

Development Management Sub Committee

Wednesday 4 August 2021

Application for Planning Permission 21/03380/FUL at George Square Gardens, 62 George Square, Edinburgh The installation of 2x temporary venues and ancillary activities as part of Edinburgh Festival Fringe.

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 a 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](#)

LEN01, LEN03, LEN06, LEN18, LEN12, LRET07, LDES05, HES, HESSET, NSG, CRPSSI, LPC,

Report

Application for Planning Permission 21/03380/FUL at George Square Gardens, 62 George Square, Edinburgh The installation of 2x temporary venues and ancillary activities as part of Edinburgh Festival Fringe.

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 an area of open space located at George Square. The site is privately owned and publicly accessible under agreement with the owner, Edinburgh University. The area of open space is bounded by a road on the western, northern and part eastern side with a pedestrianised route to the east and southern boundaries.

The site is within the heart of the University of Edinburgh Campus with the majority of the buildings bordering the square in the ownership of Edinburgh University.

A number of the buildings are listed with the key ones identified as:

- Edinburgh University Library - A listed - LB Ref 50191 Listed 17 January 2006
- 55 - 60 George Street - A listed - LB Ref 28824 Listed 14 December 1970
- 16 - 29 George Street - A listed - LB Ref 28810 Listed 14 December 1970

The site is outwith but adjacent to the boundary of the Old and New Towns of Edinburgh World Heritage Site.

This application site is located within the Southside 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 installation of 2 temporary performance venues and ancillary activities as part of the Edinburgh Festival Fringe. The proposals include the erection of the Spielgeltent, a separate stage and open-air seating. The venue will be supported by food and drink sales and the provision of public toilets.

The site is proposed to be operational between 22 July 2021 and 12 September 2021 and is therefore in part a retrospective application.

The proposals would support the following events:

- Edinburgh Food Festival - 22 July until 1 August 2021
- Edinburgh Fringe - until 29 August 2021
- Welcome Week for Edinburgh University Students - until 12 September 2021.

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 its distance some way from the listed buildings, with the trees in between and the roadway surrounding George Square, it does not harm the setting of the nearby listed buildings. 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 South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

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 larger area of open space and will not impact on the skyline. The proposals preserve the character and appearance the Southside 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 proposals lie outwith but adjacent to the boundary of the World Heritage Site. Due to the temporary nature of the proposals, it is considered that there would not be an adverse impact on the setting of the World Heritage Site. Edinburgh World Heritage was consulted and did not object to the proposals but stressed the need for Edinburgh's festivals to develop in a way that is sensitive to our historic environment, contributes to its conservation, and respects the needs of local communities and businesses.

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 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 within George Square would extend beyond 28 days and, because it is located on green space, requires an application for planning permission in accordance with the above report.

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.

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."

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 recreational use of the site. The use of the site at George Square Gardens relates to an area of private open space and is not an area of public land. The proposed scheme will not extend over the full extent of the gardens. 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.

It should also be noted that George Square Gardens has been used annually for many years as a Festival Fringe venue.

In addition, there are a number of trees within the gardens which are in close proximity to the proposed structures. The applicants have provided an additional document which outlines the tree sensitive areas and have advised of a tree exclusion zone that has been agreed with the University of Edinburgh as owners of the square.

The principle of the use of the site at the George Square Gardens is acceptable given the temporary nature of the proposal.

c) Residential Amenity and Transport

Residential 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 next to the part of the site that is proposed to be developed.

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 with good transport links.

A number of the operational matters would be covered by any licensing/ temporary traffic orders.

d) Public comments

Material comments - objections:

- impact on trees and soft landscaping - addressed in section 3.3b)

Non - Material Comments

- privatisation of normally publicly open space - this site is within private ownership.
- structure up in advance of planning application - retrospective planning permission is included in the Planning Act

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 from 22 July 2021 to 12 September 2021 inclusive and all structures shall be removed from the site by 15 September 2021.

Reasons:-

1. 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 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

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 2 July 2021. Five comments were received. Four objection comments and one provided partial support with comments.

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

22 June 2021

Drawing numbers/Scheme

1 - 4,

Scheme 1

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Elaine Campbell, Team manager

E-mail: elaine.campbell@edinburgh.gov.uk

Links - Policies

Relevant Policies:

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

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

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.

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 Non-Statutory Guidelines

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

Relevant policies of the Edinburgh City Local Plan.

Appendix 1

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Consultations

Environment Scotland

objections to the proposal.

World Heritage

offer the following comments to the formal submission These are based on our remit with respect to impact on the Outstanding Universal Value of the World Heritage Site, and consideration should be given to wider heritage assets outside the scope of our remit.

POSITION SUMMARY

While the proposals are not without heritage impact and merit careful consideration by the council in line with relevant planning policy and legislation, we do not object to the proposals due to their location outside of the World Heritage Site, site-specific considerations and the current implications of the Covid-19 pandemic.

