

GLOUCESTER CITY COUNCIL

COMMITTEE : **PLANNING**

DATE : **14TH JUNE 2016**

ADDRESS/LOCATION : **LLANTHONY WHARF / LLANTHONY PRIORY**

APPLICATION NO. & WARD : **16/00357/FUL WESTGATE**

EXPIRY DATE : **30TH MAY 2016**

APPLICANT : **GLOUCESTER QUAYS LLP**

PROPOSAL : **Change of use of land to open space and associated engineering and landscape works.**

REPORT BY : **ADAM SMITH**

NO. OF APPENDICES/ OBJECTIONS : **SITE PLAN**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application relates to land on the west side of the canal at Llanthony Priory. It is adjacent to the canalside to the east, the college to the north, the main part of the Priory complex to the west, and the vacant land next to St Ann Way to the south. It is a roughly rectangular piece of land that has a historically separate ownership but functionally appears as part of the Priory complex.
- 1.2 The site straddles the existing north-south retaining wall, with the east side approximately 1.2m higher than the west side – the main part of the Priory grounds. This stone/brick wall projects above ground level on both sides and is part overgrown at the northern and southern ends. Both sides of the wall are grassed, with several trees on the east side and an area of concrete hardstanding to south. There is a path running north-south at the canalside linking north to Llanthony Road, and south to St Ann Way and beyond to Sainsburys, Monk Meadow and beyond.
- 1.3 The proposals are, broadly, to complete the Priory masterplan, the main part of which was approved by the Planning Committee in February under reference 15/01271/FUL. This includes the extension of a north-south path, opening up part of the retaining wall and linking out to the canalside. The path would be ramped up to achieve a suitable gradient between the levels either side of the wall. The opening in the wall has now been amended to be

reduced down to 2.4m in width and at a higher point in the wall (approximately 60cm from the top of the wall to be removed). The Trust still wishes to have a gate in the wall even though there would be a limited levels change at this point. The path would widen out to the canalside with an interpretation panel proposed here with information about the Priory. The existing trees on the east side would be felled and a line of 5 new trees are proposed running north south close to the canalside. Also, a drainage swale has been proposed to assist the sustainable drainage of the wider site running across the land adjacent to the west such that its eastern end extends into this application site.

- 1.4 The application is referred to the planning committee as it affects the setting of a scheduled monument.

2.0 RELEVANT PLANNING HISTORY

02/00271/OUT >> 14/00709/FUL

- 2.1 The 'Gloucester Quays' permission. Outline permission granted by the Secretary of State in 2006 for Mixed use regeneration, comprising re-use of buildings and new build to accommodate residential, employment, retail and leisure uses and an education centre for Gloscat including enhancement works to listed buildings and Llanthony Priory together with public transport facilities, improvements to the road network including a new bridge over the canal and associated landscaping, car parking and servicing. The permission was renewed under ref. 14/00709/FUL in January 2016.

15/01271/FUL – Remainder of masterplan for the adjacent land

- 2.2 Re-use of two historic buildings for Class D1 use. Works to Medieval Range including attached Victorian Farmhouse to include removal of brick nogging, new windows, new disabled access, interior alterations, repair of historic fabric. Works to Brick Range to include formation of new roof, new mezzanine structures, new ground floor slab, new windows, external cladding, internal partitioning, repair of historic fabric. Landscaping including new car parking provision, resurfacing of pathways, service provision, felling of trees, new planting including trees. Sub ground servicing provision. Alterations to vehicular access and site perimeter fencing. Architectural and amenity lighting. Granted subject to conditions 5th February 2016.

3.0 PLANNING POLICIES

- 3.1 This is the latest Government statement of planning policy and is a material consideration that should be given significant weight in determining this application.

Decision-making

The NPPF does not alter the requirement for applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing and determining applications, Authorities should apply the presumption in favour of sustainable development. For decision-making, this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent, or relevant policies are out of date, granting planning permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or
 - specific policies in the NPPF indicate development should be restricted.

Authorities should look for solutions rather than problems and decision-takers should seek to approve applications for sustainable development where possible.

