tram and train, there are few locations with better connectivity. For example, the Meadows or George Square do not have such connectivity. Other locations in the city centre, given the large number of listed buildings throughout the city centre, are likely to give rise to similar impacts on other listed buildings, if the market was to be put elsewhere. Therefore, the benefits realised by the market can only realistically be delivered at its proposed location of East Princes Street Gardens.

On balance, these benefits, which are significant material considerations, outweigh the 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.

The Christmas market is characteristic of this part of the Conservation Area during the festive season and is an established part of its character during that temporary period and therefore it would not detract from the character and appearance of the Conservation Area or the setting of the Old Town Conservation Area.

Notwithstanding the detrimental impact on the above mentioned heritage assets, by splitting the event into 3 separate events in the city the scale of the current proposal on this site is significantly reduced from previous years and consequently the impact on the heritage assets is not as profound as in previous years. The scale of the currently proposed temporary development is considerably smaller than that of Christmas market that operated in East Princes Street Gardens last year and smaller than Christmas markets that have operated in East Princes Street Gardens in previous years. The current proposal does not include development on the slopes or within the valley base of the garden.

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 does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area.

b) Use of site

The application site is located in the city centre within two open space designations in the Edinburgh Local Development Plan (LDP): (i) Princes Street Gardens East and West - classed as public parks and gardens; and (ii) National Gallery Complex - a civic space which includes the Royal Scottish Academy.

Policy Del 2 (City Centre) of the LDP supports a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. Development will be permitted which retains and enhances the character, attractiveness, vitality and accessibility and contributes to the role of the city centre as a strategic business and regional shopping centre and Edinburgh's role as a capital city.

The proposal will help the city centre fulfil its role as a capital city. Given that the proposed Christmas market/attractions are temporary they do 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/attractions.

The proposal would be a temporary change to the normal use of this part of the Garden and Mound plaza for a limited duration of time only. Temporary outdoor markets/attractions are traditionally found in public spaces. The temporary use of this part of the Gardens and the Mound plaza for events including Christmas markets is long established and the Christmas market and attractions have become a familiar presence on the site in the city centre during the festive season.

The proposal would not prevent the continued existing use of the public garden or the remainder of East Princes Street Gardens. The effect of the proposed development on the leisure value and enjoyment of the part of the Gardens comprising the site and the Mound Plaza as a civic space is not permanent and is reversible. The temporarily change of use of the site would not result in the permanent loss of open space provision in the locality and does not conflict with the key principles of Policy Env 18 (Open Space Protection).

Given all of the above, the proposed temporary use on the site is acceptable in principle provided it complies with other development plan policies, or if it does not, 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 temporary structures would disrupt key views within the designed landscape and the World Heritage Site and thus would harm the character and appearance of the Designed Landscape and the OUV of the World heritage site.

Notwithstanding the detrimental impact on the above mentioned heritage assets, by splitting the event into 3 separate events in the city the scale of the current proposal on this site is significantly reduced from previous years and consequently the impact on the heritage assets is not as profound as in previous years. The scale of the currently proposed temporary development is considerably smaller than that of Christmas market that operated in East Princes Street Gardens last year and smaller than Christmas markets that have operated in East Princes Street Gardens in previous years. The current proposal does not include development on the slopes or within the valley base of the garden. 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 and 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 application includes measures to protect monuments/statues within the site from damage. A condition is recommended requiring these 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) Trees and landscaping and biodiversity

The reduced scale of the development means that no established tree will be affected by the proposed development. The supporting statement accompanying the application states that any established tree in proximity to the proposed development is to be protected with Heras fencing or similar. In addition, the Design Statement accompanying the application details how the proposal has been designed to avoid impact on existing mature trees and specifies a number of other minimum measures that will be deployed to protect trees including measures to avoid root damage. The tree protection measures proposed in the application will ensure the protection of the trees and is considered adequate to mitigate harm to existing trees within the site.

Given the scale of the Christmas event that operated in the Garden in 2019/2020 there was extensive repair required to grassed areas within it over a lengthy period before the Garden could reopen. The current site area comprises significantly less areas of grass within the Garden than previous Christmas markets have. Consequently, less soft landscaping restoration/remediation will be necessary at the end of the decommissioning phase than was required in previous years and moreover the duration of restoration/remediation should be considerably less. The ground to be restored/remediated will be unsightly and inaccessible to the public only temporarily. However, the effects are reversible and not considered to be significantly detrimental to amenity including visual amenity. The Council as landowner through non planning related consents, including terms and conditions of a grant of a lease to the operator, would ensure that at the end of the decommissioning stage the land is restored expeditiously to a required specification. This would include the reinstatement of soft landscaping and the repair/replacement of any damaged kerbs and footways being made good at no cost to the Council. Therefore, there is no requirement to secure restoration/remediation works through a planning condition.

