

Development Management Sub Committee

Wednesday 25 November 2020

**Application for Planning Permission 20/03612/FUL
at 22 - 23 Teviot Place, Edinburgh, EH8 9AG.
Erection of prefabricated building for use as student social
space and associated prefabricated toilet cabins and fencing
for 6 months.(Retrospective).**

Item number

Report number

Wards

B15 - Southside/Newington

Summary

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the development harms the setting of neighbouring listed buildings and the character and visual amenity of the Conservation Area. Government guidance on planning procedures and COVID-19 is intended to help support well-measures temporary solutions for businesses to adjust the ways they operate to suit current circumstances. There is a need and requirement for temporary student social space on the site which is next to the existing main UoE Students Union, in order to meet current Government guidance on social distancing in relation to the COVID-19 outbreak. It is these exceptional circumstances that outweigh the short-term adverse impact that the development has on the setting of neighbouring listed buildings and the character and visual amenity of the Conservation Area and provide reasoned justification for granting planning permission retrospectively for the development on the site for the temporary period applied for.

The development harms views within and thereby qualities of the Old and New Towns of Edinburgh World Heritage Site. However, the need and requirement for temporary student social space next to the existing main UoE students union and the unprecedented circumstances relating to COVID-19 together outweigh the adverse impact that the development has on the OUV of the World Heritage site and will

continue to have until the development is removed from the site. The development is considered to be acceptable for the temporary period applied for. There are no detrimental impacts on equalities or human rights. There are no material considerations which outweigh this conclusion.

Links

<u>Policies and guidance for this application</u>	LDEL02, LDES01, LDES05, LEN01, LEN03, LEN06, LEN12, LEN18, CRPSSI, NSLBCA, OTH,
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Report

Application for Planning Permission 20/03612/FUL at 22 - 23 Teviot Place, Edinburgh, EH8 9AG. Erection of prefabricated building for use as student social space and associated prefabricated toilet cabins and fencing for 6 months.(Retrospective).

Recommendations

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

Background

2.1 Site description

The site is located on Bristo Square Piazza.

The site is adjacent to a number of listed buildings, structures and monuments:

- The Category A listed University Of Edinburgh, Mcewan Hall, including railings, gates and gatepiers between Hall and Reid School Of Music, 15 Bristo Square (listed Building reference LB27993).
- The Category B listed Teviot Row and Teviot Place, University Of Edinburgh Mcewan Lantern Pillar (listed Building reference LB27994).
- The Category B listed University Of Edinburgh, Students Union, Teviot Row House, 22-23 Teviot Row (listed Building reference LB27998).
- The Category A listed University Of Edinburgh, Reid School Of Music, 14 Bristo Square, Edinburgh (listed Building reference LB27995).
- The Category A listed University of Edinburgh, New Building, Including Boundary Walls, 22-23 Teviot Place (listed building reference LB27992)

The site is located within the Edinburgh World Heritage Site.

This application site is located within the Southside Conservation Area.

2.2 Site History

15 September 2020 - Enforcement investigation pending regarding alleged unauthorised erection of two-storey prefabricated building. (application number 20/00545/EOPDEV).

Main report

3.1 Description Of The Proposal

- Planning permission is sought in retrospect for the following on Bristo Square for a temporary period of six months:
- a two-storey prefabricated building for use as a student social space. The building measures approximately 18m wide by 16m deep and 9m at the highest point of its mono pitched roof;
- three detached prefabricated toilet cabins; and
- Heras fencing around the perimeter of the site.
- Detailed drawings including a site layout plan have been submitted with the application. These documents are available to view on the Planning and Building Standards Online Services.

3.2 Determining Issues

- Due to its proximity to listed buildings and being a site within the Southside Conservation Area the proposed development first requires to be assessed against Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 means that there is a strong presumption against granting planning permission for development which would harm a listed building or its setting. If engaged, the presumption can only be rebutted if the advantages of the scheme are sufficient to outweigh that strong presumption.
- Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 means that there is a strong presumption against granting planning permission for development which would conflict with the objective of preserving or enhancing the character or appearance of the conservation area. If engaged, the presumption can only be rebutted if the advantages of the scheme are sufficient to outweigh that strong presumption.
- The determining issues to consider in terms of assessing the development against Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 are:
- Would the development harm a listed building or its setting? If it would, are there any advantages of the proposal that are sufficient to outweigh the strong presumption against granting planning permission?
- Would the development conflict with the objective of preserving or enhancing the character or appearance of the conservation area? If it would, are there any advantages to the proposal that are sufficient to outweigh the strong presumption against granting planning permission?

