



Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100625964-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	APT PLANNING & DEVELOPMENT		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	TONY	Building Name:	
Last Name: *	THOMAS	Building Number:	1
Telephone Number: *		Address 1 (Street): *	WEST ROAD
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	WHITEKIRK
Fax Number:		Country: *	UK
		Postcode: *	EH42 1XA
Email Address: *	tony@apt-plandevlop.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value="CASTLE ROCK"/>
First Name: *	<input type="text" value="UMBERTO"/>	Building Number: <input type="text" value="87"/>
Last Name: *	<input type="text" value="CROLLA"/>	Address 1 (Street): * <input type="text" value="GRASSMARKET"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="EDINBURGH"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="EH1 2HJ"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="TONY@APT-PLANDEVELOP.CO.UK"/>	

Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="87 GRASSMARKET"/>
Address 2:	<input type="text" value="OLD TOWN"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH1 2HJ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="673384"/>	Easting	<input type="text" value="325518"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Amend opening hours to 2.00am.

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

PLEASE SEE ATTACHED STATEMENT OF APPEAL

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

STATEMENT OF APPEAL ORIGINAL APPLICATION DOCUMENTS

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/06028/FUL

What date was the application submitted to the planning authority? *

13/12/2022

What date was the decision issued by the planning authority? *

27/01/2023

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☐ Yes ☒ No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

IT IS HELPFUL TO DETERMINE SUCH AN APPLICATION IN PERSON SO ANY MATTERS CAN BE DISCUSSED

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr TONY THOMAS

Declaration Date: 21/04/2023

Report of Handling

**Application for Planning Permission
87 Grassmarket, Edinburgh, EH1 2HJ**

Proposal: Amend opening hours to 2.00am.

**Item – Local Delegated Decision
Application Number – 22/06028/FUL
Ward – B11 - City Centre**

Recommendation

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

Summary

The proposal would have an adverse impact on residential amenity and would be contrary to the relevant LDP and NPF 4 policies. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The site is a hot food takeaway on the ground floor of a four storey tenement in the Grassmarket, located on the corner of Cowgatehead and adjacent to Warden's Close. There are residential properties on the upper floors. The area is characterised by commercial uses at ground floor level, including public houses, retail and class three uses, and residential uses on the floors above.

The site lies within the Old Town Conservation Area.

Description Of The Proposal

This application seeks to extend the opening hours of the hot food takeaway from 12:00am to 2am.

Supporting Information

The agent has provided a planning statement that includes comments of support. However, these comments do not count as representations as they were signed before the application was submitted.

Relevant Site History

15/00848/FUL
87 Grassmarket
Edinburgh
EH1 2HJ

Adjustment of trading hours until 02:00, 7 days per week at Castle Rock Take-Away.
Refused

24 April 2015

12/03399/FUL
87 Grassmarket
Edinburgh
EH1 2HJ

Amend opening hours on Friday and Saturdays to 1.45a.m.
Refused

22 November 2012

02/04432/FUL
87 Grassmarket
Edinburgh
EH1 2HJ

Extension of opening hours 7am up to 3am (Sat-Sun)
Refused

5 February 2003

99/01933/FUL
87 Grassmarket
Edinburgh
EH1 2HJ

Extend opening hours 7.00am to 1.00am
Refused

29 September 1999

93/00480/FUL
87 Grassmarket
Edinburgh
EH1 2HJ

Remove condition of planning consent relating to opening hours
Refused

19 May 1993

Other Relevant Site History

Since 1994, five applications have been made to extend the opening hours, all of which have been refused on the grounds that associated noise and disturbance would be detrimental to residential amenity. Three of these five applications were appealed and subsequently dismissed following detailed consideration of the implications of the proposal within its context. The planning history for this site is a material consideration in the determination of this application.

Consultation Engagement

Environmental Protection

Publicity and Public Engagement

Date of Neighbour Notification: 14 December 2022

Date of Advertisement: 23 December 2022

Date of Site Notice: 23 December 2022

Number of Contributors: 9

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- 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):

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

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 character or appearance of the conservation area?

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

- Managing Change - Conservation Areas

As there will be no material change to the character or appearance of the conservation area, the proposal does not harm the conservation area.

Conclusion in relation to the conservation area

In relation to the conservation area the proposals preserve the character and appearance of the conservation area. The proposals are acceptable in regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) 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 policy Env 6;
- LDP Shopping and Leisure policy Ret 11;
- LDP Housing and Community policy Hou 7.

