

# Development Management Sub Committee

Wednesday 9 February 2022

**Application for Planning Permission 21/06532/FUL  
at land at, Festival Square, Edinburgh.  
The erection of a temporary building structure and  
associated infrastructure for the purpose of hosting an art  
exhibition for a period of 6 months.**

**Item number**

**Report number**

**Wards**

B11 - City Centre

## Summary

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The proposal complies with Section 64(1) and 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. It is in compliance with the relevant local development plan policies and the Council's non-statutory guidance. The scale and design of the proposal are acceptable and there would be no loss of residential amenity. It is in accordance with the relevant criteria contained within Scottish Planning Policy. There are no other material considerations that outweigh this conclusion.

## Links

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[Policies and guidance for this application](#)

LDPP, LDEL02, LDES01, LEN03, LEN06, LEN18, LRET07, LDES05, LTRA02, LTRA03, NSG, NSGD02, NSBUS, OTH, CRPWEN,

# Report

## **Application for Planning Permission 21/06532/FUL at land at, Festival Square, Edinburgh. The erection of a temporary building structure and associated infrastructure for the purpose of hosting an art exhibition for a period of 6 months.**

### **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**

Festival Square comprises a civic square situated on the west side of Lothian Road. The square is bounded by large, modern office buildings, with the Sheraton Hotel situated at the western end of the square.

The site affords views towards the Usher Hall and Edinburgh Castle to the east.

Statutorily listed buildings within the vicinity include:

The Usher Hall (Category A listed, Ref: 27780, Date of listing - 14 December 1970)  
57-65 Lothian Road (Category B listed, Ref: 29265, Date of listing - 29 March 2001)  
71-73 Lothian Road (Category C listed, Ref: 29267, Date of Listing; - 29 March 2001)

The main expanse of the square is surfaced in concrete paving flags, with granite surrounds.

The boundary of the World Heritage Site lies immediately to the eastern edge of the square.

This application site is located within the West End Conservation Area.

#### **2.2 Site History**

There have been a number of temporary consents on this site, including:

11 June 2014 - Seasonal market to be erected of 31 market stalls which are innovative architecturally designed cubic shapes, picnic tent and air puddle. Granted. (Application reference number: 14/01336/FUL).

21 June 2012 - Section 42 application to amend conditions 1 and 2 of application reference 08/04220/FUL to extend the duration of consent and hours of operation. Granted. (Application reference number: 12/01117/FUL).

5 February 2009 - Erection of video screen for London 2012 live site. Granted. (Application reference number: 08/04220/FUL).

7 December 2000 - Events with occasional market retail function. Granted. (Application reference number: 00/03197/FUL).

## **Main report**

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### **3.1 Description of the Proposal**

The application is for the erection of a temporary building and associated infrastructure for the purpose of hosting an art exhibition for a period of six months.

### **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 proposed impact upon the setting of nearby listed buildings is acceptable;
- b) the proposals preserve the character and appearance of the conservation area;
- c) the principle of the development is acceptable;
- d) there is any adverse impact on residential amenity and road safety;
- e) representations raise issues to be addressed and
- f) other material matters are considered.

#### a) Impact on Setting of Listed Buildings

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"*

LDP Policy Env 3 (Listed Buildings - Setting) states 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 proposed development would be located near to a number of listed buildings, including the category A listed Usher Hall, which is situated on the opposite side of Lothian Road.

Although the proposal would be relatively prominent when viewed from the immediate vicinity on Lothian Road, it would be shielded from wider views by virtue of the modern buildings that flank the square. This creates a visual detachment from any nearby listed buildings that ensures its impact on their setting would be very minor.

The development is required to be sited within the city centre to ensure its successful function. Given the number of listed buildings throughout the city centre, other locations would likely have similar issues to address.

On balance, the benefits of this site outweigh the very minor and temporary impact that the proposal would have on the setting of neighbouring listed buildings.

