

# Development Management Sub Committee

**Wednesday 18 December 2019**

**Application for Planning Permission 18/09878/FUL  
at Land at East Market Street Edinburgh.  
Redevelopment and conversion of existing arches and  
change of use to provide sui generis distillery with Class 11  
(assembly and leisure) visitor centre, Class 1 (retail), Class  
3 (food and drink) and sui generis bar/tasting rooms with  
associated works including landscaping, public realm and  
means of access. (As Amended).**

**Item number**

**Report number**

**Wards**

B11 - City Centre

## **Summary**

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With reference to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposals preserve the character and setting of the listed buildings and Old Town Conservation Area.

The proposed design of the building is based on a strong concept which draws upon the positive characteristics of the surrounding area. The design seeks not to compete with the historic and distinctive built features of the Old Town but rather to complement and enhance them through a positive engagement with the urban morphology of its historic and modern urban setting. The proposal responds to issues of spatial structure, permeability, townscape, architectural expression, heights, vistas, roofscape and materials in accordance with the principles of the Caltongate Masterplan and Old Town Conservation Area Character Appraisal.

The location of a cultural, leisure and entertainment use at this accessible city centre site, accords with LDP Policies Ret 1, Ret 7 and Del 2. The proposed use also complies with the relevant principles of the Caltongate Masterplan.

The proposal has been designed to minimise any potential negative impact on its neighbours and raises no issues in respect of privacy, outlook and odour. It is accepted that the proposal will infringe LDP Policy Des 5a) with respect to unpredicted levels of noise from the roof top terrace. However, this is considered to be a minor infringement given the urban context and neighbouring property relationship. The amended proposal in part mitigates the potential impact through the redesign of the roof terrace and incorporation of new public space. An infringement is justified given the existing context.

There are no identified impacts on equalities or human rights and no material considerations that outweigh this conclusion.

## Links

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<a href="#"><u>Policies and guidance for this application</u></a>	CRPOLD, LDEL01, LDEL02, LDES01, LDES02, LDES03, LDES04, LDES05, LDES06, LDES07, LDES08, LEN01, LEN03, LEN04, LEN06, LEN09, LEN12, LEN15, LEN20, LEN21, LEN22, LRET01, LRET02, LRET07, LRET11, LTRA01, LTRA02, LTRA03,
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# Report

**Application for Planning Permission 18/09878/FUL at Land at, East Market Street, Edinburgh. Redevelopment and conversion of existing arches and change of use to provide sui generis distillery with Class 11 (assembly and leisure) visitor centre, Class 1 (retail), Class 3 (food and drink) and sui generis bar/tasting rooms with associated works including landscaping, public realm and means of access. (As Amended).**

## 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

The site is approximately 0.13 hectares and is located within the City Centre, adjacent to the junction between East Market Street and Cranston Street. To the north, across East Market Street lies the car park associated with Edinburgh Waverley train station, with the City of Edinburgh Council Headquarters to the east of this.

The site is currently vacant and incorporates five category C listed Victorian arches (LB reference: LB49085). To the south of the site lies B listed tenements on Cranston Street (LB reference: LB29192) and B listed tenements on Jeffrey Street (LB reference: LB29189). The tenement on Cranston Street is five storeys and comprises a mix of residential properties at the upper floors and commercial and community facilities at the ground floor of Cranston Street and Jeffrey Street.

To the east on the other side of Cranston Street lies a restaurant and hotel, which form part of the wider New Waverley development. Within the remaining 18 arches (LB reference: LB49085) along East Market Street immediately to the west of the site, there are several small retail, restaurant, café and office uses. The Old Town of Edinburgh lies to the south comprising a mix of uses, with retail and cafe uses at street level along Jeffrey Street, the Royal Mile and St Marys Street, with generally residential properties above.

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

This application site is located within the Old Town Conservation Area.

## 2.2 Site History

The site and wider New Waverley area is subject to a detailed and comprehensive planning history comprising circa 50 various permissions relating to two separate and distinct rounds of applications. This includes detailed applications, listed building consents and conservation area consents, and are summarised as follows:

### Masterplan area

October 2006 - The Caltongate Masterplan for the wider Caltongate site was approved. The recent developments by Adagio, Premier Inn Hub and Jeffrey Street Arches form part of the implementation of the masterplan.

### Application site

August 2008 - planning permission was granted for the conversion of the listed arches 19-24 and the erection of buildings for use as offices, retail (class 1), restaurant/bar and leisure (class11), access, open space, landscaping and associated works. External alterations and change of use of arches (1-18) for food and drink purposes(class3) and alternative use for retail (class1) and/or business (class 4) purposes. Realignment and alterations to Cranston Street. External alterations to 5a-9 Cranston Street and change of use to residential and offices, and alternative use of ground floor (9 Cranston Street) for retail (class 1), financial and professional service (class 2) and/or business (class4) purposes. (Application reference number: 07/01241/FUL)

August 2008 - Redevelopment and erection of buildings for residential flats, offices, alternative office and/or community facility, and retail (Class 1) use, access and servicing area. Realignment and alterations of Cranston Street (as amended). (Application reference number: 07/01288/FUL)

January 2014 - planning permission and listed building consent was granted for the conversion of all the arches, erection of a pavilion building on this site, accessible from the Jeffrey Street level and the development of three hotels currently in operation comprising Premier Inn, Hub by Premier Inn and the Adagio Aparthotel (application reference 13/03407/FUL and LBC reference 13/03405/LBC). Partly complete, with the exception of the remaining five arches subject of this application.

## **Main report**

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

The application proposes the redevelopment and conversion of five existing arches and change of use to provide sui generis distillery with Class 11 (assembly and leisure) visitor centre, Class 1 (retail), Class 3 (food and drink) and sui generis bar/tasting rooms with associated works including landscaping, public realm and means of access.

The proposals will be very similar in scale to the approved 2014 scheme and will accommodate a variety of uses within a new two storey structure of approximately 1,275 square metres which includes the conversion of five existing C listed arches, with a smaller pavilion roof top building proposed at the second-floor level.

## Scheme two

Several amendments to scheme one were made during the assessment of the proposals. The main changes to scheme one relates to: -

- Amendments to the façade details including the colour and type of materials;
- Amendments to the service arrangements;
- Amendments to the public realm materials along Jeffrey Street and Cranston Street;
- Amendments to the design and function of the roof terrace;
- Replacement of the wall along Jeffrey Street with railings and
- Reconfiguration of the steps between Cranston Street and Jeffrey Street.

The spaces within Edinburgh Gin's new distillery and visitor centre comprise of four elements; the still house, visitor experience, ancillary accommodation and a roof top pavilion and terrace. The stills are located within both the double height space and the second arch, which will be visible through the glazed curtain walling from East Market Street. The still backup areas (tanks, plant, stores, etc) are located within the first arch to facilitate access and deliveries from East Market Street. Although visitors will have access to the still house, the positioning of the main still storage area within the first arch ensures the distillery team have direct access to the backup areas. Segregating the public tour route from the back of house stills avoids any potential health and safety conflicts.

New public realm will be created at street level accessible from East Market Street and at roof level accessible from Jeffrey Street. The proposed development will extend the Old Town material palette of Caithness Stone around the entire building façade along Cranston Street and East Market Street and up to the main entrance. Granite is proposed for the two steps and bench located at the entrance. The transition between the Edinburgh Gin site and the adopted footway is proposed to be delineated by 100mm radius stainless steel marker studs. A new public stair is proposed to link Jeffrey Street and Cranston Street.

The revised roof terrace creates both an external space for use by Edinburgh Gin visitors, and space for the public. The primary access to the private roof terrace is from the internal stairs and lift, and primary access to the public roof terrace is proposed from Jeffrey Street. The roof terrace layout creates a variety of spaces for visitors to enjoy views to Calton Hill, North Bridge and the Balmoral Hotel.

The existing Jeffrey Street stone wall borders the roof terrace space. The existing stone wall is proposed to be carefully taken down to street level and rebuilt using railings to a height of 1.8m from Jeffrey Street footway level. The existing wall height is 1.2m. The proposed increase in height is to improve the security of the roof terrace, whilst also retaining visibility through the railings. Each access point has a set of double leaf metal gates which are proposed to be the same height as the Jeffrey Street wall set back from the footway. New stone wall returns are proposed to house the gates.

