

# Development Management Sub-Committee Report

Wednesday 15 June 2022

**Application for Planning Permission  
Proposed Fringe Festival Venue Site , George Square Gardens,  
George Square**

**Proposal: Temporary installation of 2 performance venues, an event space and supporting infrastructure, to be used as part of Edinburgh Blues and Jazz Festival, Edinburgh Food Festival and Edinburgh Festival Fringe. We have used the site since 2011 for same purpose but site has a festival history going back over 20 years. The site is a green space owned by University of Edinburgh, we are looking for permission to cover change of use of land and associated temporary structures.**

**Item – Committee Decision  
Application Number – 22/01893/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 wider public interest.

### **Recommendation**

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

### **Summary**

The proposal is acceptable with regards to 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 A – Application Background**

### **Site Description**

The application site is an area of open space located at the eastern end of George Square. The site is privately owned and publicly accessible under agreement with the owner, Edinburgh University. The area of open space is bounded by a road on the western, northern and part eastern side with a pedestrianised route to the east and southern boundaries.

The site is within the heart of the University of Edinburgh Campus with the majority of the buildings bordering the square in the ownership of Edinburgh University.

A number of the surrounding buildings are listed with the key ones identified as:

- Edinburgh University Library - A listed - LB Ref 50191 Listed 17 January 2006.
- 55 - 60 George Street - A listed - LB Ref 28824 Listed 14 December 1970; and
- 16 - 29 George Street - A listed - LB Ref 28810 Listed 14 December 1970.

The site is located within the South Side Conservation Area and outwith but adjacent to the boundary of the Old and New Towns of Edinburgh World Heritage Site.

### **Description of the Proposal**

The proposal seeks to create a Festival Hub with two main temporary tent performance venues, the Spiegeltent (500 capacity) and Piccolo (192 capacity) and supporting infrastructure. The Festival Hub will be supported by various food and drink stalls, bar and the provision of public toilets.

The site is proposed to be operational between 15 July - 29 August 2022, 1000-0100 (later on weekends subject to Licensing). The full proposal seeks consent for a period of three years over a similar time period.

The proposals would support the following events:

- Edinburgh International Jazz and Blues Festival, 15 July - 24 July 2022;
- Edinburgh Food Festival, 22 July - 2 August 2022;
- Edinburgh Festival Fringe, 3 August - 29 August 2022.

### **Supporting Information**

The application submitted the following supporting information, which is available to view on the Planning and Building Standards Online Services:

- Standard Operating Procedures General Guidelines and Information;
- Statement of Intent for Installation and
- Summary of Overview of Operations.

## Relevant Site History

21/03380/FUL  
George Square Gardens  
62 George Square  
Edinburgh

The installation of 2x temporary venues and ancillary activities as part of Edinburgh Festival Fringe  
Granted  
11 August 2021

## Other Relevant Site History

May 2022 - An application is currently pending consideration for the installation of two performance venues, a box office, bars, food traders and ancillary office and storage (Ref: 22/01363/FUL).

## Pre-Application process

There is no pre-application process history.

## Consultation Engagement

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

## Publicity and Public Engagement

**Date of Neighbour Notification:** 27 April 2022  
**Date of Renotification of Neighbour Notification:** Not Applicable  
**Press Publication Date(s):** 6 May 2022;  
**Site Notices Date(s):** 29 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

- 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

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 harm to 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.

The temporary nature of the proposal is a material factor in the assessment of any impact on the character or appearance of the conservation area. The structures will be set within the context of a larger area of open space and will not impact on the skyline. The proposals preserve the character and appearance of the South Side Conservation Area.

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

Overall, the proposal will not have an adverse impact on the character or appearance of the South Side Conservation Area and therefore is acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **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 Environment policies Env 3, Env 6 and Env 18;
- LDP Design policies Des 1, Des 4 and Des 5 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 3 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.

#### 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.

#### Open Space and Trees

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 supporting text to 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."

A balanced decision has to be taken on whether the loss of the use of the open space for a short temporary period outweighs the recreational use of the site. The use of the site at George Square Gardens relates to an area of private open space and is not an area of public land. It is considered that these are exceptional times, and the Fringe requires support in delivering a programme in 2022. It is therefore considered that the temporary loss of the open space is justified in this instance.