- If the Development complies with Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, it then requires to be considered in terms of Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997. Section 25 requires that the determination shall be made in accordance with the development plan unless material considerations indicate otherwise.
- The determining issues to consider in assessing this are:
- 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) there is no significant harm to the setting of adjacent listed buildings or harm to the harm the character and visual amenity of the Conservation Area;
- b) the development is appropriate on the site;
- c) there is no significant adverse impact upon the Outstanding Universal Value of the World Heritage Site;
- d) residential amenity is not adversely affected;
- e) there are no transportation concerns;
- f) representations raise issues to be addressed;
- g) there are no equalities or human rights impacts.

a) Assessment against Listed Buildings & Conservation Areas Requirements

Listed Buildings

The prefabricated building and associated prefabricated toilet cabins and Heras fencing are located adjacent to a number of listed buildings including category A listed buildings. Owing to their size, height, proportion, positioning, form, design and appearance, they have a detrimental impact on the setting of the neighbouring A-listed Mcewan Hall, the B-listed Mcewan Lantern Pillar and the B-listed Students Union, Teviot Row House. In addition, on the same counts they would also have an adverse impact on the setting of the other neighbouring listed buildings listed in the Background section of this report, however the impact on those buildings would not as intense as

they are located further away. The development is for a temporary period of six months and thereby the impact on the setting of the neighbouring listed buildings would be short term.

Given that there would be harm to the setting of neighbouring listed buildings as explained above, in terms of the legal tests consideration is required to be given to whether there are significant material considerations that outweigh any adverse impact and justify a departure from the presumption against the development.

The existing building adjacent to the temporary structure is Teviot Row House, which is a student centre run by Edinburgh University Students Association (EUSA). Teviot Row House is unable to accommodate the student numbers who use the building when the Government recommended 2.0m social distancing rule is applied. Therefore, there is a need and requirement for temporary student social space in this location to meet the shortfall in space. The circumstances relating to COVID-19 are unprecedented and are a material consideration. Government guidance on planning procedures and COVID-19 is intended to help support well-measures temporary solutions for businesses to adjust the ways they operate to suit current circumstances. It is the exceptional circumstances of this particular case that outweigh the short-term adverse impact that the development has on the setting of neighbouring listed buildings and which provides reasoned justification for granting planning permission retrospectively for the development on the site for the temporary period of six months applied for.

Nonetheless, owing to their height, size, proportion, positioning, form and appearance the prefabricated social building and prefabricated toilets and Heras fencing are not acceptable for permanent existence on the site. Therefore, planning permission should be restricted to the temporary period of six months applied for.

Impact on Conservation Area

The South Side Conservation Area Character Appraisal identifies the following characteristics of the part of the Conservation Area in which the application site is located:

Mixed area of residential, commercial and institutional buildings.

A rich, diverse grouping of architectural styles and buildings using primarily stone and pitched, slated roofs. Despite the variety of architectural styles and periods, the area remains generally harmonious in scale, massing and materials. Victorian Buildings tend to occur in the north of this area and are mainly institutional.

The second expansion area (in which the site is location) is dominated by the University, which first moved into George Square in 1914. However, the area is extremely permeable for pedestrians. Bristo Square, which was built in 1983 and remodelled in 2017, provides an appropriate setting to the McEwan Hall.

Given that the prefabricated buildings and Heras fencing harms the setting of the abovementioned heritage assets, on the same counts they do not preserve or enhance; but instead, they harm the character and visual amenity of the Conservation Area. Therefore, in terms of the abovementioned legal tests consideration is required to be given to whether there are significant material considerations that justify a departure

from the presumption against the development; and if so, does this outweigh any adverse impacts. The need and requirement for additional student social space adjacent to the EUSA for a temporary period and the unprecedented circumstances relating to COVID-19 are considered to outweigh the temporary adverse impact that the development has on the character and visual amenity of the Conservation Area and provide reasoned justification for granting planning permission retrospectively for the development for the temporary period of six months applied for.

b) Assessment against Development Plan

Use of Site

The application site is located in the city centre within an open space designation classed as a civic space. Policy Del 2 (City Centre) of the LDP supports a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area. Given that the development is temporary it does not conflict with the key principles of Policy Del 2.

The effect of the development on the leisure value and enjoyment of the civic space is not permanent and is reversible. The temporary change of use of part of the site will not result in the permanent loss of civic space and does not conflict with the key principles of Policy Env 18 (Open Space Protection).

