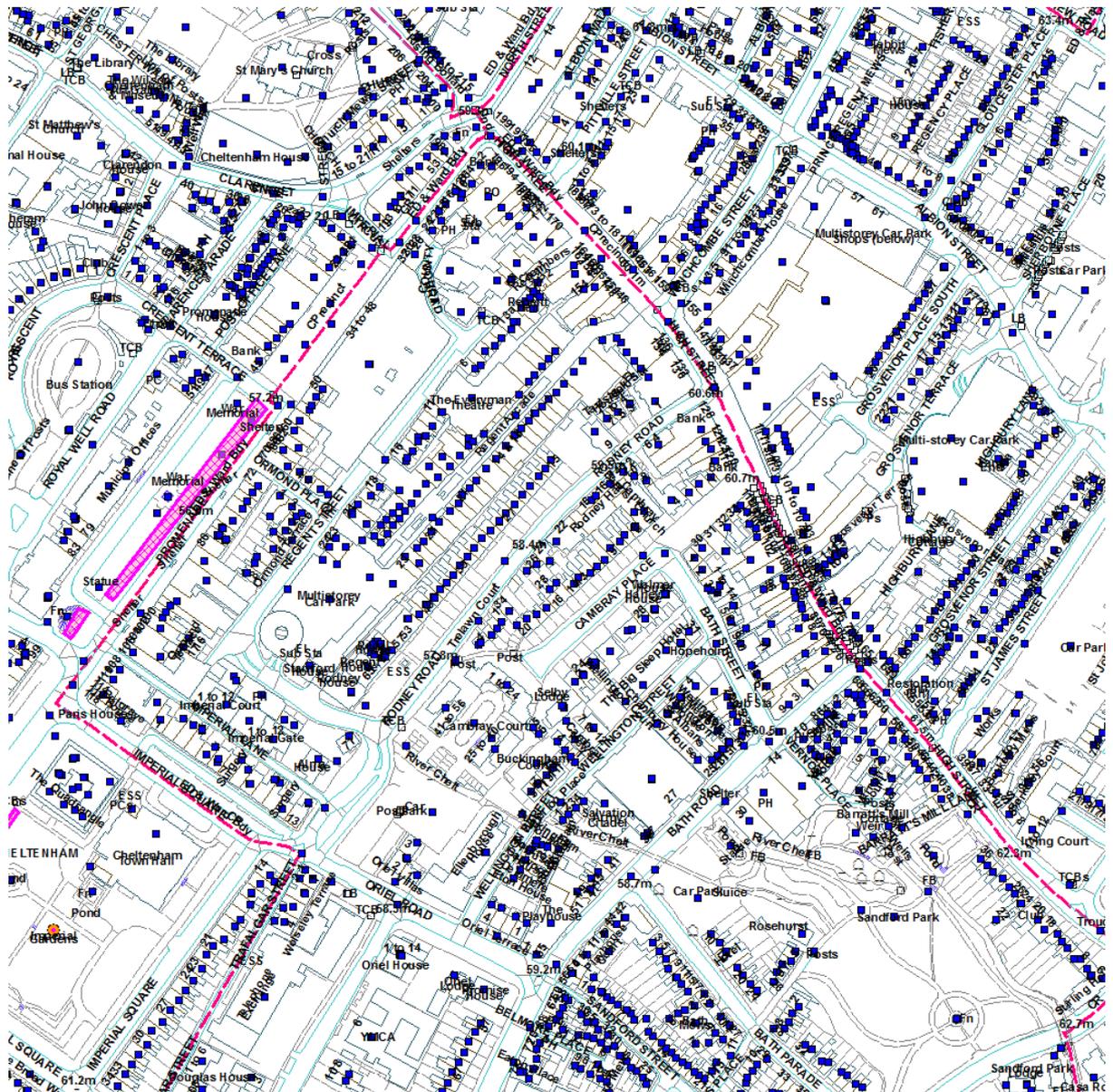


Officer Report

APPLICATION NO: 22/01117/FUL		OFFICER: Mrs Victoria Harris	
DATE REGISTERED: 22nd June 2022		DATE OF EXPIRY: 17th August 2022	
DATE VALIDATED: 22nd June 2022		DATE OF SITE VISIT:	
WARD: Lansdown		PARISH:	
APPLICANT:	Cheltenham Bid		
AGENT:			
LOCATION:	Imperial Garden Promenade Cheltenham		
PROPOSAL:	Erection of temporary structures on pedestrian pavement along Promenade and Imperial Gardens, and long gardens in relation to Christmas markets for a maximum of 41 days for two periods 2022 (November - December 2022) and 2023 (November - December 2023) including set-up and take-down		