The non-statutory 'Listed Buildings and Conservation Area' guidance and Guidance for Businesses are material considerations that are relevant when considering LDP policies Env 6, Ret 11 and Hou 7

Conservation Area

This has been addressed in section a).

Residential Amenity

The Council's Guidance for Businesses identifies areas of restriction relating to mixed use locations with an essentially residential character where there is a high concentration of hot food takeaways, public houses and entertainment venues. Grassmarket is within an area of restriction and its sensitivity to these uses (either established or new) requires to be carefully considered. The Guidance states that proposals in areas of restriction will only be acceptable if there will be no adverse impact on residential amenity caused by night-time activity.

Whilst the Grassmarket attracts significant late night activity, the proposal would encourage an intensity of such activities. This would have the potential to cause a

greater number of people to remain within the area late into the evening and erode the existing level of residential amenity.

Environmental Protection has also recommended refusal due to the considerable loss of amenity from patrons during unsocial hours.

Conclusion in relation to the Development Plan

This proposal does not comply with LDP Policies Ret 11 and Hou 7 as it would result in an increase in noise, disturbance and on-street activity, to the detriment of living conditions of nearby residents.

c) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context - National Planning Framework 4

The Revised Draft National Planning Framework 4 was approved by the Scottish Parliament on 11 January 2023 to proceed to adoption. On adoption the Revised Draft NPF 4 (2022) will form part of the Council's Development Plan, but at present it remains a material consideration. As adoption of the Revised Draft NPF 4 (2022) is understood to be imminent, and it is now the settled position of Scottish Ministers and the Scottish Parliament, it requires to be given significant weight. Revised Draft NPF 4 (2022) lists various policy provisions under the themes of Sustainable Places, Liveable Places and Productive Places.

Policy 1 of the Draft NPF 4 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. The application addresses this through:

- The proposal would have a neutral impact in terms of NPF 4 Policy 1.

Policy 27 of NPF4 states that development proposals for city or town centre living will take into account the residential amenity of the proposal. The proposal is contrary to this and would result in an increase in litter and late night noise, which would be detrimental to nearby residential amenity.

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

material considerations

8 letters of objections were received regarding:

- noise resulting from the extension of opening hours.
- litter accumulating from the extension of opening hours.
- creation of antisocial behaviour due to the extension of opening hours.

non-material considerations

A letter of support has been received regarding the service provided by staff and that the business provides for late night workers.

Conclusion in relation to identified material considerations

All other matters have been considered.

Overall conclusion

The proposals would have an unacceptable impact on residential amenity and is contrary to the relevant policies contained within the local development plan and NPF 4. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

Reasons

Reason for Refusal

1. The proposal is likely to increase late night noise and activity to the detriment of neighbouring residential amenity, contrary to Local Development Plan Policy Ret 11 and the Council's 'Guidance for Businesses'.
2. The proposal is likely to increase late night noise and activity to the detriment of neighbouring residential amenity, contrary to Local Development Plan Policy Hou 7 and the Council's 'Guidance for Businesses'.
3. The proposal is contrary to NPF 4 Policy 27, as it would erode living conditions and have a detrimental impact on neighbouring residential amenity.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - [Local Development Plan](#)

Date Registered: 13 December 2022

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Anna Simpson, Student Planner
E-mail: anna.simpson@edinburgh.gov.uk

Appendix 1

Consultations

NAME: Environmental Protection

COMMENT: Environmental Protection have commented and recommends this application to be refused. This is due to the amenity of the neighbouring residents. Licensing Officers have also witnessed this business operating outwith their permitted hours.

DATE:

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

Format Design.
FAO Shona Mackay
Holyrood Business Park
146 Duddingston Road West
Edinburgh
EH16 4AP

Mr Umberto Crolla.
Castle Rock
87 Grassmarket
Edinburgh
EH1 2HJ

Decision date: 27 January 2023

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Amend opening hours to 2.00am.
At 87 Grassmarket Edinburgh EH1 2HJ

Application No: 22/06028/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 13 December 2022, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Reason for Refusal:-

1. The proposal is likely to increase late night noise and activity to the detriment of neighbouring residential amenity, contrary to Local Development Plan Policy Ret 11 and the Council's 'Guidance for Businesses'.
2. The proposal is likely to increase late night noise and activity to the detriment of neighbouring residential amenity, contrary to Local Development Plan Policy Hou 7 and the Council's 'Guidance for Businesses'.

