

# Development Management Sub Committee

Wednesday 6 February 2019

**Application for Planning Permission 18/02748/FUL  
At Roof Terrace, Waverley Mall, 3 Waverley Bridge  
Reconfiguration of roof-top structures and construction of  
new commercial accommodation (Class 1, 2 and 3), internal  
cinema use (Class 11) and creation of external multi-use  
space to include external seating area, performance space,  
open air cinema, festival/seasonal event space, pop-ups,  
farmers market and musical entertainment (Classes 1, 2, 3  
and 11).**

|                      |                   |
|----------------------|-------------------|
| <b>Item number</b>   | 7.1               |
| <b>Report number</b> |                   |
| <b>Wards</b>         | B11 - City Centre |

## Summary

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The proposal is an appropriate city centre development of a high quality design which will contribute to the role of the city centre as a strategic business and regional shopping centre and which will support the city centre retail core. The proposal will preserve the character and appearance of the New Town Conservation Area, the Outstanding Universal Value of the Old and New Towns of Edinburgh World Heritage site; and will not have a detrimental impact on the setting of nearby listed buildings. The proposal does not raise any issues in respect of road safety, loss of open space or the quality of the proposed public realm and will not have a detrimental impact on the living conditions of nearby residents. The proposal complies with the adopted Edinburgh Local Development Plan and the Edinburgh Design Guidance.

## Links

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[Policies and guidance for this application](#)

LDPP, LDEL01, LDEL02, LRET07, LEN01, LEN03, LEN06, LEN18, LDES01, LDES04, LDES08, LRET02, NSG, NSGD02, CRPNEW, LHOU07,

# Report

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## 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 is the roof and two lower floors of the Princes Mall Shopping Centre. The roof of the centre consists of public space and terraced area which incorporates a stand-alone building adjacent to its northern boundary which is currently occupied by Costa Coffee and a separate building adjacent to the southern boundary which serves as a tourist information centre. The roof has a total area of 790 square metres, with the sections not occupied by buildings consisting of a mixture of open plaza and walkways interspersed with grassy areas and glazed roofing. The plaza and walkways are finished in silver grey granite paving.

The site lies adjacent to the southern side of Princes Street and the eastern side of Waverley Bridge. The roof sits slightly lower than Princes Street and the shopping mall is only directly accessible via steps or ramp down from the pavement on Princes Street. The main access to the lower floors of the shopping centre is taken from Waverley Bridge. A separate access to the lower floors is available from Waverley Steps.

The surrounding area is predominantly commercial in nature and is characterised by historic commercial buildings interspersed with contemporary style commercial buildings. This includes several important listed buildings including the Royal British Hotel (category B, listing reference: LB29502, listing date: 20/02/1985), the former Forsyth's Department Store (category A, listing reference: LB29503, listing date: 14/09/1966) and the Balmoral Hotel (category B, listing reference: LB30315, listing date: 14/06/1994). The Balmoral Hotel is located directly to the east of the site. Princes Street Gardens and the Scott Monument are located directly to the west.

The site is located in the Old and New Towns of Edinburgh World Heritage Site.

The site lies within the New Town Conservation Area. The southern edge of the site directly abuts the boundary of the Old Town Conservation Area.

## **2.2 Site History**

The site has an extensive planning history relating to its use as a commercial building and the numerous temporary activities and structures which have taken place on the rooftop. The following application is relevant to the proposal:

27 Feb 2004 - Planning permission refused for extensions and alterations to Princes Mall at plaza level (Class 1 and/or Class 3 use), as amended (application reference: 02/02689/FUL).

## **Main report**

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

The proposal seeks planning permission for the construction of a new single storey U shaped commercial building on the roof of Princes Mall. The building will provide floor space for several commercial premises which will operate either as retail units (class 1), financial, professional or other services (class 2) or cafes/restaurants (class 3). The building will be set around a new plaza area consisting of square granite setts separated by granite slabs which will be set down from Princes Street and accessed by pre cast concrete steps. A new entrance to the lower level mall will be located within a new glazed entrance pavilion in the north western corner of the building. The units will incorporate their exhaust and ventilation systems within the building with any odours being exhausted through a series of ventilation grilles in the south east corner of the building.

The external elevations of the new U shaped building will consist primarily of a bronze copper alloy cladding which will also be utilised for the door and window frames. Security gates will be incorporated into the frontages of each of the commercial units within the building, and also along the northern boundary of the site with Princes Street. The development will be aligned so as to allow the southern pavement on Princes Street to be widened by 3.3 metres.

The existing commercial building close to the northern boundary of the site which is currently occupied by Costa Coffee will be realigned and redesigned in order to match the appearance of the main commercial building with its roof incorporating a roof terrace.

The roof of the building will be formed of a large scale mosaic of coloured glazed ceramic tiles separated by marble granite. The roof will also include a walkway which will extend along its southern elevation between Waverley Bridge and Waverley Steps.