The proposed development would not result in significant harm to ecology or biodiversity. No evidence been presented to the Planning Authority that the proposal would harm European protected species or other species except trees that require to be protected.

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. The site is however within a city centre location and the proposal is for a temporary period. The Council's Environmental Protection Section have previously advised that if any complaints about noise were received, they would address this directly with the event organiser.

The proposals would not give rise to significant harm to the amenity of neighbouring properties including residences.

The Development Management Committee previously sought a condition seeking the exploration of alternatives to the use of diesel generators on the site. This application maintains the use of diesel generators on the site. Whilst this area around East Princes Street Gardens is used for events there is no hard-wired power infrastructure that would be able to support the power loads required to support the market. This condition has not been carried forward on to this application.

f) Transport Issues

No roads are required to be closed to facilitate the proposed development. The proposal raises no road safety or pedestrian safety issues including in respect of the number and location of entrance and exit points and access for wheelchair users. Access to the remainder of the Garden including for pedestrians and wheelchair users will be maintained.

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.

g) Archaeology

No groundworks are required to facilitate the proposal and therefore there is no potential for impacts on underground archaeology

h) Letters of Representation

Material Objections

- Object to use of terrace on front of galleries and impact on Playfair steps; addressed in section a)
- Impact on trees: addressed in section d)
- Impact on heritage: addressed in sections a), b) and c).
- Unacceptable expansion of previous scheme; address within a), b) and c)
- Inadequate toilet provision: toilets are provided within the site.
- No EIA submitted - the application has been screened for EIA and it has been concluded that an EIA is not required.

Non Material Comments

Use of diesel generators

- East Princes Street Gardens should not be used for commercial gain
- Ongoing damage to the gardens - any damage to the gardens would be covered by separate agreement between Parks and the Event organiser.
- Events should be cancelled this year in line with other cities.
- Too commercial and doesn't represent Scotland
- Use of Common Good Land
- Permanent businesses deprived

Support

- Pleased concentration of Christmas Market has been dispersed across sites
- Support application but query whether the upper Terrace should be deleted and moved to Waverley Bridge as an alternative.

New Town and Broughton Community Council Comments

Previous joint statement (from 5 City centre community councils and the Cockburn Association) as submitted to the Policy and Sustainability Committee in August 2020:

- *Overall, we support the direction of travel away from the arrangements that caused so much damage to East Princes Street Gardens and distress to residents in 2019/ 2020. We remain of the view that the gardens are no appropriate for the Ferris Wheel, Star Flyer and market stalls, next to the Scott Monument."*
- Specifics to This Application:
- Support use of the hardstanding available on the Mound Precinct - question why Waverley Bridge not included
- Additional use of memorial garden for additional market stalls not appropriate
- Concerns around the overall remediation and reinstatement provisions that are covered by any ground contract with Parks
- Broad concerns to the installation of the Star Flyer and Big wheel adjacent to the Scott Monument.
- Support the principle of a dispersed market.

Conclusion

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. The Christmas Market will be an interesting additional feature of the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and the vibrancy of the city centre. 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 proposals comply with the Edinburgh Local Development Plan. 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 hereby granted for the proposal for the period between 20 November 2021 and 5 January 2022 only.
2. The temporary market and other attractions hereby approved shall only be operational between the hours of 10am and 10pm on the dates specified in condition 1.
3. The temporary buildings, attractions, installations and associated temporary structures and plant hereby approved shall be removed from the site in their entirety by no later than the 19 January 2022.
4. The tree protection measures detailed in Part 3, section titled: "Greenspace Strategy" of the Design Statement dated September 2021 and docketed to this planning permission shall be carried out/adhered to in full prior to development commencing and until all of the temporary structures/installations approved by the grant of this planning permission have been removed from the site. Following the completion of the tree protection measures and prior to development commencing on the site the operator shall write to the Planning Authority confirming that the tree protection measures have been completed.

Access shall be made available to officers of the Council's Parks and Greenspace Section or a representative authorised by them, to carry out site survey/monitoring checks of the tree protection measures being carried out.

