

Development Management Sub-Committee Report

Wednesday 25 October 2023

**Application for Planning Permission
Christmas Market, George Street, Edinburgh.**

Proposal: Erection of ice rink including viewing /seating areas, market traders and Christmas stalls, vintage family attractions, offices, toilets, ancillary storage, and generators.

**Item – Committee Decision
Application Number – 23/04144/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

With reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the proposal would result in minor harm to the setting of surrounding listed buildings for the temporary period of time of the development. However, it is considered that there are significant economic and cultural benefits to the city resulting from the Christmas Festival, which arise principally because of the city centre location where high footfall land uses are encouraged. The Christmas Festival will be an interesting additional feature of the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the vibrancy of the city and is well placed for public transport.

On balance, these benefits are a considerable material consideration and outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings. They provide reasoned justification for granting planning permission for this proposal. With reference to the abovementioned Act, the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the character and appearance of the designed landscape or the Outstanding Universal Value of the New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in harm to residential amenity. The proposals comply with the Edinburgh Local Development Plan.

The proposal, subject to the conditions stated, is considered to be acceptable. There are no detrimental impacts on equalities or human rights. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is located on the public road of George Street, on the two sections running between Charlotte Square and Frederick Street, as well as the northern section of Castle Street. The application site lies within a dense urban area, surrounded by 4-5 storey buildings on each boundary.

Category A listed Statue of Dr Thomas Chalmers (LB27847) is located within the centre of the site. Furthermore, the following Category A listed buildings, structures and monuments are within close proximity to the application site:

- 33-39 Charlotte Square and 142-146 George Street (LB28506);
- 124 George Street (LB28856);
- 115 George Street (LB28854);
- 117 to 121 George Street (LB28855);
- 40-46 Charlotte Square and 143 George Street (LB28507);
- 112 George Street (LB28883);
- Statue of Dr Chalmers (LB27847);
- 97-105 (Odd Nos) George Street, Bank of Scotland (LB28850).

The site is also located within the following significant designations:

- Old and New Towns of Edinburgh World Heritage Site;
- Historic Garden and Designed Landscape: New Town Gardens;
- New Town Conservation Area.

Description of the Proposal

The application is for temporary planning permission for one year for the use of the adopted public road at George Street and Castle Street to erect a covered ice rink on the western part of George Street, two funfair attractions to the western end of George Street, two seating areas and market stands. Permission is sought for a one year period, with the proposed timescale as follows:

- Set up: 30 October - 17 November 2023;
- Operational: 18 November 2023 - 6 January 2024;
- Take down: 7 January - 19 January 2024.

The attractions would be in operation daily from 1000 - 2200.

The proposals within George Street and Castle Street include the following:

- Ice rink
- Market stalls
- Two fairground rides
- Ancillary site office stores and facilities
- Outdoor seating and associated facilities.

Waste collection is to be managed by a certified sub-contractor, collected daily. Separate waste facilities are to be made available for members of the visiting public and stallholders.

Servicing would take place during loading times (0700-0930) with delivery vehicles being walked in and out, with banksmen to ensure cycle safety.

This proposal forms part of a suite of four applications for a Christmas Festival across the city centre. The three remaining applications are located at West Princes Street Gardens, East Princes Street Gardens and St Andrew Square.

Relevant Site History

22/04920/FUL

Christmas Market

George Street

Edinburgh

Erection of ice rink including viewing /seating; sculpture; star flyer; bar and covered seating area; 5 food trader stalls; offices; first aid area and toilets; ancillary storage and generator. Pedestrian walkway retained to southern edge of site. Temporary Period (5 Years).

Granted

10 November 2022

21/04950/FUL

Christmas Market

George Street

Edinburgh

Erection of Edinburgh's Christmas at George Street including an ice rink, Christmas market stalls associated site offices, stores and ancillary facilities (Proposed Application for one year 2021 - 2022 & variation on granted planning permission ref 20/03708/FUL).

