

1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 This application, made by Cheltenham Borough Council, seeks planning permission for the use of Imperial Gardens for the erection of temporary structures including an ice rink in connection with festivals and special events for a maximum of 75 days, for 1 period being 2021/2022 (November 2021 - January 2022) inclusive of rig and de-rig. This will be in addition to the current planning permission 12/01843/FUL of 70 days for festivals and special events within Montpellier Gardens and Imperial Gardens.
- 1.2 The ice rink proposal is an amendment to 19/01370/FUL permitted by Committee on November 2019. As detailed for the period of November 2021 to January 2021 the redevelopment of the Quadrangle Plaza and installation of a new orangery at the Cheltenham Trust Garden Bar will unfortunately make it impossible to accommodate the location of the ice rink as approved. Therefore for 1 period November 2021 - January 2022 the location of the ice rink is proposed to the southwest quadrant of Imperial Gardens.
- 1.3 The ice rink proposal is also identical to 20/00369/FUL permitted by Committee which approved the relocation to the southwest quadrant of Imperial Gardens for 1 period November 2020 - January 2021.
- 1.4 As identified within the submitted Planning, Heritage and Design and Access statement, the temporary structures would comprise mainly of an outdoor covered ice rink, supporting marquees for skate hire, to a lesser degree temporary office and other such structures normally associated with events. The design of the ice rink and temporary structures are unknown at this stage but a layout plan has been submitted.
- 1.5 As identified in the supporting information the Ice Rink will be located in the South West quadrant of the gardens. The remaining Imperial Gardens will be unused by the event and will remain open to the public.
- 1.6 The number of days being applied for includes the time taken for the construction and dismantling of the temporary structures as well as the time the structures are in place for the events themselves. The number of days does not include the time taken for re-instatement works.
- 1.7 The application is before the Planning Committee because the Council is the applicant and own Imperial Gardens.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport Safeguarding over 45m
Conservation Area
Core Commercial Area
Principal Urban Area
Public Green Space (GE36)
Smoke Control Order

Relevant Planning History:

87/01253/AN 17th December 1987 REF

External Bar Wall Cheltenham Gloucestershire - Display Of Non Illuminated Advertisement

87/01254/AN 17th December 1987 REF

Imperial Gardens Cheltenham Gloucestershire - Display Of Non Illuminated Advertisement

07/00740/FUL 20th July 2007 PER
Erection of Holst memorial statue within gardens

07/00741/CAC 29th May 2007 NOTREQ
Remove outer bed

11/01290/FUL 21st November 2011 PER
Formation of new gateway to Skillicorne Gardens and alterations to plinth in SE corner of Imperial Square garden to accommodate new pedestrian access

11/01292/LBC 21st November 2011 GRANT
Works to provide new entrance to Skillicorne Gardens and alterations to stone plinths forming boundary to Imperial Square gardens.

11/01807/FUL 27th January 2012 PER
Erection of temporary structures in Montpellier Gardens and Imperial Gardens in connection with festivals and special events for a maximum of 75 days in each garden

12/00099/FUL 23rd March 2012 PER
Reinstatement of railings to the perimeter of Imperial Gardens, including refurbishment of original railings adjacent to the town hall and repair and re-use of existing original plinth stones where possible

12/00099/LBC 23rd March 2012 GRANT
Reinstatement of railings to the perimeter of imperial gardens, including refurbishment of the remaining original railings adjacent to the front of the town hall and the repair and retention of existing of existing original plinth stones wherever possible

12/01843/FUL 18th January 2013 PER
Erection of temporary structures in Montpellier Gardens and Imperial Gardens in connection with festivals and special events for a maximum of 75 days in each garden in 2013 and a maximum of 70 days in each garden in each calendar year thereafter

13/00195/AMEND 26th February 2013 NOT
Non-material admendment to planning ref: 12/00099/FUL and associated Listed Building Consent ref: 12/00099/LBC to reinstate railings to the perimeter of Imperial Gardens, including refurbishment of original railings adjacent to the town hall and repair and re-use of existing original plinth stones where possible

