

Development Management Sub-Committee Report

Wednesday 21 June 2023

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

Proposal: Edinburgh Festival Fringe venue site comprising a box office, bars, food trader's toilets and ancillary offices and storage. The site also functions as a queuing area for venues in University of Edinburgh buildings surrounding the site. The area will also be used for University of Edinburgh graduations.

**Item – Committee Decision
Application Number – 23/01354/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 relates to the central area of Bristo Square which is semi-enclosed with a circular perimeter of steps. The site is bound by McEwan Hall to the west, Teviot Row House to the south and Edinburgh University to the east. The site is a valuable area of public realm used regularly by pedestrians with various elements of street furniture scattered throughout around the perimeter.

Several of the surrounding buildings are listed:

- Category A listed McEwan Hall (Ref: LB27993) directly to the west of the application site.
- Category A listed Reid School of Music (Ref: 27995) to the southwest of the application site; and
- Category B listed McEwan Lantern Pillar (Ref: 27994) to the southeast of the site.

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 'Underbelly Bristo Square' and will consist of a box office, bars, food traders, toilets and ancillary offices and storage. Entry to the site is non-restricted and free of charge. There will be ramped access throughout the site and there will also be an accessible toilet located within the main toilet area of the site.

The site will also be used for University of Edinburgh Graduations prior to the commencement of the Edinburgh Festival Fringe.

Proposed Key Dates 2023

- Build Period: 17 June - 29 June 2023.
- Operational Period: 30 June - 28 August 2022; and
- Strike Period: 29 August - 5 September 2022.

Proposed Operational Hours

- Graduations (30 June - 1 August 2022): 1000-0000.
- Edinburgh Festival Fringe (3 August - 29 August 2022): Site Open 1000-0400, Performance Schedule 1200-2300.

Proposed Key Dates 2024-2025

The dates for 2024-2025 have still to be clarified.

Supporting Information

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

Relevant Site History

22/02987/FUL

Proposed Fringe Festival Venue Site Teviot Place

Bristo Square

Edinburgh

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

Granted

19 August 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

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

22/01359/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

23/01350/FUL

Proposed Fringe Festival Venue Site Teviot Place

Bristo Square

Edinburgh

Edinburgh Festival Fringe venue site comprising a bar and ancillary storage. The site also functions as a queuing area for venues in University of Edinburgh buildings surrounding the site.

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: 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 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
- 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:

- NPF4 Historic Assets and Places Policy 7
- LDP Design policies Des 1, Des 5 and Des 12
- 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 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 on 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

The proposals seek to introduce new structures, furniture and will involve the occupation of important public space causing some harm to the Outstanding Universal Value (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.

The cultural 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 NPF4 Policy 7 i).

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.

Amenity

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 0400 daily, any mitigation required from this will be covered via Licensing. The site is a highly central and frequented site during the festival period with many other venues being located closer to residential receptors, ensuring that this site will not have an excessive impact on neighbouring amenity. 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 Des 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:

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

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 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 17 June 2023 - 5 September 2023 (80 days) only and all structures shall be removed from the site by 5 September 2023. An 80-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.

Reasons

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.

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

01-13

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

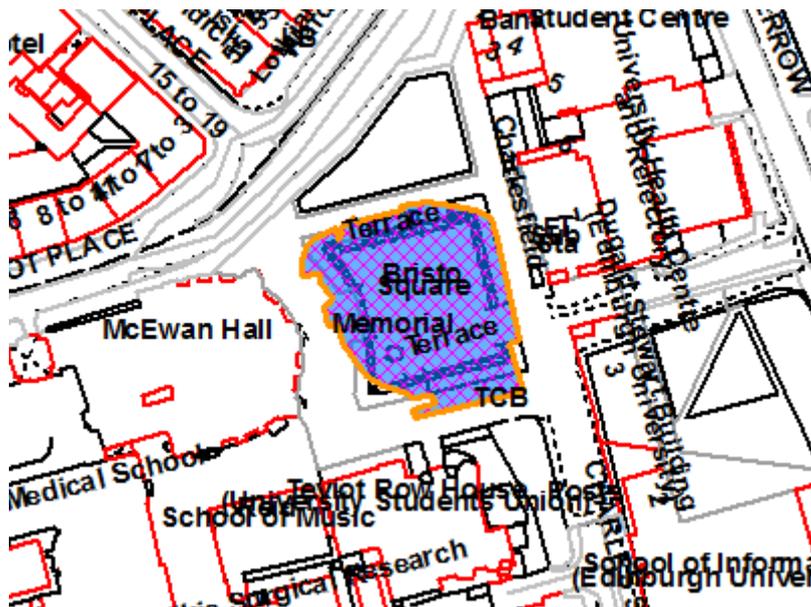
NAME: Historic Environment Scotland
COMMENT: No objection.
DATE: 25 April 2023

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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