Granted

15 November 2021

20/03708/FUL

Christmas Market

George Street

Edinburgh

Erection of Edinburgh's Christmas at George Street and Castle Street, including Christmas Market Stalls, Ice Rink, Plant and Boot Room, Around the Corner Bar, Box Office, Associated Site Offices, Stores and Ancillary Facilities (amended application for festive period 2021- 2022).

Granted

13 November 2020

Other Relevant Site History

This application is part of a wider proposal including 23/04199/FUL, 23/04142/FUL and 23/04143/FUL.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Historic Environment Scotland

Edinburgh World Heritage

Transport Planning

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

Publicity and Public Engagement

Date of Neighbour Notification: 12 September 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 15 September 2023

Site Notices Date(s): 12 September 2023

Number of Contributors: 4

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 in the Historic Environment: Setting

Listed Building and 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 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.

The proposal includes two fairground rides that would be located immediately adjacent to many listed buildings including those that are category A listed. The covered ice rink and associated attractions are to be placed on George Street between a collection of A-listed structures. The scale, positioning, form, and design of the temporary structures would have a detrimental impact on the setting of the A-listed buildings.

Owing to the size, scale, form, and design of the proposal, it would also impact on the setting of the additional neighbouring listed buildings in the wider vicinity. However, the impact on them would not be reduced due to these buildings being located further away from the proposal.

Previous iterations of the Christmas market, which have included an ice rink and similar attractions, have operated in this location over the festive season and become characteristic of the setting. The proposal is for a temporary period of a known duration and therefore the impact on the setting of these neighbouring listed buildings would be short term.

Dividing the event into four separate locations in the city has diminished the concentrated scale of the proposals. The impact on a single environment has been reduced from previous years and consequently the impact on the heritage assets is not as profound.

Given that there would be harm to the setting of listed buildings, consideration is required to be given to whether there are significant material considerations that justify the development in this location; and if so, does this outweigh any adverse impacts.

It is considered that there are significant economic and cultural benefits to the city resulting from the Christmas Festival, which arise because of its location within the city centre, where high footfall land uses are encouraged. The Christmas Festival will be an interesting additional feature to the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and improve the vibrancy of the city centre. It is likely to draw people to the city centre who might not otherwise go there and therefore there will be economic benefit to surrounding businesses.

On balance, these benefits, which are significant material considerations, outweigh the temporary adverse impact that the proposal will have on the setting of listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site.

Conclusion in relation to the listed building

The proposal would have a minor temporary adverse impact on the setting of the surrounding listed buildings and their setting. As the proposal is temporary and the development is non-permanent it is therefore 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?

Conservation Area

The scale of the proposed temporary development is considerably smaller than past Christmas markets that operated solely within East Princes Street Gardens. More recently the development has been divided between three locations which has seen the effect of development being mitigated. This has seen the size and form of the development within an individual site reduce through dividing the market across locations.

Between the reduction in scale and form and the temporary nature of the development, the cumulative impact on the character and appearance of the conservation area is not significant enough to refuse planning permission.

Overall, the development does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area.

Conclusion in relation to the conservation area

Overall, the proposal would have a minor temporary adverse impact on the character and appearance of the New Town Conservation Area. As this effect is minor and temporary it is therefore acceptable with regard to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

a) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF4 Sustainable Place Policies 4 and 7
- LDP Delivering the LDP policies Del 2;
- LDP Design policies Des 1, Des 4 and Des 5; and
- LDP Shopping and Leisure policies Ret 7.

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration.

Listed Buildings

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

Conservation Area

Overall, the development does not conflict with the objective of preserving or enhancing the character or appearance of the conservation area, allowing it to comply with NPF4 Policy 7.

World Heritage Site

NPF4 states that "development proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved".

Edinburgh World Heritage stated that whilst the impact is temporary in nature, the proposals would constitute notable harm to the OUV of the World Heritage Site and they therefore cannot support the application.

Due to the size, scale, positioning, form and the design and appearance, the proposal would temporarily impact on key views within the World Heritage Site. Notwithstanding, by splitting the event into four separate events across the city, the scale of the proposal is relatively small and consequently the impact on the heritage assets is not profound. Given this and the fact that the proposal is for a temporary period of a known duration, the impact on the OUV of the World Heritage Site would be short term and not significantly detrimental.