The application proposes to use dark grey terracotta profiled rainscreen cladding and glazed curtain walling for the upper areas of the building, and a random rubble sandstone basecourse.

## Supporting information

The following documents were submitted in support of the application: -

- Design and Access Statement;
- Landscaping Design Statement;
- Townscape and Visual Impact Assessment;
- Planning Statement;
- Transport Statement;
- Daylight, Sunlight and Privacy Assessment;
- Noise Impact Assessment;
- Odour Impact Assessment; and
- Sustainability S1 Form.

These documents can all be viewed on the Planning and Building Standards Online Service.

### **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 principle of development is acceptable;
- b) The proposals adversely affect the character and setting of the listed buildings;
- c) The proposals will preserve or enhance the character and appearance of the Old Town Conservation Area;
- d) The proposals harm the Outstanding Universal Value (OUV) of the Old and New Towns of Edinburgh World Heritage Site (WHS);

- e) The design is acceptable and will contribute towards a sense of place;
- f) The proposal raises any issues in respect of transport and road safety;
- g) The proposal will have a detrimental impact on the amenity of nearby residents;
- h) There are any other material considerations;
- i) Any impacts on equalities or human rights are acceptable and
- j) Representations raise issues to be addressed

### **a) The principle of development is acceptable**

The application site is located within the City Centre, as defined in the Edinburgh Local Development Plan (LDP). In this regard, LDP Policy Del 2 is relevant. It states that development will be permitted which retains and enhances the character, attractiveness, vitality and accessibility of the city centre.

LDP Policy Del 2a) supports comprehensively designed proposals which maximise the potential of the site in accordance with any relevant development principles, development brief and/or other guidance. The proposals provide a comprehensive design which maximises the potential of the site in accordance with the principles set out in the 2006 Caltongate Masterplan. The Caltongate Masterplan proposes mixed use development to achieve a sustainable and integrated city quarter. These uses include shops, food and drink outlets and leisure facilities. Likewise, LDP Policy Del 2b) supports a wide range of uses, including commercial leisure uses which maintain an intensively developed, vibrant city centre character. The proposed use is appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area.

The site itself is identified within the Masterplan for a new building with potential uses that include offices, retail, cafe and restaurant. The proposed use will complement the range of visitor attractions and leisure uses, which are already present on Market Street. It will further encourage people to explore beyond the end of Jeffrey Street and lead them into the wider area covered by the masterplan. The new building will be accessed and serviced from East Market Street which will minimise any potential conflicts with existing residences. The location of this use within the arches represents an excellent use of a difficult existing space and accords with the intentions of the Caltongate Masterplan and subsequently LDP Policy Del 2a) and b).

Within the context of LDP Policy Del 2a), the Development Principles for Proposal CC2 in the LDP are also relevant and include reference to a mix of uses, including food and drink premises. Reference is also made to the importance of new buildings respecting the form and contours of the Waverley Valley and preserving and enhancing important existing views and the potential to create new views into and across the site. The proposed development supports this aspiration through the creation of a new public viewing platform from Jeffrey Street. LDP Policy Del 2c) requires, where practicable, that offices be provided as part of major mixed-use developments. Office use is already provided as part of the wider masterplan area. The proposal will compliment these existing office uses and contribute to the overall mix on the site. The creation of new civic spaces off Jeffrey Street and along East Market Street, together with a new pedestrian route from Cranston Street to Jeffrey Street comply with LDP Policy Del 2d).

LDP Policy Ret 1 applies a sequential approach to the identification of preferred locations for retail and other uses (including cultural facilities) which generate a significant footfall. The location of the site is in accordance with the town centre first approach, thus complying with LDP Policy Ret 1. Likewise, LDP Policy Ret 7 supports the principle of high quality, well designed arts, leisure and entertainment facilities and visitor attractions in the city centre, provided that they make a positive contribution in terms of the type of use and quality of design, are in accessible locations and do not produce unacceptable noise and late-night disturbance. The quality of the design, transport and amenity issues are assessed in greater detail in the sections below. Nevertheless, it can be concluded that the principle of the proposed land use is in accordance with the LDP.

## **b) The proposals adversely affect the character and setting of the listed buildings**

Section 59 (1) and (3) of the Listed Buildings and Conservation Areas Act provides:

"(1) In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Scottish Ministers, 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."

(3) In this section, 'preserving', in relation to a building, means preserving it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character, and 'development' includes redevelopment."

This assessment has been made within the parameters of having special regard to the desirability of preserving the character of these buildings or their settings, or any features of special architectural or historic interest which they possess.

Historic Environment Scotland's document 'Managing change in the Historic Environment - Setting' states; 'Setting' is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced. The document states that where development is proposed it is important to:-

- Identify the historic assets that might be affected;
- Define the setting of each historic asset; and
- Assess the impact of any new development on this.

LDP Policy Env 3 states that development within the curtilage or affecting the setting of a listed building will only be permitted if not detrimental to the appearance or character of the building or its setting. LDP Policy Env 4 states that proposals to alter or extend a listed building will be permitted where a) those alterations or extensions are justified; b) there will be no unnecessary damage to historic structures or diminution of its interest; and c) where any additions are in keeping with other parts of the building. Historic Environment Policy for Scotland (HEPS) Policy HEP4 also ensures that any changes to specific assets protect the historic environment and should be enhanced where possible.

The assessment is divided into the following headings:

- The impact of the internal and external alterations on the character and setting of the C listed arches; and
- The impact of the alterations and new build extension on the setting of the B listed tenements on Cranston Street and Jeffrey Street.

### Impact on the character and setting of the Arches

#### *Internal alterations*

Internally there are no areas of significant architectural or historic interest within the currently vacant arches. For the most part, the internal form of the arches will remain unaltered with the stonework and vaulted ceilings remaining exposed. Existing details such as the high-level stone corbels and cast-iron drainage within each of the arches are to be retained as a feature. Conservation work is proposed to the existing stonework using a specialist stone consultant. This will involve a stone-by-stone condition survey of the existing stonework to identify any structural issues and any stone replacements.

Four of the five arches will be fully accessible to the public as part of the visitor experience. The design of the new mezzanine, floor plates and supporting structures have been developed so they are independent of the existing stonework, thus minimising any impact. The full volume of arch two is to be left open and exposed. This arch will be visible through the glazed curtain walling along East Market Street. In this regard, the proposals visually open up the arches, significantly enhancing the appearance of the listed structures with minimal intervention. The proposed development will not only bring the arches into sustainable use but will also benefit from the structural and physical maintenance.

The internal alterations enhance the existing historic arches, thus complying with HEPS Policy HEP 4, LDP Policy Env 3 and 4 and Section 59 (1) and (3) of the Listed Buildings and Conservation Areas Act.

#### *External alterations and new build extension.*

HES Managing Change in the Historic Environment: Extensions guidance (Oct 2010) notes that key issues in extending a historic building require that they: -

- must protect the character and appearance of the building;
- should be subordinate in scale and form;
- should be located on a secondary elevation; and
- must be designed in a high-quality manner using appropriate materials.

The architectural style of the proposed new building is clearly modern but sensitively responds to its context through its form, finish, detailing and materials, complementing the 24 listed arches, their historic setting and their wider regeneration. An assessment of the proposed materials is set out further in Sections 3.3c) and 3.3e). Although the building will be built over the primary elevation of four arches, it incorporates them, allowing the arches and the Jeffery Street retaining wall to remain visible behind extensive glazed curtain walling on the East Market Street elevation. Their form will be retained and clearly read out-with the building, thus complementing the scale of the arches and character of the street. The new building will extend into the vacant land to the north of the arches to meet the curve of Cranston Street. The new building is appropriately scaled and will relate well to the curved geometry of the street and will not diminish the robust overall character of the arches. The proposed building will be smaller in scale than that the two previously approved schemes.

The external alterations and new build extension complement and enhance the existing historic arches, thus complying with HEPS Policy HEP 4, LDP Policy Env 3 and 4 and Section 59 (1) and (3) of the Listed Buildings and Conservation Areas Act.