5. The monument/statue protection delineated/detailed on docketed drawings No 10 (UB-ECH 21-015) and No 9 (UB-ECH 21-016) shall be in place prior to development commencing on site and thereafter they shall be retained in situ until all of the temporary structures/installations approved by the grant of this planning permission have been removed from the site.

Reasons: -

1. In recognition of the temporary nature of the proposal.
2. In the interests of safeguarding the amenity of neighbouring noise sensitive properties.
3. In recognition of the temporary nature of the proposal.
4. In the interests of safeguarding trees which make a significant contribution to the character and amenity of the area.
5. In the interests of safeguarding listed monuments/statues from damage

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

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

Equalities impact

6.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

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

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 1 October 2021 and a total of 18 letters of representation were received including a letter from the Cockburn Association. A letter was also received from the New Town and Brought Community Council which has been treated as a consultation response and is available in full within the consultation section.

Background reading/external references

- 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](#)

Statutory Development**Plan Provision**

Located within the urban area.

Date registered

21 September 2021

Drawing numbers/Scheme

1 - 14,

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Elaine Campbell, Team manager

E-mail: elaine.campbell@edinburgh.gov.uk

Links - Policies

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.

LDP Policy Env 12 (Trees) sets out tree protection requirements for new development.

LDP Policy Env 18 (Open Space Protection) sets criteria for assessing the loss of open space.

LDP Policy Env 22 (Pollution and Air, Water and Soil Quality) sets criteria for assessing the impact of development on air, water and soil quality.

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.

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

Non-Statutory guidelines Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

Appendix 1

Application for Planning Permission 21/04953/FUL at East Princes Street Gardens, Princes Street, Edinburgh Erection of Edinburgh's Christmas at East Princes Street Gardens and the Mound Precinct including Christmas market stalls, fairground rides associated site office, stores and ancillary facilities (proposed for 1 year 2021-2022 and variation on Ref: 20/03707/FUL).

Consultations

Historic Environment Scotland

In November 2020 an application was approved for structures associated with Edinburgh's Christmas Market at East Princes Street Gardens- this included stalls, fairground rides and associated facilities. A condition of permission restricted operation from 20 November 2021 to 2 January 2022.

This application proposes changes to the use of the area at east Princes Street Gardens. The result would be further stalls and attractions than was approved last year - although we realise last year's proposal was a reduction because of COVID restrictions. The current proposals along the top of the Gardens would appear closer to pre-COVID years, although attractions which in previous years were located in the valley base are now proposed elsewhere.

The increase in the number of attractions from last year's application would consequently increase the harmful impacts on the historic environment. However, we do not consider these proposals would result in significant impacts on the historic environment if this development is temporary and time limited. We would therefore expect, if your Council approve the application, that a similar condition be added to limit the duration of this development.

Planning authorities are expected to treat our comments as a material consideration, and this advice should not be taken into account in your decision making. Our view is that the proposals do not raise historic environment issues of nation 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.

New Town and Broughton Community Council

Although the application site resides just within the boundary of the Old Town Community Council, the New Town & Broughton Community Council (NTBCC) has been involved with East Princes Street Gardens through various discussions regarding the Edinburgh Christmas Market with other city centre community councils as well as

The Cockburn Association; and as such, would wish to submit a representation on this application.

We note that the above application is seeking to amend the permission for the Winter 2021 event only (under 20/03707/FUL), which was granted on 14th November 2020. Our comments relate to this proposed temporary development on the top level of East Princes Street Gardens (EPSG) and the Mound Precinct between November 2021 and January 2022.

We note that future applications should be informed by the 'root and branch' review of the Winter Festivals which was carried out earlier in 2021 and that the provision of Winter Festival activities will be subject to a tendering exercise to be conducted by the City of Edinburgh Council in the coming months. We would also expect both the key principles and associated guidelines in the (very) draft 'Use of Public Spaces for Events and Filming' currently open for public consultation will be a material planning consideration for future events.

The community council recognise both the popularity of the Edinburgh Christmas event historically and their contribution to the vibrancy of the city (and city centre) in past years. However, we also share the view stated by the Cockburn that they have increasingly become major commercial events rather than cultural activities and that 'the Christmas Market has changed from the German Market that occupied the Mound with largely authentic products and produce to a disruptive, generic event that imposes significant restrictions on local residents, mainly targeting the tourist market'.