The proposals preserve the setting of nearby listed buildings, in compliance with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and LDP Policy Env 3.

#### b) Impact on Conservation Area

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

*"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*

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 West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly four-six storeys and constructed of stone, with pitched, slated roofs.

Temporary events have been held in Festival Square, as it lends itself to such events by virtue of its scale, vibrancy and commercial nature. The proposed massing is designed to scale up, away from Lothian Road, ensuring that the largest massing of the structures would be to the rear of the square and avoid forming a dominant feature along the Lothian Road streetscape.

Covering an area of 1,405sqm, the gallery and temporary structures would be arranged to occupy the majority of the square, with the structure being visually contained by the adjacent buildings. Moreover, the design would clearly read as a temporary installation, and not as a permanent addition to the streetscape.

The proposals preserve the character and appearance the West End Conservation Area, in compliance with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, LDP Policy Env 6 and the non-statutory guidance in relation to Listed Buildings and Conservation Areas.

#### c) Principle of Development

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

LDP 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.

LDP Policy Env 18 (Open Space Protection) seeks to control the loss of open space within the city. In particular, the provision of open space for the recreational needs of the residents is an integral part of the strategy. The policy advises that the Council "will only support development on open space in exceptional circumstances, where the loss would not result in detriment to the overall network and to open space provision in the locality."

The site is located within the city centre as defined in the Local Development Plan. The principle of leisure and entertainment provision is acceptable within this area. Given the temporary nature of the installation, the positioning of the structure ensures it integrates adequately into its surroundings. Criteria b) and c) will be assessed in further detail in section d) *Amenity and Transport* below.

The development would be an interesting additional feature of the city centre. The site is very well placed for public transport and would attract people from Edinburgh and beyond. It would contribute positively to the vibrancy of the city centre and would encourage people to the city centre, bringing economic benefit to the city.

A balanced decision has to be taken on whether the loss of the use of the open space for a period of six months outweighs the recreational use of the site. It is acknowledged that the proposal would cover the majority of Festival Square. However, the square has accommodated similar, temporary cultural installations and this development would bring a high quality exhibition into the city centre, where it would form a sustainable and publicly accessible venue. The temporary loss of the open space is justified.

The proposal complies with LDP Policies Del 2, Ret 7 and Env 18.

#### d) Residential Amenity and Transport

LDP Policy Des 5 (Development Design - Amenity) seeks to ensure that the amenity of neighbouring residents is not adversely affected by development.

There are no residential properties immediately adjacent to the part of the site that is proposed to be developed.

Festival Square is within a busy city centre location which has a mixture of restaurants, pubs, hot food takeaways and shops. The high ambient noise levels from sources such as ventilation plant, restaurant operations and traffic are an established characteristic of the area.

There will be amplified music during the day and the evening and a large number of people are expected to attend the exhibition. The structure includes noise mitigation measures and the anticipated noise break out is very low. Moreover, the nearest residential property is located on the east side of Lothian Road, and the ambient noise level associated with that road would mask any noise from the venue. The applicant has stated that the operating hours are expected to be between 09:00 - 23:00, with last public entry at 21:00. This will be controlled through the imposition of a condition.

Given the late hour activity and ambient noise levels in the area, the proposed hours of operation and the distance from the nearest residential property, the development would be acceptable in terms of impact on residential amenity.

The applicant has confirmed that a private waste collection service will be in place for the development.

The proposal is located within a central location, which is well served by bus routes. The site is also within easy walking distance of Princes Street, where buses and trams can be accessed. The site is in an accessible location in terms of access by public transport.

The Roads Authority has been consulted and offers no objection to the scheme.

The proposal complies with LDP Policy Des 5.

e) Public comments

None received.

e) Other material considerations

*SPP - Sustainable development*

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal accords with Paragraph 29 of SPP.

*Emerging Policy Context*

NPF 4 - Draft National Planning Framework 4 is being consulted on at present. As such, it has not yet been adopted. Therefore, little weight can be attached to it as a material consideration in the determination of this application.

