

Development Management Sub-Committee Report

Wednesday 21 June 2023

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

Proposal: Edinburgh Festival Fringe 2023 venue site comprising two performance venues, box offices, bars, food traders and ancillary offices and storage.

**Item – Committee Decision
Application Number – 23/01353/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 application is acceptable with regard to the relevant policies contained within the National Planning Framework 4, the Edinburgh Local Development Plan, Section 59(1) and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant non-statutory Guidance. 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 lies within the Southside Conservation Area but adjacent to the boundary of the 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 Coe (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 2023

Build Period: 3 July - 1 August 2023;
Operational Period: 2-28 August 2023;
Strike Period 29 August - 6 September 2023.

Proposed Key Dates 2024

Build Period: 1 July - 30 July 2024;
Operational Period: 31 July - 26 August 2024;
Strike Period 27 August - 4 September 2024.

Proposed Key Dates 2025

Build Period: 30 June - 29 July 2025;
Operational Period: 30 July - 25 August 2025;
Strike Period 26 August - 3 September 2025.

Proposed Operational Hours

Site Open: 10:00-01:00 (Sun-Thur) 10:00-03:00 (Fri-Sat)
Performance Schedule: 10:00 - 00:00 (Sunday - Wednesday) and 10:00 - 02:00 (Thursday - Saturday).
The private members artists bar only will be open until 04:00.

Supporting Information

A Planning Statement, Noise Management Plan and a Tree and Standing Stone Protection Statement was submitted with the application which is available to view on the Planning and Building Standards Online Services.

Relevant Site History

22/01363/FUL
George Square Gardens
62 George Square
Edinburgh

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

Granted
17 June 2022

22/01893/FUL
Proposed Fringe Festival Venue Site
George Square Gardens
George Square
Edinburgh

Temporary installation of 2 performance venues, an event space + supporting infrastructure, to be used as part of Edinburgh Blues and Jazz Festival, Edinburgh Food Festival + Edinburgh Festival Fringe. We have used the site since 2011 for same purpose but site has a festival history going back over 20 years. The site is a green space owned by University of Edinburgh, we are looking for permission to cover change of use of land and associated temporary structures.

Granted
17 June 2022

Other Relevant Site History

No further site history.

Pre-Application process

Pre-application discussions took place on this application.

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: 12 April 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 21 April 2023

Site Notices Date(s): 18 April 2023

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 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- 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:

- NPF4 Historic Assets and Places Policy 7
- NPF4 Blue and green infrastructure Policy 20
- LDP Environment policies Env 12 and 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 NPF4 policy 7.

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 NPF4 Policy 7.

Open Space and Trees

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 the Edinburgh Festival and Fringe themselves make a strong specific contribution to Edinburgh's heritage and cultural value, as well as the temporary nature of the proposals. 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 Policies Env12, Env 18 and NPF4 Policy 20(a).

Amenity

The applicant submitted a Noise Management Plan outlining their plans to limit noise pollution to the surrounding area. However, Environmental Protection have objected to the proposals as they requested a full Noise Impact Assessment. The site is surrounded by buildings within educational uses and with no residential dwellings located within the immediate vicinity of the site. As such, the request for a Noise Impact Assessment was considered to be unnecessary. 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. 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:

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time 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 objection was received and is summarised below:

material considerations

- Excessive and will prevent local peaceful enjoyment of quiet green space - addressed in section Open Space and Trees
- Damage to the grass and soil - addressed in section Open Space and Trees
- Damage to the trees and root system - addressed in section Open Space and Trees

Conclusion in relation to identified material considerations

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

Overall conclusion

The application is acceptable with regard to the relevant policies contained within the National Planning Framework 4, the Edinburgh Local Development Plan, Section 59(1) and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the relevant non-statutory Guidance. 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 3 July 2023 - 6 September 2023 (66 days) only and all structures shall be removed from the site by 6 September 2023. A 66-day period within a similar timeframe to facilitate Edinburgh Festival infrastructure is also approved for 2024 and 2025. The dates shall be submitted to the Planning Authority prior to the use being taken up in 2024 and 2025.

Reason

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.
3. Works affecting adopted road/footway must be carried out under permit and in accordance with the specifications. See Road Occupation Permits <https://www.edinburgh.gov.uk/roads-pavements/road-occupation-permits/1>

Background Reading/External References

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

Further Information - Local Development Plan

Date Registered: 27 March 2023

Drawing Numbers/Scheme

01-12

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Adam Gloser, Planning Officer
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Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: No objection.

DATE: 25 April 2023

NAME: Environmental Protection

COMMENT: Cannot support the application without an accompanying full Noise Impact Assessment.

DATE: 28 April 2023

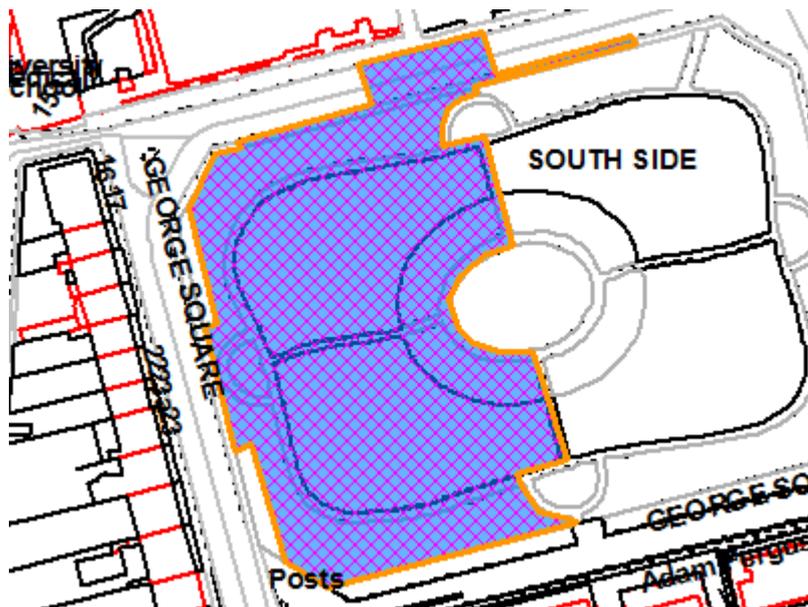
NAME: Archaeology

COMMENT: No objection.

DATE: 19 April 2023

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

Location Plan



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