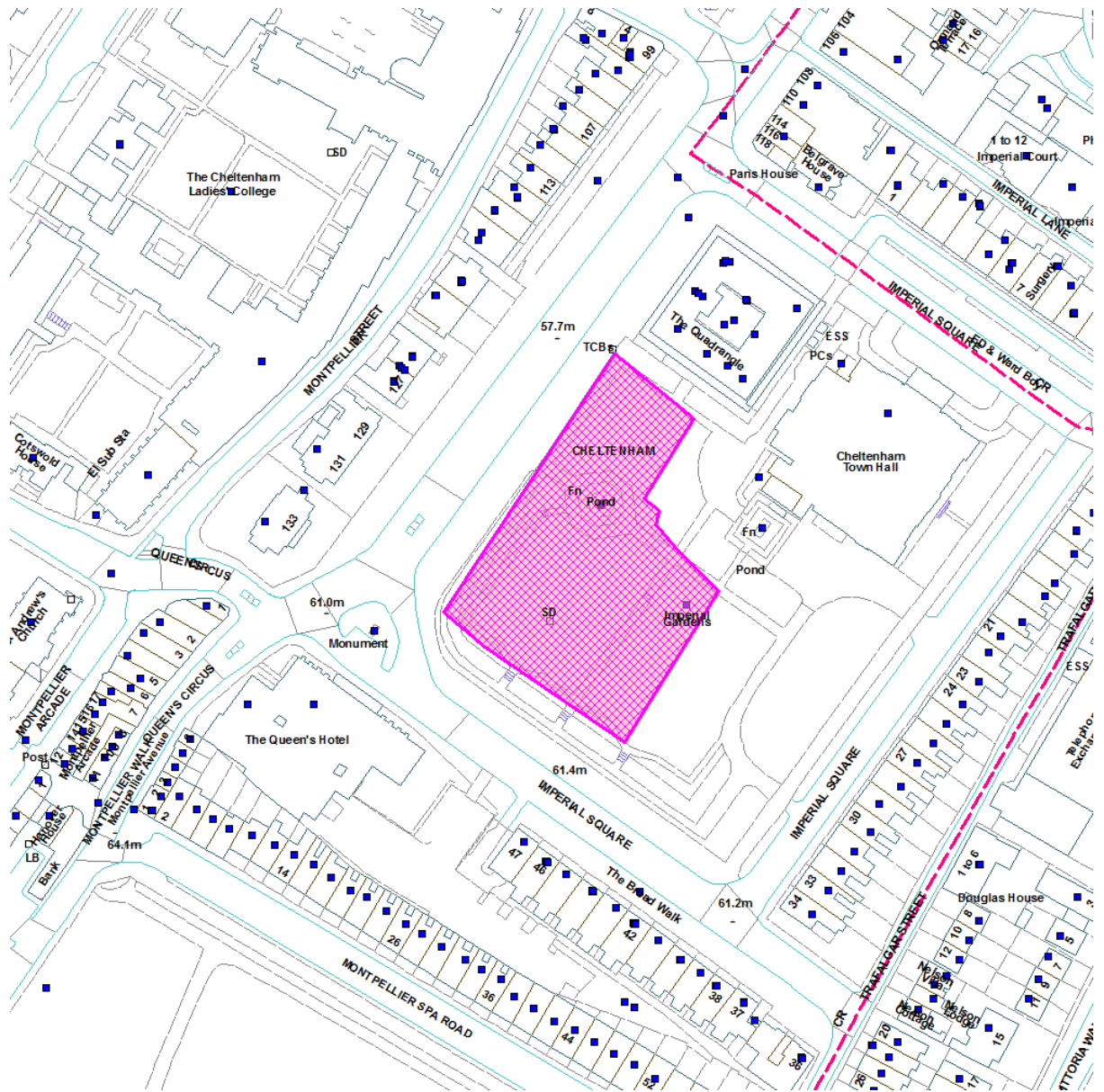


Officer Report

APPLICATION NO: 22/01200/FUL	OFFICER: Mrs Victoria Harris
DATE REGISTERED: 2nd July 2022	DATE OF EXPIRY:
DATE VALIDATED: 2nd July 2022	DATE OF SITE VISIT:
WARD: Lansdown	PARISH:
APPLICANT:	Marketing Cheltenham
AGENT:	Marketing Cheltenham
LOCATION:	Imperial Garden Promenade Cheltenham
PROPOSAL:	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 3 periods being 2022/2023, 2023/2024 and 2024/2025 (November and January) 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