In addition to the other three proposals by the applicant and other known developments in the city centre, owing to its size, form, and temporary nature the cumulative impact on the character and appearance of the OUV of the World Heritage Site is not considered significant.

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.

Alternative Locations

As the proposal is for a Christmas Festival within Edinburgh it is appropriate that it is located in the city centre. Given its proximity to bus routes, bus station, tram and train, there are few locations with better connectivity. Other locations in the city centre, given the large number of listed buildings throughout the city centre, are likely to give rise to similar impacts on other listed buildings. Therefore, the benefits realised by the market can only realistically be delivered at its proposed location at George Street.

Use

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 specific parking will be provided.

The Edinburgh Local Development Plan (LDP) supports a mix of uses appropriate to the location of the site, its accessibility characteristics, and the character of the surrounding area. Development which lies within the City Centre will be supported which retains and enhances its character, attractiveness, vitality, and accessibility and contributes to its role as a strategic business and regional shopping centre and Edinburgh's role as a capital city.

There are no development plan policies or non-statutory guidelines that directly relate to proposals for outdoor markets/attractions.

The proposal would be a temporary change to the normal use of this part of George Street and Castle Street for a limited duration of time only. The temporary use of George Street for Christmas markets and public events is long standing and established. The Christmas market and attractions have become a familiar presence within the city centre during the festive season.

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. The proposal would not prevent the continued existing use of the public access to George Street and Castle Street. The proposal will help the city centre fulfil its role as a capital city. Given that the proposed Christmas attractions are temporary, they do not conflict with the key principles of Policy Del 2.

Amenity

A site and plant compound are proposed on the western most section of the application site, including a site office, generator and first aid centre. This is in close proximity to 35-39 Charlotte Square (The Roxburghe Hotel). To mitigate noise nuisance from the plant it should be made a condition of a grant of planning permission that the exact positioning of the plant and generators on the site and the acoustic containment of the plant is such that an acoustic attenuation of NR35 is achieved within the guest bedrooms of the hotel between 23:00 hours and 07:00 hours with the windows closed.

Due to the nature of the proposal and its location, there will be amplified music and a large number of people attending, including in the evening. As the site is situated within the city centre it is acceptable as it promotes a diverse use in a way that promotes vitality and engagement with the City Centre. The Council's Environmental Protection Section have advised previously that if any complaints about noise were received, they would address this directly with the event organiser.

The applicant has confirmed that a private waste collection service, will be in place for the development. Waste will be collected daily, at pre-arranged times as agreed with City Edinburgh Council. Waste will be streamed on site into waste, mixed recycling and glass.

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

Transport

To facilitate the proposal the western part of George Street would have to be closed to both eastbound and westbound traffic. The temporary closure of the road does not raise any transportation concerns. A permit to close the road would be required from the Council in advance. The proposal does not raise any road safety concerns.

Cyclists will be diverted around the north of the attractions as alternative cycle route to ensure cyclists are able to continue using this route.

The site is exceptionally well placed for public transport and is within an area where high footfall land uses are encouraged. Consequently, the proposal does not raise any significant parking issues or public transport issues.

Pedestrian Access

Whilst the proposal would reduce the available area for pedestrians' access within the centre of George Street and Castle Street for a temporary period, the ice rink and associated facilities would become a focal point and bring additional vibrancy to this area of public realm.

The existing pavement to the north and south of George Street will see no development with no restrictions to pedestrian flow.

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

The application received four public contributions, one in support and three objections. A summary of these comments are set out below:

material considerations

- The proposal harms the amenity of immediate businesses with noise. The impact of noise has been discussed within section 'B' of the report.

non-material considerations

- Businesses require vehicle access to the front on building on George Street due to refurbishment.
- Not enough information submitted to make informed decision on proposal.
- Safety concerns on entering businesses in the evening.