It should also be noted that George Square Gardens has been used annually for many years as a Festival Fringe venue.

In addition, there are a number of trees within the gardens which are in close proximity to the proposed structures. The applicants have provided an additional document which outlines the tree sensitive areas and have advised of a tree exclusion zone that has been agreed with the University of Edinburgh as owners of the square.

The proposal complies with LDP Policy Env 18.

#### 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 next to the part of the site that is proposed to be developed.

The applicant submitted a Noise Management Plan outlining their plans to limit noise pollution to the surrounding area. However, Environmental Protection have objected to this as they requested a full Noise Impact Assessment.

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.

### Transport Implications

The proposal is located within a central location and no parking will be provided for the event. The site is considered to be in an accessible location with good transport links.

A number of the operational matters would be covered by any licensing/ temporary traffic orders.

### **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 neutral representation was received and is summarised below:

### *material considerations*

- Inappropriate for a 3 year consent as tree safety is inadequate and the request for a Noise Impact Assessment - addressed in section c) Open Space and Trees and Amenity;
- Soft surfaced areas should not be used for infrastructure-heavy events due to the damage to the ground and loss of amenity space - addressed in section c) Open Space and Trees;
- Concerns over impact on trees - addressed in section c) Open Space and Trees;
- Ancillary infrastructure should be removed from the gardens to surrounding hardstanding - addressed in section c) Use and Open Space and Trees.

### *non-material considerations*

- The past history of occupation of the site should not be a material consideration as no planning consent has ever been sought for these operations (apart from last year);
- The Tree Safety Plan is not comprehensive and inadequate.

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

The proposal fully addresses the material considerations as set out above.

### **Overall conclusion**

The proposal is acceptable with regards to 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 planning permission hereby granted for the use of the land is granted for a maximum period of 45 days during the months of July and August for 2022,2023 and 2024. Details of the dates shall be submitted and approved by the planning authority prior to erection of the temporary structures for 2023 and 2024.

Thereafter any temporary structures shall be removed within 14 days of the expiry of the temporary planning period each year

### **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: 26 April 2022**

## **Drawing Numbers/Scheme**

01-06

Scheme 1

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

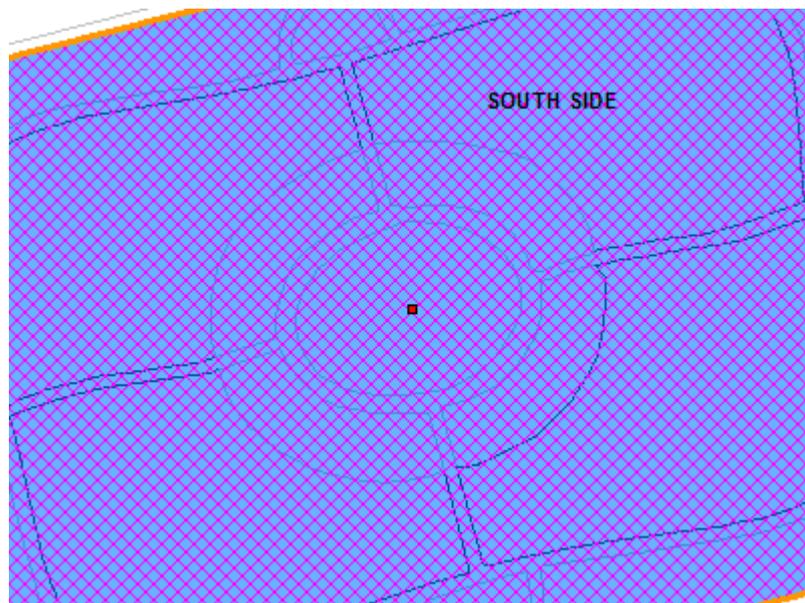
Contact: Nicola Orr, Planning Officer  
E-mail: nicola.orr@edinburgh.gov.uk

## Appendix 1

### Summary of Consultation Responses

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

### Location Plan



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