

Development Management Sub Committee

Wednesday 23 June 2021

Application for Planning Permission 21/02736/FUL at 1 Middle Meadow Walk, Edinburgh, to erect a temporary outdoor structure to create a performance venue as part of Underbelly's Circus Hub open air event site for the Edinburgh Festival Fringe. The venue will host a programme of world class circus performance by Middle Meadow Walk on the North side of the Meadows. The venue will be a recognised temporary structure, regulated under temporary demountable structures V4.

Item number

Report number

Wards

B15 - Southside/Newington

Summary

The proposed temporary nature of the development is considered to be acceptable in this location. The scheme has been designed to respond to the COVID Emergency whilst still supporting the delivery of an Edinburgh Fringe Programme for 2021. The proposal complies with the Edinburgh Local Development Plan. There are no material considerations that outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LDES05, LEN06, LEN03, LRET08,

Report

Application for Planning Permission 21/02736/FUL at 1 Middle Meadow Walk, Edinburgh, to erect a temporary outdoor structure to create a performance venue as part of Underbelly's Circus Hub open air event site for the Edinburgh Festival Fringe. The venue will host a programme of world class circus performance by Middle Meadow Walk on the North side of the Meadows. The venue will be a recognised temporary structure, regulated under temporary demountable structures V4.

Recommendations

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

Background

2.1 Site description

The application is located within the Meadows. The site is positioned between Middle Meadow Walk and Boys Brigade Walk and to the north of Melville Drive.

To the north there are a number of listed buildings including: the former Royal Infirmary Medical Pavilions (Category B, Ref LB30307, 31 May 1994); 16 to 29 George Square (Category A, Ref LB28810, 14 December 1970); and, University of Edinburgh, Main Library, 30 George Square (Category A, Ref LB50191, 17 January 2006)

To the North is also the Southside Conservation Area and the southern boundary of the Old and New Towns of Edinburgh World Heritage Site runs along the edge of the Meadows at the former Royal Infirmary Medical Pavilions.

This application site is located within the Marchmont, Meadows and Bruntsfield Conservation Area.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description of the Proposal

The application proposes the erection of a Circus Hub which incorporates a Big Top tent, outdoor seating and food and beverage provision. The Big Top is central to the site and has been designed with open sides.

The site would be occupied between 30th July 2021 and 31st August 2021. There would be an initial build period between 30th July and 4th August and performances would run between 5th and 29th August 2021. The structure would be removed on 30th and 31st August 2021.

In total there would be 5 performances per day over a period of 25 days.

A waste compound would be provided for any waste with collections by a private contractor.

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) there will be any adverse impact to the setting of any adjacent listed building and no significant harm to the character and visual amenity of the conservation area or the world heritage site;
- b) the principle of development is acceptable;
- c) there is any adverse impact on residential amenity and transport and
- d) Representations raise issues to be addressed.

a) Impact on Historic Environment

Listed Buildings:

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, 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."

Policy Env 3 Listed Buildings - Setting states: "Development within the curtilage or affecting the setting of a listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting."

Given the transient nature of the installation, and its distance, some way away from the listed buildings, with the trees in between, it does not harm the setting of the nearby listed buildings.

Conservation Area:

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 which states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

LDP Policy Env 6 (Conservation Areas - Development) supports development within a conservation area or affecting its setting which preserves or enhances the special character and appearance of the conservation area and is consistent with the relevant character appraisal, preserves trees, hedges, boundary walls, railings, paving and other features which contribute positively to the character and demonstrates high standards of design and utilises materials appropriate to the historic environment.

The temporary nature of the structure is a material factor in the assessment of any impact on the character or appearance of the conservation area. The structure will be set within the context of the large area of open space and will not impact on the skyline. There is no impact on the Marchmont, Meadows and Bruntsfield Conservation Area or the setting of the Southside Conservation Area from the proposals.

World Heritage Site:

Policy Env 1 World Heritage Sites states: "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."

Because, of its distance from it and temporary nature, the development would not have an adverse impact on the setting of the World Heritage Site.

b) Principle of Development

Class 15 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) sets out that the following is permitted development:

"The use of land (other than a building or land within the curtilage of a building) for any purpose, except as a caravan site, on not more than 28 days in total in any calendar year, and the erection or placing of moveable structures on the land for the purposes of that use."

The Planning Committee considered a report on the 19th May 2021 which considered the Planning response to Festival Installations as part of a Post COVID recovery plan for 2021. The report highlighted the Scottish Government's Chief Planner's letter of March 2021 which encouraged a more relaxed approach to planning enforcement to allow business to diversify and continue to operate during the pandemic. The report also outlined the scenarios where a planning application would be sought to allow further scrutiny of the proposals. This included where a public green space would be used, there is no history of festival uses on the site and proximity to residential properties.