RECOMMENDATION: Permit



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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 3 periods being 2022/2023, 2023/2024 and 2024/2025 (November and January) 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 very similar to 20/00369/FUL and 21/01856/FUL permitted by Committee. This new planning application seeks to add an additional 3 periods and increase the application site area previously approved and will provide additional space for structures for commercial activity which will include the box office and other Christmas attractions.
- 1.3 As identified within the submitted Planning, Heritage and Design and Access statement, the temporary structures would comprise mainly of an outdoor covered ice rink and other such structures normally associated with events. Outside the structure of the ice rink small-scale commercial activity is proposed. The design of the ice rink and temporary structures are unknown at this stage but a proposed zoned layout plan has been submitted.
- 1.4 The Ice Rink will be located in the South West quadrant of the gardens and additional commercial activity located in the North West of the gardens. Once the proposal has been built the remaining Imperial Gardens will be unused by the event and will remain open to the public.
- 1.5 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.
- 1.6 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 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 amendment 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

22/01117/FUL PDE

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

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

Heritage And Conservation

21st July 2022 - Re: 22/01200/FUL - Imperial Garden, Promenade, Cheltenham

The site is located in Imperial Garden, a planned historic garden designed for the Regency development surrounding Imperial Square and the Promenade, which runs along its northeast side. The proposed works are for the erection of temporary structures in connection with an ice rink in Imperial Garden for a maximum of 75 days for 3 periods being 2022/2023, 2023/2024 and 2024/2025 (November and January) inclusive of rig and de-rig, in addition to the current planning permissions for festivals and special events on Imperial Garden.

It should be noted existing consent for festivals and events has been granted on Imperial Garden for 70 days a year (as granted by 12/01843/FUL). The proposed ice rink in Imperial

Garden would extend this duration by an additional 75 days a year. The resultant existing and proposed festival and event uses would therefore occupy Imperial Garden for a total of 145 days or 39.7% of the year. The current application follows consent for a temporary ice rink in Imperial Gardens between November and January in 2020 and 2021 granted under applications 19/01370/FUL, 20/00369/FUL and 21/01856/FUL.

Notably the context of the site has a high concentration of listed buildings and it lies within the Central Conservation Area: Montpellier Character Area. The listed buildings surrounding or in close proximity to Imperial Garden include but are not limited to: The Queen's Hotel, a grade II* early Victorian railway hotel in the southwest corner of Imperial Square facing down the Promenade, described by Pevsner (1976) as 'one of the finest early Victorian English Hotels'; a group of detached and semi-detached grade II* listed Regency villas on the northwest side of the Promenade facing Imperial Garden; a grade II listed formal Regency terrace on the northwest side of the Promenade opposite The Quadrangle; Queens Circus a grade II listed regency terrace visible within the south-western corner of Imperial Square, the grade II* listed Regency terraces facing onto Imperial Garden to the northeast and southeast; and the early 20th century, grade II listed, Town Hall located in Imperial Garden. The area is highly sensitive in heritage terms.

It is important to consider the heritage policy context in which the proposed works need to be determined. The cornerstone of heritage legislation is the Planning (Listed Building and Conservation Area) Act 1990 (The Act), of which Section 16(2) 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.

Notably Historic England published 'Temporary Structures in Historic Places' in 2010. This sets out a number of factors that can be used to consider such a proposal. These factors are location, physical impact, visual impact, setting, design, duration and season. The guidance document usefully states, "Very short term, genuinely temporary and wholly reversible changes are unlikely to have an unacceptable impact on setting. Longer term or recurrent changes, even if notionally temporary, may have a more serious impact."

Within the application no details of the appearance of the ice rink and its associated structures have been submitted. It is considered this information would be useful to allow a better understanding of the visual impact of the proposed development on the heritage assets. It has only therefore be possible to consider the general principle of the use. Given the sensitivity of the site and its context it is advised further information regarding the appearance of all proposed temporary structures be submitted to allow full understanding of the proposed works and their impact.

