

# Development Management Sub Committee

Wednesday 2 December 2015

## Application for Planning Permission 15/04649/FUL At Street Record, Grassmarket, Edinburgh Erection of Christmas attractions on the public concourse, Grassmarket, Edinburgh.

Item number	4.7
Report number	
Wards	A11 - City Centre

### Summary

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The proposal complies with the Edinburgh City Local Plan. Due to the temporary nature of this development, it will not harm the character or appearance of the conservation area, the setting of any adjacent listed buildings or have an impact on the World Heritage Site.

The location is designated as 'Central Area'; therefore a mix of uses is supported. Issues raised in relation to impact on residential amenity will be more appropriately dealt with by other legislation.

### Links

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<a href="#">Policies and guidance for this application</a>	LPC, CITD1, CITD3, CITE1, CITE3, CITE6, CITOS1, CITCA1, NSG, NSLBCA, NSBUS, OTH, CRPOLD,
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# Report

## **Application for Planning Permission 15/04649/FUL At Street Record, Grassmarket, Edinburgh Erection of Christmas attractions on the public concourse, Grassmarket, Edinburgh.**

### **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 application site is located along the public concourse within the Grassmarket area of the Old Town. This area is designated as 'Open Space' and 'Central Area' in the Edinburgh City Local Plan. There is a gentle slope from east to west and there are a number of large trees; some of which are mature and others are relatively young.

There are various different commercial and leisure uses surrounding the Grassmarket, including public houses, restaurants and cafes located mainly along the ground floor at the northern side; the southern side hosts a hotel, holiday apartments and boutique shops. The upper levels of accommodation are predominantly in residential use.

A range of A and B listed buildings surrounds the public concourse and it is located within the World Heritage Site.

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

#### **2.2 Site History**

19 April 2007 - planning permission granted for the removal of a fence, boundary walls, gate and garden; relocation of memorial plinth (application number 06/04132/LBC).

23 April 2007 - planning permission granted for the relocation of K6 telephone kiosks (application number 06/04131/LBC).

05 June 2007 - planning permission granted for public realm works comprising streetscape enhancement for general public use (application number 06/04133/FUL).

### **Main report**

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#### **3.1 Description Of The Proposal**

The proposals are for the erection of Christmas attractions on the public concourse of the Grassmarket from 12 November 2015 until 4 January 2016.

The attractions will include:

- Ferris Wheel, Swing Boats and Flying Carousel;
- Games Stall;
- Mulled Wine Dispenser x 2; and
- Cake Walk, German Sausages and Chestnut bar.

The applicant is aware that the application was not submitted early enough to allow Committee to determine it within the proposed timescale of development.

### **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 development will harm the character or appearance of the conservation area or impact upon the World Heritage Site or affect the setting of any adjacent listed buildings;
- b) residential amenity will be adversely affected;
- c) there are any traffic or road safety concerns;
- d) there are any impacts on human rights or equalities; and
- e) any public comments raised have been addressed.

#### **a) Impact on Character and Appearance of the Conservation Area, World Heritage Site or Setting of any Listed Buildings**

The Old Town Conservation Area Character Appraisal states *"The Grassmarket is the largest open space in the Old Town and is an important focal point to the south of the Royal Mile. It is one of Edinburgh's most dramatic urban spaces, providing a spectacular prospect of the southern cliffs of the Castle Rock"*.

There are a number of listed structures contained within the Grassmarket and it is bounded by a number of A and B listed buildings. In recent years there have been improvements to the streetscape; this has enhanced the character and appearance of the area and created a pedestrian friendly, multi-functional space. The listed structures, buildings and public realm all contribute to the Grassmarket's high quality built environment and its significance within the Old Town Conservation Area and World Heritage Site.

Policy Env 6 of the Edinburgh City Local Plan sets out criteria for which development within a conservation area or affecting its setting must meet and policy Env 3 focuses on the setting of listed buildings. Given the temporary nature of this proposal and the individual Christmas attractions spread over the large open space, there will not be any impact on the special character and appearance of the conservation area or the setting of the listed buildings.