Therefore, the principle of the temporary use on the site is acceptable provided the development does not conflict with other development plan policies, or if it does, there are material considerations that justify approving the development.

c) Impact on OUV of the World Heritage Site

Owing to its size, height, proportion, positioning, form, design and appearance, the prefabricated building and associated prefabricated cabins and fencing would harm views within the World Heritage site. Therefore, for the duration of them being on site they would adversely impact on the qualities of the World Heritage Site.

Notwithstanding, the need and requirement for student social space in the main city centre UoE campus and the unprecedented circumstances relating to COVID-19 outweigh the temporary adverse impact that the development has on the OUV of the World Heritage Site.

d) Amenity

There would be no significant harm to the amenity of neighbouring properties, including residences. The Council's Environmental Protection Section raise no objection to the application.

e) Transport Issues

The development raises no road safety or pedestrian safety issue. Pedestrian permeability access around the site is maintained. The site is well located for public transport.

The Council's Transportation Section raises no objection to the application.

(f) Representations

Material Representations - Objection:

- visually incongruous, harmful to views of and setting of listed buildings, character and appearance of Conservation Area and the OUV of the World Heritage site. - This is addressed in section a) above.
- Loss of public space. - This is addressed in section b) above.
- Harm to amenity of neighbouring properties. - This is addressed in section d) above.
- concern about Planning regulations not being followed as it has been constructed before planning permission granted. - The applicant is not precluded from applying for planning permission retrospectively. The application is legally valid and the Planning Authority is duty bound to determine it.
- Insufficient information submitted to assess the application. - The Planning Authority considers that sufficient information has been submitted with the application to assess it.
- Advertisement consent for associated adverts not applied for. - Any future application to the Planning Authority for advertisement consent would be determined on its own merits.
- Insufficient information has been submitted with the application. - The application is sufficiently detailed to show the nature of the development and for it to be assessed. Therefore, it would not be reasonable to insist that the applicant submit additional information.
- If granted the permission should be limited to 6 months only and the structures removed at the end of that period. - This is addressed in section a) above.
- damage to paving should be repaired following removal of structure. - If any paving is damaged as a result of the development this is a matter that would be addressed by the applicant as landowner.

Non-Material Representations - Objection:

- Whether the development complies with the current regulations/Guidance on COVID-19. - Wider COVID-19 issues are not material planning considerations.
- Incidence of effluent emitting from toilet block. - This is a matter controlled by Environmental Health legislation and is not a planning matter.
- Listed building consent was not obtained for the change of name of the former David Hume Tower. - This is not a material consideration in the determination of this application.
- Would set undesirable precedent for similar temporary structures elsewhere on the University of Edinburgh's Estate. - The application stands to be determined on its own merits.

Non-material - Support:

- The development is supported.

(g) Equalities and Rights Issues:

The development does not prohibit movement of pedestrians and wheelchair users around the site. There is disabled access to the ground floor of the prefabricated social building and a disabled accessible toilet cabin also provided on site. The development does not raise any concerns in terms of equalities and human rights.

CONCLUSION

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the development harms the setting of neighbouring listed buildings and the character and visual amenity of the Conservation Area. Government guidance on planning procedures and COVID-19 is intended to help support well-measures temporary solutions for businesses to adjust the ways they operate to suit current circumstances. There is a need and requirement for temporary student social space on the site which is next to the existing main UoE Students Union, in order to meet current Government guidance on social distancing in relation to the COVID-19 outbreak. It is these exceptional circumstances that outweigh the short-term adverse impact that the development has on the setting of neighbouring listed buildings and the character and visual amenity of the Conservation Area and provide reasoned justification for granting planning permission retrospectively for the development on the site for the temporary period applied for.

The development harms views within and thereby qualities of the Old and New Towns of Edinburgh World Heritage Site. However, the need and requirement for temporary student social space next to the existing main UoE student's union and the unprecedented circumstances relating to COVID-19 together outweigh the short term adverse impact that the development has on the OUV of the World Heritage site. The development is considered to be acceptable for the temporary period applied for. There are no detrimental impacts on equalities or human rights. There are no material considerations which outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Conditions :-

1. Permission is granted for six months from the date of the grant of this planning permission.
2. Within 7 days following the end of the temporary period of this planning permission specified in condition 1, the building and associated structures approved by the grant of this planning permission shall be entirely removed from the site. There shall be no variation therefrom unless with the prior approval of the Planning Authority.