Imperial Garden is an integral part of the character of the setting of the listed buildings surrounding Imperial Square and Promenade and there is a strong historic interrelationship between them. It is also an important open space within the Conservation Area. Imperial Garden is seen in views in and around Imperial Square and affords fine views from the listed buildings, notably enhancing the high status principle rooms on ground and first floor rooms, which often form a piano nobile, designed to take advantage of this outlook.

A concern is raised over the resultant cumulative impact of the duration of temporary structures associated with festival and event uses for an period totalling 145 days or 39.7% of the year, their visual encroachment in a prominent location and the resultant loss of the contribution the public open space makes to the setting of the affected listed buildings and the conservation area. It is therefore considered the proposal would cause harm to the affected heritage assets. It is noted the proposal is for a period of 3 years. It is considered even in the short term harm will be caused. There is also the prospect of a further extension of this or a similar proposal on expiry of the 3 year period, an ice rink use already having been granted separate temporary consents for 2020 and 2021, making the ice rink only nominally temporary.

The proposal is not considered to have special regard to the desirability of preserving the special architectural or historic interest of listed buildings and their setting as required by Section 16(2) of The Act and does not pay special attention to the desirability of preserving or enhancing the character or appearance of the area as required by Section 72(1) of the Act. The proposed works do not sustain and enhance the significance of heritage assets as required by paragraph 197 of the NPPF, nor do the proposed works give great weight to the asset's conservation as required by paragraph 199 of the NPPF. Paragraph 200 of the NPPF requires clear and convincing justification for harm or loss. Where a development proposal will lead to 'less than substantial harm' to the significance of a designated heritage assets paragraph 202 of the NPPF requires this harm be weighed against the public benefits of the proposal. It should be noted this is a separate exercise to the general planning balance, the two should not be conflated.

Paragraph 10.7.10 of the submitted Design and Access Statement accepts the use of the gardens for events has an adverse impact upon the settings of neighbouring listed buildings whilst the events occur. It also acknowledges this could be considered to be contrary to relevant planning policy and legislation. It also recognises the need to balance harm against the public benefits, stating, "(the harm) should be weighed against the wider benefits that arise from the development, predominately this relates to the economic impact and contributing to defining the Cheltenham Christmas offer regional and helping to define Cheltenham as a destination of choice for visitors. However, not all users of the ice rink were visitors to the town and many were local residents, the ice rink offering an alternative physical activity and wider well being." Careful consideration will need to be given to whether this is sufficient to outweigh the harm that would be caused to the heritage assets.

Tree Officer

7th July 2022 - The location of trees should be marked on the layout plan. Currently the trackway to the northwest appears to be proposed to sit where a mature Robinia is.

A contractor should be hired well in advance of the site build to tie branches back if this is required for access.

Ground protection matting should be used around trees where increased footfall is likely - this should be marked up on the layout plan.

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

Environmental Health

6th July 2022 - I have taken a look at the documents submitted as part of this planning application and I am pleased to see the inclusion of the recommendations I made in June. I would therefore recommend approval to this application subject to the bullet points in 2.8 of the Design and Access Statement being made conditions on any approved permission. For clarity the bullet points in 2.8 are below.

- o Full details of generators to be submitted to CBC Planning and EH prior to installation.
- o Utilising generator specifications a noise management plan/ acoustic assessment shall be carried out to provide details of appropriate acoustic controls. This is to be submitted to EH for approval.
- o All mitigation measures to be installed prior to first use of the generators.
- o Arrange site visit with EH following site set up to check on noise levels, lighting etc.

These bullet points will only be required for as long as generators are used on site as I appreciate there are plans for a new substation or equivalent to be installed to increase the power supply to Imperial Gardens.

Historic England

20th July 2022 - Thank you for your letter of 5 July 2022 regarding the above application for planning permission. We refer you to the following published advice which you may find helpful in determining the application.

<https://historicengland.org.uk/images-books/publications/guidance-on-temporary-structures-for-events>

We also suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. If you would like detailed advice from us, please contact us to explain your request.

