

Development Management Sub Committee

Wednesday 8 November 2017

**Application for Planning Permission 17/03159/FUL
At Roof Terrace, Waverley Mall, 3 Waverley Bridge
Erection (Temporary) of Festival Village including: public
house/bar areas, beer garden, live stage area, hot food
kiosks, associated seating area, toilets (inc. disabled) and
associated structures/works (as amended).**

Item number	4.6
Report number	
Wards	B11 - City Centre

Summary

The proposal represents an appropriate temporary development which will preserve both the character and appearance of the New Town Conservation Areas and the outstanding universal value of the Old and New Towns of Edinburgh World Heritage Site. The proposal represents an appropriate commercial scheme which will contribute to the character, attractiveness, vitality and accessibility of the city centre, will not result in a permanent unacceptable loss of open space; and which will not have a detrimental impact on the amenity of neighbouring residents, the setting of nearby listed buildings or the Local Nature Conservation Site. The proposal complies with policies Del 2, Env 1, Env 3, Env 6, Hou 7, Env 15 and Env 18 of the adopted Edinburgh Local Development Plan (LDP) and the Edinburgh Design Guidance.

Links

**Policies and guidance for
this application**

LDPP, LDEL02, LEN01, LEN03, LEN06, LEN15,
LEN18, LHOU07, NSG, NSGD02, CRPNEW,

Report

Application for Planning Permission 17/03159/FUL At Roof Terrace, Waverley Mall, 3 Waverley Bridge Erection (Temporary) of Festival Village including: public house/bar areas, beer garden, live stage area, hot food kiosks, associated seating area, toilets (inc. disabled) and associated structures/works (as amended).

Recommendations

1.1 It is recommended that this application be Granted subject to the details below.

Background

2.1 Site description

The site consists of the public space and terraced area located on the roof of the Princes Mall Shopping Centre covering a total area of 790 square metres. The roof of Princes Mall lies adjacent to the southern side of Princes Street and the eastern side of Waverley Bridge. The roof sits above the street level of Waverley Bridge and as such can only be accessed from Princes Street. Waverley Station and Waverley Steps are situated beneath the site immediately to the south and east. The site consists of a mixture of open plaza and walkways interspersed with grassy areas. The plaza and walkways are finished in silver grey granite paving.

The surrounding area is predominantly commercial in nature and is characterised by the various street level retail premises situated along Princes Street and the Balmoral Hotel located directly to the east. Princes Street Gardens is situated directly to the west of the site. The site affords expansive views towards Edinburgh Castle to the south west, the Old Town ridge to the south and Arthur's Seat to the south east.

The site is located in the UNESCO World Heritage Site.

This application site is located within the New Town Conservation Area.

2.2 Site History

Planning History

19 December 2013 - Planning permission granted for the erection of 31 market stalls on the roof terraces during the Easter, summer and winter festivals (application reference: 13/04424/FUL).

3 November 2015 - Planning permission granted for the temporary erection of Christmas attractions on the public concourse of the roof of Princes Mall (application reference: 15/04266/FUL).

18 January 2016 - Planning permission refused for the erection of a traditional carousel, dispense stands, kiosk and planters on the public concourse for a continuous period of 3 years (application reference: 16/05426/FUL).

25 May 2016 - Planning permission granted for the erection of a temporary entertainment structure on western roof terrace of Princes Mall (as amended) (application reference: 16/01660/FUL).

5 October 2016 - Planning permission granted for the erection of a temporary entertainment structure on western roof terrace of Princes Mall. (application reference: 16/04038/FUL).

12 December 2016 - Planning permission granted on a temporary basis for the installation of Christmas attractions on roof concourse from 18 November 2016 until 8 January 2017 (application reference: 16/04882/FUL).

Enforcement History

20 September 2017 - Enforcement investigation into the erection of bar structures on the land. No formal action taken (investigation reference: 17/00177/EOPDEV).

23 June 2017 - Enforcement investigation into the erection of bar structures on the land. No formal action taken (investigation reference: 17/00242/EOPDEV).