#### Impact of the new building on the setting of Jeffrey Street and Cranston Street

The north gable of the tenement on Jeffrey Street is fenestrated. While the majority of this gable is very plain, it was clearly designed not to abut a further building. The new building is 67.570m AOD at its tallest point, which is 8.515m AOD below the eaves of the tenement and positioned 7m away from its gable end. Therefore, as a result of its proposed scale, it has a positive relationship with the tenement that protects and enhances its setting. A random rubble sandstone basecourse is proposed to the façade which reflects the stone of the existing Jeffrey Street wall which sits alongside the tenement. This basecourse forms a continuation of this wall, forming a plinth wrapping around the base of the building, integrating the building into its Old Town context, whilst also preserving the setting of the tenements.

The Townscape and Visual Impact Assessment illustrates minimal impact on the setting of Jeffrey Street, with only the roof top pavilion element extending above the Jeffrey Street wall. While the Caltongate Masterplan identifies this site for a potential landmark structure, the proposal remains subservient to the B listed buildings on Jeffrey Street and Cranston Street. The scale of the proposal is, therefore, considered appropriate to the setting of these buildings. The modest height allows views to the new hotel on Cranston Street, thus adding positively to the townscape, and further enhancing its setting.

The external alterations and new build extension complement and enhance the setting of the tenements on Cranston Street and Jeffrey Street, complying with HEPS Policy HEP 4, LDP Policy Env 3 and 4 and Section 59 (1) and (3) of the Listed Buildings and Conservation Areas Act.

## Conclusion

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposals preserve the adjacent listed buildings and their settings, including any special architectural or historic interest they possess. The proposed development strengthens the urban streetscape and complements the character and setting of the Arches. The application is therefore, also compliant with LDP Policies Env 3 and Env 4.

### **c) The proposal will preserve or enhance the character and appearance of the Old Town Conservation Area**

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area. LDP Policy Env 6 supports development which preserves or enhances the special character and appearance of the conservation area and is consistent with the relevant conservation area character appraisal, preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character of the area, and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The site is currently a left over and neglected space within the Old Town Conservation Area. The Character Appraisal sets out the key elements that contribute to the special historic and architectural character of the area. For new development, it encourages good contemporary design that is sympathetic to the spatial pattern, scale and massing, proportions and design of traditional buildings in the area. The essential characteristics of the Old Town Conservation Area are assessed below:

#### Plan form and building line

The proposed building continues the plan width of the tenement gable, the curve of Cranston Street and Jeffrey Street and extends this to meet East Market Street. This reflects the historic spatial pattern, creating a strong relationship between the different levels of Jeffrey Street and East Market Street. The proposed development will also provide a continuous hard urban edge directly abutting the footway of Cranston Street and Market Street, reflective of the character of the Old Town.

The topography of the Old Town creates a dramatic natural setting for the surviving original medieval street pattern and plan form of lang riggs and closes running off the spine of the Royal Mile. These tightly packed narrow closes make the Old Town highly permeable. The application proposes a new pedestrian access from Jeffrey Street to Cranston Street in the form of new public steps, adding to the permeability of the area and the opportunities for wayfinding. This is positive, reflecting the dense network of closes and wynds, characteristic of the Old Town Conservation Area and a proposal which is supported by the Caltongate Masterplan.

It is the combination of a new pedestrian access, strong building line and resolution of topography that results in a form which strengthens the spatial pattern of the Old Town.

## Skyline and views

The wealth of important landmark buildings, including the Castle, the spires, towers and domes on the Old Town ridge and Arthur's Seat dominate a distinctive historic skyline, not just from the conservation area boundaries, but also in many more distant views and approaches to the city. The application is supported by a Townscape and Visual Impact Assessment, which includes a study area which is relatively compact due to the constrained nature of the site within the valley between the Old Town and Calton Hill. The proposed development will not impact on the historic skyline.

The modest height and architectural quality also allow views to be retained towards the layering of buildings, characteristic of the Old Town. As well as views towards the Old Town, the Character Appraisal also identifies views from the Old Town towards the New Town, including the view towards St Andrews House as a key vista/panorama. This was also identified as an opportunity in the Caltongate Masterplan. The roof of the new building will form a new public space extending from Jeffrey Street designed to facilitate an enhanced experience of the view.

## Materials

The Old Town is characteristic of a limited palette of natural materials, mainly stone and slate. This provides a sense of unity. Dark grey horizontal profiled terracotta rainscreen is proposed which is neutral in appearance. This reflects the dark grey of the Scots slates, sitting comfortably alongside the surrounding stone context. The design of the façade also incorporates a random rubble sandstone basecourse to mirror the stone of the existing Jeffrey Street wall. This basecourse forms a continuation of this wall, forming a plinth wrapping around the base of the building, integrating the building into its Old Town context. Caithness Stone is proposed along the footways, which is also supported. The balance between traditional and contemporary high-quality building and public realm materials will enhance the Conservation Area. Conditions are recommended in respect of material finishes, external light fitting, and details of the stepped access.

## Boundary treatment

Boundaries maintain the character and quality of the spaces in the Old Town, providing enclosure and definition to many pedestrian links, whilst also restricting views out of the spaces. The replacement of the existing stonewall along Jeffrey Street with taller metal railings is a positive form of enclosure along this street that contributes positively to the character of the area, whilst preserving and enhancing views north towards Calton Hill and St Andrews House.

## Land use

The site was previously used as a storage facility for the Council, forming a negative use in an increasingly vibrant area. A breadth of facilities and attractions establish the Old Town as a cultural, leisure, entertainment and tourism centre of national importance. It is essential, however, that a productive balance between the interests of residents, business, institutions and visitors is maintained. The continued existence of a creative mix of uses is an essential element in maintaining active streets and a vibrant town centre. In this regard, the proposed land use is in-keeping with the character of the Conservation Area, further enhanced by the re-use of the historic arches for the visiting public.

## Conclusion

With reference to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposals preserve the character and appearance of the conservation area. The proposal does not impact adversely or significantly on key views and townscape character. It is considered that the proposed development further enhances the special interest. It will contribute to the architectural quality of the area with a contemporary high-quality building designed to respond to its historic and modern urban environment. The proposal successfully responds to issues of spatial structure, permeability, townscape, architectural expression, heights, vistas, roofscape and materials in accordance with the principles of the Caltongate Masterplan. In this regard, the special character and appearance of the Old Town Conservation Area will be preserved and enhanced, complying with LDP Policy Env 6.

### **d) The proposals harm the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site**

LDP Policy Env 1 states that development will not be permitted which would have a harmful impact on the qualities which justified the inscription of the Old and New Towns of Edinburgh World Heritage Site (WHS) or would have a detrimental impact on the Site's setting.

Chapter 4 of the 2011-2016 Management Plan sets out an interpretation of the key attributes of the OUV which are further explained in Appendix D.3 of the 2017-2022 Management Plan. Given the numerous and overlapping factors that contribute to the OUV of the WHS, the assessment has also been informed by other sections of the report, notably impacts on the Old Town Conservation Area in section 3.3c). The Management Plan recognises the importance of the topography in shaping the townscape and key views both out and into the WHS. The WHS is defined as the remarkable juxtaposition of two clearly articulated urban planning phenomena: the contrast between the organic medieval Old Town and the planned Georgian New Town which provides a clarity of urban structure unrivalled in Europe. The modest scale of the building, choice of materials and architecture will have a positive impact on the World Heritage Site. In particular, the replacement of the wall along Jeffrey Street with railings and the introduction of a public roof terrace preserves and enhances the views from Jeffrey Street (the Old Town) across Waverley Valley into the New Town, a critical component of OUV.

In addition to the physical attributes of the OUV, the proposed development relates directly to the OUV of 'Culture and Activities'. The Management Plan states that sustaining a living capital city centre is a balance between protecting the environment, strengthening society and supporting a vibrant cultural scene. The development is part of a wider regeneration which is delivering a range of uses to enhance the area. The proposed development has the potential to have a positive impact on this attribute.

In this regard, the application will have a positive impact on the WHS and complies with LDP Policy Env 1. Edinburgh World Heritage Trust do not object, stating that the amended scheme addresses their initial concerns.