Core planning principles

Planning should:

- Be genuinely plan-led;
- Be a creative exercise in ways to enhance and improve places;
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Secure high quality design and a good standard of amenity;
- Take account of the different roles and character of different areas;
- Support the transition to a low carbon future, take account of flood risk and encourage the use of renewable resources;
- Contribute to conserving and enhancing the natural environment and reducing pollution;
- Encourage the effective use of land by reusing brownfield land;
- Promote mixed use developments;
- Conserve heritage assets in a manner appropriate to their significance;
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable;
- Take account of and support local strategies to improve health, social and cultural wellbeing and deliver sufficient community and cultural facilities and services to meet local needs.

Requiring good design

Emphasis is retained on good design, seeking to ensure that development will function well and add to the overall quality of the area, establish a strong sense of place, optimise the potential of the site to accommodate development, respond to local character and history while not discouraging innovation, ensure safe and accessible environments, and are visually attractive as a result of good architecture and appropriate landscaping. Permission should be refused for development of poor design that fails to take opportunities for improving areas.

Meeting the challenge of climate change, flooding and coastal change

In terms of flooding, authorities should direct development away from high flood risk areas, but where development is necessary, make it safe without increasing flood risk elsewhere. The use of sustainable drainage systems is encouraged.

Conserving and enhancing the natural environment

Sets out that the planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes, geological conservation interests and soils;
- Recognising the wider benefits of ecosystem services;
- Minimising impacts on biodiversity and providing net gains where possible;
- Prevention of unacceptable risks or adverse effects by pollution;

Authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight.

Authorities should aim to conserve and enhance biodiversity by applying the following principles;

- If significant harm cannot be avoided, mitigated or compensated for, refuse permission;
- Opportunities to incorporate biodiversity in and around developments should be encouraged;
- Refuse permission for development resulting in the loss or deterioration of irreplaceable habitats unless the need for and benefits of the development clearly outweigh the loss.

Developments should be prevented from contributing to or being put at unacceptable risk from soil, air, water or noise pollution, remediate and mitigate land where appropriate, and limit the impact of light pollution.

Conserving and enhancing the historic environment

Retains the general approach to protect and enhance heritage assets, and to require applicants to assess the significance of assets affected by development proposals, including any contribution made by their setting.

Authorities should identify and assess the particular significance of any heritage asset that may be affected taking account of the available evidence and expertise.

In determining applications, Authorities should take account of;

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;
- the desirability of new development making a positive contribution to local character and distinctiveness.

Great weight should be given to the asset's conservation. The more important the asset, the greater the weight. Significance can be harmed or lost through alteration or destruction of the asset or development within its setting. Any harm or loss should require clear and convincing justification.

Where substantial harm or total loss of significance of an asset would occur, applications should be refused unless it can be demonstrated that this is necessary to achieve substantial public benefits that outweigh that harm or loss or all of the following apply:

- the nature of the asset prevents all reasonable uses of the site; and
- no viable use of the asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

Where a proposal will lead to less than substantial harm to the significance of a designated asset, this should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Authorities should look for opportunities for development within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Planning conditions

Planning conditions should only be imposed where they are

- Necessary;
- Relevant to planning and to the development to be permitted;
- Enforceable;
- Precise; and
- Reasonable in all other respects.

The National Planning Practice Guidance has also been published to accompany and in part expand on the National Planning Policy Framework.

For the purposes of making decisions, the NPPF sets out that policies in a Local Plan should not be considered out of date where they were adopted prior to the publication of the NPPF. In these circumstances due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.

The Development Plan

- 3.2 Section 38 of the Planning and Compulsory Purchase Act 2004 has established that - "The development plan is
- (a) The regional spatial strategy for the region in which the area is situated, and

(b) The development plan documents (taken as a whole) which have been adopted or approved in relation to that area.

If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy that is contained in the last document to be adopted, approved or published (as the case may be). If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

Local Plan

- 3.3 The statutory development plan for Gloucester remains the City of Gloucester Local Plan (Adopted 1983 and partially saved until the Local Development Framework is adopted). Under the terms of the NPPF, weight can be given to these policies according to their degree of consistency with the NPPF.

A.2 – Particular regard will be given to the City’s heritage in terms of archaeological remains, listed buildings and conservation areas.