The southern elevation of the upper mall level will be altered by the insertion of glazing and sections of the bronze copper alloy cladding used for the main building.

The proposal also seeks permission for the use of the plaza as a multi-use external space which can accommodate performance space, farmers markets, pop ups, musical entertainment and an open air cinema. Consent is also sought to change the use of the largest retail units within the lower level of the mall from a retail unit (class 1) to either financial professional or other services (class 2), a cafe or restaurant (class 3) or an internal cinema (class 11).

### Supporting Documents

The applicant has submitted the following supporting documents which are available to view via planning and building standards online services:

- Transport Statement;
- Design and Access Statement;
- Noise Impact Assessment; and
- Visualisations.

### **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 design of the proposal is acceptable and will contribute towards a sense of place;
- c) the proposal will preserve the character and appearance of the Old and New Town Conservation Area and the outstanding universal value of the Old and New Towns of Edinburgh World Heritage Site;
- d) the proposal will have a detrimental impact on the setting of any listed buildings;
- e) the proposal is acceptable in respect of the potential loss of open space;

- f) the proposal raises any issues in respect of transport and road safety;
- g) the proposal will have a detrimental impact on the amenity of nearby residents;
- h) the proposal raises any issues in respect of infrastructure contributions,
- i) any issues raised by objectors have been assessed, and
- j) any other material considerations have been addressed.

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. In addition, policy Ret 2 states that retail development within the city centre retail core will be granted having regard to whether the proposal will provide high quality, commercially attractive units to a high standard of design that will strengthen the role of Edinburgh as a regional shopping centre, safeguard historic character and improve the appearance of the city centre.

The proposal involves the development of high quality commercial and retail space in a prominent city centre location, contributing to the role of the city as a strategic business and regional shopping centre. The design of the individual units is considered to be of a suitable high standard which reflects the important location of the site.

The proposal includes provision for the introduction of an internal cinema use within the existing Waverley Mall. Policy Ret 7 supports the principle of entertainment and leisure developments within the city centre area and this use is therefore acceptable.

The proposal complies with policies Del 2, Ret 2 and Ret 7 and is acceptable in principle.

b) Design of the Proposal

Policy Des 1 states that planning permission will be granted for development where it is demonstrated that the proposal will create or contribute towards a sense of place.

The proposal has a strong design concept which employs high quality materials and utilises the whole of the site to create a sense of place. The use of a bronze copper alloy cladding as the predominant material for the external elevations will ensure that the building will have a muted external appearance and is able to suitably blend into the surrounding streetscape in an appropriate manner, whilst still maintaining its distinctive contemporary design.

The development will provide a more positive connection with Princes Street and Waverley Bridge. The awkward stepped corner will be removed with a more legible entrance at this important corner. The corner is simplified to a modern bronze and glazed design which provides interaction with the street rather than turning its back on the area. The existing southern boundary wall is altered to include openings which provide a relationship between the building and the Old Town to the south.

The public plaza area forms an important aspect of the scheme which has been integrated into the design of the proposal as a whole. The use of granite setts for the main plaza paving squares separated by granite slabs is appropriate and will ensure a high quality co-ordinated appearance which serves to complement the appearance of the proposal and the wider streetscape of Princes Street.

The rooftop has been designed to replicate the original formality of Waverley Market. The formal designed garden is echoed in the mosaic modern interpretation.

The proposal encompasses a high quality design concept and will contribute towards a sense of place. The proposal complies with policy Des 1.

#### c) Character and Appearance of the New Town Conservation Area and Outstanding Universal Value of the World Heritage Site

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. Policy Env 1 states that development which would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh as a World Heritage Site would have a detrimental impact on a Site's setting will not be permitted. Policy Des 4 states that planning permission will be granted for development where it is demonstrated that it will have a positive impact on its surroundings. Policy Des 8 states that planning permission will be granted for development where all external spaces, and features have been designed as an integral part of the scheme as a whole.

The New Town Conservation Area Character Appraisal places a particular emphasis on the numerous viewpoints throughout the New Town into the surrounding city 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.*

There is one relevant Outstanding Universal Value (OUV) of the Old and New Towns of the Edinburgh World Heritage Site that corresponds to this application. The first paragraph of the Statement of Outstanding Universal Value in the World Heritage Site Management Plan states that:

*"the juxtaposition of these two distinctive townscapes distinctive townscapes (the Old and New Towns), each of exceptional historic and architectural interest, which are linked across the landscape divide, the great arena of Sir Walter Scott's Waverley Valley, by the urban viaduct, North Bridge, and by the Mound, creates the outstanding urban landscape."*

The new building will alter the existing views to the south across the Waverley Valley and towards the Old Town. Edinburgh World Heritage have outlined within their consultation response that the proposal will serve to raise the base of the view across the Old Town, and it is acknowledged that views of several buildings situated along Market Street from the section of Princes Street adjacent to the site will be partially affected by the proposed building.