Reasons: -

1. To restrict the development to the temporary period of time applied for as the temporary building and associated structures are not appropriate for permanent occupation on the site as they harm the setting of nearby listed buildings, the character and appearance of the Conservation Area and the Outstanding Universal Value of the World Heritage Site and thereby they are not appropriate for permanent existence on the site.
2. In the interests of safeguarding the setting of nearby listed buildings, the character and visual amenity of the of the Conservation Area and the Outstanding Universal Value of the World Heritage Site.

Informatives

It should be noted that:

1. The applicant will repair any damaged kerbs, paved surfaces and footways within the site following the dismantling and removal of the temporary structures from the site.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on the 25 September 2020. Fifteen representations were received comprising fourteen objections including one from the Architectural Heritage Society and one in support of the application.

A full assessment of these representations can be found in the main report in the Assessment Section.

Background reading/external references

- 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 identified as being a Civic Space within the adopted Edinburgh Local Development Plan..

Date registered

18 September 2020

Drawing numbers/Scheme

01 and 02,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Adam Thomson, Planning Officer

E-mail: adam.thomson@edinburgh.gov.uk

Links - Policies

Relevant Policies:

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

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

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

LDP Policy Env 18 (Open Space Protection) sets criteria for assessing the loss of open space.

The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

Other Relevant policy guidance

Appendix 1

Application for Planning Permission 20/03612/FUL At 22 - 23 Teviot Place, Edinburgh, EH8 9AG Erection of prefabricated building for use as student social space and associated prefabricated toilet cabins and fencing for 6 months.(Retrospective).

Consultations

Historic Environment Scotland - Date 01/10/2020

Designation Type - LB27993

University of Edinburgh, McEwan Hall, Including Railings, Gates and Gatepiers between Hall and Reid School of Music, 15 Bristo Square, Edinburgh

Listed Building

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 application proposes the erection of a two-storey prefabricated building for a period of six months within Bristo Square. We are aware that the building has now been erected and consider it has a significant impact on the historic environment, including the setting of the category A listed McEwan Hall.

The application form states Government guidance on Covid-19 and social distancing has resulted in a requirement for additional space. We also know that Government guidance on relaxation of planning controls on temporary outdoor uses, including new buildings, is intended to help support adaptations needed as a result of the Covid-19 outbreak.

Taking the current, unprecedented, circumstances into consideration and the temporary time period of the new building, we are not objecting to the application. If the circumstances remain the same in six months' time, we wouldn't necessarily oppose a further limited extension of the time period.

However, if an application was to come forward to make a building in this location permanent, we would be likely to object.

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/. Technical advice is available through our Technical Conservation website at www.engineshed.org.

Please contact us if you have any questions about this response. The officer managing this case is Ian Thomson who can be contacted by phone on 0131 668 8076 or by email on ian.thomson@hes.scot.

Edinburgh World Heritage - Date 13/10/2020

Thank you for consulting Edinburgh World Heritage regarding the above application. We offer the following comments to the formal submission, which we hope you find helpful in determining the application.

The principal focus of Edinburgh World Heritage is the impact on the Outstanding Universal Value (OUV) of the 'Old and New Towns of Edinburgh' World Heritage Site ('the World Heritage Site' or 'WHS'). Therefore, proportional comment may be made on impact upon individual heritage assets (e.g. Listed Buildings and Conservation Areas), but only to the extent that this impacts upon the city's overall OUV. The Local Planning Authority should therefore give additional consideration to individual heritage assets affected, beyond the scope of our comments, in line with planning policy and legislation.

OUTSTANDING UNIVERSAL VALUE The OUV of the World Heritage Site is well-established in the UNESCO inscription, and will therefore not be repeated here.

The nature and location of the proposed works have the potential to impact upon OUV, particularly with respect to the ability to appreciate and understand the rich ensemble of historic university buildings and monuments around Bristo Square. While Bristo Square primarily dates to the 1980's, the presence of a quality open space associated with, and from which to appreciate, the surrounding buildings is a historic characteristic of this area which carries through to the present day (see photographs here: <https://canmore.org.uk/site/125296/edinburgh-teviot-place-bristo-squaremcewan-lantern-pillar?display=image>).