## **e) The design is acceptable and will contribute towards a sense of place**

### Scale, form, height and materials

LDP Policy Des 1 states that proposals should be based on an overall design concept that draws on the positive characteristics of the surrounding area. The Caltongate Masterplan identifies the application site as an opportunity to enhance and further activate the streetscape. It highlights the opportunity for a landmark building at this location. In doing so, the Caltongate Masterplan recommends a guide height along East Market Street of 72.5m AOD. It also notes that the heights should be reduced over the south section of the site adjacent to the tenement.

The proposed height ensures that the crown of the existing arches is fully expressed within the building and on views into the building. The overall proposed building height sits at 67.570m AOD, which is 4.93m below the guide height. The rooftop multi-use accommodation has been sensitively designed to ensure it has a similar footprint to that which was previously consented (application reference number 13/03047/FUL). It is predominantly glazed with elements of metal cladding to conceal lift and toilet facilities, the detail of which will be secured through a condition. In accordance with LDP Policy Des 3 and the Caltongate Masterplan, the design has incorporated and enhanced a significant panoramic view over the Waverley Valley towards North Bridge and Calton Hill.

The Old Town is characteristic of a limited palette of natural materials, mainly stone and slate. An assessment of the proposed materials is set out in Section 3.3c). The balance between traditional and contemporary high-quality building and public realm materials is supported.

The application complies with LDP Policy Des 1, Des 3 and Des 4.

## Public realm and landscape design

The proposed rooftop terrace is divided into two parts; an external space for use by Edinburgh Gin visitors as part of the tour, and a viewing platform for public access. The public terrace is 137.2 square metres and the private Edinburgh Gin terrace is 114.2 square metres. The primary access to the Edinburgh Gin terrace is from the internal stairs or lift. The public viewing terrace to the west has accessible level access from Jeffrey Street. Granite is proposed for the roof terrace material with a bespoke detailed paving design which references the local Edinburgh context. To add visual amenity to the rooftop terrace and reflect the use of the building, the plant species proposed are those which are used in the gin making process. Different elements of rooftop paving, landscaping and furniture are coordinated to avoid a sense of clutter, whilst also adding articulation to the roofscape.

Along Jeffrey Street, Caithness Stone is proposed, which aligns with the Council's wider aspirations for its upgrade and is appropriate to the character of the area. The revised application proposes that the wall along Jeffrey Street is taken down to street level and rebuilt as a low wall with cope to match the existing and a metal railing erected to a height of 1.8m. As the proposed railings provide a more visually permeable and secure boundary treatment appropriate to the character of the area, this additional height of 0.6m is acceptable. Each of the two proposed access points comprise of a set of double leaf metal gates, the detail of which will be secured through a condition. Details of external public realm materials would also be subject to condition.

The application complies with LDP Policy Des 8.

### **f) The proposal raises any issues in respect of transport and road safety**

LDP Policy Tra 1 supports major development comprising offices, retail, entertainment, sports, leisure and other non-residential uses, which would generate significant travel demand, on suitable sites in the City Centre. It is stated that these developments should be accessible by a choice of means of transport.

## Pedestrian and vehicular access

LDP Policy Des 2 supports a comprehensive and integrated approach to the layout of buildings, streets, footpaths and cycle paths as provided for in an approved development brief or strategy. The new use will be accessible by pedestrians from three directions; East Market Street, Cranston Street and Jeffrey Street. The site will contribute to the objectives of the Caltongate Masterplan by providing a new pedestrian stepped access between Cranston Street and Jeffrey Street, thereby improving footfall and pedestrian flow, creating a new place and destination, that will improve the character of the area. The application complies with LDP Policy Des 2.

LDP Policy Des 7 supports development which enhances community safety and urban vitality and provide direct and convenient connections on foot and cycle. The applicant is proposing to enhance pedestrian movement along Cranston Street and East Market Street by improving the footway and up to Jeffrey Street by providing a new stepped pedestrian access. The application also proposes a reduced kerb radius on the junction of Cranston Street and East Market Street, thus improving pedestrian safety. The application complies with LDP Policy Des 7.

The applicant envisages around seven vehicles arriving each week to deliver materials for the gin-making process and to remove finished gin. A further three deliveries each week are expected of stock for the retail element of the proposed development. All these deliveries are envisaged to be by long-wheelbase Transit-type vans from a proposed carriageway loading bay on the southern side of East Market Street. This is supported and will require the necessary Traffic Regulation Orders through the Road Construction Consent process.

### Parking

The proposed development does not propose dedicated on-site car parking due to its city centre location and accords with the Edinburgh Design Guidance.

The application proposes two uncovered Sheffield cycle parking stands within the public realm on East Market Street, providing space for four bicycles. One Sheffield bike stand is also provided in the secure storage area underneath the new steps. This provides two spaces for staff. This provision exceeds the requirements set out in the Edinburgh Design Guidance and complies with LDP Policy Tra 3 and Tra 4.

### Transport infrastructure

LDP Policy Del 1 states that proposals will be required to contribute to the existing and proposed tram network. The site forms part of the wider New Waverley development for which a tram contribution of £50,000 has already been paid. Any additional tram contribution for this site would be duplication, and is therefore, not a reasonable requirement. As this proposal is bringing forward similar uses to those which have been previously proposed, in a building which is smaller than the extant permission, no further contributions are required.

The Roads Authority do not raise any objections.

### **g) The proposal will have a detrimental impact on the amenity of nearby residents**

LDP Policy Des 5 seeks to ensure that neighbouring amenity is not adversely affected by new development. Representations have been made concerning the development's impact on residential amenity within the tenements on Cranston Street, which bound the site to the south. The Edinburgh Design Guidance informs compliance with LDP Policy Des 5.

### Daylight

A daylighting study has been submitted by the applicant which applies the Council's recommended Vertical Sky Component (VSC) approach to assessing impact of development on the ratio of daylight available to existing properties. The Edinburgh Design Guidance requires that the amount of daylight reaching an external wall must be more than 27%, or 0.8 of its former value.

Two windows on the narrow northern gable of the tenement would be affected by the proposed development and have been assessed for compliance. One of these windows failed the VSC assessment and has been re-assessed using the Average Daylight Factor analysis (ADF) which assesses internal spaces using assumed internal plan form. The one room that was tested using the ADF analysis demonstrated that it complies with the target set out in the Edinburgh Design Guidance and therefore, complies with LDP Policy Des 5 a). The analysis demonstrates that there will be minimal or no impact on daylighting to existing gable windows. Daylight to gables and side windows is generally not protected but has been considered due to the building being an original finished gable with a historic open aspect.

### Privacy and outlook

The proposed building will be located approximately 6.75m away from the tenement gable at the narrowest point, with the glazed portion of the pavilion building being 6.97m away from one of the two directly facing residential windows. The Caltongate Masterplan supports a much taller landmark building on the site. The pattern of development in the Old Town generally defines a narrower distance between buildings and consequential privacy distances. In this regard, given the immediate historical context, and the scale of the building proposed, this distance is appropriate. The majority of the private and all of the public roof terrace will be screened from the existing tenement by the rooftop building. Furthermore, the new external public steps have been designed to sit off and away from the tenement, further protecting privacy.

Although private views are not protected, immediate outlook of the foreground of what can be seen from within a building must be considered. As a result of the new building, the immediate outlook of the gable will partially be blocked out for two residential windows. However, as this tenement is hard on the boundary of private land, outlook is not protected in this case. The scale, mass and form of the proposed building has been carefully designed to ensure the existing privacy and outlook for much of the tenement is, for the most part, not compromised. However, it should be noted that the Edinburgh Design Guidance does not seek the protection of the privacy of gables of existing housing.

### Noise

A Noise Impact Assessment was submitted with the revised scheme. It demonstrates that mitigation measures can ensure that noise levels from the rooftop multi-use area and from mechanical plant will be within acceptable standards for protecting the amenity of nearby residents. A condition to secure their implementation is included.