RECOMMENDATION: Permit



This site map is for reference purposes only. OS Crown Copyright. All rights reserved Cheltenham Borough Council 100024384 200

1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located along The Promenade. The site is within the Central Conservation Area and Core Commercial Area.
- 1.2 The application, made by Cheltenham Bid, seeks planning permission for the extension of the Christmas Markets along the Promenade for a maximum of 41 days, for 2 periods being November - December 2022 and November - December 2023, inclusive of rig and de-rig. This will be in addition to the current planning permission, 06/00524/COU and 20/00690/CONDIT, of 41 days for use of the pedestrianised area of the Promenade (in front of Cavendish House) for the stationing of timber structures in connection with the Christmas Market.
- 1.3 The current application follows the previous temporary consent for the extension of the Christmas Market for 2 periods being November - December 2020 and November - December 2021 granted under application 20/00369/FUL. The Design and Access Statement states, *“as a result of Brexit, the number of market traders available for the Christmas market was severely diminished and the overall size of the Christmas Market was reduced to cover only the pedestrianised area of The Promenade. Therefore, the area described on the planning application 20/00369/FUL was not utilised.”*
- 1.4 The Christmas Market will comprise of two sections, along the Long Gardens (in front of the Municipal Offices and Neptunes Fountain) which will house up to 41 stalls, and The Promenade east pavement (close to The Quadrangle) which will house up to nine stalls. The structures will be located on the footpath by the Long Gardens, generators and fencing will be located on the grass area. At The Promenade east pavement, the structures will be located on the hard standing and the pavement but the marketplace itself will take some grass area as the generators and fencing will be located on the grass.
- 1.5 As identified within the submitted Planning, Heritage, Design and Access statement, the temporary structures would comprise of mainly wooden chalets and traditional market stalls (or other suitable structures). The design of the temporary structures are unknown at this stage but a site location plan identifying the location of the structures and example images have been submitted. Consent is being sought for the principle of the land use rather than for specific structures.
- 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 reinstatement works.
- 1.7 The application is before the Planning Committee because the Council own the Long Gardens and Imperial Garden.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport Safeguarding over 45m
Conservation Area
Core Commercial Area
Flood Zone 2
Principal Urban Area
Public Green Space (GE36)
Smoke Control Order

Relevant Planning History:

07/00740/FUL 20th July 2007 PER

Erection of Holst memorial statue within gardens

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

21/01856/FUL 20th October 2021 PER

Erection of temporary structures in connection with festivals and special events including an ice rink in Imperial Gardens for a maximum of 75 days for one period being 2020/2021 (November 2021 January 2022) inclusive of rig and de rig.

This is in addition to the current planning permissions for festivals and special events on Montpellier Gardens and Imperial Gardens

21/02476/DISCON 11th November 2021 DISCHA

Discharge of condition 3 (noise impact assessment) of planning permission 21/01856/FUL

06/00524/COU 31st May 2006 PER

Use of land for the stationing of timber structures in connection with the Christmas Market for a maximum of 21 days in November/December each year (including setting up and dismantling time)

20/00690/CONDIT 23rd June 2020 PER

Variation of condition 1 on planning permission ref.06/00524/COU - number of days to be increased to a maximum of 41 days inclusive of setting up and dismantling

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 5 Delivering a sufficient supply of homes

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

SD3 Sustainable Design and Construction

SD4 Design Requirements

SD8 Historic Environment

SD14 Health and Environmental Quality

INF1 Transport Network

Supplementary Planning Guidance/Documents

Residential Alterations and Extensions (2008)

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

Cheltenham Climate Change (June 2022)

4. CONSULTATIONS

GCC Highways Planning Liaison Officer

7th July 2022 - Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based

on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 has no objection. The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained. The Highway Authority therefore submits a response of no objection.