Main report

3.1 Description Of The Proposal

The proposal seeks planning permission for the erection of a festival village development on a temporary basis during mid-November to mid-January 2017, 2018, 2019 and during July and August 2018, 2019. The proposed development involves splitting the site into four separate areas which will encompass the following structures:

Malones on the Mound Area

- Two bar units formed from green shipping containers measuring 2.6 metres in height, 6.15 metres in length and 3.8 metres in width.
- One wooden stage area structure.
- One pizza grill hot food structure with a canvas roof measuring 3 metres in length, 3 metres in width and 3 metres in height at its highest point.

The middle section of this area will be covered with a translucent canopy.

Area 1 - Raised Overflow Seating Area

- Five commercial umbrellas providing cover for seating to accommodate a maximum of 60 people.

Area 2 Fizz and Pearl Champagne Bar

- Two metal bar structures, one selling champagne and one selling gin, both measuring 2.6 metres 2.6 metres in height, 6.15 metres in length and 3.8 metres in width.
- One metal seafood bar structure measuring 2.6 metres in height, 6.15 metres in length and 3.8 metres in width.
- 11 commercial umbrellas and seating for between 66 - 100 people.

Area 3 Butcher Bay

- Two metal bar structures measuring 2.6 metres in height, 6.15 metres in length and 3.8 metres in width.
- One metal structure housing a grill facility serving hot food measuring 2.6 metres in height, 3.8 metres in depth and 3 metres in width.
- One horsebox measuring 5.7 metres in length, 2.5 metres in height and 2.5 metres in width.

In addition to the areas described above, four metal portable toilet structures will be sited on the southern edge of the site. Two will measure 5.5 metres in length by 2.4 metres in height and one will measure 6.1 metres in length by 2.4 metres in height. One structure housing the disabled toilets will measure 1.8 metres in length by 2.4 metres in height.

Scheme One

The original proposal was amended to remove a live music area, denoted as the Malones Live Stage Area, from the proposal. This area was to have been located at the southern edge of the site and would have included two bars a bespoke bar canopy and live music stage canopy structure.

Supporting Documents

The applicant has submitted the following supporting documents which are available to view on Planning and Building Standards on-line services:

- Planning Statement;
- Landscape and Townscape Visual Impact Assessment, and
- Noise Management Plan

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of permission.

Do the proposals comply with the development plan?

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

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

3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) the proposal is acceptable in principle;
- b) the proposal will preserve the character and appearance of the New Town Conservation Area;
- c) the proposal will have an adverse impact on the outstanding universal value of the UNESCO World Heritage Site;
- d) the proposal will have a detrimental impact on the amenity of neighbouring residents;
- e) the proposal will have a detrimental impact on the setting of any listed buildings;
- f) the proposal is appropriate in respect of the potential impact on the Local Nature Conservation Site;
- g) the proposal is acceptable in respect of the potential loss of open space;
- h) the proposal raises any issues in respect of transport and road safety;
- i) any issues raised by objectors have been assessed, and
- j) the proposal raises any issues in respect of equalities and human rights.

a) Principle of the Proposal

The application site is located within the city centre area in the adopted Edinburgh Local Development Plan (LDP). LDP Policy Del 2 states that development which lies within the area of the City Centre as shown on the Proposals Map will be permitted 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.

The proposal is an appropriate temporary commercial development which will be in situ only during the summer festivals and Edinburgh's Christmas. It will contribute to the role of the city as a strategic business and regional shopping centre.

The proposal complies with LDP policy Del 2 and is acceptable in principle.

b) Character and Appearance of the New Town Conservation Area

LDP policy Env 6 states that development within a conservation area or affecting its setting will be permitted which preserves or enhances the special character or appearance of the conservation area and is consistent with the relevant conservation area character appraisal.