A5.c – Conservation and maintenance of structures and settings of City’s historic fabric (various sites including Llanthony Priory)

A5.e – Use of Llanthony Priory for leisure uses will be supported

- 3.4 Subsequent to the 1983 plan there has also been the City of Gloucester (Pre-1991 Boundary Extension) Interim Adoption Copy October 1996), and City of Gloucester First Stage Deposit Local Plan (June 2001).

- 3.5 Regard must also be had to the 2002 Revised Deposit Draft Local Plan. This has been subjected to two comprehensive periods of public and stakeholder consultation and adopted by the Council for development control purposes. This cannot be saved as it is not a formally adopted plan, however with it being adopted for development control purposes it is still judged to be a material consideration.

- 3.6 Allocations:
Site of nature conservation interest Grade D - B.3
Scheduled monument
Conservation Area
Floodplain
Public Open Space – OS.1
Area of principal archaeological interest
Mixed use allocation

Policies:

B.3 – Sites of nature conservation interest C&D)

B.7 – Protected species

B.10 – Trees and hedgerows on development sites

FRP.1a – Development and flood risk

FRP.6 – Surface water runoff

FRP.11 – Pollution

FRP.15 – Contaminated land

BE.4 – Criteria for the layout, circulation and landscape of new development
BE.7 – Architectural design
BE.12 – Landscape schemes
BE.21 – Safeguarding of amenity are relevant.
BE.23 – Development affecting the setting of a listed building
BE.31 – Preserving sites of archaeological interest
BE.32 – Archaeological assessment
BE.34 – Presumption in favour of preserving archaeology
BE.35 – Scheduled Ancient Monument
BE.36 – Preservation in situ
BE.37 – Recording and preserving archaeology
OS.1 – Protection of public open space

Emerging Plan

- 3.7 In terms of the emerging local plan, the Council has prepared a Joint Core Strategy with Cheltenham and Tewkesbury Councils which was submitted to the Planning Inspectorate on 20th November 2014. Policies in the Submission Joint Core Strategy have been prepared in the context of the NPPF and NPPG and are a material consideration. The weight to be attached to them is limited, the Plan has not yet been the subject of independent scrutiny and does not have development plan status. The Examination in Public has been ongoing since May 2015. In addition to the Joint Core Strategy, the Council is preparing its local City Plan which is taking forward the policy framework contained within the City Council's Local Development Framework Documents which reached Preferred Options stage in 2006.

On adoption, the Joint Core Strategy, City Plan and any Neighbourhood Plans will provide a revised planning policy framework for the Council. In the interim period, weight can be attached to relevant policies in the emerging plans according to

- The stage of preparation of the emerging plan
- The extent to which there are unresolved objections to relevant policies; and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the National Planning Policy Framework

- 3.8 The following policies are of relevance and the plan is subject to representations through the consultation which affects the weight that can be attributed to the policies:

SD1 – Presumption in favour of sustainable development
SD5 – Design requirements
SD9 – Historic environment
SD10 – Biodiversity and geodiversity
SD15 – Health and environmental quality
INF3 – Flood risk management
INF4 – Green infrastructure

All policies can be viewed at the relevant website address:- Gloucester Local Plan policies – www.gloucester.gov.uk/planning; and Department of Community and Local Government planning policies - www.communities.gov.uk/planningandbuilding/planning/.

4.0 CONSULTATIONS

- 4.1 Historic England initially raised no objection in principle but based on the submitted information considered there would be less than substantial harm caused to the significance of the monument, through the loss of archaeological evidence. Specifically they raised concerns about the drainage swale, the access through the wall, and the trees along the canalside.

Further information has now been provided on these three areas and they have updated their comments as follows:

An archaeological evaluation was undertaken in the area of the proposed swale and access through the wall. This has shown that for the swale area the proposed depth of the swale has the potential to impact on buried archaeology associated with the Priory. To protect the archaeology there should be a sufficient buffer of material left over the buried archaeology. We would recommend at least 0.3m between the top of known archaeology and the new ground surface.

The western trench recorded archaeology at about 9.4m above Ordnance Datum (aOD) (about 0.8m below ground level). This just gives enough protection between the proposed base of the swale (at 9.7m aOD) and the archaeology. However, archaeology was recorded at 9.65m aOD in the eastern Trench which does not leaves enough protection between the archaeology and the proposed new ground surface. Further design work needs to be undertaken in light of the evaluation results to ensure there is sufficient protection of the buried archaeology.

