

# Development Management Sub Committee

Wednesday 25 June 2014

## Application for Planning Permission 14/01327/FUL At Street Record, George Street, Edinburgh Decking structures outside existing bars and restaurants all year round.

Item number	9.1(b)
Report number	
Wards	A11 - City Centre

### Summary

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The proposals comply with the development plan and Edinburgh planning guidelines and do not adversely affect the setting of listed buildings, the character and appearance of the conservation area or the outstanding universal values of the World Heritage Site. There are no concerns regarding transport, vehicular access or neighbour amenity. The nature of the temporary use is considered acceptable.

### Links

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<a href="#">Policies and guidance for this application</a>	CITD1, CITD3, CITD4, CITD5, CITE1, CITE3, CITE6, CITR1, NSGESS, NSGD02, CRPNEW,
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# Report

## Recommendations

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

## Background

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### 2.1 Site description

The site comprises the existing carriageway and footway to the northern side of George Street, extending from North Castle Street to Frederick Street. The combined width of the carriageway and footway are approximately 8 metres. The footway is surfaced in large concrete flagstones, these laid perpendicular to a whinstone kerb. The carriageway is surfaced in asphalt.

The application site is contained to the north by continuous built frontage, which includes the following listed buildings:-

97-105 (Odd numbers) George Street (Bank of Scotland) which are category A listed (LB reference: 28850 and listed on 13 January 1966)

81-85 (Odd numbers) George Street which is category B listed (LB reference: 28846 and listed on 13 January 1966)

77 and 79 George Street which is category B listed (LB reference 28845 and listed on 13 January 1966)

The application site is located within the Edinburgh World Heritage Site. This application site is located within the New Town Conservation Area.

### 2.2 Site History

There is no relevant planning history for this site.

## Main report

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### 3.1 Description Of The Proposal

This proposal forms part of a wider Council led initiative, being taken forward by Essential Edinburgh Ltd. An experimental Traffic Regulation Order (TRO) for George Street, was agreed by the Council's Transport, Infrastructure and Environment Committee on 29 October 2013. This gave approval for the introduction of a one way system on George Street, a two way cycle path and additional space for pedestrians as an initial 12 month experiment. This temporary intervention is intended to highlight opportunities for an improved pedestrian environment.

This application is for the erection of temporary timber decking with marquee tents and outdoor seating. The marquees will comprise a coated steel frame with canvas exterior. The size of the marquees will vary, but each will extend to maximum 5.65 metres height, and 3.2 metres to the eaves. The walls of the marquee will be demountable to form an open sided structure. These would be placed within the newly defined pedestrian areas to be located in the existing southern carriageway and arranged in the following groups;-

Section 1 (adjacent to 101-103 George Street) Serving Contini restaurant and bar. The structure would extend to 12.6 metres in length and 4 metres width.

Section 2 (adjacent to 83-85 George Street) Serving Costa cafe. The structure would extend 6 metres length and 4 metres width.

Section 3 (adjacent to 77-79 George Street) Serving Cafe Andaluz. The structure would extend 16.8 metres length and 4 metres width.

### **3.2 Determining Issues**

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) Is the proposed use acceptable;
- b) The proposals adversely affect the setting of listed buildings;
- c) The proposals achieve an acceptable standard of design and preserve and enhance the character of the conservation area, and the World Heritage Site;
- d) The proposals raise transport or traffic safety issues;
- e) The proposals adversely affect neighbour amenity;
- f) The proposals raise equalities and human rights impacts; and
- g) Representations have been addressed;

a) Proposed Use

This proposal forms part of a wider Council led initiative, being taken forward by Essential Edinburgh Ltd. An experimental Traffic Regulation Order (TRO) for George Street, was agreed by the Council's Transport, Infrastructure and Environment Committee, 29 October 2013. This gave approval for the introduction of a one way system on George Street, a two way cycle path and additional space for pedestrians as an initial 12 month experiment. This temporary intervention is intended to highlight opportunities for an improved pedestrian environment.

The proposed structures are linked with existing businesses on George Street. As their installation is controlled under roads legislation in addition to planning legislation they are not considered to constitute a change of use. This position would have to be reviewed if the sites of these structures ceased to be part of the road as a result of any permanent changes under roads legislation.

