

Development Management Sub-Committee Report

Wednesday 17 August 2022

**Application for Planning Permission
Proposed Fringe Festival Venue Site Teviot Place, Bristo Square,
Edinburgh**

Proposal: Temporary change of use and siting of performance units, catering units and other associated moveable structures for the Edinburgh Fringe Festival.

**Item – Committee Decision
Application Number – 22/02987/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 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 site is located on the northern end of Bristo Square, adjacent to the Edinburgh University Students Association and Chaplaincy building. Potterow and Lothian Street lie directly to the north of the application site.

The site is a valuable area of open space and public realm used regularly by pedestrians with various elements of street furniture and trees throughout the site.

Category A listed McEwan Hall (Ref: LB27993) lies to the west of the application site, alongside other Category B listed buildings around the perimeter of Bristo Square.

The application site is located within the South Side Conservation Area and the Old and New Towns of Edinburgh World Heritage Site.

Description of the Proposal

The proposal seeks to erect temporary structures to support a public performance and events plaza known as 'Potterrow Plaza', consisting of:

- Two units as performance spaces. These units will measure 12m long x 2m wide x 2.5m high and 7m long x 2m wide x 2.5m high. Each performance space has a capacity of 25 and 30 respectively;
- One food trailer measuring 5m long x 3m wide x 2m high;
- One bar measuring 4m long x 2m wide x 2m high; and
- Outdoor seating and associated facilities (e.g., picnic benches, bistro table, chairs and umbrellas).

Full capacity of the Plaza will be 300 people and the space will be delineated by a perimeter fence measuring 1.3m in height.

Proposed Key Dates 2022

- Set up: 18 July - 2 August;
- Operational: 3 - 29 August;
- Take down: 30 August - 5 September.

Proposed Operational Hours 2022

- 1000 - 0300.
- The final performance will conclude at 2200.

Temporary consent is sought for the same period over a recurring three year period (specific dates for 2023 and 2024 to be confirmed).

Supporting Information

A Planning and Design Statement and Noise Management Plan were submitted in support of the application. These are available to view on the Planning and Building Standards Online Services.

Relevant Site History

22/01359/FUL

Proposed Fringe Festival Venue Site Teviot Place

Bristo Square

Edinburgh

Edinburgh Festival Fringe venue site comprising one temporary performance venue, bar, toilets and ancillary offices and storage.

Granted

17 June 2022

22/01360/FUL

Proposed Fringe Festival Venue Site Teviot Place

Bristo Square

Edinburgh

Edinburgh Festival Fringe venue site comprising one bar and ancillary storage.

Granted

17 June 2022

22/01362/FUL

Proposed Fringe Festival Venue Site Teviot Place

Bristo Square

Edinburgh

Edinburgh Festival Fringe venue site comprising a box office, bars, food traders and ancillary office and storage.

Granted

17 June 2022

Other Relevant Site History

No other relevant planning history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Historic Environment Scotland

Edinburgh World Heritage

Environmental Protection

Archaeology

Transport Planning

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

Publicity and Public Engagement

Date of Neighbour Notification: 22 June 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 1 July 2022;

Site Notices Date(s): 28 June 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
- Managing Change - World Heritage

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 adverse impact on the surrounding listed buildings and their setting.

Conclusion in relation to the listed building

The proposal will have no detrimental impact on the setting of the neighbouring 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 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 site is located within the Second Expansion Area of the South Side Conservation Area. The South Side Conservation Area Character Appraisal notes that Bristo Square is extremely permeable for pedestrians and provides an appropriate setting to the McEwan Hall.

Whilst the proposal would reduce the available area for pedestrians for a temporary period, the square would become a focal point and bring additional vibrancy to the well utilised area of public realm. The structures 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 not have an adverse impact on the character or appearance of the South Side Conservation Area and 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 Design policies Des 1, Des 4 and Des 5;
- LDP Environment policies Env 1, Env 3 and Env 6; and
- LDP Shopping and Leisure policies Ret 7.

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

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.

World Heritage Site

LDP Policy Env 1 (World Heritage Sites) states that "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."