Building Control

23rd June 2022 - No comment

Heritage And Conservation

19th July 2022 - Re: 22/01117/FUL - Imperial Garden, Promenade, Cheltenham

The site is comprised of three locations along the Promenade. The proposed works are for the erection of temporary structures on pedestrian pavement along Promenade in relation to Christmas markets for a maximum of 41 days for two periods 2022 (November - December 2022) and 2023 (November - December 2023) inclusive of set-up and take-down.

Notably there are a high number of listed buildings within the immediate surrounding area and the site lies within the Central Conservation Area: Montpellier Character Area. The listed buildings within the context of the site include but are not limited to: the southeast side of Promenade facing the Long Gardens are grade II listed buildings forming an informal Regency terrace; a grade II* listed Regency terrace forming a formal on the northwest side of Promenade facing the Long Gardens; a fountain, statue and war memorial located in and around the long gardens, all of which are grade II listed; a grade II listed formal Regency terrace on the northwest side of the Promenade facing onto The Quadrangle; a group of detached and semi-detached grade II* listed Regency villas on the northwest side of the Promenade facing Imperial Gardens; The Queen's Hotel, a grade II* Regency hotel to the southwest of the site facing down the Promenade; The early 20th century, grade II listed, Town Hall located in Imperial Gardens; and the grade II* listed Regency terraces facing onto Imperial Gardens. The area is highly sensitive in heritage terms.

It is important to consider the policy context in which the proposal needs to be determined. The cornerstone of heritage legislation is the Planning (Listed buildings and Conservation Area) Act 1990, Section 16(2), which requires local planning authorities to have special regard to the desirability of preserving the special architectural or historic interest of listed buildings and their setting and Section 72(1) which requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the area. A core principle of the National Planning Policy Framework 2019 (NPPF) is heritage assets be conserved in a manner appropriate to their significance. Chapter 16, paragraphs 199-208 set out how potential impacts on heritage assets shall be considered. This assessment takes account of the relevant considerations in these paragraphs, including paragraph 197 of the NPPF, which requires the significance of heritage assets to be sustained and enhanced, with paragraph 199 requiring great weight be given to the asset's conservation.

Having considered the proposal, the temporary period of 41 days between the months of November and December, its location on the pavement away from the more sensitive gardens and the notable public benefits associated with this seasonal use, it is concluded there would not be a lasting impact on the setting of the adjacent listed buildings and this part of the Central Conservation Area: Montpellier Character Area.

The proposed works are therefore not considered to harm the designated heritage assets and therefore comply with Section 16 of the Planning (Listed Building and Conservation

Area) Act 1990, Chapter 16 of the National Planning Policy Framework and Policy SD8 of the Joint Core Strategy 2017.

Tree Officer

12th July 2022 - This proposal does not appear to impact trees. However, the precise locations of stalls has not been submitted. Therefore, where any access facilitation pruning is needed, it should first be agreed by Trees Officers of this Council and should be undertaken to BS3998(2010).

Reason: to protect the amenity value of trees in the Borough as per Policies GI2 and GI3 of the Cheltenham Plan.

Environmental Health

19th July 2022- I don't have any adverse comment. In terms of noise and nuisance any effects will be mitigated by the equipment only running through the hours of operation, so there is little chance of significant loss of amenity (or nuisance) affecting nearby properties.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	2
Total comments received	0
Number of objections	0
Number of supporting	0
General comment	0

- 5.1** 2 letters were sent to neighbouring properties, 3 site notices were displayed and an advert was published in the Gloucestershire Echo. No letters of representation have been received.

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 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** No letters of objection have been received in relation to the application and the Senior Environmental Health Officer has no objection to the proposal. The market opening times will be Monday to Saturday 10.00 to 18.00, Sunday and Bank Holidays 11.00 to 15.00. Officers consider that the noise and disruption as a result of the market will not cause unacceptable loss of amenity to the nearby properties given the hours of operation.