However, the assessment was not able to demonstrate the noise from vocal outbreak of patrons on the external roof terrace would meet acceptable standards. The terrace will be used for patrons during the daytime and envisaged to operate during similar hours to the main visitor experience. External noises, and in particular, vocals, are extremely difficult to modulate and control. Furthermore, it is suggested by the applicant that the terraces may be used outwith these hours for special events. Although the Noise Impact Assessment states that there will be no amplified music on the external terrace and it is largely screened from the tenement by the pavilion building, this cannot be controlled by the Planning Authority. For this reason, due to the potential for noise disturbance adversely impacting on the amenity of neighbours,

Environmental Protection is not able to support the application. This is considered to be a minor infringement given the urban context, neighbouring property relationships and existing and proposed uses characteristic of a city centre location.

### Odour

An odour assessment was submitted which modelled a worst-case scenario, demonstrating that odour would not adversely impact nearby sensitive receptors. The process involves the re-distillation of grain alcohol, so that there will be no milling or fermentation of grains on the premises. All produce will be bottled and warehoused offsite. Therefore, the only significant emission source with potential for the release of odour will be from the still. These odours are normally considered to be less offensive and an odour benchmark of 6 OUE/m<sup>3</sup> 1 hour 98%ile is typically used to protect residential amenity. All distilling operations will be conducted inside the still room which will be ventilated using a local exhaust ventilation (LEV) system, located above arch one on East Market Street.

Environmental Protection is satisfied with these conclusions.

### Open space

The proposal incorporates an area of public open space in the form of the viewing terrace off Jeffrey Street. The provision of open space, in combination with new uses and activity, will be of benefit to new and existing Old Town users. The improved permeability and enhanced pedestrian environment will improve residential amenity within the Old Town.

### Conclusion

The proposal has been designed to minimise any potential negative impact on its neighbour and raises no issues in respect of privacy, outlook and odour. It is accepted that the proposal will infringe LDP Policy Des 5a) with respect to potential unknown noise levels from the roof terrace. However, an infringement is justified in this case, given the townscape and wider amenity benefits of a new public terrace.

## **h) Other material considerations**

### Sustainability

The applicant has submitted a sustainability statement in support of the application. Part A of the standards is met through the provision of air source heat pump technology. This is proposed for the heating/cooling and domestic hot water generation for the project. The application is a local development so there is no requirement to complete Part B of the form. The application complies with LDP Policy Des 6.

### Flooding

No flood risk assessment or surface water management plan was required. Flood Planning has no objections.

## Trees

There are two existing trees on the site, which are both Common Rowan. A Tree Survey has been prepared to support the application. The two trees are categorised as 'C' and 'U'. The Survey recommends that both trees are removed due to poor condition and moderate amenity value. In this regard, due to their poor condition, inability to be retained through the proposed building construction and low value as part of the existing streetscape and setting of the proposed building, both trees are proposed to be removed to facilitate the development.

Given the lack of space to provide new trees within the public realm along East Market Street, new trees within planters are proposed as part of the roof terrace planting, managed to a maximum height of 3m. This adds visual interest and enhances biodiversity value on the site, without obscuring the view. This is acceptable.

## Local Nature Conservation Site

The site is located within a Local Nature Conservation Site, designated for its Geodiversity value. This Local Geodiversity site is Edinburgh Castle Rock Crag and Tail, Princes Street Gardens and the Grassmarket. LDP Policy Env 15 seeks to protect sites of local nature conservation value. The application would not have an adverse impact on this.

## Archaeology

The City Archaeology Officer has commented on the proposals. The listed historic arches were subject to a programme of archaeological recording in 2015 by AOC Archaeology. Given that the proposed scheme will not significantly affect the arches historic fabric, no further historic building recording is deemed to be required based on current information. Accordingly, there are no archaeological constraints upon this application.

### **i) Any impacts on equalities or human rights are acceptable**

The application has been considered and has no apparent impact in terms of equalities or human rights. The applicant will be required to comply with the provisions of the Equality Act 2010 and building regulation standards. The site is accessible for those with mobility issues and creates an environment where public spaces can be used safely. The proposed development will provide good access to public transport, new high-quality public realm and local facilities. The proposed development has been assessed against the LDP which is compatible with the Human Rights Act.

## **j) representations raise issues to be addressed**

### Material representations - objections to scheme one

- Impact adversely on the character and appearance of the Old Town Conservation Area. This is addressed in section 3.3c);
- Impact adversely on the character of the C-listed vaults. This is addressed in section 3.3b);
- Impact adversely on the Old and New Towns of Edinburgh World Heritage Site. This is addressed in section 3.3d);
- Objects to the use of the building as another large drinking establishment and distillery in this location. This is addressed in section 3.3a). Whilst a number of uses have been applied for, the application does not propose a sui generis public house use. The only public access to the building (except those who are partaking in an organised tour) will be for those visiting the retail area, those utilising the public terrace during its normal operational hours (10am until 5pm), or those attending special events.
- Objects to the design including height, form, scale and proportions, positioning of buildings and materials and detailing. This is addressed in section 3.3e);
- Concern over the design and function of the external roof top terrace. Scheme two proposes amendments to the design and function of the external roof top terrace. This is addressed in section 3.3e). The purpose of the private terrace is for the exclusive use of Edinburgh Gin customers who opt for an enhanced Edinburgh Gin experience. The public terrace will be accessible during normal operational hours (10am until 5pm);
- Concern over the height of the proposed building rising above the level of the curved retaining wall of Jeffrey Street. This is addressed in section 3.3c) and e);
- Inappropriate material, with specific reference to the white ceramic terracotta cladding. This is addressed in section 3.3e). The colour and finish of the terracotta cladding has been revised in scheme two.
- Object to the removal of the existing wall along Jeffrey Street and its replacement with a higher 1.8m wall. This is addressed in section 3.3e). Scheme two proposes its replacement with a higher railing, which allows visual permeability;
- Adverse impact on the privacy, outlook, security, daylight, odour and noise level to neighbours. This is addressed in section 3.3g);
- The steps are non DDA compliant. This is addressed in section 3.3f). An alternative DDA compliant route for the public to access Jeffrey Street from East Market Street is still provided via the existing footways. Likewise, internal access is provided by a lift. The public steps is supported by the Caltongate Masterplan and reflects the character of the Old Town Conservation Area.
- Objects to the arches joining up into a single development site. The site is identified as a development site for a landmark building in the Caltongate Masterplan;
- The proposed pavement widths will be 1.5m which do not meet Council minimum standards. The Roads Authority raise no objections; and
- There is no clear plan for cleaning and maintaining the steps. Edinburgh Gin will likely maintain the public steps.

- The Statement of Special Interest in the HES listing for the vaults, when the land was ceded to the North British Railway Company in the 19th Century it was on condition that any building on the site 'shall not exceed in height the finished level of the carriageway of Jeffrey Street'. Height of the new building is assessed in section 3.3e). There is no planning restriction on heights other than the guide heights indicated in the Caltongate Masterplan and consideration being given in a supporting Townscape and Visual Impact Assessment. The design of the new building has been informed by a view analysis.
- Non-material representations - objections to scheme one
- The development will lead to increase in vandalism and graffiti. This is not a matter for the Planning Authority;
- Introducing steps is dangerous to pedestrians and could result in serious injury. A condition is included to ensure the details and specification of the steps is agreed by the Planning Authority. Behaviours of pedestrians is not a matter for the Planning Authority;
- Object to the continued practice of planning applications for new licensed premises seeking planning approval on the presumption that an alcohol licence will be automatically granted. Licensing is a separate regime and a license will be required for the operation of the building; and
- Concern over the late-night opening hours. The opening times are confirmed to be 10am until 5pm with the exception of a special event. In any case, a licence for the operation will be required. This is a separate regime to the Planning Authority.
- Material representations - objections to scheme two
- Impact on privacy, security, daylight and noise levels, especially from the rooftop pavilion building, new steps and external terrace. This is addressed in section 3.3g);
- The impact of odour generated from the production of alcohol and the bin store. This is addressed in section 3.3g). It is not necessary to assess the odour impact from a bin store.
- Considers that the public steps are unnecessary and unsafe. This is addressed in section 3.3c) and 3.3f). A condition is included to ensure the details and specification of the steps is agreed by the Planning Authority;
- Impact of the internal and external lighting from the new building, external terrace and public steps into neighbouring properties. A condition has been included which allows the location and details of the lighting to be agreed.
- The wall along Jeffrey Street should not be altered or removed. This is addressed in section 3.3c), 3.3d) and 3.3e);
- Impact of the new building on the view across Waverley Valley. This is addressed in section 3.3c) and 3.3d);
- Insensitive design and inappropriate materials. This is addressed in section 3.3b), 3.3c), 3.3d) and 3.3e);
- Impact on the World Heritage Site. This is addressed in section 3.3d);
- Concern over the operational use of the new roof terrace. This is addressed in section 3.3a). It is a space which is related to the use of the multi-use pavilion building as part of the tour or for a special event. This would require a license.