The New Town Conservation Area places a particular emphasis on the numerous viewpoints throughout the New Town as being a key aspect in contributing to the character of the conservation area stating:

Terminated vista within the grid layouts and the long distance views across and out of the Conservation Area are important features. The grid layout follows the topography throughout the area providing a formal hierarchy of streets with controlled vistas and planned views both inward and outward and particularly northwards over the estuary. The cohesive, historic skyline makes an important contribution to the Conservation Area and it is particularly crucial to control building heights, particularly along skyline ridges

The original proposal was amended to remove the Malones Live Stage Area from the application. This section of the proposal included the provision of bar structures and canopies which would have been sited in prominent and highly visible locations along the length of the southern boundary of the site. Such structures would have combined to significantly interfere with the interpretation of the Princes Street Streetscape when viewed directly from Waverley Bridge.

The structures and commercial umbrellas located within area 1, area 2 and area 3 will be sited below street level owing to the roof of the mall being sited at a lower level than Princes Street. This will serve to reduce the visual impact of the proposal and ensure that it does not significantly impact on views towards the Old Town from Princes Street, or the character of the Princes Street Streetscape.

The structures located within the area designated as being 'Malones on the Mall' will be more prominent owing to their location at the Princes Street/Waverley Bridge junction, and the fact that they will sit slightly above street level due to the manner in which the pavement on the southern side of Princes Street slopes southwards onto Waverley Bridge. However, this area will only occupy 15% of the total site area and as such the overall visual impact of this element of the proposal on the Princes Street Streetscape will be limited. Combined with the short term temporary nature of the development, the proposal as a whole will preserve the character and appearance of the New Town Conservation Area.

The proposal will preserve the character and appearance of the New Town Conservation Area and complies with LDP policy Env 6.

c) Outstanding Universal Value of the World Heritage Site

LDP policy Des 1 states that development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh and/or the Forth Bridge as World Heritage Sites or would have a detrimental impact on a Site's setting will not be permitted.

As detailed in sections a) and b) of the report, the proposal is intended to be a temporary development and its overall visual impact on the character of the Princes Street Streetscape is acceptable. The proposal will not have a detrimental impact on the outstanding universal value of the world heritage site and complies with LDP policy Env 1.

d) Impact on the Amenity of Neighbouring Residents

LDP Policy Hou 7 states that developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

The removal of the Malones Live Stage Area from the proposal will result in a reduction in the number of live music performances taking place while the development is in situ. The applicant has submitted a noise management plan which demonstrates how noise created from entertainment operations associated with the development can be kept at acceptable levels.

Environmental Protection were consulted on the proposal and raised no objection to the scheme subject to the inclusion of an informative requiring adherence to the noise management plan.

The proposal will not have a materially detrimental impact on the living conditions of nearby living residents and complies with LDP policy Hou 7.

e) Impact on the Setting of Listed Buildings

The site contributes to the setting of a number of listed buildings and structures, namely with respect to views to and from them. These include the Balmoral Hotel situated directly to the east of the site, and the Royal British Hotel and former Forsyth's Department Store which are both located directly to the north.

The site is ordinarily cleared open space and of high quality, which helps to facilitate largely unhindered views to many of these listed buildings and structures. As outlined in section b) of the report, the majority of the proposed structures will be sited below street level owing to the topography of the site. Combined with the short term temporary nature of the development, this will ensure that the proposal will not have a detrimental impact on the setting of nearby listed buildings.

The proposal complies with LDP policy Env 3.

f) Impact on the Local Nature Conservation Site

LDP policy Env 15 states that development likely to have an adverse impact on the flora, fauna, landscape or geological features of a Local Nature Reserve or a Local Nature Conservation Site will not be permitted.

The proposal does not involve any permanent development which would affect the flora, fauna, landscape or geological features of the Local Nature Conservation Site and complies with LDP policy Env 15.

g) Loss of Open Space

LDP policy Env 18 states that proposals involving the loss of open space will not be permitted unless it is demonstrated that there will be no significant impact on the quality or character of the local environment.

