

Development Management Sub Committee

Wednesday 4 August 2021

**Application for Planning Permission 21/03418/FUL
at Castle Terrace Car Park, 38 Castle Terrace, Edinburgh.
Erection of temporary stage and raised seating area.**

Item number

Report number

Wards

B11 - City Centre

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](#)

HES, HESSET, LDPP, LEN01, LEN03, LEN04, LEN06, LRET07, LDES05,

Report

Application for Planning Permission 21/03418/FUL at Castle Terrace Car Park, 38 Castle Terrace, Edinburgh. Erection of temporary stage and raised seating area.

Recommendations

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

Background

2.1 Site description

The application site is the upper deck of the Castle Terrace car park which is a large, open-deck, modern multi-storey car park, combining traditional materials with a functional exposed concrete form. The car park was listed as category B on 22 October 2019 (reference 52510). The nearby buildings of 25 Castle Terrace are Category A listed (ref 47857, dated 14 December 1970).

The site is open with limited existing structures and a backdrop of Edinburgh Castle Rock. Buildings on the south side of Castle Terrace face towards the application site. One is the frontage for a large office building. The other section of Castle Terrace contains residential properties.

The site is located within the World Heritage Site.

This application site is located within the West End Conservation Area.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description of the Proposal

Planning permission is sought for the temporary erection of a stage and seating area to support the use of the southern upper section of Castle Terrace Car Park as an outdoor Festival Hub.

The structures proposed include an event stage, outdoor bubble seating, food and drink concessions and public toilets.

The capacity of the venue will be dependent on any social distancing requirements - at 2m physical distancing the maximum show capacity will be 136 people. At a 1.5m physical distancing the maximum capacity will be 172 people, all positioned within seating bubbles.

The hub is proposed to be operational from Thursday 5 August 2021 until Sunday 29 August 2021. Events will take place daily with the following schedule:

Monday to Sunday - 10:00 until 23:00 - up to 6 ticketed shows per day.

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 proposals preserve the character and setting of the listed buildings and the character and appearance of the conservation area and have an impact on the reasons for inscription of the world heritage site;
- b) the principle of the development is acceptable;
- c) there is any adverse impact on residential amenity and road safety 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."

Policy Env 4 Listed Building - Alterations and Extensions seeks to ensure that any substantial alterations to a listed building should preserve the special architectural or historic interest it possesses.

Historic Environment Scotland's Managing Change guidance on Setting gives guidance on when proposals impact the setting of listed buildings.

Given the transient nature of the installation, and that there are no physical alterations to the listed car park, the proposals preserve the character and setting of the listed building and the features which make it special. In addition, the small scale and transient nature of the proposals ensure that there is no impact on the setting of Edinburgh Castle. Historic Environment Scotland has offered no comments in objection to the proposals.

The proposals comply with policies Env 3 and 4 and Managing Change guidance.

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 car park and will not impact on the skyline. The proposals preserve the character and appearance the West End Conservation Area in compliance with policy Env 6.

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."

The inscription reasons are set out in the Edinburgh World Heritage Site Management Plan as follows:

The Old and New Towns of Edinburgh World Heritage Site (WHS) met two criteria -

Criterion (ii) - Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts, or town planning and landscape design. The successive planned extensions of the New Town, and the high quality of its architecture, set standards for Scotland and beyond, and exerted a major influence on the development of urban architecture and town planning throughout Europe, in the 18th and 19th centuries.

Criterion (iv) - Be an outstanding example of a type of building or architectural ensemble or landscape which illustrates (a) significant stage(s) in human history.

The proposal is located within the western edge of the World Heritage Site. The proposals will not have an impact on the outstanding universal value and the reasons for inscription in compliance with policy Env 1.

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 19 May 2021 which set out 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 Castle Terrace Car Park would extend beyond 28 days and, because it is located in proximity to residential premises, an application for planning permission has been sought.

Policy Ret 7 Entertainment and Leisure Developments - Preferred Locations states:

Planning permission will be granted for high quality, well designed arts, leisure and entertainment facilities and visitor attractions in the City Centre, at Leith and Granton Waterfront and in a town centre, provided:

- a) The proposal can be integrated satisfactorily into its surroundings with attractive frontages to a high quality of design that safeguards existing character;
- b) 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;
- c) The development will be easily accessible by public transport, foot and cycle.

The site is located within the city centre as defined in the Local Development Plan. The principle of leisure and entertainment provision is generally accepted within this area. Given the temporary nature of the installation, the positioning of the structure ensures it integrates adequately into its surroundings. Criteria b) and c) are considered below.

