

Development Management Sub Committee

Wednesday 24 November 2021

**Application for Planning Permission 21/05177/FUL
at Proposed Festival Event Space at St James Square,
Edinburgh.**

**Use of St James Square as a festive events space, including
erection of temporary structures, stage, enclosures and
other associated works. Permission sought for four years
(2021/22, 2022/23, 2023/24 and 2024/25).**

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 not result in harm to the setting of listed building. 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 complies with the relevant policies of Edinburgh Local Development Plan.

The proposed temporary nature of the development is considered to be acceptable in this location.

The proposal will preserve the setting of the listed buildings, in compliance with LDP Policy Env 3. The proposal will have a neutral impact on the conservation area, preserving its appearance and character in compliance with LDP Policy 6 and will not harm the qualities of the UNESCO World Heritage Site, in compliance with Env 1.

The proposal will not result in an unreasonable loss of neighbouring amenity, and subject to the recommended conditions is in compliance with LDP Policy Des 5.

There are no material considerations that outweigh this conclusion.

It is therefore recommended that the application be granted.

Links

[Policies and guidance for this application](#)

HES, HESCON, HESSET, LDPP, LEN01, LEN03, LEN06, CRPNEW, LDES05, LRET07,

Report

Application for Planning Permission 21/05177/FUL at Proposed Festival Event Space at St James Square, Edinburgh.

Use of St James Square as a festive events space, including erection of temporary structures, stage, enclosures and other associated works. Permission sought for four years (2021/22, 2022/23, 2023/24 and 2024/25).

Recommendations

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

Background

2.1 Site description

The site comprises the central portion of St James Square, an external space of the new St James Quarter development- a retail and leisure led development in the city centre that surrounds the majority of the square on the northern and eastern sides.

The B- Listed 27-31 James Craig Walk (Ref: LB30026) forms the southern side of the square and is currently being redeveloped as part of the wider St James Quarter Development.

The four storey and attic A-Listed tenements at 23-26 St James Square (Ref: LB29728) are located to the west of the square.

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

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description of the Proposal

The application seeks temporary permission for the use of St James Square as a festive events space.

The proposal involves the erection of temporary structures, including a tented bar area, timber cabins/huts for seating and timber perimeter fencing enclosing the area.

Permission has been sought for four years (2021/22, 2022/23, 2023/24 and 2024/25).

The proposed operating dates for the first year are to be set up in week of November, operating until week one of January 2022, with the take down in the same week. The same arrangements are proposed for the following years.

The site capacity will be for 250 visitors, divided between the huts and tented bar area. Operational hours will be 11am to 11pm, with live music until 10pm.

During set up and take down the site is accessed via Elder Street. During the operational phase, the existing St James Quarter service yard and facilities are to be utilised.

Waste and recycling will be processed via existing St James Quarter management facilities.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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) the proposal will preserve the setting of the listed building, will harm the qualities of the UNESCO World Heritage Site, and whether the proposal will adversely affect the character and appearance of the conservation area;
- b) the proposal is acceptable in principle;

- c) will result in an unreasonable loss of neighbouring amenity;
- d) the proposal will have any road safety implications;
- e) the proposal impacts on equalities and human rights are acceptable and
- f) any comments received are addressed.

a) Impact on the setting of the listed building, World Heritage Site and Conservation Area

Impact on the setting of the listed building

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states: "In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The Courts have clarified that Section 59(1) 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 proposals would result in significant public interest advantages which can only be delivered at the scheme's proposed location.

Historic Environment Scotland's Managing Change guidance on Setting gives guidance on when proposals impact the setting of listed buildings.

LDP Policy Env 3 (Listed Buildings- Setting) states that Development within the curtilage or affecting the setting of a listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting.

The proposal sits within the urban context of the surrounding modern St James Quarter development, including the contemporary hotel development to the east. Given the transient nature of the installations, along with their scale and positioning within the context of the developed square, the proposed festive space will not be to the detriment of the character or appearance of the nearby listed buildings and will continue to preserve their historical setting.

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would not result in harm to the setting of listed building. The proposal will not diminish the building's historical interest, in compliance with LDP Policy Env 3 and Managing Change guidance.

Impact on the UNESCO World Heritage Site

LDP Policy Env 1 states Development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh 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.

The inscription reasons are set out in the Edinburgh World Heritage Site Management Plan as follows:

The Old and New Towns of Edinburgh World Heritage Site (WHS) met two criteria -

Criterion (ii) - Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts, or town planning and landscape design. The successive planned extensions of the New Town, and the high quality of its architecture, set standards for Scotland and beyond, and exerted a major influence on the development of urban architecture and town planning throughout Europe, in the 18th and 19th centuries.

Criterion (iv) - Be an outstanding example of a type of building or architectural ensemble or landscape which illustrates (a) significant stage(s) in human history.

