

# Development Management Sub-Committee Report

**Wednesday 21 June 2023**

**Application for Planning Permission  
The Meadows Public Park, Melville Drive, Edinburgh.**

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

**Item – Committee Decision  
Application Number – 23/01344/FUL  
Ward – B11 - City Centre**

## **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 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 wider site is non-restricted and free of charge, while 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: 28 July to 3 August 2023;  
Operational Period: 4 - 26 August 2023;  
Strike Period: 27-29 August 2023.

### Technical Rehearsals Hours

Technical rehearsals will take place between 10:00 - 00:00 between 2nd - 4th August and 10:00 - 17:00 on 5th August.

### Proposed Operational Hours

Site Open: 10:00-00:00  
Performance Schedule: 11:00-23:00.

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

### **Supporting Information**

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

### **Relevant Site History**

No relevant site history.

## Other Relevant Site History

15 June 2022 - Application Granted for Edinburgh Festival Fringe venue site comprising two temporary performance venues, box office, bar, food trader's toilets and ancillary offices and storage. - 22/01364/FUL

## 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 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:

- NPF4 Historic Assets and Places Policy 7
- 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 policy 7.

### 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.

A letter of representation has raised the issue with the loss of open space and the limitations placed on access across the site of the proposed entertainment 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

The impact on surrounding listed buildings and the conservation area has been assessed above and complies with NPF4 Policy 7.

#### Impact on Amenity

There are no residential properties immediately adjacent to the development.

A letter of representation has 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:

#### 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*

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

##### *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 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. Prior to the commencement of development an access strategy shall be submitted and agreed with the Planning Authority in terms of the access of vehicular traffic across the site to cover both the build and the operation of the event. Any agreed measures shall be implemented in full as part of the development.
2. Prior to the commencement of the development a tree survey and tree protection plan shall be submitted to and agreed in writing with the Planning Authority. Any protective measures required shall be maintained on site for the duration of the development.
3. The development hereby approved shall be permitted during the time period of 28 July 2023 - 29 August 2023 (32 days) only and all structures shall be removed from the site by 29 August 2023. A 32 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.
4. Prior to the commencement of development the applicant should provide a strategy to ensure accessible access to the site is provided from Middle Meadow Walk and implemented prior to the operation of the event.

### Reasons

1. In the interest of access to the site.
2. In the interests of protecting the current trees on the site.
3. In recognition of the temporary nature of the proposals.
4. In the interest of access to the site.

## **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: 27 March 2023**

## **Drawing Numbers/Scheme**

01-09

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: No objection.

DATE: 28 April 2023

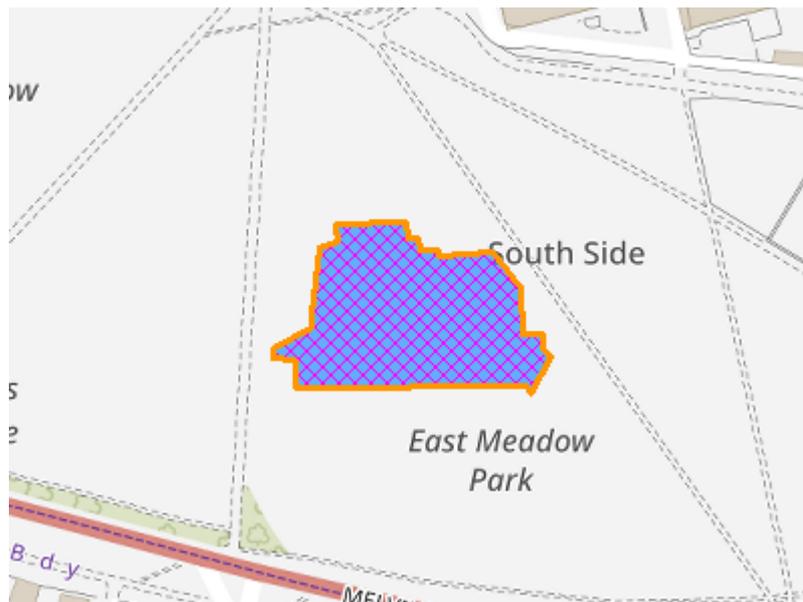
NAME: Archaeology

COMMENT: No objection

DATE: 25 April 2023

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

### Location Plan



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