The views along Princes Street to the west alter as an individual moves along the street edge. The mass of the building has been positioned adjacent to the southern edge of the site. This allows the juxtaposition of the distinctive characteristics of the Old and New Towns to be appreciated and valued. The views across the Waverley Valley are maintained and the layer of the Old Town can be fully appreciated from the New Town.

The position of the building has been altered during the pre-application process and has taken into account considerations and recommendations which have been made by the Edinburgh Urban Design Panel regarding potential developments on the site. The position of the building allows a positive relationship between the main building on the site and Princes Street. A key feature of the proposals is the pulling back of the building edge from Princes Street and the widening of the pavement. Not only does this provide a more positive pedestrian environment at the top of the existing Waverley Steps, and westwards past the bus stop locations, it also provides a strong visual connection westwards along Princes Street to the Scott Monument. This alteration to the building line provides a positive impact on the appearance of the conservation area.

Whilst it is acknowledged that the proposal will affect the existing views of the Old Town, the overall effect on both the character of the conservation area and the OUV is balanced by the improvements which the proposal will bring to the appearance of the existing Princes Mall rooftop and the opening up of views westward towards the Scott Monument. The current rooftop layout has a disjointed appearance due to its varying levels, separate commercial units which lack any sense of coherency and the presence of the stand-alone tail fin structures. The proposal has a strong design concept which employs high quality materials and which utilises the whole of the rooftop in a constructive manner. The proposal will serve to bring a sense of uniformity to the appearance of the rooftop which it is currently lacking, improving the overall character of the streetscape.

The proposal will preserve the character and appearance of the Conservation Area and will not have a detrimental impact on the outstanding universal value of the Old and New Towns of Edinburgh World Heritage Site. The proposal complies with policies Env 1, Env 6 and Des 4.

#### d) Impact on the Setting of Listed Buildings

Policy Env 3 states that development affecting the setting of a listed building will be permitted only if not detrimental to the architectural character, appearance or historic interest of the building, or to its setting.

The site contributes to the setting of a number of listed buildings and structures. These include the Royal British Hotel (category B, listing reference: LB29502, listing date: 20/02/1985), the former Forsyth's Department Store (category A, listing reference: LB29503, listing date: 14/09/1966) and the Balmoral Hotel (category B, listing reference: LB30315, listing date: 14/06/1994). The Balmoral Hotel is the building which will be most directly affected by the development as it lies directly to the east of the site.

Views of the hotel from the west of the site on Princes Street and Waverley Bridge will be marginally affected. The ground floor level of the western elevation of the hotel will be partially obscured from view due to the position of the development. However, the degree of obscuration is considered acceptable and the views of the upper floors of the building will not be impacted. In addition, the view of the lower floors of the hotel from Waverley Bridge is already partially obscured owing to the variance in topography within the surrounding area. The development will also incorporate a suitable degree of separation from the hotel, being set back 7 metres from Waverley Steps and 15 metres from the hotel itself, ensuring that it does not encroach upon the building to an unacceptable degree.

The main body of the building is set back from Princes Street by a sufficient degree to ensure that it does not affect the setting of the former Forsyth's Department Store and the Royal British Hotel.

The proposal will not have a detrimental impact on the setting of any nearby listed building and complies with policy Env 3.

#### e) 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 existing roofspace areas which are publically accessible are designated as open space within the LDP.

The proposal includes provision for a section of public realm open space within the centre of the site which will remain accessible to members of the public during daytime hours. The presence of security gates along the northern boundary of the site will enable the plaza to be secured during night time hours, reducing the possibility of anti-social behaviour taking place on the site to the benefit of the city as a whole. The roofspace element of Princes Mall will therefore retain its existing function and the overall impact on the provision of public space within the site will therefore be negligible. There will be no significant impact on the quality or character of the local environment.

The proposal complies with LDP policy Env 18.

#### f) Transport and Road Safety

The Roads Authority was consulted on the proposal and raised no objection.

The Princes Street pavement adjacent to the northern side of the site will be increased in width by around 3.3 metres. This is a positive alteration to the streetscape and will aid in the movement of pedestrians to and from the site, and also with the flow of individuals emerging from the top of Waverley Steps. The proposal does not raise any issues in respect of road safety or transport.

#### g) Impact on the Amenity of Nearby 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 proposals seeks to utilise the plaza area for a variety of entertainment and commercial uses including farmers markets, festival/seasonal event space, an open air cinema and musical entertainment.

The roof of Princes Mall has an extensive history of being utilised for various entertainment uses during the festival and Christmas periods. It is therefore considered appropriate to allow the plaza to be used for such activities during the festival and Christmas periods in the future. The grant of consent for the use of the plaza for entertainment, retail and food and drink uses does not remove the requirement for the applicant to ascertain separate grants of consent for the construction of any temporary physical structures on the land which do not benefit from permitted development rights.