On this basis, it is recommended that a condition be attached, granting temporary consent to the end of October 2015, after which all the structures must be removed from the site within a one month period.

b) Setting of Listed Buildings

Local Plan Policy Env 3 states that development within the curtilage or affecting the setting of the listed building will be permitted only if not detrimental to the appearance or the character of the building, or to its setting.

The curtilage of the adjacent listed buildings would be considered to include the area of footway adjacent to the building extending as far as the kerb line. The proposed structures will occupy an area beyond the kerb line which visually forms part of the carriageway and as such will be situated outside the curtilage of the adjacent listed buildings.

The positioning of the proposed structures will have a limited impact upon the views of the adjacent listed buildings, particularly towards the sections of frontage at ground floor level. However, the marquees can be configured as open sided structures, which will allow for a greater degree of transparency between the street and adjacent listed buildings.

Given the fact that the proposed structures will be temporary in nature, the overall effect on the setting of adjacent listed buildings would be considered as neutral, and any limited impact is outweighed by the benefits of an enlivened street scene.

c) Conservation Area and World Heritage Site

The New Town Conservation Area Character Appraisal identifies that:-

*The streets of the First New Town are hierarchical in their width and quality of design and finish. The three parallel streets of Princes, George and Queen Streets allied with Charlotte and St Andrew Squares are the grandest in Craig's Plan, consisting originally of individual townhouses.*

*The use of a grid layout form throughout the area provides a formal hierarchy of streets with controlled vistas and planned views.*

*Within the grid layouts, terminated vistas have been planned using churches, monuments, buildings and civic statuary.*

*The streets of the New Town form a key component of the geometric hierarchy of the area. The public realm should be of the highest quality in terms of materials used.*

The proposed decking and marquee structures will be sited parallel to the adjacent frontage and kerb line, thus acknowledging the symmetry and spatial character of the street. The scale of the structures will also be subservient within the street scene, allowing broader views of the townscape to be maintained. The proposed arrangement will also maintain principal axial views to the east and west and would not impede upon axial views to the side streets to the north and south.

The marquees will comprise a coated steel frame with canvas exterior, erected on timber decking. While the appearance of the structures will be temporary in character, the design is considered to offer an appropriate level of quality for the intended purpose. The structures along the street will also be of a uniform appearance, to provide visual coordination and ensure a consistent managed approach.

This proposal is intended to form a temporary intervention within the street in order to promote the use of newly defined pedestrian space and increase footfall within the city centre. The removal of traffic from the adjacent carriageway will enhance the spatial qualities of the street and promote greater use by pedestrians and cyclists. The wider objectives of the proposal would also accord with Local Plan Policy Des 7, which supports the provision of new traffic free paths and spaces for pedestrians in the City Centre, and a contribution towards pedestrian priority measures in existing streets.

The structures do not have any impact on 'Outstanding Universal Value' and the aims of this project are compatible with the promotion and enhancement of Edinburgh's World Heritage Site. The proposals are acceptable in this regard.

The proposal is considered to meet the requirements of Local Plan policies Des 1, Des 3, Des 5 and Env 6, would achieve an appropriate quality of design for the location and would not adversely affect the character and appearance of the conservation area.

#### d) Transport

The proposals form part of temporary Traffic Regulation Order, previously agreed by the Council's Transport, Infrastructure and Environment Committee.

One representation has been received regarding vehicular access to property. However, the Central Area is already subject to extensive parking restrictions and access for deliveries will be maintained. This objection relates to the wider experimental Traffic Regulation Order which has already been approved.

Concerns have been raised about pedestrian and vehicular access and movement, and the impact that these proposals may have on traffic flows elsewhere in the city. These matters have already been considered through the temporary Traffic Regulation Order, and are considered to be acceptable.

Transport has no objections to the detail and siting of the proposed decking or marquee structures. Discussions have also taken place with the emergency services in respect of maintaining emergency access along the affected part of the street.

The proposals are considered acceptable in terms of traffic and road safety.

e) Amenity

A Noise Impact Assessment has been submitted as part of the application and this has been reviewed by Environmental Assessment.

