

# Development Management Sub-Committee Report

**Wednesday 15 June 2022**

**Application for Planning Permission  
George Square Gardens, 62 George Square, Edinburgh**

**Proposal: Edinburgh Festival Fringe venue site comprising two performance venues, a box office, bars, food traders and ancillary office and storage.**

**Item – Committee Decision  
Application Number – 22/01363/FUL  
Ward – B15 - Southside/Newington**

## **Reasons for Referral to Committee**

The application has been referred to the Development Management Sub-Committee because the application is of the wider public interest.

### **Recommendation**

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

### **Summary**

The proposal is acceptable with regards to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with the development plan. The proposed temporary nature of the development is considered acceptable in this location. There are no material considerations which outweigh this conclusion.

## **SECTION A – Application Background**

### **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.

## **Description of the Proposal**

The proposal is for the installation of 2 temporary performance venues, the Udderbelly (422 people capacity) the Wee Coo (60 people capacity) and ancillary activities as part of the Edinburgh Festival Fringe. The venue will be supported by food and drink sales and the provision of public toilets.

### Proposed Key Dates

Build Period: 11 July - 2 August 2022;  
Operational Period: 3-29 August 2022;  
Strike Period 30 August - 7 September 2022.

### Proposed Operational Hours

Site Open: 10:00-01:00 (Sun-Thur) 10:00-03:00 (Fri-Sat)  
Performance Schedule: 11:00-00:30 with 8 performances a day in both venues.

## **Supporting Information**

A Planning Statement was submitted with the application which is available to view on the Planning and Building Standards Online Services.

## **Relevant Site History**

21/03380/FUL  
George Square Gardens  
62 George Square  
Edinburgh

The installation of 2x temporary venues and ancillary activities as part of Edinburgh Festival Fringe  
Granted  
11 August 2021

## **Other Relevant Site History**

April 2022- An application is currently pending consideration for the installation of 2 temporary performance venues at George Square Gardens (22/01893/FUL)

## **Pre-Application process**

There is no pre-application process history.

## **Consultation Engagement**

Historic Environment Scotland

Environmental Protection

Archaeology

Refer to Appendix 1 for a summary of the consultation response.

## **Publicity and Public Engagement**

**Date of Neighbour Notification:** 13 April 2022

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 29 April 2022;

**Site Notices Date(s):** 26 April 2022;

**Number of Contributors:** 0

## **Section B - Assessment**

### **Determining Issues**

Due to the proposals relating to a listed building(s) and being within a conservation area, this report will first consider the proposals in terms of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the "1997 Heritage Act"):

- a) Is there a strong presumption against granting planning permission due to the proposals?
  - (i) harming the listed building or its setting? or
  - (ii) conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
  
- b) If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

If the proposal is in accordance with the development plan the determination should be to grant planning permission unless material considerations indicate otherwise?

If the proposal is not in accordance with the development plan the determination should be refuse planning permission unless material considerations indicate otherwise?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

## **Assessment**

To address these determining issues, it needs to be considered whether:

### **a) The proposals harm the listed building and its setting?**

The following HES guidance is relevant in the determination of this application:

- Managing Change - Setting

The Managing Change guidance states setting can be important to the way in which historic structures or places are understood, appreciated and experienced. It can often be integral to a historic asset's cultural significance.

Setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.

Given the temporary nature of the proposal, it is considered there will be no harm to the surrounding listed buildings and their setting.

### **Conclusion in relation to the listed building**

The proposal will have no detrimental effect on the setting of nearby listed buildings. The proposal therefore is acceptable with regard to section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **b) The proposals harm the character or appearance of the 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."

The application is located within the South Side Conservation Area. The 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. Whilst the proposal would reduce the available area for pedestrians for a temporary period, the impact of this is considered negligible. The structure will be located in an area of open space on a smaller scale than any of the important surrounding historic buildings. The proposal will not detract from the character or appearance of the conservation area.

### **Conclusion in relation to the conservation area**

Overall, the proposal will preserve the character and appearance of the conservation area and it therefore is acceptable with regard to section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **c) The proposals comply with the development plan?**

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policies Env 3 and Env 6, Env 18
- LDP policies Des 1, Des 4, Des 5
- Shopping and Leisure Ret 7

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 4 and Env 6.

### Use

LDP Policy Ret 7 (Entertainment and Leisure Developments - Preferred Locations) seeks to ensure that entertainment and leisure developments can be integrated well with the surrounding environment, are easily accessible by sustainable transport modes and do not introduce unacceptable noise and late night disturbance to local residents.