The applicant has undertaken a noise impact assessment outlining the expected noise levels which may result from the entertainment uses which are proposed for the plaza. Environmental Protection requested that a condition is attached to any consent requiring noise levels not to exceed certain limits which are specified within the assessment. However, the specific technical requirements of this condition are of such a nature that they would be very difficult to enforce through the planning system.

The undertaking of events such as farmers markets or an open air cinema requires an application to the Council's licensing section in order to ascertain public entertainment or market operator's licence. Such licences are able to impose their own separate restrictions on noise levels which can emanate from events taking place within the plaza. It is therefore considered more practical and appropriate for noise levels from commercial activity taking place on the plaza roof to be controlled separately through licensing legislation. This allows sufficient controls which is tailored to specific events and activities.

Planning policy does not protect the amenity of hotel users and construction working on the site is not controlled through the planning system. Having regards to concerns which have been raised by the Balmoral Hotel, an informative will be included to advise the developer to liaise directly with the adjacent hotels regarding the arrangements for such matters to ensure concerns raised can be addressed.

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

#### h) Infrastructure Contributions

Policy Del 1 states that proposals will be required to contribute to the existing and proposed tram network.

The Roads Authority have advised that the applicant will be required to contribute the net sum of £201,901 to the Edinburgh Tram in line with the approved Tram Line Developers Contributions report. This amount will be secured by a legal agreement prior to be concluded prior to the issuing of a formal consent.

The proposal complies with policy Del 1.

#### i) Issues raised by objectors

##### **Material Representations - Objections**

- Principle of the proposal is not acceptable - addressed in section 3.3 (a).
- Proposal does not support the city centre retail core - addressed in section 3.3 (a).
- Proposal will have an adverse impact on the outstanding universal value of the 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 (c).
- Proposal will have an adverse impact on the setting of listed buildings - addressed in section 3.3 (d).
- Proposal does not result in the creation of suitable standard of public realm - addressed in section 3.3 (c).
- Proposal breaches the requirement set down in the act of parliament which limits development on the southern side of Princes Street - addressed in section 3.3 (j).

##### **Non-Material Objections**

- Noise and disturbance during construction work - The planning authority cannot control the hours under which construction operations take place on a site or noise from construction. These matters are subject to separate legislation under the remit of Environmental Protection.

## j) Other Material Considerations

Any development which takes place on the roof of Waverley Mall has been historically required to remain below certain height levels which have been set out in various acts of parliament, most recently the City of Edinburgh District Council Order Confirmation Act 1991. Section 35 of the 1991 act specifies that no buildings shall be constructed on the roof of the mall beyond a height of 4.55 metres above the south footpavement of Princes Street. This represents an overall acceptable height of 71.522 metres above ordinance datum (OAD).

The building will measure 3.3 metres above the current floor level of the roof of the mall at its highest point, representing an overall height of 69.625 metres OAD. The railing attached to the edge of the walkway situated along the southern boundary of the new building's roof will have an overall height of 70.925 metres OAD. The proposed development on the site is therefore below the levels outlined in the act of parliament. The grant of planning permission does not absolve the applicant from complying with the requirements of the 1991 Act.

### Conclusion

In conclusion, the proposal is an appropriate city centre development of a high quality design which will contribute to the role of the city centre as a strategic business and regional shopping centre and which will support the city centre retail core. The proposal will preserve the character and appearance of the New Town Conservation Area, the Outstanding Universal Value of the World Heritage site; and will not have a detrimental impact on the setting of nearby listed buildings. The proposal does not raise any issues in respect of road safety, loss of open space or the quality of the proposed public realm and will not have a detrimental impact on the living conditions of nearby residents. The proposal complies with policies Del 1, Del 2, Ret 2, Des 4, Des 1, Des 8, Env 6, Env 1, Env 3, Env 18 and Hou 7 of the adopted Edinburgh Local Development Plan 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. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Planning Authority before work is commenced on site; Note: samples of the materials may be required.
2. Prior to the commencement of development, full details of the proposed design of the security gates to be sited along the northern boundary of the site and within the frontages of the individual commercial units will be submitted to and approved in writing by the planning authority.
3. Prior to the commencement of development, full details of the design of the proposed railings which are to be located on the raised walkway adjacent to the southern elevation of the site shall be submitted to and approved in writing by the planning authority.

4. Prior to the commencement of development, full details of the proposed design and materials to be used for the mosaic tiles on the roof shall be submitted to and approved in writing by the planning authority. Note: samples of the proposed tiles will be required including details on the reflective properties and a sample panel on site.
5. The use of the external multi-use space as detailed in the description of development shall be limited to the area as shown of drawing PL20. No use of this space shall commence until a management plan is submitted to and approved by the Planning Authority for the use of this area which details the months that the space shall be used. Any physical structures proposed may require the benefit of additional planning permission.