13/00301/AMEND 24th May 2013 PAMEND
Non material amendment to planning permission 12/00099/FUL to reduce the height of the new railings from 1.8m to 1.5m, including corresponding adjustments to the sizings of the railing components

13/00302/LBC 24th May 2013 GRANT
Reinstatement of railings to the perimeter of Imperial Gardens, including refurbishment of the remaining original railings adjacent to the front of the Town Hall and the repair and retention of existing original plinth stones wherever possible (Revised scheme for 12/00099/LBC - to reduce height of railings)

15/01515/DISCON 9th April 2018 DISCHA
Discharge of conditions 4 - railing section, 8 - scheme for the treatment of the north east corner of the gardens on planning permission 13/00302/LBC

18/00473/AMEND 12th March 2018 PAMEND

Non-material amendment to planning permission ref. 12/00099/FUL to reduce width of G4 South-East Gateway from 5 metres to 2.5 metres, centred on adjacent Gardens pathway

19/01370/FUL 26th November 2019 PER

Erection of temporary structures including ice rink in Imperial Gardens in connection with festivals and special events for a maximum of 75 days, inclusive of rig and de-rig for 2 periods being 2020/21 (November 2020 - January 2021) and 2021/22 (November 2021 - January 2022). In addition to the current planning permission for festivals and special events on Montpellier Gardens and Imperial Gardens

20/00369/FUL 1st June 2020 PER

Erection of temporary structures in connection with festivals and special events including ice rink in Imperial Gardens for a maximum of 75 days for one period being 2020/2021 (November 2020 - January 2021) inclusive of rig and de-rig and Christmas Markets on the Promenade for a maximum of 41 days, inclusive of rig and de-rig for a period of 2 periods being 2020 (November - December 2020) and 2021 (November - December 2021) in addition to the current planning permissions for festivals and special events on Montpellier Gardens and Imperial Gardens

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 2 Achieving sustainable development
Section 4 Decision-making
Section 6 Building a strong, competitive economy
Section 7 Ensuring the vitality of town centres
Section 8 Promoting healthy and safe communities
Section 9 Promoting sustainable transport
Section 12 Achieving well-designed places
Section 16 Conserving and enhancing the historic environment

Adopted Cheltenham Plan Policies

D1 Design
HE1 Buildings of Local Importance and Non-Designated Heritage Assets
SL1 Safe and Sustainable Living
GI2 Protection and replacement of trees
GI3 Trees and Development

Adopted Joint Core Strategy Policies

SD2 Retail and City / Town Centres
SD3 Sustainable Design and Construction
SD4 Design Requirements
SD8 Historic Environment
SD14 Health and Environmental Quality
INF1 Transport Network

Supplementary Planning Guidance/Documents

Central conservation area: Montpellier Character Area and Management Plan (Feb 2007)

4. CONSULTATIONS

Tree Officer

9th September 2021

The Trees Section have no major objections to the proposal. However, a method statement should be submitted prior to determination, detailing how to install and remove the site structures without damaging any trees. Particular attention should be taken to root protection areas of trees - in winter conditions, the ground can become compacted more easily from footfall and vehicles. The method statement should also detail how to protect trees and their roots from footfall of visitors to the site, particularly in high use areas (entrances and exits are near two pear trees) e.g. with matting.

Environmental Health

21st September 2021

I don't think the info you have provided satisfies my concerns over the potential noise issues we may face. Noise in Imperial Gardens is a hot topic for us given the troubles we had over the screen during the last couple of months. From my experience of dealing with diesel generators powering the ice rink in Gloucester Quays prior to moving across to Cheltenham I certainly can't support the statement claiming they will sound like a car engine.

There are proposed to be 2 diesel generators and so immediately the noise level you are quoting below is likely to be higher. Two generators running at 98dB will combine and actually run at more like 101dB and that doesn't even consider the frequency level of the noise. Diesel generators tend to run at low frequencies which have longer wavelengths and carry for substantial distances.