Due to the temporary nature and the size, scale and design of the proposed structures it is considered that there would not be an adverse impact on the setting of the World Heritage Site.

The proposal will not have an impact on the outstanding universal value and the reasons for inscription in compliance with policy Env 1.

Impact on Conservation Area

Section 64 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states: "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The Courts have clarified that Section 64 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 proposals would result in significant public interest advantages which can only be delivered at the scheme's proposed location.

LDP Policy Env 6 (Conservation Areas - Development) supports development within a conservation area or affecting its setting which preserves or enhances the special character and appearance of the conservation area and is consistent with the relevant character appraisal, preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character and demonstrates high standards of design and utilises materials appropriate to the historic environment.

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.

The temporary nature of the structure is a material factor in the assessment of any impact on the character or appearance of the conservation area. The structure will be set within the context of the wider contemporary development and will not impact on the skyline. The proposals preserve the character and appearance the New Town Conservation Area in compliance with policy Env 6.

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would not result in harm to the setting of the conservation area. The proposal will have minimal impact on the character and appearance of the conservation area, preserving its special interest, in compliance with LDP Policy Env 6.

b) Principle of Development

Policy Ret 7 Entertainment and Leisure Developments - Preferred Locations states:

Planning permission will be granted for high quality, well designed arts, leisure and entertainment facilities and visitor attractions in the City Centre, at Leith and Granton Waterfront and in a town centre, provided:

- a) The proposal can be integrated satisfactorily into its surroundings with attractive frontages to a high quality of design that safeguards existing character;
- b) The proposal is compatible with surrounding uses and will not lead to a significant increase in noise, disturbance and on- street activity at unsocial hours to the detriment of living conditions for nearby residents;
- c) The development will be easily accessible by public transport, foot and cycle.

The site is located within the city centre as defined in the Local Development Plan. The principle of leisure and entertainment provision is generally accepted within this area. The temporary nature and positioning of the installations ensures the proposal will integrate adequately into its surroundings. Criteria b) and c) are considered below.

The principle of the use of the site is acceptable given the temporary nature of the proposal.

c) Residential Amenity

LDP Policy Des 5 seeks to ensure that the amenity of neighbouring residents is not adversely affected by development.

There are existing flatted residential properties located to the west of the proposed festive space, along with future units along St James Walk which is currently being developed.

Operating hours are proposed 11am to 11pm, with live music restricted to 10pm.

Environmental Protection were consulted on the proposal and whilst they have not objected to the proposal, it is recommended that the application be limited to a one-year period to allow any potential impact in respect to noise disturbance to be monitored during this period and taken into consideration for any future application submitted in order to extend the permission to cover years 2-4.

This is a city centre location with a substantial pedestrian footfall and where on-street activity at ground level currently exists. However, the proposed mitigative measures in the form of restricting the consent to allow any impact to be monitored and addressed is considered reasonable in this instance to ensure the proposal will not be to the detriment of residential amenity.

Given the location and site context, the proposal should not result in an increase in noise that is sufficient enough to result in a harmful impact upon neighbouring residential amenity. The proposal is therefore in line with the objectives of LDP Des 5.

d) Road Safety and Parking

The proposal is located within a central location and no additional parking will be provided for the event. Parking, including disabled parking provision is located within the St James Centre Car Park, with drop off at Elder Street.

The site is considered to be in an accessible location with good transport links.

The 2m zone has been retained to allow emergency service vehicle access.

A number of the operational matters would be covered by licensing/permits.

e) Equalities and human rights

The application has been assessed in terms of equalities and human rights. No issues have been identified.

f) Public Comments

18 letters of objections were received in relation to the proposal. 16 of these object to the proposal and two of them raise neutral comments.

Material considerations

- Impact on New Town Conservation Area- addressed in Section 3.3a;
- Impact upon listed buildings- addressed in Section 3.3a;
- Impact upon UNESCO World Heritage Site- addressed in Section 3.3a;
- Appearance- addressed in Section 3.3a;
- Noise- addressed in Section 3.3c;
- Parking and Congestion- addressed in Section 3.3d;
- Fire safety and access- addressed in Section 3.3d;
- Time period of 4 years and request that it be reduced to 2 years- addressed in Section 3.3b and c; and
- Inaccurate drawings uploaded. This matter was resolved and the correct drawings available to view.

Non-material considerations

- Litter- this is not a matter controlled by planning legislation;
- Construction Noise relating to ongoing works at St James- this is not a matter controlled by planning legislation;

- Lack of toilets- toilet facilities, including disabled toilets, are available within the St James Centre.
- Public safety and various concerns about flammability of materials, construction flaws and safety concerns relating to hoarding and numbers of patrons in each ski hut- these are not matters controlled by planning legislation;
- Concern that structure is being advertised and erected in advance of planning application - retrospective planning permission is included in the Planning Act;
- Lack of consultation and time to comment - notification was carried out in line with development management legislation and sufficient time allowed for comments to be submitted and
- Comments relating to prices of products and services.