The proposal does not involve development which would result in the permanent loss of open space. The site will remain accessible to members of the public throughout the time period of the development and the proposal complies with LDP policy Env 18.

h) Transport and Road Safety

The Roads Authority and Tram Team were both consulted on the proposal and raised no objection. The proposal does not raise any issues in respect of transport and road safety.

i) Issues raised by objectors

Material Representations - Objections

- Principle of the proposal is not acceptable - addressed in section 3.3 (a).
- Proposal will have an adverse impact on the outstanding universal value of the UNESCO World Heritage Site - addressed in section 3.3 (c).
- Proposal will have an adverse impact on the character and appearance of the New Town Conservation Area - addressed in section 3.3 (b).
- Increased pedestrian numbers and road safety - addressed in section 3.3 (g).
- Proposal will result in loss of open space - addressed in section 3.3 (g).
- Proposal will result in increase in anti-social behaviour - addressed in section 3.3 (d).
- Impact of the proposal on the setting of listed buildings - addressed in section 3.3 (e).

Non-Material Objections

- Development has been operating without the benefit of planning permission - The planning authority has conducted separate enforcement investigations into unauthorised development on the site and retains the power under sections 123 - 158A of the Town and Country Planning (Scotland) Act 1997 (as amended) to undertake formal enforcement action if deemed necessary.

- Issues relating to the assessment and outcome of previous enforcement investigations into a breach of planning controls - Dissatisfaction with the manner in which an enforcement investigation was undertaken should be addressed through the Council's Complaints Procedure.
- Application will result in excessive consumption of alcohol - matters relating to the sale of alcohol from the site are regulated under separate licensing regimes.
- Proposal will impinge on access to Waverley Station Lifts - this is a civil legal matter.
- Proposed development does not offer healthy locally sourced food.

j) Equalities and Human Rights

The proposal has been assessed and raises no issues in respect of equalities and human rights.

Conclusion

In conclusion, the proposal represents an appropriate temporary development which will preserve both the character and appearance of the New Town Conservation Areas and the outstanding universal value of the Old and New Towns of Edinburgh World Heritage Site. The proposal represents an appropriate commercial scheme which will contribute to the character, attractiveness, vitality and accessibility of the city centre, will not result in a permanent unacceptable loss of open space; and which will not have a detrimental impact on the amenity of neighbouring residents, the setting of nearby listed buildings or the Local Nature Conservation Site. The proposal complies with policies Del 2, Env 1, Env 3, Env 6, Hou 7, Env 15 and Env 18 of the adopted Edinburgh Local Development Plan (LDP) and the Edinburgh Design Guidance.

It is recommended that this application be Granted subject to the details below.

3.4 Conditions/reasons/informatives

Conditions:-

1. Permission is granted for a limited period of the following dates:

November 15th 2017 to January 15th 2018

July 1st 2018 to September 1st 2018

November 15th 2018 to January 15th 2019

July 1st 2019 to September 1st 2019

2. All temporary structures hereby approved shall be removed within 48 hours upon the expiry of permission and the site shall be returned to its original state.

Reasons:-

1. Due to the temporary nature of the proposed development and the site's sensitive location.

2. Due to the temporary nature of the proposed development and the site's sensitive location.

Informatics

It should be noted that:

1. Under new RAUC(S) standards the existing footway should not be narrowed to less than 1.8m;
2. Any sign mounted perpendicular to the building (i.e. overhanging the footway) must be mounted a minimum of 2.25m above the footway and 0.5m in from the carriageway edge to comply with Section 129(8) of the Roads (Scotland) Act 1984;
3. The City of Edinburgh Council acting as Roads Authority reserves the right under Section 93 of The Roads (Scotland) Act 1984 to adjust the intensity of any non-adopted lighting applicable to the application address.
4. The Noise Management Plan designed by KSG Acoustics Ltd., dated 17 October 2017, should be adhered to at all times.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The proposal attracted 10 letters of objection including one letter from the New Town and Broughton Community Council. A full assessment of the representations can be found in section 3 of the report.

Background reading/external references

- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

Statutory Development Plan Provision	The site is located within the UNESCO World Heritage Site, the City Centre Area and a Local
Date registered	11 July 2017
Drawing numbers/Scheme	01, 02A, 03 - 10, 13 - 14,

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 Chief Planning Officer
 PLACE
 The City of Edinburgh Council

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Del 2 (City Centre) sets criteria for assessing development in the city centre.

LDP Policy Env 1 (World Heritage Site) protects the quality of the World Heritage Site and its setting.