In relation to policy Env 1 of the Local Plan "World Heritage Site", this proposal will have no impact on the qualities which justify the inscription of the Old and New Towns of Edinburgh as a World Heritage Site.

Therefore in principle, this proposal is acceptable and complies with policies Env 6, Env 3 and Env 1. It will not harm the character or appearance of the conservation area, the setting of any adjacent listed buildings or have an impact on the World Heritage Site.

#### b) Impact on Residential Amenity

The application site is located on the public concourse of the Grassmarket which is used for various events throughout the year such as weekend markets, a jazz festival and street performance.

The Grassmarket is designated as "Central Area" within the Local Plan, where a mix of uses to enhance vitality are supported. It is recognised that the Grassmarket does have a concentration and diversity of uses which must co-exist, however it would not be reasonable for Planning to attach conditions with regards to operating hours given the nature of the area; this will be more appropriately dealt with through Licensing.

Environmental Assessment was consulted and raised no objections. Any environmental issues will be dealt with during the licensing process.

The potential for the loss of privacy is minimal. The fairground attractions do not at any point cross the site boundary outlined in the location plan and when in motion; thus meaning the distance of the attractions in relation to properties and this movement will greatly reduce any potential for the loss of privacy.

#### c) Impact on traffic or Road Safety

Transport Planning was consulted and raised no objections.

If the applicant wishes to suspend parking in the area during the period of proposed operation then the appropriate permits from the Local Roads Team (City Centre) must be sought.

As this is a City Centre location which hold various entertainment events throughout the year, an unusually high volume of traffic is not expected.

#### d) Human Rights and Equalities

An Equality and Rights Impact Assessment has been carried out in relation to this proposal. The infringement of human rights objection raised has been assessed in section 6.1 of this assessment.

#### e) Public Comments

This application was advertised on 16 October 2015 and received a total on 43 letters of representation. One was a general comment, 42 were objections. One objection was from the Old Town Community Council.

#### Material Considerations

- Impact on residential amenity - has been addressed in section 3.3(a) of the assessment.
- Impact on parking - has been addressed in section 3.3(c) of the assessment.
- Adverse Impact on conservation area and World Heritage Site - has been addressed in section 3.3(a) of the assessment.
- Loss of privacy - has been addressed in section 3.3(b) of the assessment.
- Inappropriate use within a residential area - has been addressed in section 3.3(b) of the assessment.
- Infringement of human rights - has been addressed in section 6.1 of the assessment.

#### Non-Material Considerations

- Public safety.
- Operational hours.
- Anti-social behaviour.
- Over-provision of activities throughout the year.
- Litter.
- Alternative locations.
- Increase in people in the area.

The non-material considerations raised cannot be controlled through planning legislation and are more appropriately dealt with by other legislation.

#### **Community Council Material Considerations**

The Old Town Community Council did not request to be a statutory consultee but it objected on the following grounds:

- Proposed use is not compatible with the area - has been addressed in section 3.3(b) of the assessment.
- Impact on parking - has been addressed in section 3.3(c) of the assessment.

- Impact on residential amenity - has been addressed in section 3.3(b) of the assessment.

## **Conclusion**

In conclusion, the proposals comply with the Edinburgh City Local Plan. Due to the temporary nature of this development, it will not harm the character or appearance of the conservation area, the setting of any adjacent listed buildings or have an impact on the World Heritage Site.

The location is designated as 'Central Area'; therefore a mix of uses is supported. Issues raised in relation to impact on residential amenity will be more appropriately dealt with by other legislation.

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

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

1. Permission is granted for a limited period between 12 November 2015 and 4 January 2016.
2. All temporary structures hereby approved shall be removed from the site within 48 hours of the date of expiry of the limited period of consent; and the gardens, kerbs and footways shall be returned to their condition prior to the occupation of the event, within one month of the last day of the limited period of consent.
3. All trees existing on site at the date of this shall be retained and no trees shall have roots cut or be lopped, topped, felled, uprooted or removed, unless otherwise agreed in writing with the Planning Authority.
4. Before any works start on site, the operator shall implement protective measures necessary to safeguard the trees on the site during operations. The operator shall notify the Planning Authority in writing on the completion of such measures and no work on site shall commence until the Planning Authority has confirmed in writing that the measures as implemented are acceptable. The protective measures shall be retained in a sound and upright condition throughout the operations and no materials or machinery shall be stored in or adjacent to the protected area, including the operation of machinery.