#### **Reasons:-**

1. In order to enable the planning authority to consider this/these matter/s in detail.
2. In order to enable the planning authority to consider this/these matter/s in detail.
3. In order to enable the planning authority to consider this/these matter/s in detail.
4. In order to enable the planning authority to consider this/these matter/s in detail.
5. In the interest of the proper planning of the area.

#### **Informatives**

It should be noted that:

1. Consent shall not be issued until a suitable legal agreement has been concluded in relation to tram contributions totalling £201,901.

The legal agreement should be concluded within 6 months of the date of this notice. If not concluded within that 6 month period, a report will be put to committee with a likely recommendation that the application be refused.

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.
4. The applicant proposes to widen the existing footway along Princes Street by 3.3m wide to improve active travel conditions along the corridor.

5. 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.
6. 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.
7. Net GFA of the existing and proposed use = 1,531m<sup>2</sup>. Tram contribution is based on 50% net GFA for class 1 use and 50% for class 3 use. Proposed 765.5 m<sup>2</sup> class 1 use based in Zone 1 = £69,943; proposed 765.5 m<sup>2</sup> class 3 based in Zone 1 = £131,958; tram contribution for 1, 531 m<sup>2</sup> GFA(50% class 1 and 50% class 3) = £201,901.
8. The proposed site is on or adjacent to the operational Edinburgh Tram. An advisory note should be added to the decision notice, if permission is granted, noting that it would be desirable for the applicant to consult with the tram team regarding construction timing. This is due to the potential access implications of construction / delivery vehicles and likely traffic implications as a result of diversions in the area which could impact delivery to, and works at, the site. Tram power lines are over 5m above the tracks and do not pose a danger to pedestrians and motorists at ground level or to those living and working in the vicinity of the tramway. However, the applicant should be informed that there are potential dangers and, prior to commencing work near the tramway, a safe method of working must be agreed with the Council and authorisation to work obtained. Authorisation is needed for any of the following works either on or near the tramway:
  - o Any work where part of the site such as tools, materials, machines, suspended loads or where people could enter the Edinburgh Tram Hazard Zone. For example, window cleaning or other work involving the use of ladders;
  - o Any work which could force pedestrians or road traffic to be diverted into the Edinburgh Trams Hazard Zone;
  - o Piling, using a crane, excavating more than 2m or erecting and dismantling scaffolding within 4m of the Edinburgh Trams Hazard Zone;
  - o Any excavation within 3m of any pole supporting overhead lines;
  - o Any work on sites near the tramway where vehicles fitted with cranes, tippers or skip loaders could come within the Edinburgh Trams Hazard Zone when the equipment is in use;
  - o The Council has issued guidance to residents and businesses along the tram route and to other key organisations who may require access along the line.

See our full guidance on how to get permission to work near a tram way  
<http://edinburghtrams.com/community/working-around-trams>
9. The applicant is advised to liaise directly with the Balmoral Hotel, Motel One and the Royal British Hotel to ensure they are suitably advised as to the arrangements for construction works on the site.

## **Financial impact**

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

The application is subject to a legal agreement for developer contributions.

## **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:**

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

## **Sustainability impact**

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### **7.1 The sustainability impact has been assessed as follows:**

This application meets 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. Design proposals were reported to the Edinburgh Urban Design Panel during the early stages of the application process. A summary of the initial recommendations of the panel is contained within their report dated 27 September 2017 which is included within the appendix to this report.

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

Neighbouring Residents were notified of the proposal on 18 June 2018. A site notice and notice in the Edinburgh Evening News advertising the proposal were published on 22 June 2018. Eight letters of objection were received regarding the proposal. A full summary of all the matters raised in representations are summarised in section 3.3 (i) of the main report.

## **Background reading/external references**

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- 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 in the UNESCO World Heritage Site in the adopted Edinburgh Local Development Plan.

**Date registered**

18 June 2018

**Drawing numbers/Scheme**

01 - 26,

**David R. Leslie**

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: James Allanson, Planning Officer

E-mail:james.allanson@edinburgh.gov.uk Tel:0131 529 3946

**Links - Policies**

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**Relevant Policies:****Relevant policies of the Local Development Plan.**

LDP Policy Del 1 (Developer Contributions and Infrastructure Delivery) identifies the circumstances in which developer contributions will be required.

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

LDP Policy Ret 7 (Entertainment and Leisure Developments - Preferred Locations) identifies the City Centre, at Leith and Granton Waterfront and town centres as the preferred locations for entertainment and leisure developments.

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

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

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

LDP Policy Des 8 (Public Realm and Landscape Design) sets criteria for assessing public realm and landscape design.

LDP Policy Ret 2 (City Centre Retail Core) sets criteria for assessing retail development in or on the edge of the City Centre Retail Core.

### **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, parking, streets 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.

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.