I would suggest hiring low noise diesel generators or look at hiring an acoustic consultant to provide some advice on what needs to be done to ensure no local residents or the Queens hotel for that matter are unduly disturbed bearing in mind that these generators will likely need to run 24/7 to keep the ice, ice.

I am less concerned about music noise, it should be background noise and if needed EP can set a level if we receive complaints.

Cheltenham Civic society

1st October 2021

SUPPORT-The Civic Society Planning Forum supports this application but it will be important to monitor adherence to the conditions. Longer term, there needs to be a strategy for holding events such as this in the town which does not depend so heavily on using parks and green spaces and brings more benefit to the town centre's retail and hospitality businesses.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	122
Total comments received	5
Number of objections	5
Number of supporting	0
General comment	0

- 5.1** Letters of notification were sent out to 122 neighbouring properties, site notices were displayed and an advert was published in the Gloucestershire Echo. The comments are available to view on the Documents tab, but in brief, the comments relate to loss of amenity, noise, lack of detailed information, antisocial behaviour and over use of Imperial Gardens.

6. OFFICER COMMENTS

6.1 Determining Issues

- 6.2** The key issues to consider in the determination of this proposal are the impact on neighbouring amenity, the impact on the conservation area and also the benefits that the festivals and other events are said to bring to the town.

6.3 Impact on neighbouring property

- 6.4** Section 12 of the NPPF highlights that development should promote a high standard of amenity for existing and future users. This is further emphasised in policy SD14 of the JCS and Cheltenham Plan SL1, which set out the requirement for development not to cause unacceptable harm to the amenity of adjoining land users and the locality.

- 6.5** The objections from residents raised concerns with the noise generated by the proposed use, and the use of generators.

- 6.6** Every event organiser including the proposed ice rink needs to sign up to a Land Use Agreement (LUA) which controls noise from construction and dismantling works, noise during the events themselves and fumes from generators.

- 6.7** The Planning, Heritage, Design and Access Statement confirms that Cheltenham Borough Council as landowner of the Gardens enters into Land Use Agreements with the event organisers. The agreements seek to ensure that the event organiser is responsible, amongst many other things, for the protection of the park during the event, and meeting the costs associated with re-instating damage to council property caused by the event including damage to the grass.

- 6.8** The agreements will detail the specific dates that event organisers can construct, operate and dismantle, the times on these dates within which they can construct, operate and dismantle, and the times on these days within which they can construct and fit out temporary structures.

- 6.9** If planning permission were to be granted for the additional use of the Gardens for the Ice Rink, the Borough Council will continue to apply control over these events through these Land Use Agreements, informed by its experience of the use of the gardens.

- 6.10** In addition, all licensable activities associated with special events such as outdoor regulated entertainment and the sale of alcohol can only be carried out under conditions of the premises licences; a licence exists for Imperial Gardens. It contains conditions governing how the event is organised in relation to nuisance and noise, and the event organiser is required to satisfy the Council's Public Protection Division that satisfactory measures are in place to manage and monitor these issues. It is anticipated that a new licence will be required for the ice rink as the Council cannot take enforcement action against itself in the event of a breach of licencing conditions.

6.11 The LUA listed a number of conditions which represent a comprehensive set of restrictions that will help to ensure the event proceeds with limited impact on neighbouring amenity.

6.12 The Environmental Health Officer (EHO) has raised concerns relating to the use of the proposed generators. Following negotiation with the applicant and EHO, the applicant has confirmed the below;

In response to concerns around noise levels from the generators required for the planned Christmas ice rink installation, Cheltenham Borough Council will address these concerns through the following means:

- *Engagement of a qualified acoustic consultant from the Institute of Acoustics register to conduct a noise impact assessment which will cover:*
- *Prediction of a source noise level – by reviewing technical submissions of the planned generators and production of a 3D model of the site and its surrounds using noise modelling software to estimate the level of sound reaching the nearest properties.*

Based on the predictions and a survey of the current sound levels, recommendations will be made in accordance with BS4142, which will be assessed and implemented where reasonably practicable by the contractors.

