

# Development Management Sub-Committee Report

**Wednesday 15 June 2022**

**Application for Planning Permission  
Proposed Fringe Festival Venue Site Teviot Place, Bristo Square,  
Edinburgh**

**Proposal: Edinburgh Festival Fringe venue site comprising a box office, bars, food traders and ancillary office and storage.**

**Item – Committee Decision  
Application Number – 22/01362/FUL  
Ward – B15 - Southside/Newington**

## **Reasons for Referral to Committee**

The application has been referred to the Development Management Sub-Committee because the application is of the wider public interest.

### **Recommendation**

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

### **Summary**

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and comply with the development plan. The proposed temporary nature of the development is considered acceptable in this location. There are no material considerations which outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site relates to the central area of Bristo Square which is semi-enclosed with a circular perimeter of steps. The site is bound by McEwan Hall to the west, Teviot Row House to the south and Edinburgh University to the east. The site is a valuable area of public realm used regularly by pedestrians with various elements of street furniture scattered throughout around the perimeter.

Several of the surrounding buildings are listed:

- Category A listed McEwan Hall (Ref: LB27993) directly to the west of the application site;
- Category A listed Reid School of Music (Ref: 27995) to the south west of the application site; and
- Category B listed McEwan Lantern Pillar (Ref: 27994) to the south east of the site.

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

### **Description Of The Proposal**

The proposal seeks to erect temporary structures to support 'Underbelly Bristo Square' and will consist of a box office, bars, food traders, toilets and ancillary offices and storage. Entry to the site is non-restricted and free of charge. There will be ramped access throughout the site and lifts into all venues in McEwan Hall. There will also be an accessible toilet located within the main toilet area of the site.

The site will also be used for University of Edinburgh Graduations prior to the commencement of the Edinburgh Festival Fringe.

#### Proposed Key Dates

- Build Period: 17 June - 29 June 2022;
- Operational Period: 30 June - 29 August 2022 and
- Strike Period: 30 August - 5 September 2022.

#### Proposed Operational Hours

- Graduations (30 June - 2 August 2022): 1000-0000;
- Edinburgh Festival Fringe (3 August - 29 August 2022): Site Open 1000-0400, Performance Schedule 1100-0030.

### **Supporting Information**

A Planning Statement was submitted with the application which is available to view on the Planning and Building Standards Online Services.

#### **Relevant Site History**

No relevant site history.

#### **Other Relevant Site History**

None.

#### **Pre-Application process**

There is no pre-application process history.

#### **Consultation Engagement**

Historic Environment Scotland

Edinburgh World Heritage

Environmental Protection

Archaeology

Refer to Appendix 1 for a summary of the consultation response.

## Publicity and Public Engagement

**Date of Neighbour Notification:** 13 April 2022

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 29 April 2022;

**Site Notices Date(s):** 26 April 2022;

**Number of Contributors:** 1

## Section B - Assessment

### Determining Issues

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals:
  - (i) harming the listed building or its setting? or
  - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
  
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and

- any other identified material considerations.

## **Assessment**

To address these determining issues, it needs to be considered whether:

### **a) The proposals harm the listed building and its setting?**

The following HES guidance is relevant in the determination of this application:

- Managing Change - Setting
- Managing Change - World Heritage

The Managing Change guidance states setting can be important to the way in which historic structures or places are understood, appreciated and experienced. It can often be integral to a historic asset's cultural significance.

Setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.

Given the temporary nature of the proposal, it is considered there will be no adverse impact on the surrounding listed buildings and their setting.

### **Conclusion in relation to the listed building**

The proposal will have no detrimental impact on the setting of the neighbouring listed buildings. The proposal therefore is acceptable with regard to section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals harm the character or appearance of the 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."

The application site is located within the Second Expansion Area of the South Side Conservation Area. The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area. It notes that Bristo Square is extremely permeable for pedestrians and provides an appropriate setting to the McEwan Hall.

Whilst the proposal would reduce the available area for pedestrians for a temporary period, the square would become a focal point and bring additional vibrancy to the well utilised area of public realm. The structures will be located in an area of open space on a smaller scale than any of the important surrounding historic buildings. The proposal will not detract from the character or appearance of the conservation area.

## **Conclusion in relation to the conservation area**

Whilst the proposal would reduce the available area for pedestrians for a temporary period, the square would become a focal point and bring additional vibrancy to the area of public realm. The structure will be located in an area of open space on a smaller scale than any of the important surrounding historic buildings. The proposal will not detract from the character or appearance of the conservation area.

### **c) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Design policies Des 1, Des 4 and Des 5;
- LDP Environment policies Env 1, Env 3 and Env 6; and
- LDP Shopping and Leisure policy Ret 7.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6.

### Use

LDP Policy Ret 7 (Entertainment and Leisure Developments - Preferred Locations) seeks to ensure that entertainment and leisure developments can be integrated well with the surrounding environment, are easily accessible by sustainable transport modes and do not introduce unacceptable noise and late night disturbance to local residents.

The site is located within the City Centre in the Local Development Plan. It is considered the proposal can be well integrated into the surrounding environment with minimal impact on the historic environment. The proposal is located within a central location which is considered easily accessible by various sustainable modes of transport and no parking will be provided.

Impacts of noise and disturbance in relation to criterion b) are considered below.

The principle of development is considered acceptable given the temporary nature of the proposal and is supported in this location. The proposal complies with LDP Policy Ret 7.

### World Heritage Site

LDP Policy Env 1 (World Heritage Sites) states that "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."