The evaluation in the area of the proposed access has shown that the wall may be much later than originally thought. The proposal to narrow the gap and the raised pathway has both mitigated any issues we had and we have no objection to the removal of a section of the wall.

The trees as we have already stated have the potential to improve the setting of the scheduled monument and so we have no objection to them. We are however minded that others have raised concerns about the trees and these should be weighed against the benefits.

The proposals in principle are a positive development for the Priory as they will improve the canal side environment and encourage visitors to explore the Priory site. As previously stated, the Llanthony Priory Trust has a Scheduled Monument Consent that is conditioned to ensure the landscaping is agreed with all parties prior to its construction. We have no objection to the scheme in its new form, with the understanding that more work is needed on the design of the swale.

- 4.2 The Lead Local Flood Authority does not wish to offer specific comments.
- 4.3 The Environment Agency does not wish to offer specific comments.
- 4.4 The Canal and River Trust has no objection to the general improvement of the area but is concerned regarding the species and position of the trees. Further consideration should be given to whether trees are appropriate in this location at all, and if so whether the non-native tree type chosen is suitable historically. Further consideration should also be given to the possible structural implications of the root system on the canal wall and safety issues resulting from wet leaves on the towpath. They wish to see further information and justification for this type of tree planting as well as consideration of its impact on the canal related infrastructure before responding further.
- 4.5 The Civic Trust raises no objection to the change of use and welcomes the overall concept. The Panel wishes to see the wharf side walkway reflect the 19th century dockland period by keeping rail lines and other relics – meaning that the line of trees are unacceptable, particularly the species (tulip is an exotic ornamental typically found in parkland not dockland). Any trees should be nearer the priory remains and as the area was called the High Orchard by the monks fruit trees would be more suitable. No objection is raised to the engineering works to the boundary wall although they would like to know if the wall is of such historic significance that it requires interpretation to the public. They are also concerned about the proposed open stream feeding the pond and would like to see more details.
- 4.6 The Conservation Officer's comments on the scheme as amended are as follows;

Opening in wall

No objections to the reduced opening in the wall in the proposed location. Conditions are required for its preservation, approval of all materials for the scheme, a scaled drawing for the proposed gate and the interpretation panels.

Introduction of a swale for drainage

The swale and drainage elements have been subject to a detailed condition under application LPA ref: 15/01271/FUL, this proposed a drainage strategy sought to utilise and extend the pond and the area of the proposed car park where there are no impacts on the designated heritage assets. As part of the 15/01271/FUL application discussions when the application was assessed the location of this swale was not confirmed and would be subject to a condition therefore should this element should be removed from this scheme as it is still be agreed and assessed as part of a separate application and discharge of condition.

My objection remains that the visual impact of the swale in this location would have a harmful impact upon the setting of the designated assets and it is believed there are other areas on the site where the introduction of a swale would not have a harmful impact.

Introduction of trees along dockside

This is still of a significant concern, I believe that the introduction of trees in this location is out of character with the Docks Conservation Area and therefore would object to such an introduction. If trees are to be planted I note that they are proposed to sit along that of the building line following the college building and potential built form on the adjacent site, I wonder whether a more informal approach and these being set back would reduce their impact and I would rather see a species which relates to the Priory such as fruit trees if you are minded to grant consent.

The site is adjacent to the Docks Conservation Area and Policy CA3/7 within the Appraisal and Management recommendations states: The Council has published a Public Realm Strategy for Gloucester Docks to ensure a consistent, high quality approach is taken to the treatment of the public realm at various stages in the redevelopment and enhancement of the Docks. The Council will ensure that all new developments adhere to the guidelines in the Public Realm Strategy. This document states that section 7.1 "...historically, the Docks would have been a hard landscaped environment and the inclusion of planting now would tend to dilute its particular character. All grass or shrub planting is to be avoided completely...." Therefore the proposed planting would not be in keeping with the industrial character of the docks conservation area and would fail to preserve or enhance the character of the docks conservation area.

- 4.7 The City Archaeologist has reviewed the amended scheme and has the following comments:

The new access way through the wall

In my judgment the revised proposals are acceptable – the loss to significant elements of the built fabric has been minimised.