Promote the installation of Echo Barriers as standard around all generator enclosures which both reduce and absorb noise.

6.13 The EHO has confirmed he is happy with the above and the concerns with the generators could be addressed through a planning condition and therefore condition 3 is proposed.

6.14 Officers consider that the noise and disruption could be adequately controlled through appropriate restrictions in any land use agreements and the proposed noise mitigation condition, and therefore planning permission could not be reasonably withheld due to impact on neighbouring amenity.

6.15 Conservation area

6.16 The Council's senior Conservation Officer has considered very carefully the impact on the surrounding listed buildings, the impact on Imperial Garden and Central Conservation Area: Montpellier Character Area and has no objection to the application.

6.17 Saved Local Plan Policy GE1 states that 'The development of areas identified as 'Public Green Space' or 'Proposed Public Green Space' will not be permitted'

6.18 Imperial Garden is designated as a public green space but it is important to be mindful of what is being proposed as part of this application. The proposal seeks a temporary planning permission for the erection of temporary structures in only part of the garden.

6.19 The Council recognises the importance of public green space and whilst the proposed structures associated with special events do affect the gardens, it is not true to say they will result in the permanent loss or erosion of the green space. The application is for a temporary use which goes beyond that which is Permitted Development; officers cannot therefore agree that the proposal fails to comply with policy GE1. Indeed, there is an argument to be made that the proposal brings with it visual, environmental and recreational value but in a way that differs from the tranquil environment that the gardens benefit from at other points throughout the year.

6.20 Whilst the application may appear short of information in terms of design and scale of the ice rink and structures, this is the nature of the proposal. The applicant seeks the use of

Imperial Gardens for a period of 75 days for 1 period being 2021/22. The application cannot include specific details as this is unknown, instead the Local Planning Authority should take this opportunity of influencing the relevant land use agreements with each venue operator by stipulating what they expect to see within such agreements.

6.21 Benefits

6.22 The Planning, Heritage, Design and Access Statement details the economic benefits of the proposed development. It states;

The use of the gardens has a significant positive economic impact on the local economy. Comments from previous planning applications for special events in Imperial Gardens have suggested that festivals and events are part of Cheltenham's unique appeal in increasing and enhancing its regional, national and international profile and adding to the vibrancy, excitement and attractiveness of the town centre to visitors.

Cheltenham already has existing Christmas activities that support the economy in the town including The Christmas Light Switch On and Christmas Market. There has been a significant increase in activity linked to the switch on in recent years which has resulted in increases in footfall into and around the town centre.

A visitor survey ("the survey") was conducted in December 2018 to assess the impact of Christmas Markets on Cheltenham. Over half of the respondents were visiting the town to visit the Christmas Markets, with 70% coming from outside of Gloucestershire.

The survey identified that the majority of visitors to Cheltenham spend between £50-£200 per visit directly into the local economy. Families were most likely to spend £76 to £100 per visit and would form a core audience for the ice rink.

The Christmas Market and festive atmosphere is currently the biggest draw to Cheltenham during the festive period.

Though not taking place during the Christmas period, the Big Wheel as part of Light Up Cheltenham could be considered as a similar attraction as the ice rink.

In previous years, the Big Wheel has received 10,000 visitors during its 3 weeks in situ, with an increased town footfall of 3.8%. The event had no negative impact on residents of Imperial Square.

It is anticipated that the ice rink will attract in the region of 30,000 people to skate over its period of operation. The likelihood is that a not insignificant proportion of these will visit the town centre as a direct consequence of the ice rink.

The presence of an ice rink would increase Cheltenham's festive offering. It is evident that additional attractions to the town increases new and repeat visitors for the period they are in situ. However it is also felt that having attracted new visitors to Cheltenham, attractions help increase repeat visitors in the following months as well.