The assessment has concluded that some noise may be audible in nearby living apartments, predicted in nearest living accommodation but that this would be within acceptable levels. This would also be expected in a city centre location which experiences high levels of ambient noise.

The applicant proposes to cease use of the marquees by 22:00 except during the festival period. The actual operating hours will be controlled through the licensing regime.

George Street is located within the Central Air Quality Management Area (AQMA) which was declared in 2000 for breaching statutory objectives for pollutant nitrogen dioxide. While this raises health concerns for uses of the structures, the proposals are part of a wider project to reduce vehicular traffic capacity and should result in improvements to air quality.

Concerns have also been raised about fumes from cooking, smoking and heating. The application does not include any proposals for outside cooking and, in any case, this would be a matter to be controlled through the licensing regime. In terms of smoking and fumes from heating these are not considered to represent an unacceptable impact in amenity terms.

The proposals are acceptable in terms of amenity.

f) Equalities and Rights

An equalities and human rights impact assessment has been completed. This identified the need for the proposals to comply with DDA legislation and to ensure that the proposals maximise accessibility for the mobility impaired.

The level of decking would be flush with the adjacent kerb, thus providing at-grade access which will be suitable for wheelchair users.

Representations have identified that the presence of structures will impede disabled access to adjacent premises. However, the decking structures will only occupy limited sections of the street, with appropriate access retained.

The experimental Traffic Regulation Order for George Street will enhance levels of accessibility for all users. Given the temporary nature of the proposal and constraints of the existing street environment, the design of the proposals is considered acceptable and would not pose an adverse impact to equalities and human rights

## g) Representations

### **Material**

- The design and quality of the proposals would be inappropriate in this setting - addressed in 3.3 b) and c);
- The structures need to be considered in relation to the formal and symmetrical layout of George Street - addressed in addressed in 3.3 b) and c);
- There are concerns about traffic flows in other parts of the city as well, as the loss of parking, and road safety concerns - addressed in 3.3 d);
- Arrangement would block direct access to adjacent premises from the street including disabled access to adjacent buildings - addressed in 3.3 d) and f);
- Decking should be omitted from proposal outside affected premises - applicant has amended proposals to take account of this issue.
- Noise disturbance - addressed in 3.3 e);
- Fumes from smoking, cooking and heating - noted although no cooking is proposed with the tents and addressed in 3.3 e);
- Suggest removal over the winter months - noted, some of the equipment will be removed during the winter months; and,
- Nature and appropriateness of associated signage - out with the scope of this application although applicant has indicated that any signage will be low key.

### **Non Material**

Block 1 will contain greater area of decking in comparison to other blocks;  
One area of decking situated a significant distance from the restaurant concerned;  
Safety of structures in adverse weather conditions; and,  
Health and Safety implications of carrying hot food and drink across the pavement.

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

### **3.4 Conditions/reasons/informatives**

1. Permission is granted for the decking structures and associated uses on a temporary basis only from June 2014 to end September 2015.
2. At the end of the expiration of temporary period of permission the approved uses must be stopped with the decking, marquees and associated equipment removed from the site.

## **Reasons:-**

1. In order to give due recognition to the temporary nature of the proposed development.
2. In order to give due recognition to the temporary nature of the proposed development.

## **Informatives**

It should be noted that:

1. The works hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. 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.
3. 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.

## **Financial impact**

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**4.1 The financial impact has been assessed as follows:**

## **Risk, Policy, compliance and governance impact**

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

## **Equalities impact**

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**6.1 The equalities impact has been assessed as follows:**

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

## **Sustainability impact**

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**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**

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**8.1 Pre-Application Process**



Pre-application discussions took place on this application.