However, we strongly advise that moving forward Edinburgh's festivals develop in a way that is sensitive to our historic environment, contributes to its conservation, and respects the needs of local communities and businesses. We refer to the recommendations provided as part of the Winter Festivals consultation (summarised below) and look forward to further engagement on this matter.

This is particularly important given the potential for UNESCO to place Venice on the World Heritage Site 'at risk' (from loss of status) list due to their imbalance between cultural heritage and tourism.

STRATEGIC FESTIVALS ADVICE

Edinburgh's festivals are an important part of the city's rich cultural heritage, as well as being a source of pride and enjoyment for residents and visitors. The city's historic environment, including our ancient buildings and monuments, and our renowned parks and gardens, form a dramatic backdrop to the festivals, and was a key reason the city was chosen as the location for the first International Festival in 1947.

The festivals make a notable positive contribution to our historic environment. Concerts and live performances help provide uses for many buildings, which might otherwise be

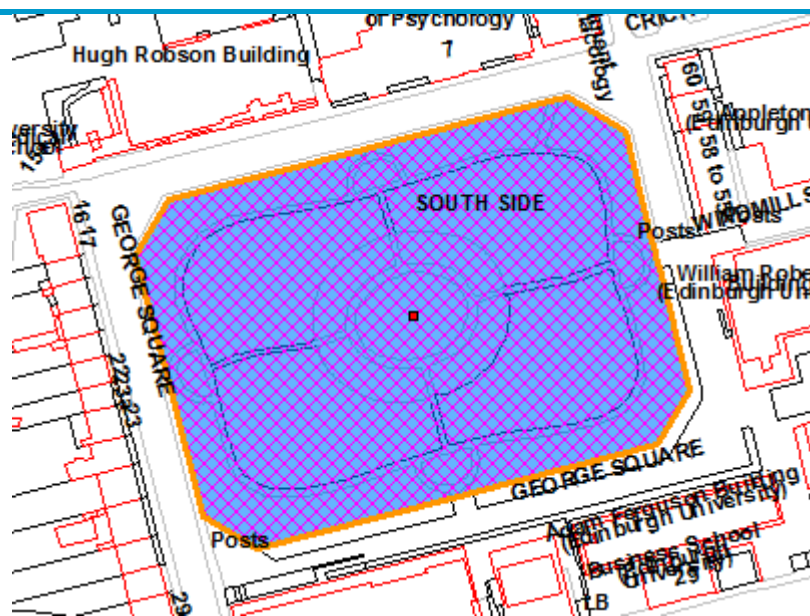
considered vacant or at risk. Large numbers of visitors from diverse backgrounds and all age groups come to the city as a result of the festivals and are able to enjoy and feel a strong connection to its unique environment. The festivals also continue the long tradition of music and performance which form part of the city's intangible cultural heritage.

For the future, we would expect all of Edinburgh's festivals to develop in a way that is sensitive to our historic environment, contributes to its conservation, and respects the needs of local communities and businesses. As part of the Winter Festivals consultation, we have provided a series of recommendations to the City of Edinburgh Council to enable festivals to achieve a better balance and 'positive loop' with heritage and local communities moving forward. This advice applies to all festivals and can be summarised as follows:

- o We recommend that the footprint of the festivals are broadened to reduce over-concentration and impact and engage visitors with heritage in wider areas.
- o We recommend that any intervention conserves or enhances the Outstanding Universal Value of the World Heritage site, and any attributes or individual assets which contribute to it.
- o We recommend that proportionate Heritage Statements are produced at a relatively early stage to clarify the heritage values potentially affected by any proposals, identify principles for any intervention, and develop proposals to protect or enhance the identified heritage values. This should be done on an area/street basis in order to reflect the varied characteristics and values between locations.
- o We recommend that an overall or area-based mission statement/brief (or equivalent) should set out key principles or actions for how heritage values are to be conserved or enhanced - including but not limited to considerations of location, scale, style, lighting, materials, public realm interventions and management considerations. The engagement of heritage professionals throughout the development of proposals will aid in this, help mitigate any risks associated heritage designations and facilitate a balanced outcome.
- o We recommend that proposals are developed in line with relevant adopted and developing strategies, including but not limited to: the Tourism Strategy for 2030, World Heritage Site Management Plan (currently gearing up for renewal in 2022), Public Space Management Plan and area strategies. Edinburgh World Heritage has responded to these consultations, and these should be referred to as relevant.
- o We recommend that opportunities are sought to establish positive cyclical re-investment to support heritage through tourism - e.g. through the Transient Visitor Levy.
- o We recommend that local communities are engaged in how to reform better, and their cultural resilience supported.

As always, we advise you engage the heritage expertise within your planning department to inform the wider heritage considerations and detail of this application.

Location Plan



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