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 development will have a minor temporary effect on the surrounding listed buildings and conservation area. The ice rink and associated stalls will bring an interesting additional feature to the city centre, that people from Edinburgh and beyond will benefit from. It will contribute positively to the life of the city and the vibrancy of the city centre. Moreover, the site is exceptionally well placed for public transport owing to it being within the city centre.

On balance, these benefits outweigh the short-term adverse impact that the proposal will have on the setting of neighbouring listed buildings and provide reasoned justification for granting planning permission for the proposed development on the site. With reference to the abovementioned Act the proposal does not result in significant harm to the character and appearance of the conservation area.

The proposal does not result in significant harm to the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage Site. The proposed development is for a temporary period and will not have a long-term impact on the site and will not result in significant harm to residential amenity. The proposals comply with the National Planning Framework 4 and Edinburgh Local Development Plan.

The proposal, subject to the conditions stated, 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. Planning permission is hereby granted for the proposal for the period between the 30 October 2023 - 19 January 2024.
2. The temporary ice rink, associated rides and kiosks approved shall only be operational between the hours of 10am and 10pm on the dates specified in Condition 1.
3. The temporary buildings, attractions, installations, structures and plant hereby approved shall be removed from the site in their entirety by no later than 19 January 2024.
4. Prior to commencement of development, the applicant must provide a boundary strategy to ensure public safety in and around the site. At least 3 days written notice shall be given to the Planning Authority of the date of development.

5. Notwithstanding the location of the George Street ice rink plant and generators, the positioning of them on the site and the acoustic containment/enclosures installed/erected around them shall achieve an acoustic attenuation of NR35 within the neighbouring hotel at 35-39 Charlotte Square or any residential property between 22:00 hours and 07:00 hours. The noise measurements shall be taken within any affected hotel bedroom/ residential bedroom with the windows closed.

Reasons

1. In recognition of the temporary nature of the proposal.
2. In the interests of safeguarding the amenity of neighbouring noise sensitive properties.
3. In recognition of the temporary nature of the proposal.
4. In the interests of public safety.
5. In the interest of protecting 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: 12 September 2023

Drawing Numbers/Scheme

1 - 8

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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Appendix 1

Summary of Consultation Responses

NAME: Historic Environment Scotland

COMMENT: No comments

DATE: 26 September 2023

NAME: Edinburgh World Heritage

COMMENT: Due to the impact of the proposal on OUV the proposals cannot be supported.

DATE:

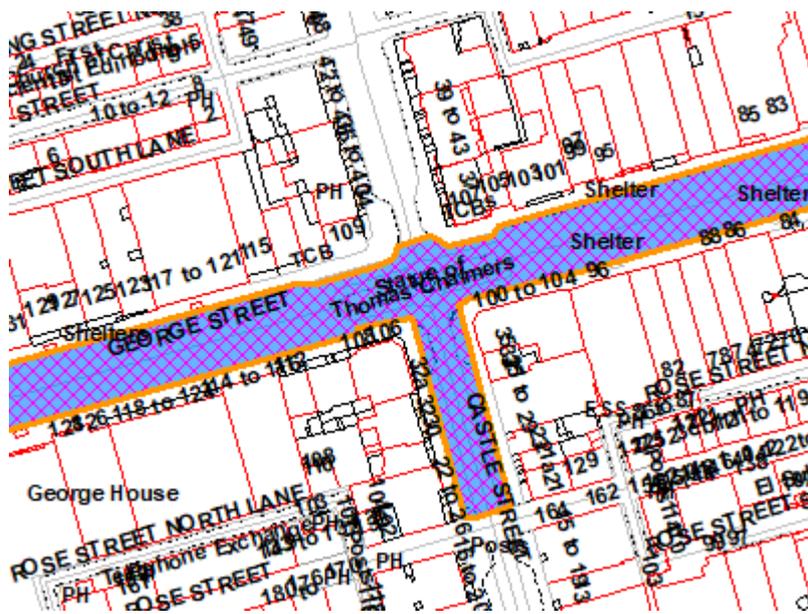
NAME: Transport Planning

COMMENT: No Objection

DATE: 10 October 2023

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

Location Plan



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