Support

- 2m buffer retained for access.

Conclusion

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would not result in harm to the setting of listed building. 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 complies with the relevant policies of Edinburgh Local Development Plan.

The proposed temporary nature of the development is considered to be acceptable in this location.

The proposal will preserve the setting of the listed buildings, in compliance with LDP Policy Env 3. The proposal will have a neutral impact on the conservation area, preserving its appearance and character in compliance with LDP Policy 6 and will not harm the qualities of the UNESCO World Heritage Site, in compliance with Env 1.

The proposal will not result in an unreasonable loss of neighbouring amenity, and subject to the recommended condition is in compliance with LDP Policy Des 5.

There are no material considerations that outweigh this conclusion.

It is therefore recommended that the application be granted.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. Notwithstanding the approved plans, permission is hereby granted for a restricted period as follows: Development hereby granted shall only be operational from 24th November 2021 to 3rd January 2022 inclusive, and all structures shall be removed from the site by 10th January 2022.

Reasons:-

1. In the interests of neighbouring amenity.

Informatives

It should be noted that:

1. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
2. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

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

18 letters of representation have been received in relation to the proposal. 16 of these letters were submitted in objection to the proposal along with two neutral comments.

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**

Edinburgh Local Development Plan.

Date registered

4 October 2021

Drawing numbers/Scheme

01-06,

Scheme 1

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Sonia Macdonald, Planning Officer

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Links - Policies

Relevant Policies:

Relevant Government Guidance on Historic Environment.

Planning Advice Note 71 on Conservation Area Management recognises conservation areas need to adapt and develop in response to the modern-day needs and aspirations of living and working communities.

Managing Change in the Historic Environment: Setting sets out Government guidance on the principles that apply to developments affecting the setting of historic assets or places.

Relevant policies of the Local Development Plan.

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.

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.

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

LDP Policy Ret 7 (Entertainment and Leisure Developments - Preferred Locations) identifies the City Centre, at Leith and Granton Waterfront and town centres as the preferred locations for entertainment and leisure developments.

Appendix 1

**Application for Planning Permission 21/05177/FUL
At Proposed Festival Event Space At, St James Square,
Edinburgh
Use of St James Square as a festive events space, including
erection of temporary structures, stage, enclosures and
other associated works. Permission sought for four years
(2021/22, 2022/23, 2023/24 and 2024/25).**

Consultations

Flood Prevention response

We have no major concerns about this application given its temporary nature. This application can proceed to determination, with no comments from CEC Flood Prevention.

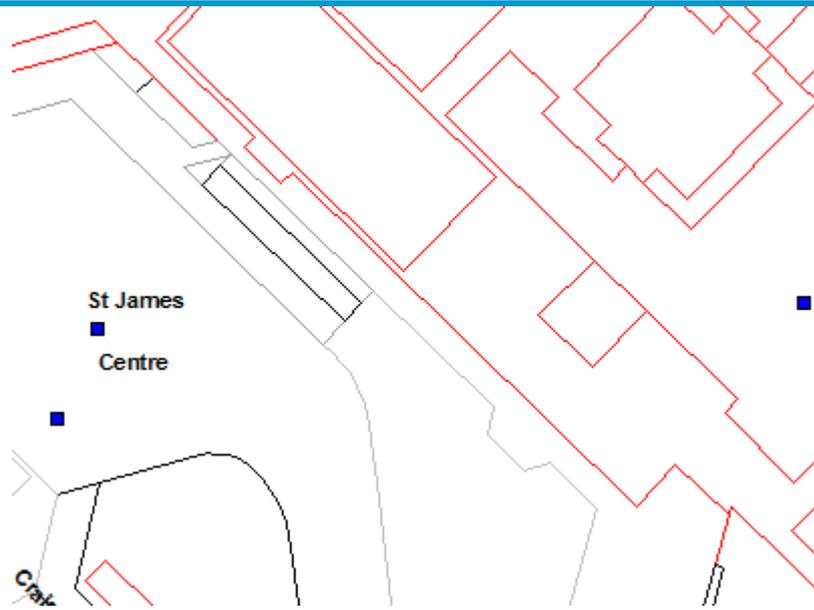
Environmental Protection response

Environmental Protection are very concerned about this application due to the amplified music / vocals and potential customer noise (unamplified voices) impacting on the amenity of nearby noise-sensitive receptors.

It is very difficult to mitigate amplified music and vocals in these circumstances (outdoors, often live music) and to mitigate unamplified vocals. However, the applicants may wish to commission a Noise Impact Assessment to demonstrate that, they could operate without a detrimental impact on nearby residential amenity.

Would planning also consider a more limited consent (e.g. granting for one year to review noise levels/ complaints)?

Location Plan



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