Edinburgh World Heritage were consulted on this proposal and noted that proposals involving the occupation of public space affect a number of important elements of the World Heritage Site's Outstanding Universal Value (OUV). The proposals to introduce new structures in these important public spaces would disrupt these characteristics and cause harm to the OUV of the World Heritage Site. However, in this case, this is offset to some degree by the specific contribution that the Edinburgh Festival and Fringe themselves make to Edinburgh's heritage and cultural value, as well as the temporary nature of the proposals. It has also been recognised the unique context of recovery from the pandemic.

The industrial nature of the proposals are considered to provide a juxtaposition to the local setting and character.

Therefore, given the temporary nature of the proposal and the contribution to the City's cultural offering and economic recovery, it is considered to comply with LDP Policy Env 1.

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.

Amenity

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

The applicant submitted a Noise Management Plan outlining their plans to limit noise pollution to surrounding residents and businesses. However, Environmental Protection has requested a full Noise Impact Assessment demonstrating that amplified music and vocals from the site can meet NR15 within the living apartments of any nearby noise-sensitive receptors. A Noise Impact Assessment was not requested from the applicant as it was considered unnecessary.

Whilst the proposal will be operational in some form until 0300 daily, any mitigation required from this will be covered via Licensing. 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.

It is considered that the proposal complies with LDP Policy Env 5.

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. There are no material considerations that would outweigh this conclusion.

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.

The proposal complies with Paragraph 29 of 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.

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

Public representations

No representations were 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 in terms of 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 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 18 July 2022 - 5 September 2022 (50 days) only and all structures shall be removed from the site by 5 September 2022. A 50-day period within a similar timeframe to facilitate Edinburgh Festival infrastructure is also approved for 2023 and 2024. The dates shall be submitted to the Planning Authority prior to the use being taken up in 2023 and 2024.

Reasons: -

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

Informatives

It should be noted that:

1. 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.

2. The applicant should liaise with the Council as Roads Authority during the construction, operation and decommissioning of the site to ensure the impact on pedestrians and other road users is minimised.
3. As per the submitted Noise Management Plan, there should be no amplified music in the external areas, so as not to interfere with performances within the structures at the site.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 16 June 2022

Drawing Numbers/Scheme

01-07

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Nicola Orr, Planning Officer
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Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: No comment.

DATE: 4 July 2022

NAME: Edinburgh World Heritage

COMMENT: Proposals involving the occupation of public space affect a number of important elements of the World Heritage Site's OUV. This can be mitigated by reducing scale, footprint and through contextual design (eg the industrial container aesthetic does not respond to a very distinctive local character).

The contribution that the Edinburgh Festival and Fringe make to Edinburgh's cultural value and pandemic recovery, we do not object.

We question whether this should be a single year permission rather than 3 years.

Given the number of applications for festival structures, a renewed and inclusive strategy for the location and design of such structures in planning terms would enhance clarity and identify collaborative opportunities for all involved.

DATE: 28 June 2022

NAME: Environmental Protection

COMMENT: This site is directly adjacent to another site used as a long-established entertainment venue for the Fringe. However, there are nearby noise-sensitive receptors. The Noise Management Plan for the site advises that there will be no amplified music in the external areas, so as not to interfere with performances within the structures at the site.

Also, before we can support these applications, we would need the applicants to submit a Noise Impact Assessment demonstrating that amplified music and vocals from the site can meet NR15

within the living apartments of any nearby noise-sensitive receptors, with windows partially open for ventilation during nighttime hours (from 23.00).

DATE: 13 July 2022

NAME: Archaeology

COMMENT: The site is regarded as being of archaeological and historic significance however given the nature of this scheme, it is considered that this proposal will not have any known, significant archaeological implications.

DATE: 7 July 2022

NAME: Transport Planning

COMMENT: No objection.

The applicant should be aware of the potential impact of the proposals on pedestrian and other road users and should liaise with the Council as Roads Authority during the construction, operation and decommissioning of the site.

DATE: 27 June 2022

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

Location Plan



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