The proposed installation on the Meadows would extend beyond 28 days and because it is located on public green space requires an application for planning permission in accordance with the above report. The time period on site allows for a build period of 6 days with performances on 25 days and a further 2 days to clear the site.

Policy Ret 8 Entertainment and Leisure Developments - Other Locations of the LDP sets out criteria to assess proposals for entertainments and leisure uses for sites outwith the town centres. The policy states:

Planning permission will be granted for entertainment and leisure developments in other locations provided:

- a) all potential City Centre, or town centre options have been thoroughly assessed and can be discounted as unsuitable or unavailable
- b) the site is or will be made easily accessible by a choice of means of transport and not lead to an unacceptable increase in traffic locally
- c) the proposal can be integrated satisfactorily into its surroundings with attractive frontages to a high quality of design that safeguards existing character

d) the proposal is compatible with surrounding uses and will not lead to a significant increase in noise, disturbance and on-street activity at unsocial hours to the detriment of living conditions for nearby residents.

The site is located in an area adjacent to the city centre as defined in the Local Development Plan. Criterion a) of the policy is considered to be met in these circumstances Transport aspects in relation to criterion b) are considered below. Given the temporary nature of the installation, the positioning of the structure ensures it integrates adequately into its surroundings. Criterion c) is therefore met. Impacts of noise and disturbance in relation to criterion d) are considered below.

Policy ENV 18 Open Space Protection seeks to control the loss of open space within the city. In particular the provision of open space for the recreational needs of the residents is an integral part of the strategy. The supporting text to the policy advises that the Council "will only support development on open space in exceptional circumstances, where the loss would not result in detriment to the overall network and to open space provision in the locality."

The majority of the letters of representation have raised issue with the loss of open space and the limitations placed on access across the site of the proposed Circus Hub. A balanced decision has to be taken on whether the loss of the use of the open space for a period of just over a month outweighs the public use of the site. The area proposed for the event occupies a central part of the Meadows and will restrict community access within this part. However, the majority of the Meadows will remain for community access. The scheme has been designed as an open air event in a direct response to the COVID pandemic. It is considered that these are exceptional times and the Fringe requires support in delivering a programme in 2021. It is therefore considered that the temporary loss of the open space is justified in this instance for 2021.

The principle of the use of the site at the Meadows is acceptable given the temporary nature of the proposal is supported in this location.

c) Impact on Amenity

LDP Policy Des 5 seeks to ensure that the amenity of neighbouring residents is not adversely affected by development. There are no residential properties immediately adjacent to the development

A number of comments have raised concern on the condition the Meadows will be left in following the event. Whilst the concerns are understood this is a matter for the Council as owners of the Meadows to address as part of any licence/ agreement with the operator. This is not a material consideration.

There are trees that line either side of the proposed site and care should be taken to ensure that there is no damage. It is proposed that a condition is added to any permission which will require the submission of a tree protection plan and method statement prior to the commencement of development.

Transport Implications

The proposal is located within a central location and no parking will be provided for the event. The site is considered to be in an accessible location. A condition is proposed to address the concerns over heavy vehicular access to the site in relation to surface and tree damage. This would require the submission of an access strategy for the site.

A number of the operation matters would be covered by any licensing/ temporary traffic orders that would be required. The proposal would also be subject to an Events Planning Operation Group process.

d) Letters of Representation

Tollcross Community Council raised the following objections:

- Unsuitable site ' substantial damage to grass;
- Remediation an issue;
- Access by lorries for build will result in further damage;
- Public green Space ' loss of large area of space over a month unacceptable;
- Size and Scale ' area to be fenced off is unacceptable;
- Nature of Operation ' business case appears to be based around food and drink sale ' pop up bar takes away from local business
- Role of Pandemic large events in uncertain times should be fully considered with regard to public health requirements.

Southside Community Council raised the following objections:

- large events should not take part on public greenspace;
- unacceptable damage to site;
- if to proceed then it should be scaled back to remove the food and drink hub.

Material Objections

- Social value of open space at this time ' mental health/ wellbeing;
- Proposal would allow use all year round;
- Soft landscaping areas should not be used ' long term damage;
- Food and drink should be deleted ' it does not support the local economy;
- Conservation Area Appraisal notes area as an urban recreational park;
- Impact on trees and soil compaction;
- Loss of Open Space Contrary to ENV 18 of the LDP;
- Impact on amenity including noise;
- Impact on the skyline;
- Increase in traffic

Support

- Value to Festival;
- Enough space in the Meadows to accommodate;
- Proposal will bring business to the area.