The proposed swale

A recent archaeological evaluation in this area has found that significant archaeological remains survive at about 60cm below ground level. I'm therefore concerned that the depth of the proposed Swale at 50cm goes too close to the 'archaeological horizon' for us to be content that these remains will be protected. You will note from the Inspector of Ancient Monument's letter of the 24th of May that we would usually seek a 30cm buffer between the top of known archaeological and the buried ground surface. The Inspector has suggested that further design work needs to be undertaken in order to ensure that there is sufficient protection for the buried archaeology.

I am of the opinion that the applicant should be asked to either:

- a) Redesign the swale to better protect the archaeology; or
- b) Remove the swale from this planning application.

If the applicant is not willing to do this I would have to recommend that the City Council refuses this planning application due to the unacceptable depth of the proposed swale.

Come what may, should the council be minded to grant permission for this, or a revised, application I would recommend that condition AR1 for an archaeological watching brief should be attached to any permission.

- 4.8 The Environmental Planning Manager raises no objection but seeks a condition to approve the specification of any lighting.
- 4.9 The Contaminated land consultants recommend the standard contaminated land condition.
- 4.10 The Drainage Officer notes the Flood Zone 3 location. He considers that as the sequential and exception tests were addressed for the adjacent site the same applies here (subject to a flood management / flood evacuation plan being submitted under condition).

In terms of the impact of the development on flood risk elsewhere this application involves some footpath raising which will lead to a certain loss in flood plain storage. As was the case with the adjacent site, it is understood that the mitigation works for 'loss in flood plain storage' which were carried out for the wider Quays development provided an 'excess' of 'compensatory volume which can be used to balance the 'deficit' here. That said, it would be better if the height that is proposed to raise the footpaths by is reduced. The proposed uplift looks to be circa 200 mm whereas 50 mm would suffice to keep them well drained.

As this application includes a small amount of SuDS drainage, the standard drainage/SuDS condition should be applied. The standard flood management plan condition also needs to be applied as the site could require emergency evacuation in the case of a flood (FZ3).

He has no further comments in respect of the amended scheme.

- 4.11 The Landscape Officer has not commented.
- 4.12 The Tree Officer supports the provision of trees parallel with the canalside but recommends a different tree species to be faster growing, have more immediate impact and be more suited to the setting, and also suggests a further tree at the southern end of the row. He raises no objection to the removal of the three existing trees on the east side of the wall.

5.0 PUBLICITY AND REPRESENTATIONS

- 5.1 Eight neighbours were notified and press and site notices were published. No representations have been received.
- 5.2 The full content of all correspondence on this application can be inspected at Herbert Warehouse, The Docks, Gloucester, prior to the Committee meeting, or via the following link:
<http://planningdocs.gloucester.gov.uk/default.aspx?custref=16/00357/FUL>

6.0 **OFFICER OPINION**

6.1 It is considered that the main issues with regard to this application are as follows:

- Principle
- Conservation and design
- Archaeology
- Flood risk and drainage
- Trees
- Residential amenity
- Land contamination

Principle

6.2 From the 2002 plan the site has been within the mixed use allocation 'MU.2' which covers a large expanse of the western edge of the city. It also sits within the Gloucester Quays masterplan for which there is an overarching permission and several reserved matters and subsequent separate permission have been granted for redevelopment.

6.3 The site has been partially used for the rail connections into the industrial uses. As these were removed and in more recent years as the previous bad neighbour uses have been removed from around the Priory the land has appeared as part of the Priory functionally, albeit unused and that it has a legacy of divided ownership. The principle of an open space use here is not objectionable and assists to formally bring the utilisation of the wider area together.

Conservation and design

6.4 The site is of national importance, being the current edge of the Priory scheduled monument site (although historically the Priory extent is wider beyond the canal). There are also several listed buildings, grade 1 and 2 listed, within the Priory complex to the west and the eastern half of the site closest to the canal is within the Conservation Area. The Conservation Area Appraisal identifies an important view across from the application site towards Bakers Quay. Bakers Quay itself contains 3 listed buildings near the canal edge.

6.5 The upgrading of this land, connection into the remainder of the Priory area, and the enhanced awareness of this important historic part of the City that it would lead to, are welcomed.