- Impact of the retail use on existing businesses and public houses selling similar products. This is addressed in section 3.3a); and
- Detailed distilling processes should be submitted detailing all required equipment. Adequate information was submitted to allow assessment of the impacts on odour and noise.
- Non-material representations - objections to scheme two
- Increase risk of graffiti. This is not a matter for the Planning Authority.
- Anti-social behaviour from the sale of alcohol. This is a matter for a separate regime, with the sale of alcohol requiring a license.

## CONCLUSION

With reference to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposals preserve the character and setting of the listed buildings and Old Town Conservation Area.

The proposed design of the building is based on a strong concept which draws upon the positive characteristics of the surrounding area. The design seeks not to compete with the historic and distinctive built features of the Old Town but rather to complement and enhance them through a positive engagement with the urban morphology of its historic and modern urban setting. The proposal responds to issues of spatial structure, permeability, townscape, architectural expression, heights, vistas, roofscape and materials in accordance with the principles of the Caltongate Masterplan and Old Town Conservation Area Character Appraisal.

The location of a cultural, leisure and entertainment use at this accessible city centre site, accords with LDP Policies Ret 1, Ret 7 and Del 2. The proposed use also complies with the relevant principles of the Caltongate Masterplan.

The proposal has been designed to minimise any potential negative impact on its neighbours and raises no issues in respect of privacy, outlook and odour. It is accepted that the proposal will infringe LDP Policy Des 5a) with respect to unpredicted levels of noise from the roof top terrace. However, this is considered to be a minor infringement given the urban context and neighbouring property relationship. The amended proposal in part mitigates the potential impact through the redesign of the roof terrace and incorporation of new public space. An infringement is justified given the existing context.

There are no identified impacts on equalities or human rights and no 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. Prior to the commencement of construction works on site:
  - a. A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Head of Planning, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and
  - b. Where necessary, a detailed schedule of any remedial and /or protective measures, including their programming, must be submitted to and approved in writing by the Head of Planning.

Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the satisfaction of the Head of Planning.

2. Prior to occupation, the mitigation measures as specified in Table 6.1: Fixed Plant; and Table 6.1: Building Elements; of the Airshed Noise Impact Assessment, dated 23 October 2019, shall be met.
3. The approved soft landscaping scheme shall be fully implemented within the first planting season of the occupation of the building. Any trees or plants which, within a period of five years from the first planting, die, are removed, or become seriously damaged or diseased, shall be replaced with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme, as may be submitted to and approved in writing by the Planning Authority.
4. The approved hard landscaping scheme shall be fully implemented prior to occupation of the new building or a suitable timescale agreed in writing with the Planning Authority.
5. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before above ground works is commenced on site. Prior to the commencement of above ground works, sample panels, to be no less than 1.5m x 1.5m, shall be produced, demonstrating each proposed external material and accurately indicating the quality and consistency of future workmanship, and submitted for written approval by the Council as planning authority.
6. Prior to commencement of works above ground, full details of the proposed external light fittings on the existing and proposed building elevations shall be submitted to and approved in writing by the Planning Authority, and shall be implemented on site, in accordance with the approved details.

7. Prior to commencement of above ground works, the design and specification of the new public steps linking Cranston Street and Jeffrey Street shall be submitted to the Planning Authority for approval.
8. Prior to occupation, the public steps shall be implemented in accordance with the agreed design and specification.
9. A detailed design and specification of the two gates to the roof terrace and perforated metal cladding on the rooftop multi-use building shall be submitted to and approved in writing by the Planning Authority before above ground work is commenced on site. A full scale sample panel may be required.

**Reasons: -**

1. To safeguard public safety.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.
3. In order to safeguard the interests of nature conservation.
4. In order to safeguard visual amenity.
5. In order to enable the planning authority to consider this/these matter/s in detail.
6. In order to safeguard visual amenity.
7. In order to enable the planning authority to consider this/these matter/s in detail.
8. In order to safeguard the character of the conservation area.
9. In order to enable the planning authority to consider this/these matter/s in detail.

**Informatives**

It should be noted that:

1. The development 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.
5. Noise from new plant must not exceed NR25 within the nearest noise sensitive receptors, with windows slightly open for ventilation.
6. Music and occupational noise within the building must not exceed NR15 within the nearest noise sensitive receptors, with windows slightly open for ventilation.
7. In accordance with the Council's LTS Travplan3 policy, the applicant should consider developing a Travel Plan including provision of a high quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities) and timetables for local public transport.
8. Any proposed signage requires advertisement consent and depending on the location, may require Listed Building Consent.
9. Contribute the sum of £2,000 to progress a suitable order to redetermine sections of carriageway, as necessary, on East Market Street to accommodate a loading bay for the development.
10. Any works affecting an adopted footway or road must be carried out under permit and in accordance with the specifications at no cost to the Council. See Road Occupation Permits  
[http://www.edinburgh.gov.uk/downloads/file/1263/apply\\_for\\_permission\\_to\\_create\\_or\\_alter\\_a\\_driveway\\_or\\_other\\_access\\_point](http://www.edinburgh.gov.uk/downloads/file/1263/apply_for_permission_to_create_or_alter_a_driveway_or_other_access_point)
11. As detailed on the drawings, all doors must not be opened onto an adopted footway, unless emergency doors
12. The applicant must be aware that the proposed development is likely to affect what appears to be street lighting haldo pillar at North West corner of the application site and will have to be relocated at no cost to the Council.

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

No financial impact has been identified. There is no requirement for a legal agreement.

## **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 considered 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

Pre-application discussions took place on this application.

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

Neighbours were notified of the planning application on 30 November 2018 and the application was advertised on 7 December 2018, allowing 21 days for comments. However, following submission of an additional supporting document, neighbours were re-notified on 19 December 2018 and the application was re-advertised on 18 January 2019, allowing an additional 21 days for comments. The application also appeared in the Weekly List on 4 December 2018.

The proposals that formed scheme one received 19 letters of objections and two neutral comments. This included comments from the following amenity bodies:

- The Cockburn Association
- The Architectural Heritage Society of Scotland
- Old Town Association
- Old Town Community Council

All the interested parties who previously commented on scheme one and all neighbours within 20m of the site boundary were re-notified on 25 October 2019, with 21 days allowed for comments. Five comments from the public were received in relation to scheme two.

All of the comments received have been considered in the assessment of the application. An assessment of these representations can be found in the main report in section 3.3j).

## 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 application site is shown to be within the City Centre as defined in the Edinburgh Local Development Plan (LDP).

### Date registered

20 November 2018

### Drawing numbers/Scheme

01-03, 04A-9A, 11A-14A, 15, 16A, 17, 18A-22A, 23-29,

Scheme 2

## David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

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## Links - Policies

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### Relevant Policies:

**The Old Town Conservation Area Character Appraisal** emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) identifies the circumstances in which developer contributions will be required.

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 Des 2 (Co-ordinated Development) establishes a presumption against proposals which might compromise the effect development of adjacent land or the wider area.

LDP Policy Des 3 (Development Design - Incorporating and Enhancing Existing and Potential Features) supports development where it is demonstrated that existing and potential features have been incorporated into the design.

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

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

LDP Policy Des 6 (Sustainable Buildings) sets criteria for assessing the sustainability of new development.

LDP Policy Des 7 (Layout design) sets criteria for assessing layout design.

LDP Policy Des 8 (Public Realm and Landscape Design) sets criteria for assessing public realm and landscape design.