Cheltenham Civic Society

27th July 2022 - 2.2 22/01200/FUL | 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 3 periods being 2022/2023, 2023/2024 and 2024/2025 (November and January) 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 | Imperial Garden Promenade Cheltenham Gloucestershire

NEUTRAL

The Civic Society Planning Forum recognises the attraction of the ice rink, but it continues to cause problems for nearby residents, largely due to the noise from the generator. We have concerns about the long-term impact on the quality of the environment including potential stresses to neighbouring trees and soil compaction. If the ice rink is to be a long-term feature of the town, the council should look at alternative locations, rather than putting so much wear on this park. To do so could bring economic benefit to other areas of the town centre.

How does this meet with Cheltenham Borough Council's Carbon Zero goals?

Building Control

7th July 2022 - The application may require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	122
Total comments received	13
Number of objections	13
Number of supporting	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. 13 representations have been received in response to the publicity. The comments are available to view on Public Access, but in brief, the comments relate to;

- Disturbance from noise, lighting and smells;
- Harm to grass, soil contamination and lack of flowers;
- Increase in air pollution;
- Loss of public space;
- Lack of detailed information;
- Impact on conservation area and listed buildings.

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, sustainability 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 The objections from residents raised concerns with the noise and light 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) and neighbouring properties have raised concerns relating to the use of the proposed generators. Following negotiation with the applicant and EHO, the applicant has confirmed the below;
- 6.13** *With regard to noise generated during the events, the organisers will carry out the following, having learnt significant lessons in 2021:*
- *Full details of generators to be submitted to CBC Planning and EH prior to installation.*
 - *Utilising generator specifications a noise management plan/ acoustic assessment shall be carried out to provide details of appropriate acoustic controls. This is to be submitted to EH for approval.*
 - *All mitigation measures to be installed prior to first use of the generators.*
 - *Arrange site visit with EH following site set up to check on noise levels, lighting etc.*
- 6.14** The EHO has confirmed the above is acceptable and the concerns with the generators could be addressed through a planning condition, and therefore condition 3 is proposed.
- 6.15** 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.
- 6.16 Conservation area**
- 6.17** Section 12 of the NPPF emphasises the importance of achieving well-designed places that are visually attractive and sympathetic to local character and setting. In addition, policy SD4 of the JCS and policy D1 of the Cheltenham Plan require development to be of a high standard of architectural design that positively responds to and respects the site and its surroundings.
- 6.18** With particular regard to development within the historic environment, Sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be paid to the desirability of preserving the setting of listed buildings, and preserving or enhancing the character or appearance of a conservation area.
- 6.19** Paragraphs 197 and 202 of the NPPF also advise that decisions on planning applications should take account of "the desirability of new development making a positive contribution to local character and distinctiveness", and "Where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal".

- 6.20** Given the nature of the proposal and the lack of information in terms of design and scale of the ice rink and structures, it is not surprising, that various objections and concerns have been raised during the course of the application. A scheme of this nature is always likely to evoke a wide range of views and opinions, particularly on harm to the conservation area 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. It is recognised the importance of the public green space and whilst the proposed structures associated with special events do have an impact on 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. 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.
- 6.21** In acknowledging the concerns raised, the harm to the designated heritage assets is considered to be 'less than substantial' and therefore, as previously noted, this harm must be weighed against the public benefits of the scheme. Planning Practice Guidance sets out that public benefits can be "anything that delivers economic, social or environmental objectives" and should "be of a nature or scale to be of benefit to the public at large".
- 6.22** There are a number of economic and social benefits that would flow from this development which are clearly set out within the Design and Access Statement and supporting information. The Ice Rink is an important proposal that will be a central feature to the towns Christmas offering, has the potential to be a major driver of footfall, an opportunity to significantly enhance and elevate the town's seasonal offer and will play a vital role in supporting the towns economic recovery. It will also provide an opportunity to engage young people and families from across the borough and wider county.
- 6.23** The benefits to the town's economy, the creation of employment opportunities, and the social benefits all combine to result in significant public benefits which officers consider outweigh the identified 'less than substantial' harm to the setting of nearby listed buildings, and the character and appearance of the conservation area.
- 6.24 Access and highway issues**
- 6.25** 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.
- 6.26** The proposals have been fully reviewed by the Local Highway Authority who raise no highway objection, therefore it is considered acceptable on highway safety grounds.
- 6.27 Sustainability**
- 6.28** 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.
- 6.29** In this instance the submitted sustainability supporting statement states that measures are being taken to mitigate impact on the carbon emissions which include the use of bio diesel or hybrid generators and not use 100% diesel generators. Also, the design and access statement confirms that a "further project is being investigated by the Council to install a permanent power supply into the gardens reducing the need for temporary power

solutions and it is anticipated that this will be available from 2023.” In the interests of sustainable development and the reduction of carbon emissions, condition 5 is proposed which will ensure 100% diesel generators are not used.