Non - Material Comments

- Previous reputation and Operation of the event by Underbelly;
- Edinburgh Improvement Act ' prevents structures in the Meadows. (The City of Edinburgh District Council Order Confirmation Act 1991 prohibits the construction of permanent buildings, other than Bandstands, public conveniences, police boxes and buildings for housing apparatus for the supply of electricity or gas in the Meadows. This installation is not a permanent building.);
- Not consistent with Common Good Land;
- Other sites should be considered;
- Private development limiting free access and taking over public space;
- Rising COVID infection rates;
- Late hours operation
- COVID Impact from large gathering
- Not appropriate in a Pandemic.
- Late hours operation.

Conclusion

The proposed temporary nature of the development is considered to be acceptable in this location. The scheme has been designed to respond to the COVID Emergency whilst still supporting the delivery of a Fringe Programme for 2021. The proposal complies with the Edinburgh Local Development Plan. There are no material considerations that outweigh this conclusion.

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

3.4 Conditions/reasons

Conditions: -

1. The development hereby permitted shall be permitted during 2021 only and all structures shall be removed from the site by 5th September 2021.
2. Prior to the commencement of the development a tree survey and tree protection plan shall be submitted to and agreed in writing with the Planning Authority. Any protective measures required shall be maintained on site for the duration of the development.
3. Prior to the commencement of development an access strategy shall be submitted and agreed with the Planning Authority in terms of the access of vehicular traffic across the site to cover both the build and the operation of the event. Any agreed measures shall be implemented in full as part of the development.

Reasons:-

1. In recognition of the temporary nature of the proposals.
2. In the interests of protecting the current trees on the site.
3. In the interest of the amenity of the area.

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:

The application has been assessed and has no impact in terms of equalities or human rights.

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

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 21 May 2021 and a total of 332 letters of representation were received. 316 letters objected to the proposals and 16 letters expressed support. Letters of objection were received from Tollcross Community Council, Southside Community Council and the Cockburn Association.

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 site is located within the urban area.

Date registered

17 May 2021

Drawing numbers/Scheme

1 - 6,

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Elaine Campbell, Team manager

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Links - Policies

Relevant Policies:**Relevant policies of the Local Development Plan.**

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

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

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 Ret 8 (Entertainment and Leisure Developments - Other Locations) sets out the circumstances in which entertainment and leisure developments will be permitted outwith the identified preferred locations.

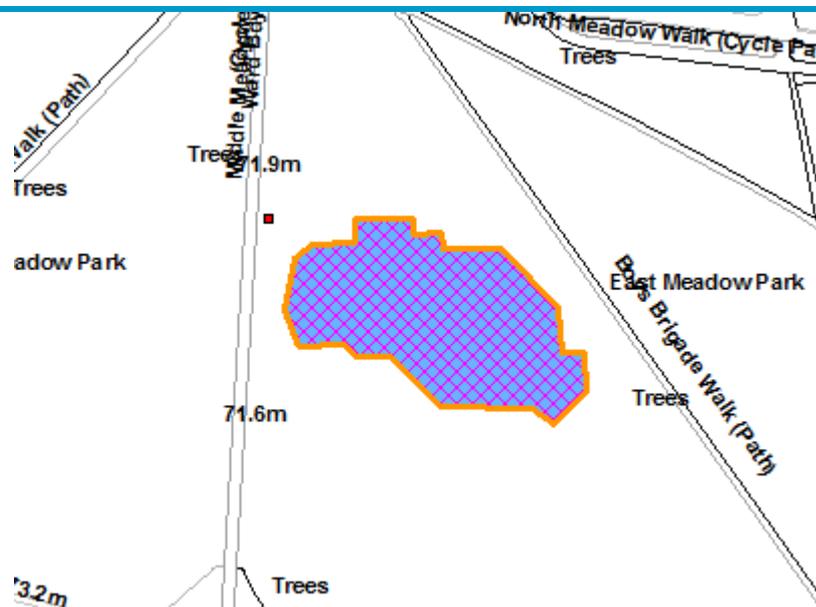
Appendix 1

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performance venue as part of Underbelly's Circus Hub open
air event site for the Edinburgh Festival Fringe. The venue
will host a programme of world class circus performance by
Middle Meadow Walk on the North side of the Meadows. The
venue will be a recognised temporary structure, regulated
under temporary demountable structures V4.**

Consultations

No consultations undertaken.

Location Plan



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