With reference to the previous application (20/03707/FUL), NTBCC did submit an objection raising concerns over

- (1) Impact on Availability of Public Space
- (2) Principle of a Dispersed market (and our support for this)
- (3) Market Stall Composition
- (4) Impact on Residential Amenity
- (5) Proposals for Managing Public Safety / Queue Management (due to the ongoing pandemic)

As a conclusion to this preamble, it may be helpful to reiterate part of the Joint Statement (from the 5 city centre community councils & The Cockburn Association) as submitted to the Policy & Sustainability Committee in August 2020:

"Overall, we support the direction of travel away from the arrangements that caused so much damage to East Princes Street Gardens and distress to residents in 2019/20. We remain of the view that the gardens are not appropriate for the Ferris Wheel, Star Flyer and market stalls, next to the Scott Monument."

NTBCC's position on this has not changed.

With respect to the current application, NTBCC would also wish to register the following comments.

1. Use of public spaces outwith East Princes Street Gardens for Christmas Market facilities

We do not take issue with the proposal to use the hard-standing available on the Mound Precinct for the Christmas Market. This has been used for temporary events for many years and if properly managed, time limited and with agreement from the National Galleries of Scotland, its use should not cause a problem.

We are somewhat surprised that the proposal does not intend to use the hard-standing now available on Waverley Bridge. Although the road closure currently has been secured under a TTRO, this would cover the period required to stage the proposed Edinburgh Christmas market. It would seem a more appropriate space to locate the additional market stalls that are now proposed to be located on the grassed area of the Remembrance Garden in the current application (vs. the previously-consented 20/03707/FUL application which kept this area clear of temporary structures).

2. Use of public spaces within East Princes Street Gardens

We have significant concerns with the proposal to extend the area for market stalls to include the Remembrance Garden. This was excluded from the previously-approved application (20/03707/FUL) and along with the Cockburn Association's stated position; we would prefer this to be removed from the proposals and as suggested above, possibly moved to Waverley Bridge. This would avoid damaging the soft surfaces (grassed area) and permit the Remembrance Garden to be enjoyed for a longer period. We would also mention that in 2019 this area suffered significant damage from the imposition of the Christmas market stalls there and although it was among the first areas to be reinstated under the current Edinburgh Christmas contract, it still resulted in an unsightly and disrespectful image and an extended outage of this space.

Restricting the market in this area would undoubtedly be in the wider public interest and be more respectful to the Remembrance Garden vs. the rapid clearing of this area and setting up market stalls.

We would also support a comment made in the Cockburn Association's submission that stated "It must be said that we have little confidence in either Underbelly or the City Council in restoring the area of ground post-damage or in preventing it in the first place".

Although, as far as we understand, the current contract contains a 'reinstatement' clause, this is more to reduce the financial burden on the City of Edinburgh Council rather than ensure that remediation is carried out in an acceptably short timeframe. As such, if permission was to be granted for the Edinburgh Christmas Market in 2021/22, we would hope that additional conditions would be attached (above and beyond those contained within the current contract) to ensure that remediation and reinstatement is not allowed to extend significantly from the decommissioning date; a period of 1 month, perhaps 2 months maximum, would seem appropriate. If this cannot be met, then the proposal should not be permitted.

Finally, we would reiterate our broad concerns to the installation of the Star Flyer and Big Wheel adjacent to the Scott Monument. Whilst we acknowledge that some years ago, the necessary foundation supports have been installed to permit the erection of these 'attractions', this should not continue to be a reason to erect these 'attractions' in this location.

3. Principle of a Dispersed market :

NTBCC broadly support the idea brought forward in previous discussions that the response to the unacceptable impact from the 2019 market installation would be to consider more fully, the idea of a dispersed market.

Whilst this should extend over a wider area than the Waverley valley, the use of the Waverley bridge area, being hard-standing, would be consistent with this.

In summary, whilst NTBCC recognise and acknowledge the importance to many within the wider community to have a Christmas event; as well as the possible increased footfall being attracted to the city centre which could potentially benefit established city centre businesses, for the reasons outlined above, it is difficult to support this proposal as currently presented.

Whilst we do have concerns with pop-up bars, preferring trade to be given to permanent businesses who operate year-round; this consideration is perhaps more relevant to the proposals for George Street (21/04950/FUL) to which we have responded separately.