Edinburgh World Heritage were consulted on this proposal and noted that proposals involving the occupation of public space affect a number of important elements of the World Heritage Site's Outstanding Universal Value (OUV). The proposals to introduce new structures in these important public spaces would disrupt these characteristics and therefore cause a level harm to the OUV of the World Heritage Site.

However in this case, this is offset to some degree by the specific contribution that the Edinburgh Festival and Fringe themselves make to Edinburgh's heritage and cultural value, as well as the temporary nature of the proposals. It has also been recognised the unique context of recovery from the pandemic.

Therefore, given the temporary nature of the proposal and the contribution to the City's cultural offering and economic recovery, it is considered to comply with LDP Policy Env 1.

#### Listed Buildings and Conservation Area

The impact on surrounding listed buildings and the conservation area has been assessed above and complies with LDP Policies Env 3 and Env 6.

#### Amenity

LDP Policy Des 5 seeks to ensure that the amenity of neighbouring residents is not adversely affected by development. There are no residential properties immediately surrounding the application site. Concerns have been raised from businesses that struggle to operate effectively during working hours due to the noise levels. The Noise Management Plan suggests that the outdoor sound system has been designed to focus down on the audience which should contain noise.

It is considered that due to the temporary nature of the proposal, and how busy the area is during the festival it would be difficult to enforce noise restrictions.

The applicant submitted a Noise Management Plan outlining their plans to limit noise pollution to surrounding residents and businesses. However, Environmental Protection have objected to this as they requested a full Noise Impact Assessment. Whilst the proposal will be operational in some form until 0400 daily, any mitigation required from this will be covered via Licensing. On balance, a pragmatic approach must be taken as this is a very busy area during the festival, for a temporary period, and it is considered that overall the proposal is acceptable in planning terms and should be supported.

The proposal complies with LDP Policy Env 5.

#### **Conclusion in relation to the Development Plan**

Overall the proposals comply with the Local Development Plan and given the temporary nature of the proposal, is supported in this location. There are no material considerations that would outweigh this conclusion.

#### **d) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### 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.

Of particular importance in this case is the principle of giving due weight to net economic benefit.

The proposal complies with Paragraph 29 of SPP.

#### Emerging policy context

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

While City Plan 2030 represents 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.

#### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

#### Public representations

One objection was received which is summarised below:

##### *material considerations*

- Concerns over noise during working hours - addressed in section c) above.

#### **Conclusion in relation to identified material considerations**

The material considerations noted above have all been fully considered.

#### **Overall conclusion**

The proposal is acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with the development plan. The proposed temporary nature of the development is considered acceptable in this location. There are no material considerations which outweigh this conclusion.

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

### Conditions :-

1. The development hereby approved shall be permitted during the time period of 17 June 2022 - 5 September 2022 only and all structures shall be removed from the site by 5 September 2022.

### Reasons: -

1. In recognition of the temporary nature of the proposals.

### 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.

### Background Reading/External References

To view details of the application, go to the Planning Portal

**Further Information - [Local Development Plan](#)**

**Date Registered: 21 March 2022**

### Drawing Numbers/Scheme

01A-14A

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

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## Appendix 1

### **Summary of Consultation Responses**

NAME: Historic Environment Scotland

COMMENT: No comment.

DATE: 26 April 2022

NAME: Edinburgh World Heritage

COMMENT: The proposals in prominent public spaces would disrupt the important characteristics of the World Heritage Site's Outstanding Universal Value. However, this is offset to some degree by the contribution the Edinburgh Festival Fringe makes to Edinburgh's heritage and cultural value, and the temporary nature of the proposals.

No objection but strongly advise that great care is taken to ensure that each application is considered carefully on its own merits, and great weight given to the conservation of Edinburgh's outstanding heritage.

DATE: 10 May 2022

NAME: Environmental Protection

COMMENT: Objection - cannot support the application without an accompanying full Noise Impact Assessment.

DATE: 3 May 2022

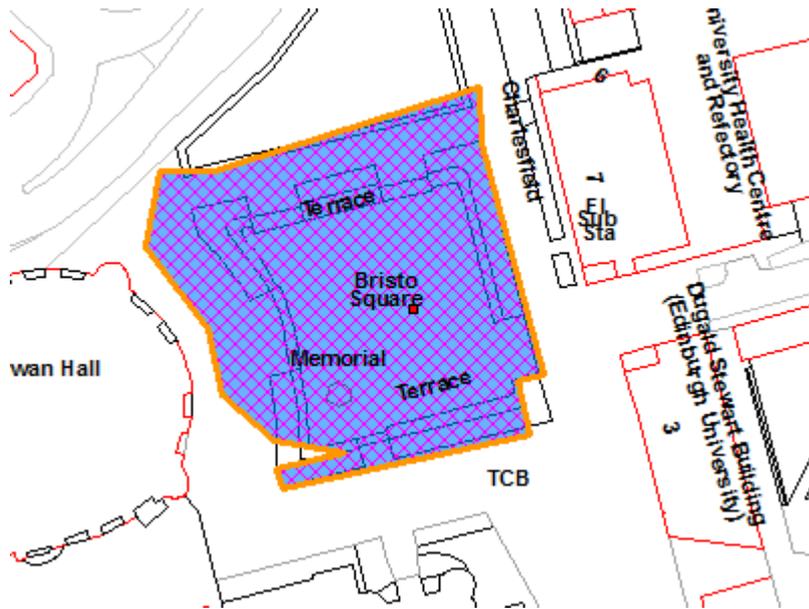
NAME: Archaeology

COMMENT: The site is regarded as being of archaeological and historic significance however given the nature of this scheme, it is considered that this proposal will not have any known, significant archaeological implications.

DATE: 28 April 2022

The full consultation response can be viewed on the Planning & Building Standards Portal.

## Location Plan



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