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 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Env 9 (Development of Sites of Archaeological Significance) sets out the circumstances in which development affecting sites of known or suspected archaeological significance will be permitted.

LDP Policy Env 12 (Trees) sets out tree protection requirements for new development.

LDP Policy Env 15 (Sites of Local Importance) identifies the circumstances in which development likely to affect Sites of Local Importance will be permitted.

LDP Policy Env 20 (Open Space in New Development) sets out requirements for the provision of open space in new development.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

LDP Policy Env 22 (Pollution and Air, Water and Soil Quality) sets criteria for assessing the impact of development on air, water and soil quality.

LDP Policy Ret 1 (Town Centres First Policy) sets criteria for retail and other town centre uses following a town centre first sequential approach.

LDP Policy Ret 2 (City Centre Retail Core) sets criteria for assessing retail development in or on the edge of the City Centre Retail Core.

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 Ret 11 (Food and Drink Establishments) sets criteria for assessing the change of use to a food and drink establishment.

LDP Policy Tra 1 (Location of Major Travel Generating Development) supports major development in the City Centre and sets criteria for assessing major travel generating development elsewhere.

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.

# Appendix 1

**Application for Planning Permission 18/09878/FUL  
at Land at East Market Street Edinburgh.  
Redevelopment and conversion of existing arches and  
change of use to provide sui generis distillery with Class 11  
(assembly and leisure) visitor centre, Class 1 (retail), Class 3  
(food and drink) and sui generis bar/tasting rooms with  
associated works including landscaping, public realm and  
means of access. (As Amended).**

## Consultations

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### Historic Environment Scotland - response dated 15/01/2019

#### *Our Advice*

*The proposal is for the conversion and incorporation of the remaining undeveloped arches along East Market Street into a new distillery and visitor centre. The site, as part of the New Waverley development, has seen two schemes gaining approval. The 2008 scheme (07/01241/FUL) would have seen extensive new-build development and also involved the re-alignment of Cranston Street. This was much reduced in a 2014 scheme (13/03047/FUL) which brought forward a more straight-forward conversion of the arches along with and a new glass fronted building along East Market Street.*

*The proposals within this application appear broadly to follow the 2014 scheme - the bulk of the new building would sit below the pavement level of Jeffrey Street. The articulation of the new building and its materials is not an exact replication of the 2014 scheme, i.e. the second storey at Jeffrey Street will have a greater footprint and visual presence compared to the more modest structure proposed of 2014. We are nevertheless content that overall these new proposals will not result in a significant impact on the Outstanding Universal Value (OUV) of the Old and New Towns of Edinburgh World Heritage Site. It remains a considerable improvement compared to the scheme consented in 2008.*

*However, we see one area where we consider the proposals would result in a negative impact. The wall running along Jeffery Street would be re-built (it is reported this is because of its condition) and increased in height, from 1.2m to 1.8m, along the length of the roof terrace. This height increase will impact in views from Jeffery Street across to the New Town, as illustrated in the Landscape Design Statement - views from the Old Town into the New Town and crossing the Waverley valley are a critically important component of OUV. This impact would be more pronounced immediately in front of the heightened wall (the eastern pavement). In views from the western pavement we recognise the impact will be much reduced.*

*We note the Landscape Design Statement mentions other solutions were investigated, although no further commentary is provided on what these were and why they were rejected. If the wall does require re-building then we wonder if using an alternative boundary treatment would be achievable. The lower end of Jeffery Street uses railings and if these were replicated along the full length of the street, up to the tenements, existing views into the New Town should be maintained (even potentially enhanced). Your Council will of course also need to consider the physical impact of such an alteration on the special interest of the arches, which are listed at Category C.*

*Planning authorities are expected to treat our comments as a material consideration, and this advice should be taken into account in your decision making. Our view is that the proposals do not raise historic environment issues of national significance and therefore we do not object. However, our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.*

### **Historic Environment Scotland - response dated 07/11/2019**

*Thank you for your consultation which we received on 25 October 2019. We have assessed it for our historic environment interests and consider that the proposals affect the following:*

<i>Ref</i>	<i>Name</i>	<i>Designation</i>
<i>100018438</i>	<i>Edinburgh World Heritage Site Boundary</i>	<i>World</i>
<i>Heritage Sites</i>		

*You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.*

#### *Our Advice*

*This is a re-consultation for conversion and incorporation of the remaining undeveloped arches along East Market Street into a new distillery and visitor centre. In our initial response, we were content that the proposals, overall, would not result in a significant impact on the Outstanding Universal Value (OUV) of the Old and New Towns of Edinburgh World Heritage Site. This remains our position.*

*However, we did consider that the re-building, accompanied by an increased in height, of the wall along part of Jefferey Street would result in a negative impact. This would have impacted on views from Jefferey Street (the Old Town) across Waverley Valley into the New Town, which are a critical component of OUV. We suggested that a railing could be an alternative boundary treatment and are pleased to see this now being incorporated into the revised design. We also note other changes have been made to the design of the new building.*

*We welcome the revisions and consider these will help to mitigate impacts of development on the OUV of the Old and New Towns of Edinburgh World Heritage Site.*

*Planning authorities are expected to treat our comments as a material consideration, and this advice should be taken into account in your decision making. Our view is that the*

*proposals do not raise historic environment issues of national significance and therefore we do not object. However, our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.*

*Further Information*

*This response applies to the application currently proposed. An amended scheme may require another consultation with us.*

*Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at [www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/](http://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/). Technical advice is available through our Technical Conservation website at [www.engineshed.org](http://www.engineshed.org)*

### **Archaeology - response dated 12/12/2018**

*The site lies at the centre of the UNESCO World Heritage, lying between the medieval burghs of the Old Town and Canongate established in the early 12th century. The C-listed arches were constructed in the mid-19th century when Market Street was inserted as such not only are the arches regarded as being of historic interest, but the site also occurs within an area of archaeological significance.*

*Therefore, this application must be considered therefore under Scottish Government's Our Place in Time (OPIT), Scottish Planning Policy (SPP), Historic Environment Scotland's Policy Statement (HESPS) 2016 and Archaeology Strategy and CEC's Edinburgh Local Development Plan (2016) Policies ENV 4 & ENV9. The aim should be to preserve archaeological remains in situ as a first option, but alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be an acceptable alternative.*

*The listed historic vaults (Arches) were subject to a programme of archaeological recording in 2015 by AOC Archaeology. Given that the proposed scheme will not significantly affect the Arches historic fabric, no further historic building is deemed to be required based on current information.*

*However, these proposals with significant ground-breaking works both potentially internal to the vaults but significantly outside. Such works have the potential for disturbing significant buried remains associated with the development of the Old Town since the medieval period. It is essential therefore that the site is investigated before development in order to fully excavate, record, analysis and report upon any significant remains that may be affected.*

*It is recommended that the following condition be applied to these consents to secure this programme of archaeological work, based upon the following CEC condition;*

*'No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis and reporting) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'*

*The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.*

### **Scottish Water - response dated 18/12/2018**

*Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following.*

#### *Water*

*There is currently sufficient capacity in the Glencorse Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.*

#### *Foul*

*There is currently sufficient capacity in the Edinburgh Waste Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.*

*The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.*

#### *Infrastructure within boundary*

*According to our records, the development proposals impact on existing Scottish Water assets. The applicant must identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team directly at [service.relocation@scottishwater.co.uk](mailto:service.relocation@scottishwater.co.uk).*

*The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.*

#### *Surface Water*

*For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not normally accept any surface water connections into our combined sewer system.*

*There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.*

*In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.*

## **SEPA - response dated 15/01/2019**

*Advice for the planning authority*

*We have no objection to this planning application. Please note the advice provided below.*

*Waste water drainage*

*The planning application details that the proposed development will be utilising the public sewer for foul drainage. The applicant should provide the City of Edinburgh Council with confirmation from Scottish Water that there is an available connection to the public sewer and that Scottish Water will accept waste from this development. If Scottish Water cannot accept foul drainage from this site, proposals for alternative arrangements should be provided and SEPA should be re-consulted.*