## **8.2 Publicity summary of representations and Community Council comments**

The application was advertised on 18 April 2014 and 3 letters of objection were received. These included comments from the New Town & Broughton Community Council, The Cockburn Association and The Architectural Heritage Society of Scotland. One further letter of objection was received after the expiry date for comments. The letters of representation raised the following issues

- George Street is a principal street in the First New Town and one of the most important streets in the New Town Conservation and World Heritage Site;
- George Street has balanced symmetry and Georgian architecture that has been largely preserved intact;
- George Street is already successful with mix of retail, bars, restaurants, church, hotels and the Assembly Rooms;
- Addition of decking and gazebos will be detrimental to the character of the street;
- Proposals would be detrimental to the setting of listed buildings;
- Positioning of the marquees would be incidental, random and visually disruptive to the street;
- Design of the proposed decking and marquees would be generic and poor quality;
- Privatisation of public realm;
- Loss of short term parking spaces;
- Concern regarding proposed traffic movements with car reversing from parking spaces into moving traffic;t Unconvinced of need to widen footway, and preference for shared space with greater pedestrian priority across the street;t Concern as to the semi permanent nature of the proposal and suggest removal over the winter months;
- Suggest initial consent is granted on a short term basis to test viability;
- Impact to traffic flows in other part of the city centre.
- One area of decking situated a significant distance from the restaurant concerned
- Proposed arrangement would block direct access to adjacent premises from the street including disabled access to adjacent buildings

- Noise disturbance
- Fumes from smoking, cooking and heating
- Decking should be omitted from proposal outside affected premises
- Nature and appropriateness of associated signage
- Pedestrian environment has been affected by guardrail and crossing points which are contrary to pedestrian movement and should be reversed;
- Requirement to heat the outdoor areas, would be wasteful and inefficient and at odds with the Council's desire to be a more sustainable city;

#### Non material

- Safety of structures in adverse weather conditions;
- Health and Safety implications of carrying hot food and drink across the pavement.

### **Background reading / external references**

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- To view details of the application go to
- [Planning and Building Standards online services](#)

#### **Statutory Development**

##### **Plan Provision**

Edinburgh City Local Plan - Central Area, City Centre Retail Core, Primary Shopping Frontage adjacent

##### **Date registered**

4 April 2014

##### **Drawing numbers/Scheme**

### **David R. Leslie**

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### **Links - Policies**

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## **Relevant Policies:**

Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

Policy Des 3 (Development Design) sets criteria for assessing development design.

Policy Des 4 (Layout Design) sets criteria for assessing layout design.

Policy Des 5 (External Spaces) sets criteria for assessing landscape design and external space elements of development.

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

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.

Policy Env 6 (Conservation Areas Development ) sets out criteria for assessing development in conservation areas.

Policy Ret 1 (City Centre Retail Core) sets criteria for assessing retail development in or on the edge of the City Centre Retail Core.

**Non-statutory guidelines** 'The Edinburgh Standards for Streets' sets out principles and guidance whose aim is to achieve a coherent and enhanced public realm.

**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

## Consultations

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### Environmental Assessment

*The above mentioned planning applications are submitted for development in George Street that would allow installation of a range of outdoor dining facilities within the newly pedestrianised area (subject to a separate an experimental Traffic Regulation Order). The applications are for a temporary consent for a period of 12 months.*

*The applications have been assessed in terms of impact on local air quality and noise and nuisance.*

### Noise and nuisance

*In response to concerns Environmental Assessment raised about noise from the proposal affecting local residents the applicant commissioned a noise impact assessment. The assessment compared existing background noise levels within properties with likely noise to be produced by the development. Background noise measurements were made in Blocks 1, 2 and 3 of George Street, near to existing residential properties (where possible) and during the evening period when the impact of the development is likely to be greatest. The acoustician has confirmed that noise data used to predict noise from the development has been previously measured in similar restaurant/eatery circumstances.*

*In terms of national noise planning guidance - Technical Advice Note (1/2011), the noise impact assessment (NIA) concludes that there will be 'no change' in consideration of the magnitude of change and the significance of effects will therefore be neutral.*

*The Local Authority requested the NIA also take account of British Standard 8233:2014 and conclusions drawn show that noise predicted in nearest living accommodation is in keeping with the Standard.*

*An approximation of whether noise would inaudible in the nearest residential flats (where noise from the proposed development is below 10dB below the existing background levels) indicates that some noise is likely to be audible, particularly in Blocks 1 and 3.*

*The applicant proposed to cease operation of the marquees by 10pm except during the festival period, subject to licensing consent. The impact on local residents has not been assessed outwith the evening period; therefore Environmental Assessment would not recommend operation after these hours.*