- 6.6** Every event organiser including the proposed Christmas Market 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 damage caused to council property 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 Christmas Market, the Borough Council will continue to apply control over these events through the Land Use Agreements.
- 6.10** The LUA listed a number of conditions that represent a comprehensive set of restrictions, which will help to ensure the event proceeds with limited impact on neighbouring amenity.
- 6.11** Officers consider that the noise and disruption could be adequately controlled through appropriate restrictions in any land use agreements, and therefore planning permission could not be reasonably withheld due to impact on neighbouring amenity.
- 6.12 Conservation area**
- 6.13** The Council's Senior Conservation Officer has considered very carefully the impact on the surrounding listed buildings, the impact on the Long Gardens and Imperial Garden, and the Central Conservation Area: Montpellier Character Area, and has no objection to the application.
- 6.14** 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'
- 6.15** The Long Gardens and Imperial Garden are designated as public green spaces 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 gardens.
- 6.16** 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.
- 6.17** Whilst the application may appear short of information in terms of design and scale of the structures, this is the nature of the proposal. The application cannot include specific details as this is unknown, instead the Local Planning Authority should take this opportunity to influence the relevant land use agreements with each venue operator by stipulating what they expect to see within such agreements.
- 6.18 Benefits**
- 6.19** The Planning, Heritage, Design and Access Statement details the economic benefits of the proposed development. It states;

An online survey amongst visitors to Cheltenham over the Christmas period between the 18th November 2021 to the 2nd January 2022 was commissioned by Marketing Cheltenham (Cheltenham Borough Council). The survey results enabled Marketing

Cheltenham and Cheltenham BID to better understand the economic impact of the significantly enhanced festive offering. The highlights of the survey report showed that:

- Overall, 43,600 visits were made to the Ice Rink and an estimated 237,700 visits to the Christmas Market.*
- Residents/people working in Cheltenham accounted for 69% of influenced visits (72,500 visits), day visitors to the town accounted for 28% of influenced visits (29,40 visits) and staying visitors 3% of influenced visits (3,200 visits).*
- A total of £14m spend was associated with all visits to either the Ice Rink or Market. This is all spend in Cheltenham connected to those attending either the Ice Rink and/or the Christmas Market. So spend at either of the attractions and elsewhere in Cheltenham for all visitor types and including the full length of stay in the city for staying visitors.*
- A total of £3.3m of this spend was estimated to be additional and only occurred due to the presence of either the Ice Rink or the Market.*
- Local business turnover as a result of the total additional associated spending at the market was estimated at approximately £4.3m.*

6.20 Access and highway issues

- 6.21** 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.
- 6.22** The local highway authority, in this case Gloucestershire County Council (GCC), have not objected to the application. Therefore, the application is considered acceptable from a highway safety standpoint.

6.23 Sustainability

- 6.24** The Cheltenham Climate Change SPD (adopted June 2022), sets out a strategy for decarbonising homes over the next decade. For development proposals, including new non-domestic buildings, there are opportunities to improve the environmental performance of buildings through the inclusion of technologies and features such as photovoltaics, replacement windows, heat recovery, permeable (or minimal) hard surfaces, works to chimneys, insulation, replacement heating systems (heat pump) and thoughtful kitchen design.
- 6.25** In this instance, the submitted supporting statement states that the market operator will, as far as is feasible, utilise mains power and reduce the reliance on portable generators. Where generators are required, hybrid or biofuel generators will be used wherever feasible. LED lighting will be used, and the site is in a highly sustainable location. The supporting statement also states that recycling will be encouraged, plans for food waste are being developed, and the market does not allow the use of single-use plastics by the traders and encourages them to use biodegradable packaging in serving their customers.
- 6.26** Given the scale of development proposed within this application, the above proposed features are considered acceptable.

6.27 Public Sector Equalities Duty (PSED)

- 6.28** 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.

6.29 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.

6.30 In the context of the above PSED duties, this proposal is considered acceptable.

7. CONCLUSION AND RECOMMENDATION

7.1 It is considered given the temporary nature of the proposal, which will only use part of the Long Gardens and Imperial Gardens, and considering what the special event will bring to the town that the proposal is supported. The recommendation is to permit the application.

8. CONDITIONS / INFORMATIVES

1 The timber structures stationed in connection with the annual Christmas market shall be stationed on site for a maximum of 41 days. The 41 day period shall comprise of two periods, 2022 (November - December 2022) and 2023 (November - December 2023). In addition the 41 day period shall be inclusive of erection and dismantling time.
Reason: In accordance with the application and because the proposed use on a permanent basis would not be acceptable in this location.

2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 Notwithstanding the submitted information, if access is required for tree facilitation pruning then the details shall be submitted to and approved in writing by the Local Planning Authority.

Reason: to protect the amenity value of trees in the Borough as per Policies GI2 and GI3 of the Cheltenham Plan.

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.