

Development Management Sub-Committee Report

Wednesday 15 June 2022

**Application for Planning Permission
1 Middle Meadow Walk, Edinburgh,**

Proposal: Edinburgh Festival Fringe venue site comprising two temporary performance venues, box office, bar, food trader's toilets and ancillary offices and storage.

**Item – Committee Decision
Application Number – 22/01364/FUL
Ward – B15 - Southside/Newington**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because 17 letters of representation in objections to the proposals have been received. Consequently, under the Council's scheme of Delegation, the application must be determined by the Development Sub Management Committee.

Recommendation

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

Summary

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and comply 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 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.

Description of the Proposal

The proposal seeks to create two temporary performance venues, the Circus Big Top (550 people capacity) and the Speigeltent (450 people capacity) with a bar, toilets, ancillary offices and storage. Entry to the venues will be by ticket only.

There will be ramped access throughout the site and into all performance venues with accessible toilet available within the main toilet area of the site.

Proposed Key Dates

Build period: 29 July to 4 August 2022;
Operational Period: 5 - 27 August 2022;
Strike Period: 28-30 August 2022.

Proposed Operational Hours

Site Open: 10:30-23:30
Performance Schedule: 11:00-23:00 with 5 performances daily in the Circus Big Top and 6 in the Spiegelentent.

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

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

21/02736/FUL
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.

Granted
24 June 2021

Other Relevant Site History

Not Applicable.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

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: 18

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 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.

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 Marchmont, Meadows and Bruntsfield Conservation Area. The Conservation Area Character Appraisal notes that the spatial character is overwhelmingly characterised by the open parkland, the Meadows and Bruntsfield Links are traversed by a web of scenic tree lined walks and jointly form the largest area of recreational open space in the city.

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. 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 defined 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
- LDP Design policies Des 1, Des 4, Des 5
- LDP Shopping and Leisure Ret 8

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering policies Env 3 and Env 6.

Use

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."

A number 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. It is therefore considered that the temporary loss of the open space is justified in this instance.

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.

Impact on the character and setting of the listed building and conservation area

This has been assessed in sections a) and b) and the proposals comply with LDP Policies Env 3 and Env 6.

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.

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

One letter of support was received. A further 17 objections were received and are summarised below:

material considerations

- Noise pollution disturbing residents - addressed in section C (Amenity)
- Excessive and will prevent local peaceful enjoyment of quiet green space - addressed in section C (Amenity)
- Curtail access for the public - addressed in section C (Use)
- Damage to the grass and soil
- Damage to the trees and root system - addressed in section C (Amenity)
- Not consistent with the character of the Conservation Area - addressed in section B
- Against the provision of food and drink facilities on site - addressed in section C (Use)

non-material considerations

- Proposals not coherent with the Edinburgh Improvement Act of 1827

Conclusion in relation to identified material considerations

The proposals are in compliance with the other material considerations that have been identified above.

Overall conclusion

The proposals are acceptable in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and comply 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 permitted shall be permitted during the time period 29 July 2022 - 30 August 2022 only and all structures shall be removed from the site by 30th August 2022.

Reasons:-

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

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

01-09

Scheme 1

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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: 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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