3. The proposal is contrary to NPF 4 Policy 27, as it would erode living conditions and have a detrimental impact on neighbouring residential amenity.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal would have an adverse impact on residential amenity and would be contrary to the relevant LDP and NPF 4 policies. There are no material considerations that outweigh this conclusion.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Anna Simpson directly at anna.simpson@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

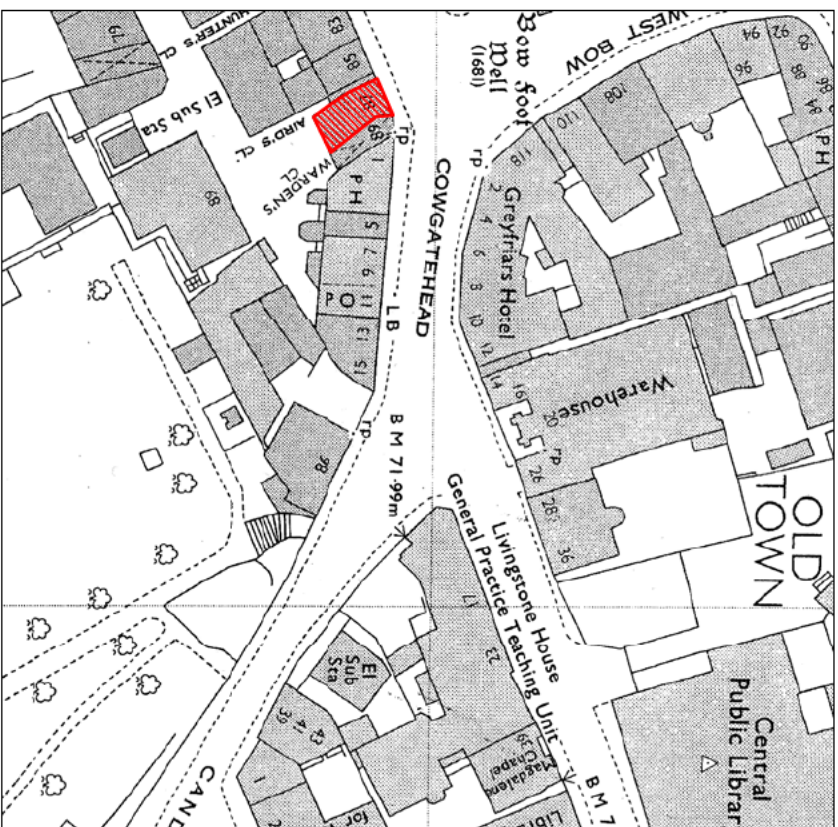
SITE PLAN 1:1250

SERVICES OFFERED:

- MEASURED SURVEYS
- PLANNING CONSULTANTS
- FEASIBILITY STUDIES
- NEW BUILDS
- PLANNING APPLICATIONS
- LISTED BUILDINGS APPLICATIONS
- LIQUOR WARRANT APPLICATIONS
- LIQUOR LICENSING DRAWINGS
- DEED PLANS

format DESIGN
FADADS Limited

Tel: 0131 661 7666
Fax: 0131 659 6033
Email: formatdesign@aol.com
Web: www.formatbuildingdesign.com



PLANNING STATEMENT FOR PROPOSED EXTENSION OF OPENING
HOURS FOR THE CASTLE ROCK TAKEAWAY
AT
87 GRASSMARKET, EDINBURGH



18 NOVEMBER 2022

Format Design
Holyrood Business Park
146 Duddingston Road West
Edinburgh EH16 4AP
Tel: 0131 661 7666 Fax: 0131 659 6033
formatdesign@aol.com
www.formatbuildingdesign.com