City Plan 2030 - While the proposed City Plan is the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

**Conclusion**

The proposal complies with Sections 59(1) and 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. It is in accordance with the relevant local development plan policies and the Council's non-statutory guidance. The scale and design of the proposal are acceptable and there would be no loss of residential amenity. There are no other material considerations that outweigh this conclusion.

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

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

#### **Conditions:-**

1. Permission is granted for a limited period of six months. The development hereby approved shall be removed prior to or on the date of expiry of the limited period of permission and the land and/or buildings restored to their previous condition within three months of the removal of the development.
2. The hours of operation shall be restricted to 09:00 - 23:00, Monday to Sunday.

#### **Reasons:-**

1. Due to the temporary nature of the proposed development.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.

#### **Informatives**

It should be noted that:

1. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. 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.
3. 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.
4. This consent is for planning permission only. Work must not begin until other necessary consents, e.g. listed building consent, have been obtained.

### **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:**

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

## **Sustainability impact**

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

This application meets the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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

There is no pre-application process history.

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

The application did not receive any letters of representation.

## **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](#)

**Statutory Development  
Plan Provision**

The site is located within the Urban Area as defined by the Local Development Plan.

**Date registered**

13 December 2021

**Drawing numbers/Scheme**

01-07,

Scheme 1

**David Givan**

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PLACE

The City of Edinburgh Council

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**Links - Policies**

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**Relevant Policies:**

**Relevant policies of the Local Development Plan.**

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 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.

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.

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

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

### **Relevant Non-Statutory Guidelines**

**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.

**Non-statutory guidelines** 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

### **Other Relevant policy guidance**

The West End Conservation Area Character Appraisal emphasises that the area is characterised by mixed, residential commercial buildings. The central section of the conservation area is a major modern financial area consisting of modern offices. The Georgian and Victorian tenements within the area are mainly 4-6 storeys, and constructed of stone with pitched, slated roofs.

# Appendix 1

## Application for Planning Permission 21/06532/FUL at land at, Festival Square, Edinburgh

The erection of a temporary building structure and associated infrastructure for the purpose of hosting an art exhibition for a period of 6 months.

### Consultations

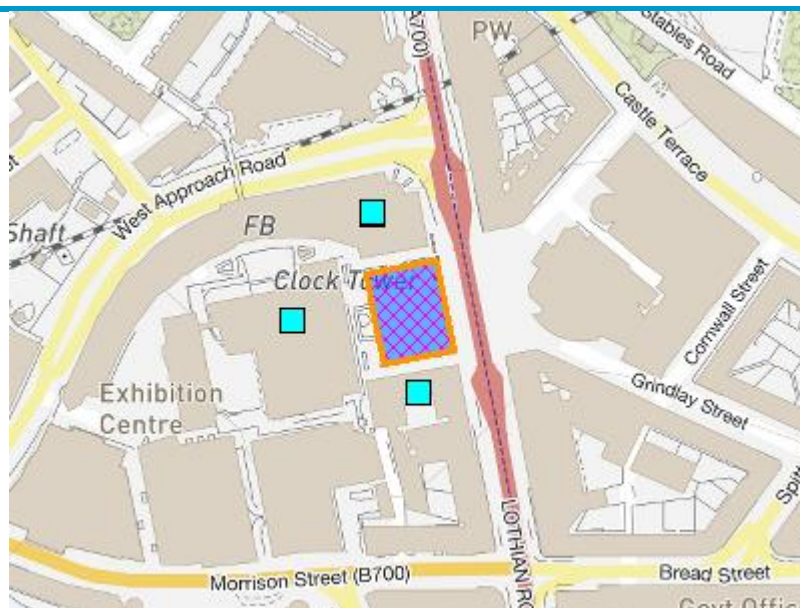
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#### Roads Authority

No objection.

### Location Plan

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