6.23 Land use agreements

6.24 The Council owns the garden to which this application part relates and therefore has complete control over how the gardens are used and by whom. This can be managed through a Land Use Agreement (LUAs) with the user of the garden. The application has been submitted with a document that summarises what a LUA actually is, within this document it is stated that;

"Land Use Agreements (LUA) are used where a person or organisation wants to hold events in the Council's parks and gardens. The LUA is also known as a licence to occupy

land and it is prepared by One Legal upon instructions from the relevant Council department. The contents of the LUA are then agreed with and signed by the event organisers (the licensees)."

6.25 The document goes on to state that the *LUAs contain the terms and conditions upon which the licensee is permitted to use the gardens. If the terms of the LUA are not complied with the council has the options set out below. Advice should be sought from One Legal before the council decides what action to take:*

- Ask the licensee to put right the breach of the LUA. For example, if a marquee is erected in the wrong position, the council can ask for it to be dismantled and erected in the correct position.
- Terminate the LUA early which means the licensee no longer has the permission from the council to use the gardens for the event.
- If the council has suffered financial losses as a consequence of the non-compliance with the LUA, it can seek a payment to compensate it for that loss.

6.26 The content of the LUA shapes how the gardens are used in a way that a planning permission could never do. For example, it can require bonds in case of damage and can include specific penalties if the agreement is breached in any way. The LUA can also specify in detailed terms the requirements of the Council's Environmental Protection team. Most importantly however, the LUA enables the Council to be proactive in what it deems to be an acceptable use of the gardens.

6.27 A number of issues need to be carefully managed if the gardens are to be used successfully. These include matters relating to neighbouring amenity, the setting of listed buildings, the impact on the wider conservation area, the impact on important trees and highway safety; all of these and more can be referenced within LUAs and officers consider that this is a robust mechanism to manage successfully the use of the gardens.

6.28 Access and highway issues

6.29 Adopted JCS policy INF1 advises that all development proposals should provide for safe and efficient access to the highway network for all transport needs. The policy identifies that planning permission should be granted where the highway impacts of the development would not be severe.

6.30 The local highway authority, in this case is Gloucestershire County Council (GCC), were previously consulted for 19/01370/FUL and 20/00369/FUL.

6.31 GCC did not object to the proposal, therefore it is considered to be acceptable from a highway safety standpoint.

6.32 Public Sector Equalities Duty (PSED)

6.33 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

6.34 Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

6.35 In the context of the above PSED duties, this proposal is considered to be acceptable.

7. CONCLUSION AND RECOMMENDATION

7.1 In conclusion, it is apparent that the use of Imperial Gardens for an additional 75 days for a temporary period on top of the existing 70 day planning permission for festivals and special events has generated some objections.

7.2 Officers are certainly sympathetic to the views of local residents in terms of the impact to amenity in terms of noise and disruption and the increase in use of the garden and Promenade for special events. Notwithstanding this concern, on balance it is considered given the temporary nature of the proposal which will only use part of Imperial Gardens and considering what the special event will bring to the town the proposal is supported. The recommendation is to permit the application.

8. CONDITIONS / INFORMATIVES

- 1 The use of temporary structures including the ice rink in Imperial Gardens in connection with festivals and special events as identified in appendix B Ice Rink location shall be for a maximum of 75 days, inclusive of rig and de-rig for 1 period being 2021/22 (November 2021 - January 2022).

Reason: The use Imperial Gardens for festivals and special events may detract from the amenity of the locality and impact on neighbouring amenity. The Local Planning Authority wishes to monitor and review these impacts before considering any further applications for a longer period of time.

- 2 The permission hereby granted shall be implemented in accordance with the Land Use Agreement Summary.

Reason: To ensure the successful implementation of this planning permission and therefore ongoing compliance with Cheltenham plan policy SL1 relating to neighbouring amenity.

- 3 Prior to installation of the external generators, the noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved noise mitigation measures shall be implemented prior to first beneficial use of the generators, and shall be retained as such thereafter.

Reason: To safeguard the amenities of adjacent properties, having regard to Cheltenham plan policy SL1 and Joint Core Strategy policy SD14.

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with

planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.