

Development Management Sub-Committee Report

Wednesday 17 August 2022

**Application for Planning Permission
Proposed Event Space, St James Crescent, Edinburgh**

Proposal: Erection of temporary structures and enclosures, including bar, and other associated works to facilitate use of Register Square as an external events space.

**Item – Other Item at Committee
Application Number – 22/02039/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

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

Recommendation

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

Summary

The proposals are acceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan. There are no material considerations which indicate that the proposal should be refused. Therefore, the recommendation is to grant planning permission.

SECTION A – Application Background

Site Description

The site is an area of existing open space positioned at the main entrance to the St James Quarter Galleria. The site comprises the southern edge of St James Quarter, set back from Leith Street and Waterloo Place and bordered by the galleria and existing neighbouring units.

The Category A Listed General Register House (LB27636) lies to the south west of the public square, with the Category B Listed Sassine Office (LB30027) and Category B Circular Record Hall (LB30025) to the west.

The site is located within the UNESCO Old and New Towns of Edinburgh Heritage Site and the New Town Conservation Area.

Proposal

The application seeks permission for the erection of temporary structures and enclosures to facilitate the use of Register Square as an external events space for a defined period each year.

The space is proposed as part of a series of linked event spaces within St James Quarter originally approved under outline planning permission 08/03361/OUT.

The structures will be in the form of a stretched tent, with low level timber perimeter fencing, a bar and seating. The space is proposed to operate between 10am and 11pm from the middle of June to the end of August each year, with one week on either side for set up and take down.

The space will have the capacity to accommodate up to 100 people.

Servicing and deliveries will be via the St James Quarter service yard and existing facilities.

Supporting Documents

Noise Management Plan submitted in support of the application.

Relevant Site History

22/02040/FUL

Proposed Event Space

St James Crescent

Edinburgh

Erection of temporary structures and enclosures, including bar, and other associated works to facilitate use of Calton View as an external events space.

Other Relevant Site History

22/02035/FUL

Erection of temporary structures and enclosure, including Spiegeltent and bar, and other associated works to facilitate use of St James Square as an external events space at St James Square, Edinburgh.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Environmental Protection

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

Publicity and Public Engagement

Date of Neighbour Notification: 1 June 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 6 May 2022;

Site Notices Date(s): 29 April 2022;

Number of Contributors: 1

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 in the Historic Environment - Setting

Section 59 (1) of the Planning (Listed Building 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."

The Courts have clarified that Section 59(1) means that there is a strong presumption against granting planning permission for development which would harm a listed building or its setting. If engaged, the presumption can only be rebutted if the proposals would result in significant public interest advantages which can only be delivered at the scheme's proposed location.

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

The proposal sits within the urban context of the surrounding modern St James Quarter development, including the contemporary hotel development. Given the transient nature of the installations, along with their scale and positioning within the context of the developed square, the proposed event space will not be to the detriment of the nearby listed buildings to the west and will continue to preserve their historical setting, in compliance with Managing Change guidance.

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would not result in harm to the setting of listed buildings.

b) The proposals impact on the character or appearance of the conservation area?

Section 64 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states: "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The Courts have clarified that Section 64 means that there is a strong presumption against granting planning permission for development which would conflict with the objective of preserving or enhancing the character or appearance of the conservation area. If engaged, the presumption can only be rebutted if the proposals would result in significant public interest advantages which can only be delivered at the scheme's proposed location.

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four-storey corner and central pavilions.

The temporary nature of the structures 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 wider contemporary development and will have no impact on the skyline. The development will sit within the context of the backdrop of the entrance to the modern St James Quarter and public space.

The proposals therefore are acceptable with regards 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 policies to be considered are:

Delivering the Strategy Policy Del 2
Shopping and Leisure Policy Ret 11
Environment Policies Env 1, Env 3 and Env 6
Design Policy Des 5

The non-statutory Listed Building and Conservation Area Guidance and Guidance for Businesses are material considerations relevant when considering LDP policy.

Impact on the UNESCO World Heritage Site

The Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site is defined as the remarkable juxtaposition of two clearly articulated urban planning phenomena: the contrast between the organic medieval Old Town and the planned Georgian New Town which provides a clarity of urban structure unrivalled in Europe.