6.6 The north/south wall into which an opening is proposed consists of several phases of construction, including elements that are pre-dissolution. It therefore has some significant historic interest, and different parts of the wall have differing significance, in terms of wishing to preserve them. The reduction in the opening proposed to the historic wall from 4.6m wide to 2.4m and the position of the opening higher up in the wall, therefore removing less

historic fabric, are welcome alterations. These alterations also serve to avoid a pre-dissolution phase of the wall construction that previously appeared to be under threat. There is now general consensus among consultees that subject to certain conditions, the revised opening in the wall is acceptable. A gate within the opening may be an unusual addition given the limited opening height and details of the gate should be secured by condition.

- 6.7 In design terms this provides for a formal link into the Priory and up to the College. There is obviously a desire line where a mud track has been trampled across the northern part to the college. The proposals should enhance linkages around and through the site.
- 6.8 The creation of part of a swale is associated with the drainage solution for the wider site (the remainder of the swale is provisionally drawn across the adjacent part of the Priory site). The details indicate the depth at approximately 50cm at maximum. There is an existing lowered area close by to the south of the site at the location of the historic culvert but there are clearly concerns from the Conservation Officer about the heritage impact of this. For further archaeological reasons (see below), it has been agreed with the applicant that the drainage solution be dealt with pursuant to a condition, which could then be addressed concurrently with the details for the Priory under the main permission. The principle of the development is not unacceptable and there are a range of alternative drainage solutions that can be explored.
- 6.9 The Conservation Officer and other contributors raise concerns about the planting of trees, that they would be out of character with the industrial nature of the Docks Conservation Area. I appreciate the general observation, however in my view I do not consider this proposal to be unacceptable – there are existing trees in this part of the site east of the wall, and I view the Priory as a brief open and soft landscaped interlude in the harder Docks character, the industrial character post-dates the Priory grounds anyway when the canal cut through the area. Furthermore, Historic England notes that they have the potential to improve the setting of the scheduled monument. The tree species need to be agreed by condition as consensus has not been reached yet.
- 6.10 There are noted benefits from the scheme that also include facilitating the obvious desire line for students to cut across into the site, access to the Priory for the public and serving as open space for the Gloucester Quays development, and encouraging knowledge and experience of this important piece of the City's heritage. Subject to conditions the proposals would comply with relevant policies of the 2002 City of Gloucester Second Deposit Local Plan and the Pre-Submission Joint Core Strategy, the NPPF, and with the duties under S66 and 72 of the 1990 Planning Listed Buildings and Conservation Areas Act.

Archaeology

- 6.11 The buried remains at the Priory are of national significance. In terms of archaeological impacts the proposals involve removing part of the existing wall and excavating some of the higher land on the east side to achieve the

required gradient for the path, excavating up to 1m deep. Tree pits, the footpath, and the provisional drainage swale also require excavation to varying depths.

- 6.12 The applicant's analysis considers that the proposals are unlikely to affect any archaeology should any be present given the identified archaeological horizon and the extent of works. Broadly there is now consensus of the limited impact of the majority of the works other than the swale. The consultee comments above identify the potential harm that these works could cause. Again this lends weight to the suggestion that the drainage is dealt with pursuant to a condition with the requirement that the selected option be assessed further in terms of its heritage impact. If the swale is pursued this further work would need to address the points raised by Historic England and the City Archaeologist.
- 6.13 An archaeological watching brief is also required. Subject to conditions, no objection is raised in these terms.