The site is located within the City Centre in the Local Development Plan. It is considered the proposal can be well integrated into the surrounding environment with minimal impact on the historic environment. The proposal is located within a central location which is considered easily accessible by various sustainable modes of transport and no parking will be provided.

Impacts of noise and disturbance in relation to criterion b) are considered below.

The principle of development is considered acceptable given the temporary nature of the proposal and is supported in this location. The proposal complies with LDP Policy Ret 7.

### Listed Buildings and Conservation Area

The impact on surrounding listed buildings and the conservation area has been assessed above and complies with LDP Policies Env 3 and Env 6.

## Open Space and Trees

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 short temporary period 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. It is considered that these are exceptional times, and the Fringe requires support in delivering a programme in 2022. It is therefore considered that the temporary loss of the open space is justified in this instance.

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 proposal complies with LDP Policy Env 18.

## 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.

The applicant submitted a Noise Management Plan outlining their plans to limit noise pollution to the surrounding area. However, Environmental Protection have objected to this as they requested a full Noise Impact Assessment. On balance, a pragmatic approach must be taken as this is a very busy area during the festival, for a temporary period, and it is considered that overall the proposal is acceptable in planning terms and should be supported.

## 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.

## **Conclusion in relation to the Development Plan**

Overall the proposals comply with the Local Development Plan and given the temporary nature of the proposal, is supported in this location.

**d) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development. Of particular importance in this case is the principle of giving due weight to net economic benefit.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

No comments have been received.

**Conclusion in relation to identified material considerations**

The proposal fully addresses the material considerations as set out above.

**Overall conclusion**

The proposal is acceptable with regards to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and complies with the development plan. The proposed temporary nature of the development is considered acceptable in this location. There are no material considerations which outweigh this conclusion. Therefore, the proposal is acceptable.

## Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

### Conditions :-

1. The development hereby approved shall be permitted during the time period of 11 July 2022 - 7 September 2022 only and all structures shall be removed from the site by 7 September 2022.

### Reasons:-

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

### Informatives

It should be noted that:

1. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
2. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

### Background Reading/External References

To view details of the application go to the Planning Portal

**Further Information - [Local Development Plan](#)**

**Date Registered: 21 March 2022**

### Drawing Numbers/Scheme

01-08

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

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## Appendix 1

### Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: 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.

DATE: 26 April 2022

NAME: Environmental Protection

COMMENT: Objection - cannot support the application without an accompanying full Noise Impact Assessment.

DATE: 3 May 2022

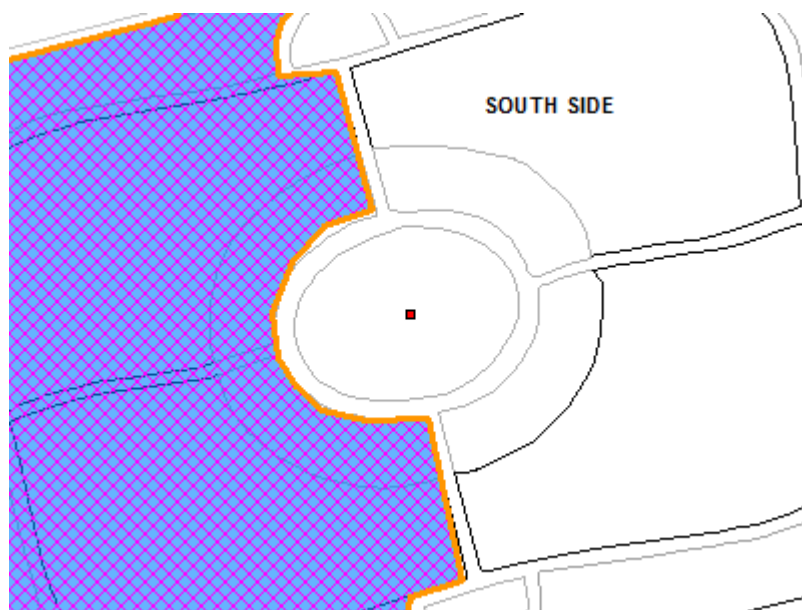
NAME: Archaeology

COMMENT: The site is regarded as being of archaeological and historic significance with the scheme having the potential to disturb archaeological deposits. However, it is considered that such impacts are regarded as minimal and accordingly, it has been concluded that there are no, known, significant archaeological implications regarding this scheme.

DATE: 28 April 2022

The full consultation response can be viewed on the Planning & Building Standards Portal.

### Location Plan



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