1. Introduction

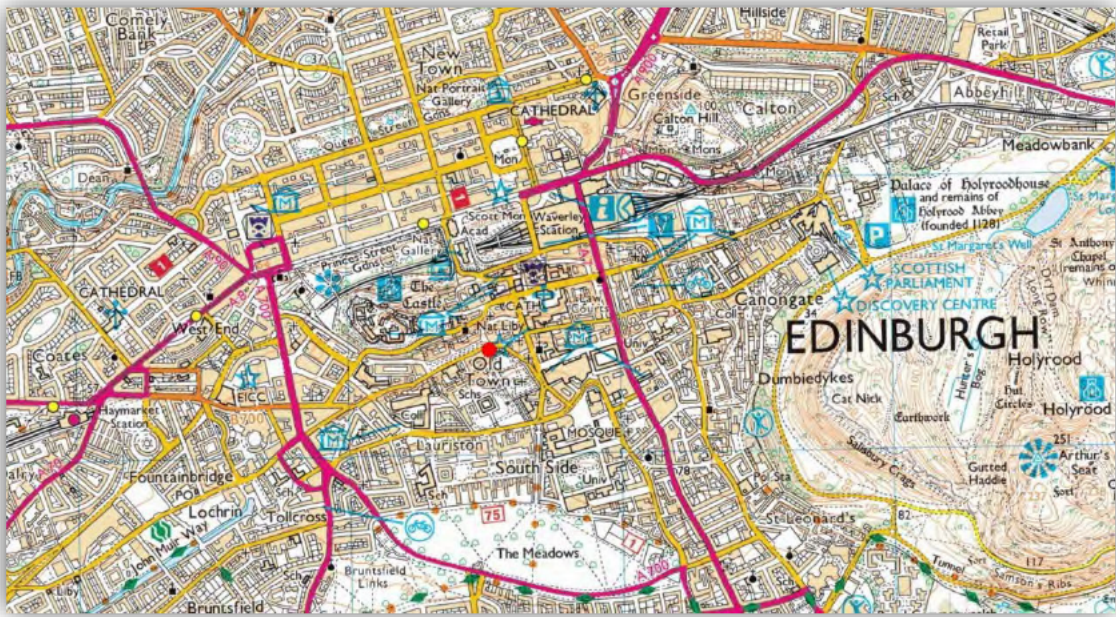


Figure 1. The site location in relation to the City Centre

The surrounding area

The site is within the Grassmarket area of the Edinburgh Old Town, to the south side of the city centre. The Grassmarket is a historic market place and street in the Old Town of Edinburgh, Scotland. In relation to the surrounding city centre it lies in a hollow, well below surrounding ground levels.

This is a very historic area of the city located within the Old Town Conservation Area and the UNESCO World Heritage Site. It contains a significant number of listed buildings and tourist destinations.

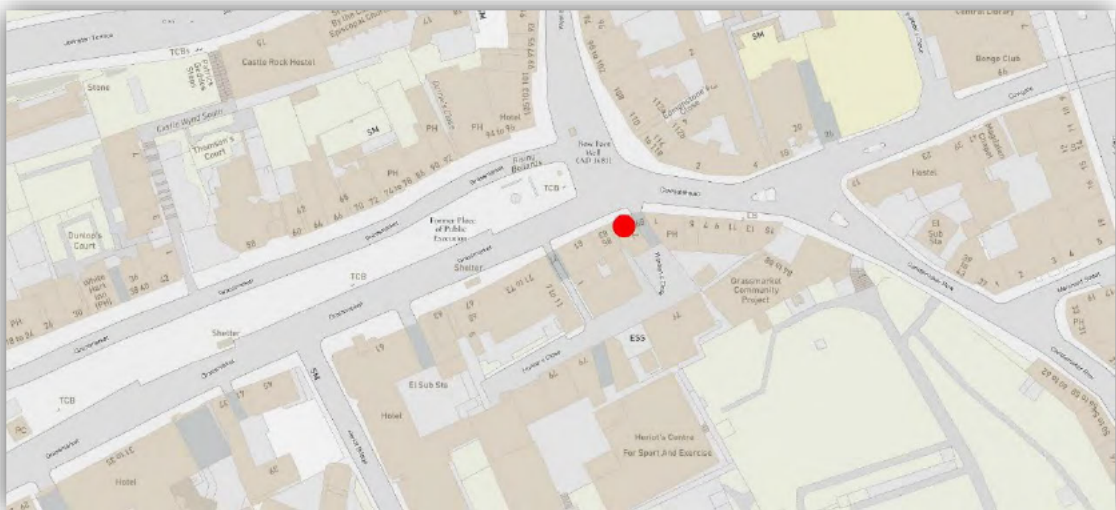


Figure 2. The site location within the Grassmarket

It is highly commercial in character, with many tourist destinations and related activities/uses and including a significant number of commercial leisure uses (hotels, bars, restaurants, take-aways and cafes). The Royal Mile is only 130