*Although noise is likely to be audible it is not within the night time period and therefore therefore this is considered reasonable given the city centre location, the temporary nature of the planning application and proposal to cease operations by 10pm.*

*The NIA was undertaken with a few assumptions therefore it is recommended that these are incorporated into the development. This includes, there being no amplified speech or music or live music played on the application sites.*

*Also, that there would be no plant, machinery or equipment, bins (particularly bottle bins) or no outdoor public bars. In addition there should be no outdoor cooking as the impact from cooking odours has not been assessed with the development. The proposals state that lighting will be bespoke to the structure therefore it is anticipated that there will be no adverse impact on lighting.*

#### Air Quality

13 George Street is located within the Central Air Quality Management Area, which was declared in 2000 for breaching statutory objectives for pollutant nitrogen dioxide.

The development will result in an increase in public exposure to traffic related pollution levels. However, it is anticipated that the current pollution levels will be reduced with plans to half the traffic capacity of the existing road and it is recognised that there will be a buffer zone between patrons using the marquee and road carriageway.

It is understood that monitoring of traffic will be undertaken throughout the period of the temporary arrangements on George Street. Should traffic congestion materialise this would mean that patrons could be adversely affected. On balance, however, considering the temporary nature of the application. Environmental Assessment has no objection to the application.

In conclusion, Environmental Assessment recommends the application be approved with some element of noise control, with by way of planning condition or informative on any permission given. The controls should relate to section 4.14 of the noise impact assessment by Charlie Fleming Associates (reference Document 2349y04yR, dated 29 May 2014)

#### **Transport Planning - Development Control**

*No objections to the application.*

*There have been a number of Committee Reports to the Transport, Infrastructure and Environment Committee regarding the above scheme. These reports have been approved by the Transport, Infrastructure and Environment Committee.*

*The list, dates and item numbers of the relevant Committees are as follows;-*

*Building a Vision for the City Centre - Consultation Outcome  
Tuesday 29 October 2013 (Item 7.1)*

*George Street Experimental Traffic Regulation Order  
Tuesday 29 April 2014 (Item 4.1)*

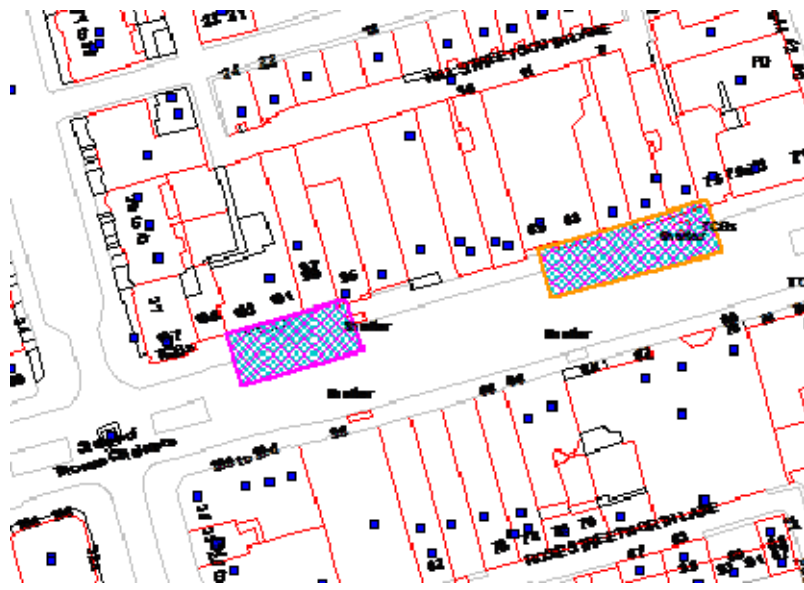
*George Street Trial - Festival Layout  
Tuesday 14 January 2014 (Item 7.12)*

*Tables and Chair Summer Festival Trail in George Street  
Tuesday 03 June 2014 (Item 7.20)*

*Queries regarding the contents of any of these reports can be addressed by Iain McPhail, City Centre Programme Manager on 529 780*

## Location Plan

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