# Appendix 1

**Application for Planning Permission 18/02748/FUL  
At Roof Terrace, Waverley Mall, 3 Waverley Bridge  
Reconfiguration of roof-top structures and construction of  
new commercial accommodation (Class 1, 2 and 3), internal  
cinema use (Class 11) and creation of external multi-use  
space to include external seating area, performance space,  
open air cinema, festival/seasonal event space, pop-ups,  
farmers market and musical entertainment (Classes 1, 2, 3  
and 11).**

## **Consultations**

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### **Archaeology**

*Further to your consultation request I would like to make the following comments and recommendations concerning this application for the reconfiguration of roof-top structures and construction of new commercial accommodation (Class 1, 2 and 3), internal cinema use (Class 11) and creation of external multi-use space to include external seating area, performance space, open air cinema, festival/seasonal event space, pop-ups, farmers market and musical entertainment (Classes 1, 2, 3 and 11).*

*The current Waverley Mall is built on the site of the Victorian Vegetable Market. Internal ground works associated with this development, given the recent development history of the site, are not expected to have a significant archaeological impact as the construction of the current structure has likely removed any significant earlier deposits and 19th century fabric. Accordingly I have concluded that there are no archaeological implications in regards to this application.*

### **Historic Environment Scotland**

*This application proposes the reconfiguration of the roof of Waverley Mall. In March we provided advice to your Council for this emerging scheme and have included a copy as an Annex to this letter. Our comments focused on the likely impacts of such a development on the Outstanding Universal Value (OUV) of the Old and New Towns of Edinburgh World Heritage Site.*

*We maintain the view that development here will have both positive impacts, including the removal of the tall fins and increasing the pavement width along Princes Street, and negative impacts by increasing the overall height and therefore restricting certain views across the Waverley Valley to the Old Town. Such views are a major component of the OUV of the World Heritage Site.*

*The external design has been refined since the initial proposals and since our pre-application involvement. We see how the articulation of the south elevation, overlooking Waverley Station, has been improved. It appears to us to still have a horizontal emphasis which could potentially be improved upon, such as by introducing vertical elements in different materials. We welcome the use of a metal balustrade.*

*The Design & Access Statement outlines the vision for the central open courtyard, which we agree will be an improvement on the current situation, and identifies very broadly a range of activities which could be suited to the space. Due to the plans and supporting information presented with the application we are satisfied that what is being illustrated will not, overall, have a significant impact on the OUV of the World Heritage Site, or any nearby Category A listed buildings.*

*However, we would recommend that your Council explore with the applicant in more detail what future activities and events are envisaged - a number of classes of use are specifically mentioned in the description of works - and whether they will require built features or temporary structures. We assume future events, especially those requiring more substantial structures, even if temporary, will require separate planning permission.*

*The increase in height of the proposals will, to an extent, curtail certain views from Princes Street to the Old Town. This will have, on balance, a negative effect on the OUV of the World Heritage site. However, we consider that this increase in height is, at least partly, justified by the improved management, use and planning of the open space, which is currently an uncoordinated mix of temporary works and awkward planning. Therefore, if this development proceeds we will be far less inclined to support any future temporary uses, with more substantive structures, due to the cumulative impact on OUV. We would suggest that this element is carefully conditioned should your Council support the application.*

*Planning authorities are expected to treat our comments as a material consideration, and this advice should be taken into account in your decision making. Our view is that the proposals do not raise historic environment issues of national significance and therefore we do not object. However, our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.*

### **Edinburgh World Heritage**

*Thank you for consulting EWH on this planning application. We have considered the proposals in relation to the outstanding universal value of the Old and New Towns of Edinburgh with particular reference to the juxtaposition of the Old and New Towns across the Waverley Valley, and the topography of the historic city centre.*

*We acknowledge that the proposals have a number of benefits in terms of tidying up the overall space and access to the area, including widening the pavement along Princes Street from the Balmoral across the Scott Monument, and is a result of the increased height (acknowledging that this is within the heights allowed by the act).*

*In these close views, the proposal serves to raise the base of the view across the Old Town, where the layering of different architectural styles from different eras across the precipitous topography creates a very special vista. In oblique views from the east, it also serves, in a relatively small way, to reduce the ability to perceive the impact of the Waverley Valley Gardens as a break in the urban fabric.*

*Our view is that there will be a minor negative impact on the outstanding universal value of the World Heritage Site. It is for the planning committee to balance this against the perceived benefits for the city. Please do not hesitate to contact me should you have any questions or queries relating to these comments*

### **Environmental Protection**

*The proposal is for new commercial and cinema use, as well as an outdoor multi-use space which would include musical entertainment and performances and an outdoor cinema.*

*Historically, this service has been in receipt of complaints from residents in the High Street, passers-by and neighbouring businesses about amplified music and vocals from the outdoor part of this premises.*

*A Noise Impact Assessment, carried out by Hoare Lea on behalf of the applicants has been submitted. This demonstrates the noise levels from amplified music and the open cinema would breach the expected standards within the nearby noise-sensitive receptors. The Noise Impact Assessment recommends mitigations measures to control noise levels from the above activities.*