LDP Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Env 15 (Sites of Local Importance) identifies the circumstances in which development likely to affect Sites of Local Importance will be permitted.

LDP Policy Env 18 (Open Space Protection) sets criteria for assessing the loss of open space.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

Relevant Non-Statutory Guidelines

Non-Statutory guidelines Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings and landscape, in Edinburgh.

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

Appendix 1

Application for Planning Permission 17/03159/FUL At Roof Terrace, Waverley Mall, 3 Waverley Bridge Erection (Temporary) of Festival Village including: public house/bar areas, beer garden, live stage area, hot food kiosks, associated seating area, toilets (inc. disabled) and associated structures/works (as amended).

Consultations

Roads Authority

No objections to the application subject to the following being included as conditions or informatives as appropriate:

1. *Under new RAUC(S) standards the existing footway should not be narrowed to less than 1.8m;*
2. *Any sign mounted perpendicular to the building (i.e. overhanging the footway) must be mounted a minimum of 2.25m above the footway and 0.5m in from the carriageway edge to comply with Section 129(8) of the Roads (Scotland) Act 1984;*
3. *The City of Edinburgh Council acting as Roads Authority reserves the right under Section 93 of The Roads (Scotland) Act 1984 to adjust the intensity of any non-adopted lighting applicable to the application address.*

Environmental Protection

17/03159/FUL | Erection (Temporary) of Festival Village including: public house/bar areas, beer garden, live stage area, hot food kiosks, associated seating area, toilets (inc. disabled) and associated structures/works (as amended). | Roof Terrace Waverley Mall 3 Waverley Bridge Edinburgh.

The proposal is for a temporary festival village, including bars and a live music stage on the roof terrace of Waverley Mall. This village was also in residence for several months this year. Six complaints were received from residents in the High Street area about music noise from the venue, as well as several complaints from passers-by and neighbouring businesses. The live music component of the offered entrainment seemed to be the major source of complaint. As a result of discussions with the applicants, the proposals have been altered to provide one live music stage instead of three and the overall length of time the temporary village will be in residence has been reduced. The applicant has also commissioned a Noise Management Plan from KSG Acoustics which aims to achieve inaudibility within the nearest noise-sensitive premises.

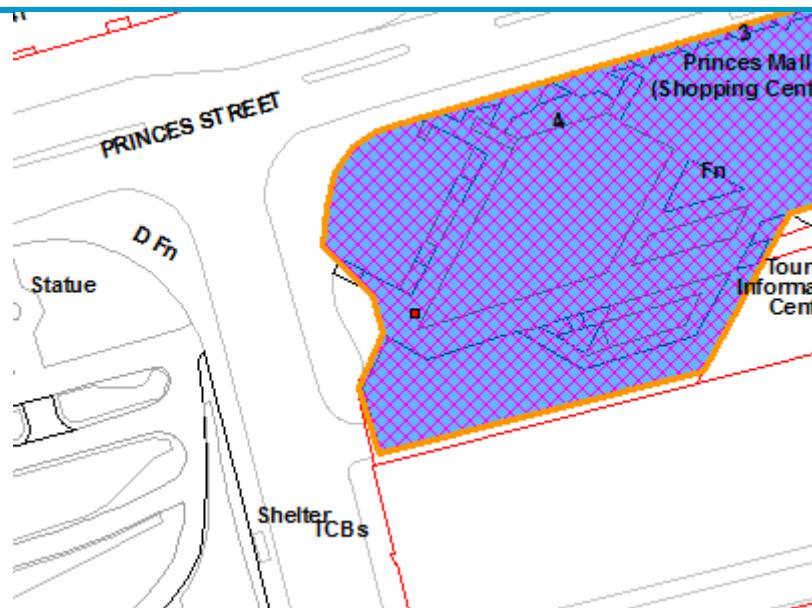
Environmental Protection does still have some concerns in relation to music noise affecting amenity of residents. Should the Committee be minded to grant, we would recommend the following informative be attached:

The Noise Management Plan designed by KSG Acoustics Ltd., dated 17 October 2017, should be adhered to at all times.

Tram Team

No objection submitted in respect of the proposal.

Location Plan



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