The quality, open space of Bristo Square therefore makes a positive contribution to the planned design of the area, the setting and appreciation of its associated listed

buildings and their collective contribution to the OUV of the World Heritage Site. The associated heritage assets most affected by the proposals include;

- McEwan Lantern (Category B Listed Building)
- McEwan Hall (Category A Listed Building)
- Teviot Row House (Category B Listed Building)
- Reid School of Music (Category A Listed Building)
- The South Side Conservation Area

IMPACT ON OUTSTANDING UNIVERSAL VALUE

By introducing substantial built form into Bristo Square, the proposed works would cause harm to its open and high-quality character, and the contribution that this makes to the area and wider OUV as outlined above. The substantial scale and non-contextual design nature of the prefabricated design would increase this level of harm.

The proposed works would therefore have a harmful impact on the OUV of the World Heritage Site. While we appreciate that the proposals are stated as being temporary in nature, this does not negate the need to carefully consider the impact on the historic environment.

RELEVANT POLICY & LEGISLATION

In addition to the duties, legislation and policies relating to individual heritage assets, the following are those most pertinent to the World Heritage Site in this case (not exhaustive):

- Duty to protect, conserve and present OUV for future generations (UNESCO)
- Where a development proposal has the potential to affect a World Heritage Site, or its setting, the planning authority must protect and preserve its Outstanding Universal Value (Scottish Planning Policy, 147)
- The siting and design of development should take account of all aspects of the historic environment (Scottish Planning Policy, 140) • Development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted. This policy requires development to respect and protect the outstanding universal values of the World Heritage Sites and their settings. Setting may include sites in the immediate vicinity, viewpoints identified in the key views study and prominent landscape features throughout the city (Edinburgh Local Development Plan, Policy Env 1 World Heritage Sites)
- Ensure that the Outstanding Universal Value of the WHS is taken into account in planning decisions (WHS Management Plan 2017-22)

RESULTANT POSITION

This consultation is retrospective, and it is our understanding that the proposed works have already commenced on site. We are sympathetic to the challenges facing the university at this time, and fully recognize the need to provide reasonable socially-distanced space.

However, the fact that the works have been progressed before our (and other consultees) ability to provide meaningful and helpful input is a barrier to good, balanced planning. For example, given the harm in heritage terms outlined above, a fair and reasonable question to apply to this application is whether there is a viable alternative option which avoids or lessens harm to our valued historic places. Given the exceptional circumstances and challenges posed by COVID19, the fact that the works are

regrettably already underway, and their temporary nature, we do not feel it productive to object formally to this application. However, we would make helpfully clear that we are very disappointed that due process was not followed in planning terms, that we do not support the process approach taken and that a negative precedent is not set.

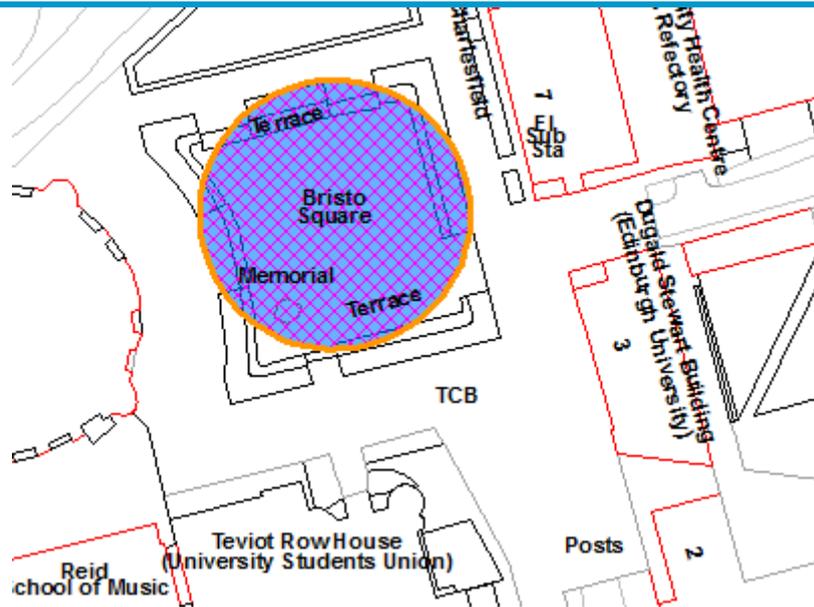
We also note the need to ensure that these structures are temporary as per the application, with a robust and transparent review process in place for their removal and the reinstatement of the high quality environment of Bristo Square.

It will, of course, be for the City of Edinburgh Council to take a broad planning view, including heritage considerations, in determining this application. As always, we advise you engage the heritage expertise within your planning department to inform the wider heritage considerations and detail of this application.

Roads Authority - Date 08/09/2020

No objection to the application.

Location Plan



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