The Statement of Outstanding Universal Value emphasises the importance of maintaining the authenticity of the Site which "continues to retain its historic role as the administrative and cultural capital of Scotland, while remaining a vibrant economic centre."

LDP Policy Env 1 states Development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted. This policy requires development to respect and protect the outstanding universal values of the World Heritage Sites and their settings. Setting may include sites in the immediate vicinity, viewpoints identified in the key views study and prominent landscape features throughout the city.

Due to the temporary nature and the size, scale and design of the proposed structures it is considered that there would not be an adverse impact on the setting of the World Heritage Site.

The proposal will not have an impact on the outstanding universal value and the reasons for inscription in compliance with policy Env 1.

Impact on the setting of the Listed Buildings

LDP Policy Env 3 (Listed Buildings- Setting) states that 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.

This has been assessed through sections a) above, and the proposals comply with LDP Policies Env 3 in terms of its impact on the setting of the listed buildings.

Impact on the setting of the Conservation 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.

This has been assessed through sections b) above, and the proposals comply with LDP Policies with Env 6 in terms of its impact on the conservation area.

Principle

The site is within the City Centre as identified in the Edinburgh Local Development Plan (LDP).

LDP Policy Del 2 City Centre supports a mix of uses appropriate to the location of the site and proposals that are comprehensively designed considering relevant development briefs and guidance.

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. The temporary nature and positioning of the installations ensures the proposal will integrate adequately into its surroundings. Criteria b) and c) are considered below.

LDP Policy Ret 11 Food and Drink Establishments permits changes of use in areas where the use will not lead to an unacceptable impact on residential amenity. Matters of amenity are addressed in the amenity section below.

The principle of the use of the site is therefore acceptable given the temporary nature of the proposal.

Amenity

LDP Policy Ret 11 Food and Drink Establishments permits changes of use in areas where the use will not lead to an unacceptable impact on residential amenity. LDP Policy Des 5 (Development Design - Amenity) requires development proposals to demonstrate that neighbouring amenity of a development will have acceptable levels of amenity.

There nearest residential properties will be located to the west of the site along St James Walk and residential properties on the upper floors of tenements along Leith Street.

Environmental Protection were consulted on the proposal and has raised concerns about the noise from outdoor activities affecting the amenity of nearby residents, particularly in the tenements on Leith Street and requested a Noise Impact Assessment to be submitted.

The applicant has submitted a Noise Management Plan, which advised that the current proposals for Register Square include a summer bar offering with limited scope for amplified music and sound, however no details of noise levels have been provided.

Notwithstanding this, the space sits at the entrance of the St James Quarter within the public realm where there is currently public seating and a significant level of on street activity existing. There have been examples of temporary event/bar uses in the space previously.

Furthermore, the proposed operating hours will ensure the space will cease operation at 11pm. The site is also located adjacent to the corner of a busy city centre road junction so there will be moderate traffic noise present during these hours. As such, an external events space of this scale, in this central location, is unlikely to give rise to noise disturbance of a scale that would cause an unreasonable impact on neighbouring amenity.

However, in the interest of neighbouring amenity, it is recommended that the application be limited to a three-year period to allow any issues to be taken into account for any future applications.

Overall, this is a city centre location with a substantial pedestrian footfall and where on-street activity at ground level currently exists. The proposed mitigative measures in the form of restricting the consent to allow any impact to be monitored and addressed is considered reasonable in this instance to ensure the proposal will not be to the detriment of residential amenity.

Operational matters would be covered by licensing/permits.

Given the location and site context, the proposal should not result in an increase in noise that will result in a harmful impact upon neighbouring residential amenity. The proposal is therefore in line with the objectives of LDP Des 5.

Waste

Servicing and deliveries will be via the St James Quarter service yard and existing facilities.

Access and Parking

The proposal makes no amendments to existing arrangements.

The proposal is located within a central location and no additional parking will be provided for the event. Parking, including disabled parking provision is located within the St James Centre Car Park, with drop off at Elder Street.

The site is in an accessible location with good transport links.

The use of the space and structures will not impede pedestrian flow in and around the St James Quarter or impact pedestrian safety.

Conclusion in relation to the Development Plan

Overall, the proposals will contribute to an appropriate mix of uses in this city centre location. The proposal will not harm the setting of any nearby listed buildings, and preserve the appearance of the conservation area. Given the location and site context, the proposal should not result in an increase in noise that would result in an unreasonable impact upon neighbouring residential amenity.