*Sustainable Drainage System (SUDS)*

*We advise that developers should follow the approach set out in the CIRIA SUDS Manual (C753) and ensure the surface water management proposals are in compliance with The Controlled Activities Regulations General Binding Rules 10 and 11. We, therefore, refer your authority to our standing advice on SUDS. We would expect that the simple index tool is used.*

*Construction phase SUDS should be used on site to help minimise the risk of pollution to the water environment. Further detail with regards construction phase SUDS is contained in Chapter 31 of SUDS Manual (C753).*

*Comments should be requested from Scottish Water where the SUDS proposals would be adopted by them and the views of your authority's roads department, and flood prevention unit, should be sought on the SUDS strategy in terms of water quantity and flooding issues.*

*Regulatory advice for the applicant*

*Regulatory requirements*

*We could find no details, in the application, on the distillery process. However, from the information provided, it appears unlikely that this process would require an authorisation under The Pollution Prevention and Control (Scotland) Regulations 2012 (PPC 2012). More details are available on our website [here](#).*

*There may be medium combustion plant directive implications if an onsite combustion plant (boiler) >1MW is proposed. More details are available on our website [here](#).*

*Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012.*

*Consider if other environmental licences may be required for any installations or processes.*

*A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which:*

*is more than 4 hectares,*

*is in excess of 5km, or*

*includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25 degrees*

*See SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.*

*Below these thresholds, you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment. The detail of how this is achieved may be required through a planning condition.*

*Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office.*

## **Environmental Protection - response dated 21/11/2019**

*Environmental Protection cannot support this application and recommends refusal.*

*The applicant proposes a bespoke gin distillery and visitor centre on a site which incorporates five Category C listed Victorian arches and land in front of the arches. The site is overlooked by residential accommodation on Cranston Street as well as properties on Jeffrey Street.*

*Environmental Protection has expressed concerns about odour from the proposed distillery affecting nearby residents. An odour assessment (Airshed, November 2018) was submitted which modelled a worst-case scenario, demonstrating that odour would not adversely impact nearby sensitive receptors.*

*Environmental Protection also raised concerns about noise from the activities at the premises impacting on the amenity of nearby residents.*

*Specifically, concerns were raised about noise outbreak from associated mechanical plant machinery, the top floor bar/multi-use area, and the external roof terrace. A Noise Impact Assessment was carried out by Airshed and was submitted on 23 October 2019.*

*The Noise Impact Assessment demonstrates that mitigation measures can ensure that noise levels from the bar/multi-use area and from mechanical plant will be within acceptable standards. However, it was not able to demonstrate the noise from vocal outbreak of patrons on the external roof terrace area would meet acceptable standards. External noises, in particular vocals, are extremely difficult to modulate and control. There are no mitigation measures, beyond fully enclosing the area, which has not been suggested as part of this application. The Edinburgh Gin Design Statement (September 2018, Revision C) notes that, whilst the external terrace is envisaged to operate during similar hours to the main visitor centre, it may be used outwith these hours for special events (e.g. Edinburgh Festival and Christmas). Therefore, there remains a risk of negative impact on the amenity of neighbours. The Noise Impact Assessment states that there will be no amplified music at the external terrace. Planning does not accept conditions which would restrict amplified music at the premises. Therefore, the risk of music being played in the external area and negatively affecting nearby residents remains.*

*Due to the potential for noise disturbance adversely impacting the amenity of neighbouring noise-sensitive receptors (residents), we cannot support this application and recommend refusal.*

*However, should the Committee be minded to grant, we would recommend the following conditions be attached:*

- 1. Prior to occupation, the mitigation measures as specified in Table 6.1: Fixed Plant; and Table 6.1: Building Elements; of the Airshed Noise Impact Assessment, dated 23 October 2019, shall be met.*
- 2. Prior to the commencement of construction works on site:*
  - a. A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Head of Planning, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and*
  - b. Where necessary, a detailed schedule of any remedial and /or protective measures, including their programming, must be submitted to and approved in writing by the Head of Planning.*

*Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the satisfaction of the Head of Planning.*

## **Roads Authority - response dated 21/11/2019**

*No objections to the application subject to the following being included as conditions or informatives, as appropriate:*

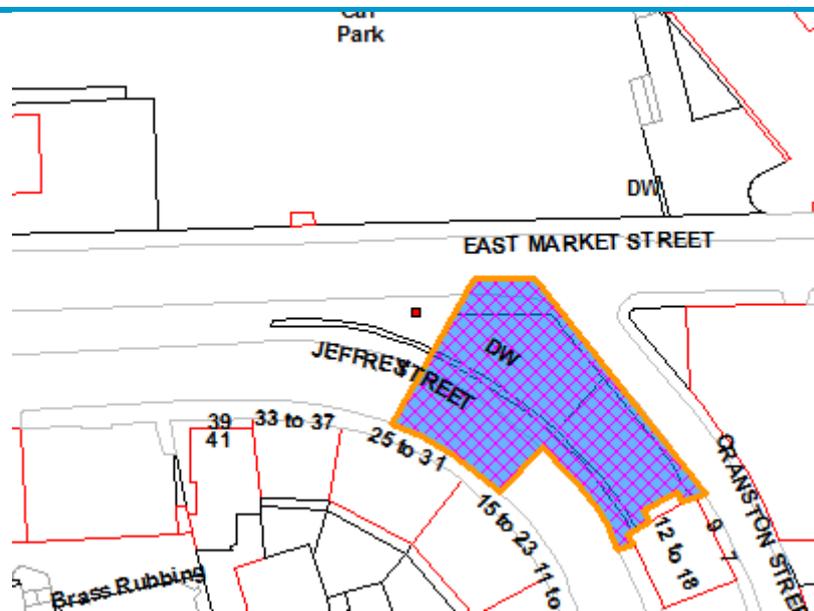
- 1. Contribute the sum of £2,000 to progress a suitable order to redetermine sections of carriageway on East Market Street as loading bay as necessary for the development. The applicant should be aware that traffic order application requires a contribution sum of £2,000 to progress a suitable order to redetermine sections of carriageway as necessary for the development and its approval cannot be guaranteed;*
- 2. The radius of East Market Street/Cranston Street junction will be tightened to promote slower vehicular speeds. This is to be designed and built to the satisfaction and at no cost to the Council;*
- 3. The proposed stepped access linking Jeffrey Street and Cranston Street to be designed and built to the satisfaction and at no cost to the Council. RCC will be required;*
- 4. Existing footway on Jeffrey Street fronting the proposed development to be paved with Caithness to the satisfaction and at no cost to the Council;*
- 5. Doors opening outwards is not acceptable unless emergency doors - doors must not be opened onto adopted footway;*
- 6. The applicant must be aware that the proposed development is likely to affect what appears to be street lighting haldo pillar at North West corner of the application site and will have to be relocated at no cost to the Council;*
- 7. Any adopted footway reinstatement must meet the Council's specification and standard details;*
- 8. The proposed works on adopted footway must be carried out under permit and in accordance with the specifications.*

*Note:*

- a) In line with the Council's ongoing City Centre Transformation and City Mobility Plan, the proposed area is expected to prioritise active travel, hence any proposed street design should prioritise active travel infrastructure and eliminate provisions likely to compromise the width of the existing footway.*
- b) The proposed development to be accessed on East Market Street by stepped and levelled access and provides for inclusive mobility.*
- c) The proposed development will be serviced by 2 (HGVs) per day*
- d) The applicant to provide 2 secure cycle parking spaces and complies with the Council's standards in Zone 1. Additional 4 visitor cycle spaces to be provided on the site western boundary*

- e) *The applicant proposes zero parking provision and complies with the Council's parking standard for the proposed development in Zone 1.*
- f) *Refuse collection to be undertaken from Cranston Street/East market Street*
- g) *The existing adopted footway (varying in width 1.6m-2.4m) widens to 2m-5m (the private and adopted areas have been delineated by studs)*
- h) *No tram contribution required - 814sqm assembly and leisure in Zone 2 =£0. Other uses considered ancillary to the assembly and leisure. Tram contribution of £50,000 was sought for the planning application 13/03407/ful including 894sqm proposal of this site. The GFA of the current proposed development 814sqm is less than the previous proposal 13/03407/ful planning application (894sqm) for the same site, hence no net tram contribution.*

## Location Plan



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**END**