We would hope that our comments would provide some options to revise or refine the proposal as presented although we recognise that there isn't as much time available for this as there could have been as these applications have been lodged essentially at the last minute by Underbelly.

If it is decided to grant this application, either as presented or with modifications, we would also want to stress that consent for the 2021 Christmas event does not and should not set a precedent. Furthermore, the community council would expect a complete review of both the design approach and the commissioning process for future years, consistent with the (as yet unpublished) response to the consultation with residents recently carried out.

Edinburgh World Heritage

The scope and emphasis of our comments reflects our principal remit associated with impact on the Outstanding Universal Value (OUV) of the Old and New Towns of Edinburgh World Heritage Site ('World Heritage Site').

This application lies within the context of two associated applications for dispersed Christmas markets in the city (references 21/04954/FUL and 21/04950/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.

Edinburgh World Heritage Advice

Waverley Valley and Princes Street Gardens are of great importance to the Outstanding Universal Value to the World Heritage Site - in particular the dramatic reflection of the changes in European planning from the medieval Old Town to the Enlightenment planning of the New Town. It is the nodal point between the two sides of the city - creating key views where the 'two towns' can be appreciated as well as containing highly significant landscapes, monuments and architecture. Given the importance of this area to the World Heritage Site and city identity, it is essential that

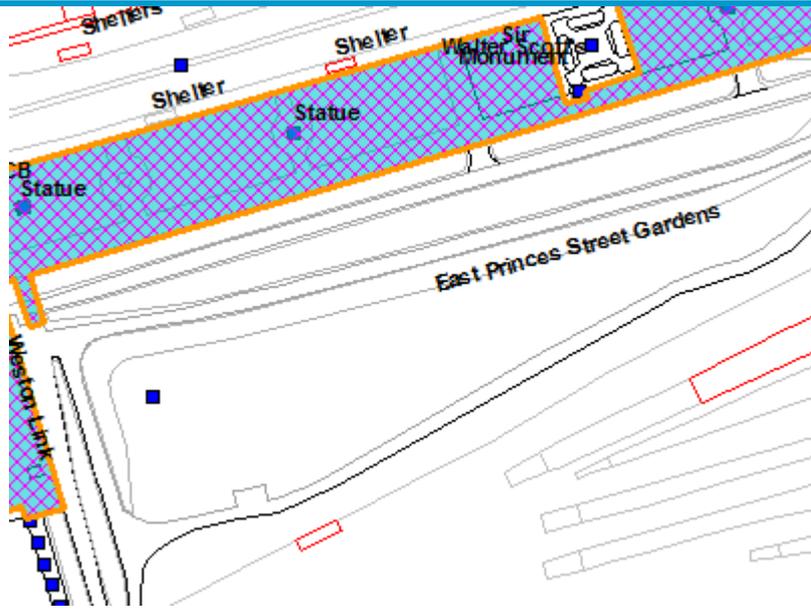
any intervention (whether temporary or permanent) in the valley conserves or enhances its heritage values.

In the past, the intensity of the Winter Festivals in the Waverley Valley has been detrimental to character of the designed landscape, setting of listed buildings as well as causing physical wear on the public realm. While this temporary in nature, it is regular and impacts on this important space for a significant period of the year (including set up, take down and landscape recovery time). The responses we have seen from consultations on numerous public realm initiatives and strategies indicates the management of public space in the city is an area of some contention for the local community, and it will be important to consider these views in moving forward.

With regards to impact on OUV and in relation to the previous associated proposal (20/03707/FUL), the proposals would result in a higher level of harm - increasing the intensity of structures which are not in keeping with the historic public realm characterised by its purposefully designed and high- quality open space. It is acknowledged that this harm is temporary in nature (we advise a condition applied to any consent to ensure this is the minimum time period necessary) and relates only to this coming Christmas/ winter period and the unique challenges surrounding it. It is our understanding that further consultation and engagement by the City of Edinburgh Council will be undertaken in the coming months to inform a balanced future for the winter markets which takes into account community and heritage considerations. In light of this specific context, we do not wish to formally object to the application but do advise that the intensity/ density of the temporary structures are decreased to reduce heritage impact.

We look forward to further engagement from the City of Edinburgh Council on the positive re-forming of the Winter Festivals moving forward, alongside communities and wider stakeholders. This welcome process will be key in ensuring that the future of the winter festivals supports the legislative and policy requirements to protect and preserve the OUV of the World Heritage Site.

Location Plan



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