Overall, the proposals comply with the objectives of the Local Development Plan.

d) there are any other material considerations which must be assessed?

The following material 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.

The proposal complies with the relevant sustainability principles set out in SPP.

Emerging policy context

The Draft National Planning Framework 4 has been consulted on but has not yet 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 representation has been received objecting to the proposal.

Material Considerations

The appearance and low-quality materials will be detrimental to both the setting of the new St James Centre and the Grade-A listed Register House which abuts the site-addressed above.

The development represents the commercialisation of the public realm and should be refused, as it clutters the routes and views very deliberately and recently created-addressed above.

Should be for one year only so an assessment can be made on the impact of the "events space" on the setting- a suitable condition has been recommended.

The proposals fail to preserve or enhance the special character of the Conservation area, contradict Edinburgh Council guidance and conflicts with the Local Development Plan policy ENV 3, ENV 4 & ENV 6- addressed above.

Overall Conclusion

The proposals are acceptable with regards to Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and are in accordance with the development plan. There are no material considerations which indicate that the proposal should be refused. Therefore, the recommendation is to grant planning permission.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions:-

1. Notwithstanding the approved plans, permission is hereby granted for a restricted period as follows: Permission is granted for a period of three years only and development hereby granted shall only be operational from 13th June to 31st August inclusive. One week prior to operation is allowed for set up and all structures shall be removed from the site by 5th September of each year.

Reasons: -

1. In the interests of neighbouring amenity.

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: 19 April 2022

Drawing Numbers/Scheme

01-07

Scheme 1

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Appendix 1

Summary of Consultation Responses

NAME: Environmental Protection

COMMENT: Environmental Protection is unable to support this application.

The proposal is for an external events space at Register Square to operate for three consecutive months each year (mid-July to mid-October). This area is at the southern edge of the St James development, bordered by Leith Street and Waterloo Place. The hours of operation would be 10am - 11pm daily.

Environmental Protection has significant concerns about the noise from outdoor activities affecting the amenity of nearby residents, particularly in the tenements on Leith Street. The proposal description for an "external events space" gives no detail as to what noise might be generated.

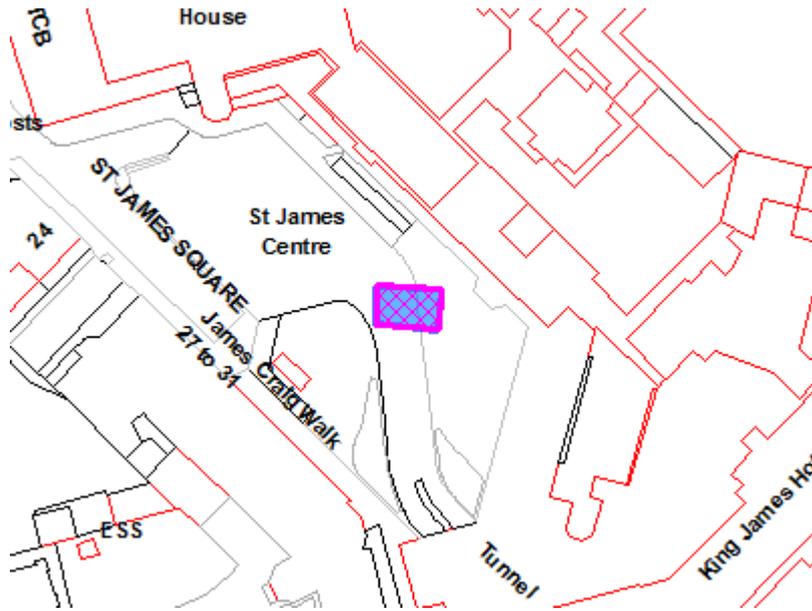
A Noise Impact Assessment was requested by this service. That has not been forthcoming. The applicants did submit a Noise Management Plan, which advised that "The current proposals for Register Square include a summer bar offering with limited scope for amplified music and sound", however no details of noise levels have been provided. In addition, the plan is reliant on reactive action generated by residents taking proactive action by complaining. This service is very concerned as to what the applicant would be allowed to do with the site, which may generate noise and negatively impact nearby residents, should this application be granted.

Therefore, Environmental Protection cannot support the application and recommend refusal.

DATE: 14 July 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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