*Therefore, Environmental Protection cannot support this application unless the following condition is attached:*

*The recommendations outlined in Chapter 6 of the Hoare Lea Noise Impact Assessment of 16 October 2018, shall be adhered to at all times, namely:*

*"6. Noise management plan.*

*To protect against noise levels exceeding the specified internal limits, it is advised that noise levels at the front of house do not exceed the limits specified in Table 7. These limits will mean that noise levels from the respective events will not be as loud as amplified music events that have taken place in the past. To ensure that these limits are not continuously exceeded, it is advised that a noise monitor with internet connectivity be installed at the front of house for each source. Should the measured values exceed the specified limits at any frequency, alerts would be sent to the relevant personnel to review and assess if any actions are required to protect against adverse impacts associated with noise.*

*Although the noise limits provided in Table 7 are LAeq, 15-minutes values, it is recommended that LAeq, 1-minute values be measured to provide reactive monitoring that can provide alerts if the 15-minute limit has the potential to be exceeded. The front of house location in the assessment has been considered to be 6m from the stage for the amplified music, and 4m from the screen for the cinema.*

Frequency Noise limit (dB, LAeq,15- minutes) at front of house at respective octave band frequency (Hz)

| 63              | 125 | 250 | 500 | 1K | 2K | 4K | Hz |    |    |
|-----------------|-----|-----|-----|----|----|----|----|----|----|
| Amplified music |     | 100 | 89  | 85 | 87 | 85 | 85 | 85 | dB |
| Open-air cinema |     | 79  | 77  | 77 | 72 | 68 | 67 | 62 | dB |

Table 7 - Noise limits for monitoring at front of house.

As part of this noise management plan, it is also advised that no activities from the proposed development take place outside of the hours of 07:00-23:00, without prior permission from the Local Authority."

### **Police Scotland**

I write on behalf of Police Scotland regarding the above planning application.

We would welcome the opportunity for one of our Police Architectural Liaison Officers to meet with the architect to discuss Secured by Design principles and crime prevention through environmental design in relation to this development.

### **Roads Authority**

Response dated July 31 2018

The application should be continued.

Reasons:

1. The applicant is required to provide total GFA for each of the proposed and existing uses to calculate for tram contribution of the proposed development in Zone 1.
2. The applicant proposes to widen the existing footway along Princes Street by 3.3m wide to improve active travel conditions along the corridor.
3. 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;
4. 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.

Response Dated August 21 2018

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

1. The applicant will be required to contribute the net sum of £201,901 (based on 17,155m<sup>2</sup> class 1/class 3 proposed use and existing 15,624m<sup>2</sup> class 1 use in Zone 1) to the Edinburgh Tram in line with the approved Tram Line Developer Contributions report. The sum to be indexed as appropriate and the use period to be 10 years from date of payment;
2. The applicant proposes to widen the existing footway along Princes Street by 3.3m wide to improve active travel conditions along the corridor.

3. 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;
4. 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.

Note:

a) Net GFA of the existing and proposed use = 1,531m<sup>2</sup>. Tram contribution is based on 50% net GFA for class 1 use and 50% for class 3 use. Proposed 765.5 m<sup>2</sup> class 1 use based in Zone 1 = £69,943; proposed 765.5 m<sup>2</sup> class 3 based in Zone 1 = £131,958; tram contribution for 1, 531 m<sup>2</sup> GFA(50% class 1 and 50% class 3) = £201,901

#### *TRAMS - Important Note:*

*The proposed site is on or adjacent to the operational Edinburgh Tram. An advisory note should be added to the decision notice, if permission is granted, noting that it would be desirable for the applicant to consult with the tram team regarding construction timing. This is due to the potential access implications of construction / delivery vehicles and likely traffic implications as a result of diversions in the area which could impact delivery to, and works at, the site. Tram power lines are over 5m above the tracks and do not pose a danger to pedestrians and motorists at ground level or to those living and working in the vicinity of the tramway. However, the applicant should be informed that there are potential dangers and, prior to commencing work near the tramway, a safe method of working must be agreed with the Council and authorisation to work obtained. Authorisation is needed for any of the following works either on or near the tramway:*

- o Any work where part of the site such as tools, materials, machines, suspended loads or where people could enter the Edinburgh Tram Hazard Zone. For example, window cleaning or other work involving the use of ladders;*
- o Any work which could force pedestrians or road traffic to be diverted into the Edinburgh Trams Hazard Zone;*
- o Piling, using a crane, excavating more than 2m or erecting and dismantling scaffolding within 4m of the Edinburgh Trams Hazard Zone;*
- o Any excavation within 3m of any pole supporting overhead lines;*
- o Any work on sites near the tramway where vehicles fitted with cranes, tippers or skip loaders could come within the Edinburgh Trams Hazard Zone when the equipment is in use;*

*o The Council has issued guidance to residents and businesses along the tram route and to other key organisations who may require access along the line.*