## **Reasons:-**

1. Due to the temporary nature of the proposed development.
2. To maintain the quality of the landscape in the area.
3. In the interests of visual amenity; to ensure that all trees to be retained are satisfactorily protected before and during construction works.
4. In order to ensure that no damage is caused to the existing trees during site operations.

## **Informatives**

It should be noted that:

1. No fixed attractions to be supported within the Adopted footway, the attractions would have to be removable.
2. The Council has no objection in principle to non-permanent attractions.
3. The applicant must ensure that they have the appropriate permits from the Local Area Roads Team (City Centre).
4. The detail and the location of the attractions should be agreed with the Local Area Roads team prior to installation.

## **Financial impact**

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

There are no financial implications to the Council.

## **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:**

A representation has been made by one objector stating that there will be an infringement of their human rights affecting their standard of living as the economic benefits to business are more important than residential amenity.

The site is designated "Central Area" within Edinburgh City Local Plan, thus supporting a vital mix of uses.

An individual's temporary inconvenience should not outweigh the wider public interest of this development and the economic benefits it brings to the City. Refusal of the application is not proportionate to this and therefore the application is justified for approval.

## **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**

There is no pre-application process history.

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

This application was advertised on 16 October 2015 and received a total on 43 letters of representation. One was a general comment, 42 were objections. One objection was from the Old Town Community Council.

#### Material Considerations

- Impact on residential amenity;
- Impact on parking;
- Adverse Impact on conservation area and World Heritage Site;
- Loss of privacy;
- Inappropriate use within a residential area; and
- Infringement of human rights.

#### Non-Material Considerations

- Public safety;
- Operational hours;
- Anti-social behaviour;
- Over-provision of activities throughout the year;
- Litter;
- Alternative locations; and
- Increase in people in the area.

### **Community Council Material Considerations**

The Old Town Community Council did not request to be a statutory consultee but it objected on the following grounds:

- Proposed use is not compatible with the area;
- Impact on parking; and
- Impact on residential amenity.

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

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



- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development  
Plan Provision**

Edinburgh Local Plan - Central Area

This site also lies within the Old Town Conservation Area and the World Heritage Site

**Date registered**

7 October 2015

**Drawing numbers/Scheme**

01(a),

Scheme 2

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**Links - Policies**

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**Relevant Policies:**

**Relevant policies of the Edinburgh City Local Plan.**

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 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 Os 1 (Open Space Protection) sets criteria for assessing the loss of open space.

Policy Ca 1 (Central Area) sets criteria for assessing development in the Central Area.

### **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS'** provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

**Non-statutory guidelines 'GUIDANCE FOR BUSINESSES'** provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

### **Other Relevant policy guidance**

**The Old Town Conservation Area Character Appraisal** emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

# Appendix 1

## **Application for Planning Permission 15/04649/FUL At Street Record, Grassmarket, Edinburgh Erection of Christmas attractions on the public concourse, Grassmarket, Edinburgh.**

### **Consultations**

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#### **Environmental Assessment**

The application proposes various Christmas attractions on the public concourse of Grassmarket including food/drink stalls, games stalls and amusement attractions. The various environmental issues which fall within the remit of this Department can be satisfactorily dealt with during the licensing process. Environmental Assessment has no objections to this proposal.

#### **Transport**

I have no objections to the application subject to the following being included as conditions or informatives as appropriate:

1. No fixed attractions to be supported within the Adopted footway, the attractions would have to be removable;
2. The Council has no objection in principle to non-permanent attractions;
3. The applicant must ensure that they have the appropriate permits from the Local Area Roads Team (City Centre)
4. The detail, and the location of the attractions should be agreed with the Local Area Roads team prior to installation.

#### **Old Town Community Council Material Considerations**

- Proposed use is not compatible with the area
- Impact on parking
- Impact on residential amenity

# Location Plan

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