The principle of the use of the site at the Castle Terrace Car Park is acceptable given the temporary nature of the proposal is supported in this location.

c) Residential Amenity and Road Safety

Residential Amenity

LDP Policy Des 5 seeks to ensure that the amenity of neighbouring residents is not adversely affected by development.

The nearest residential properties are located approximately 25 metres from the edge of the site boundary and 45 metres from the proposed stage. Environmental Protection has commented on the proposals and have expressed some concern over potential noise impact from the development but recognise that the venue is a direct response to the pandemic to allow some fringe activity due to COVID restrictions. It is the opinion of Environmental Protection that any noise controls would be appropriately addressed through the licensing requirements for the proposals.

This view is supported by the Planning Authority and the licensing process will also cover the hours of operation.

Road Safety

The proposal is located within a central location. The site is within close proximity to Lothian Road which is very well serviced by bus routes. The site is also within easy walking distance of Princes Street and buses and the tram. The site is considered to be in an accessible location. The Roads Authority has offered no objection to the proposals.

d) Public comments

Material comments - objections:

- impact on residential amenity/ noise - addressed in part c) above

Material comments - support:

- Dispersal of fringe venues across the city welcomed
- Consent should be restricted to 2021

Non- Material comments

- Pop-up food and drink has an impact on existing business - competition between businesses is not a material planning consideration.

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/informatives

Conditions :-

1. The development hereby granted shall only be operational during 5 August to 28 August 2021 inclusive and all structures shall be removed from the site by 5 September 2021.

Reasons:-

1. In recognition of the temporary nature of the proposals.

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 development will have to make provision for people with disabilities. This will be assessed through the building warrant process to ensure it meets building regulations in this regard.

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 and a total of 4 objection comments were received and a partial support comment from 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

28 June 2021

Drawing numbers/Scheme

1-3,

Scheme 1

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 Government Guidance on Historic Environment.

Managing Change in the Historic Environment: Setting sets out Government guidance on the principles that apply to developments affecting the setting of historic assets or places.

Relevant policies of the Local Development Plan.

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

Appendix 1

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Consultations

Environmental Protection

Environmental Protection has no objections to this application.

This site is a public car park with the top floor being open air and at ground level on Castle Terrace. It has no previous history of being used as an entertainment or festival venue.

Due to the proximity of noise-sensitive receptors and the openness of the site, we have some significant concerns regarding noise negatively impacting on the amenity of neighbours.

We recognise that this proposal is a response to the current Covid-19 pandemic. Due to the pandemic there are restrictions as to the audience capacity and other operational restrictions which may make the site smaller, and noise levels lower, than if the site had been proposed in other years.

Ordinarily we would look for a Noise Impact Assessment to determine the appropriateness of this site, however given the unique circumstances this year we feel it is more appropriate to control noise via the Licensing system only.

Therefore, Environmental Protection has no objection to the application.

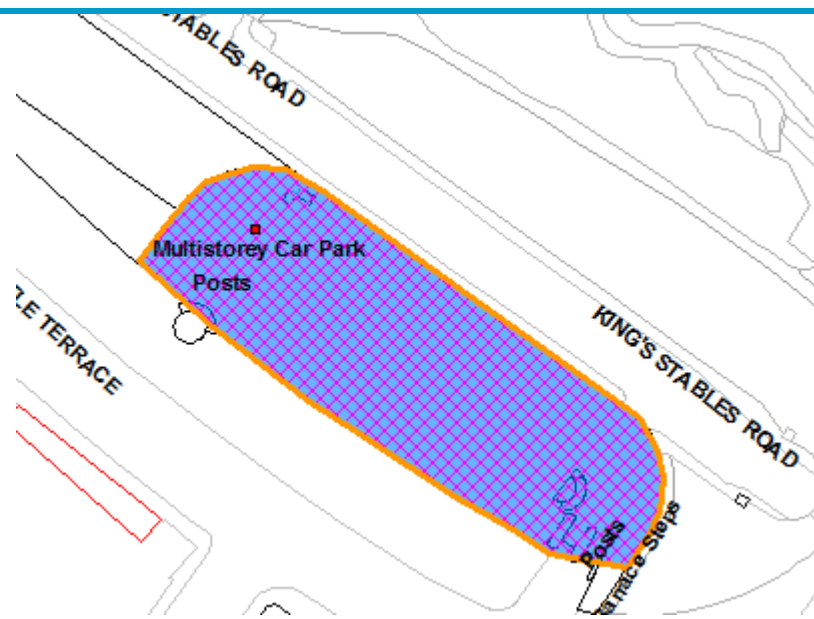
Roads Authority

No objection to the proposals.

Historic Environment Scotland

We have considered the information received and do not have any comments to make on the proposals. Our decision not to provide comments 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.

Location Plan



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