*See our full guidance on how to get permission to work near a tram way*

*<http://edinburghtrams.com/community/working-around-trams>*

## Edinburgh Urban Design Panel Meeting 27 September 2017

### 1 Recommendations

1.1 *The Panel recognised the challenges of the site. It acknowledged that there is scope and a need for improvement and change. However, it was unconvinced by the proposals and the additional storey primarily due to the impact on key views, the change in character of the south side of Princes Street, the effect on the public realm and the use/purpose of the new open space. The Panel did not support the principle of an additional storey.*

1.2 *In developing the proposals, the Panel suggests the following matters should be investigated:*

- *The re-modelling of the roof with more design ambition;*
- *Development of new entrance on the corner of Princes Street and Waverley Bridge as a stand-alone feature;*
- *Improving the open space at street level rather than on top of an additional storey;*
- *Integration of the public realm with Princes Street;*
- *Ways of re-planning, managing and using open space to prevent anti-social behaviour.*

### 2 Introduction

2.1 *The application site is located to the south side of Princes Street adjacent to Waverley Station. The site is the existing Waverley Mall and roof terrace. The site is over a number of levels and the main function is retailing. The adopted Edinburgh Local Development Plan identifies the site as being within the City Centre Retail Core.*

2.2 *The site is within the New Town Conservation Area and the Old and New Towns of Edinburgh World Heritage Site. There are a number of listed buildings within the vicinity of the site.*

2.3 *The site is subject to an Act of Parliament controlling the development heights. A subsequent public inquiry also set a development datum level. The centre has gone through change and remodelling from its original 1980s design. More recently, there have been a number of temporary planning permissions on the site for activities associated with the winter and summer festivals.*

2.4 *It is expected that the application will be defined as a Local Development and no formal consultation exercise will be required. However, it was noted that the applicants intend to hold consultation/ engagement events with the local community. This is the first time that these proposals have been reviewed by the Panel.*

2.5 *No declarations of interest were made by any Panel members in relation to this review.*

2.6 *This report should be read in conjunction with the pre-meeting papers.*

2.7 *This report is the view of the Panel and is not attributable to any one individual. The report does not prejudice any of the organisations who are represented at the Panel forming a differing view about the proposals at a later stage.*

### 3 Principle of Proposals

3.1 The Panel recognised that there were undeniable challenges with the site but it was not supportive of the principle of an additional storey for the following key reasons:

- Impact on views across to the Old Town and across the Waverley Valley which are fundamental to the outstanding universal value of the World Heritage Site;
- Change to the unique character of Princes Street as a one-sided street through the introduction of a significant length of building/street frontage along the pavement edge.

### 4 Open Space

4.1 The level of anti-social behaviour taking place on the existing open space was outlined which is exacerbated by the environmental design, poor lighting and lack of CCTV. The Panel noted that an additional storey would help to address the existing problems but only if access to the open space was restricted and it was closed at night.

4.2 The Panel discussed that any re-modelling of the existing open space should avoid hidden/ recessed spaces and consider lighting and CCTV linked to the Council system. Consideration could be given to how the future space is controlled and managed; for example Princes Street Gardens has limited anti-social activity as it can be closed off in the evenings.

4.3 The Panel agreed that the existing space does not work and there is an opportunity to improve it. There was a concern that new open space at a higher level would not be used because of a lack of visibility. The Panel questioned how and why people would go up to the new public space. By re-locating the open space on the additional storey and away from street level, there would be an overall sense of loss of space with the proposals.

### 5 Streetscape

5.1 The proposals would introduce a building frontage along the pavement on the south side of Princes Street. The Panel considered that this would exacerbate rather than improve what is already a congested area; potentially creating a space to avoid. Concerns were also raised about the level changes and how this will result in a lack of active shopping frontage. It was suggested that there is scope to introduce more meaningful public space at the pedestrian level which would have a better relationship with Princes Street.

## *6 New Development*

*6.1 The Panel recognised there was scope for new development for example, a new stand-alone entrance on the corner with Waverley Bridge. A bold piece of architecture surrounded with civic space on the existing pedestrian level but away from the street edge could also be an option. This could allow the market proposal to extend into the public space rather than be contained within the building. Any new development should connect with the floor below rather than being separated off.*

*6.2 It was considered that the project could have more ambition for its context. The architecture could focus on the cast iron work of the original market rather than masonry.*

*6.3 The market idea was welcomed but the reality of what the market is in practice needs to be explored and its linkages with the existing two tiers of retailing better demonstrated.*

*6.4 The Panel identified that there could be an alternative opportunity to create more retail space by developing into Waverley Station to create better linkages.*

## *7 Points of Information*

*7.1 The overall OS datum level may be lower; there needs to be caution about the heights in relation to this.*

*7.2 In preparation of future proposals, the Panel suggested that the design team include graphic information to show the full extent of the impact on views from various points.*

## Location Plan

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