6.30 In addition the council will encourage the use of hired kit, reusable items over disposable products, LED lighting will be used and preference will be given to toilet companies with environmental policies, and strong sustainability credentials.

6.31 Given the scale of development proposed within this application, the above proposed features are considered to be acceptable.

6.32 Benefits

6.33 The Planning, Heritage, Design and Access Statement details the economic benefits of the proposed development and supporting statements from local businesses have been submitted. The statement 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.

The running of an ice rink in 2022 returned a small financial profit in its own right as well as bringing considerable income and footfall into the town centre, in a year still feeling the effects of the covid-19 pandemic.

Cheltenham already has other long standing 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 after the Christmas activities in 2022 to assess the impact of Christmas events in Cheltenham. The results of this show significant numbers came into the town to visit the ice rink but went on to spend an amount of time and also money within the town’s businesses. The results of this survey can be seen in Appendix B.

In year one the ice rink attracted 43,600 visitors, in a year that saw the emergence of the omicron variant during the live run. As a result we should expect similar visitor numbers if not increased visitors over the coming years with the corresponding positive impact for wider businesses of the town.

The continued seasonal presence of an ice rink would increase Cheltenham’s festive offering and the ability to actively promote this well in advance of the season. It is evident that additional attractions to the town increase 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.

Cheltenham BID also compared festive shopping footfall from 2019 and 2021, and saw significant increases, in line with the plans of the Christmas offering to contribute towards the town centres regeneration. (Appendix C).

6.34 Land use agreements

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.

6.35 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.

6.36 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.

6.37 Other considerations

6.38 The Trees Officer has requested additional information regarding the protection of trees. The layout is unknown at this stage and therefore the applicant has agreed to the proposed prior to commencement condition requesting a tree protection plan.

6.39 Concerns have been raised by neighbouring properties that the flower beds within the gardens were not planted for the first 6 months of 2022 and the ice rink damaged the lawns and soil. The applicant has confirmed that they will *“engage earlier with the green spaces team to share schedules and in order to, where possible, enable planting of winter beds if not around the ice rink, then immediately after.”* Also no *“chemicals are used within the ice to ensure it remains frozen. These are contained to enclosed pipes running underneath the ice that are removed as part of dismantling. During dismantling the ice will be melted and drained into an agreed location between the operator and Cheltenham Borough Council as the landowner. The operator will be required to have spill kits for any chemicals onsite and should provide full COSHH details and procedures for any spills.”*

6.40 Public Sector Equalities Duty (PSED)

6.41 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.

6.42 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.

6.43 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 in addition to 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 potential 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 that will only use part of Imperial Gardens and considering what the special event will bring to the town the proposal is supported.

7.3 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 shall be for a maximum of 75 days, inclusive of rig and de-rig for 3 periods being 2022/2023, 2023/2024 and 2024/2025 (November and January).

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 the installation of the external generators, full details of the generators including a noise management plan and an acoustic assessment detailing the appropriate acoustic controls shall be submitted to and approved in writing by the Local Planning Authority. The external generators and lighting shall be installed, inspected 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.

- 4 Prior to the commencement of development (including demolition and site clearance), a Tree Protection Plan (TPP) to BS5837:2012 (or any standard that reproduces or replaces this standard) shall be submitted to and approved in writing by the Local Planning Authority. The TPP shall include the methods of tree and /or hedge protection, the position and specifications for the erection of tree protective fencing, and a programme for its implementation. The works shall not be carried out unless in accordance with the approved details, and the protective measures specified within the TPP shall remain in place until the completion of the construction process.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020). Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 5 The development hereby approved shall not use 100% diesel generators and only hybrid or biofuel generators are permitted.

Reason: In the interests of sustainable development and the reduction of carbon emissions, having regard to Section 14 of the NPPF, adopted policy INF5 of the Joint Core Strategy (2017) and the aims of The Cheltenham Climate Change SPD (adopted June 2022).

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.