Flood risk and drainage

- 6.14 The site is within flood zone 3. As a change of use application the sequential test does not need to be imposed.
- 6.15 As noted above, the scheme includes drainage proposals that move on from that considered in the earlier Priory scheme, and it proposes the eastern end of a surface water attenuation swale that would extend into the main site north of the formal garden and also a French drain into a soakaway taking the runoff from the path. There is no in-principle issue with achieving a sustainable drainage solution here and dealing with it pursuant to condition in conjunction with the heritage constraints would address the matter.
- 6.16 There is some land raising proposed as well as lowering. The Environment Agency does not wish to comment directly, referring to standing advice. The applicant anticipates a net loss of 175 cubic metres of floodplain storage capacity, although a swale, if approved, would somewhat offset this by lowering land. They consider that the change remains negligible given the significant net benefit to floodplain storage capacity delivered by the wider Gloucester Quays scheme to date (in the order of 7,725 cubic metres).
- 6.17 As noted with the 'main' Priory application, the Gloucester Quays outline planning permission is highly relevant in this respect. This application included the Priory site alongside other land, was to remove floodplain capacity, and an assumption was made that it would be necessary to raise all land in the site (including approximately half of the Priory) out of the floodplain (i.e. raise any land below 11.18m AOD). The agreed mitigation of the removal of the dock branch railway embankment at Over, in three stages (comprising 38,500 m³) to mitigate the potential loss of up to 35,000 m³ of floodplain has been partially undertaken (two stages of removal have been completed, the other by March 2025) and has actually removed 16,005m³ (instead of the 14,500m³ envisaged) so there is already a further net benefit. At the present

time there is a running net 'benefit' to the floodplain, as over 16,000m³ has been removed and c.7000m³ imported so far.

6.18 Overall, the headline figures are that 38,500m³ removal is proposed for the Gloucester Quays site, to mitigate 35,000m³ of land raising which is a robust appraisal based on wholesale raising of swathes of the site including half of the Priory site. The net floodplain benefit associated with this site as part of the wider Gloucester Quays site indicates that no objection should be raised in this instance for the loss of floodplain capacity.

6.19 With conditions to secure the detail of the drainage solution and a flood management plan, no objection is raised in these terms.

Trees

6.20 The Tree Officer is content with the loss of the existing three trees on the canalside of the wall, in the context of new planting. Subject to agreeing the species of the new trees under condition and securing the protection of the existing, no objection is raised in this regard.

Ecology

6.21 The Environmental Planning Manager is content with the loss of the existing trees. A condition to secure an appropriate specification of any lighting is necessary given the location next to the canal migration route and next to an area of known bat activity.

Residential amenity

6.22 The use and physical works proposed are unlikely to cause harm to amenities of local residents. There is an extant permission, as well as a resolution to grant the new Bakers Quay scheme, for residential on the opposite side of the canal, and on the vacant land to the south, in addition to existing residential properties across Hempsted Lane and in the Docks. I recommend a construction times condition is imposed to preserve amenities. Subject to this no objection is raised in these terms.

Land contamination

6.23 The site has a history of potentially contaminating uses as railway land and dock yard and may therefore have contamination issues. The Contaminated Land consultants recommend the standard contaminated land condition. Subject to this no objection is raised in these terms.

7.0 CONCLUSION

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

7.2 Subject to conditions it is considered that the proposal would comply with the relevant local and national policies cited above and the heritage duties under the 1990 listed buildings and conservation areas Act.

8.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER

8.1 That planning permission is granted subject to the following conditions:

Condition 1

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition 2

The development shall be undertaken in accordance with the plans referenced

D4702.PL100.011B Landscape Masterplan

D4702.PL100.012B Landscape Excavations (other than for the surface water attenuation swale)

D4702.PL100.013B Landscape Kerb Details and Construction Details

D4702.PL100.017B Landscape Cross Sections

D4702.PL100.018 Historic Wall Analysis

(all received by the Local Planning Authority 17th May 2016)

except where otherwise required by conditions of this permission.

Reason

To ensure the works are carried out in accordance with the approved plans.

Condition 3

No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason

to make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which will be lost, in accordance with paragraph 141 of the National Planning Policy Framework and Policies BE.36, BE.37 and BE.38 of the Gloucester Local Plan (2002 Second Stage Deposit).

Condition 4

Prior to any works to insert the opening to the retaining wall, details of the methodology for the works and of the external finish to the wall where it is broken out (including any applied material to the wall) shall be submitted to and approved in writing by the Local Planning Authority. Works shall be undertaken only in accordance with the approved details.

Reason

To preserve the setting of the listed buildings and scheduled monument and the conservation area, in accordance with Policies SD5 and SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014, Paragraphs 58 and 131 of the National Planning Policy Framework and Policies BE.7, BE.23 and BE.35 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 5

Hard surface finishes for the footpaths/cycle ways and any external circulation areas shall be implemented only in accordance with details and samples that have been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that the development is appropriate to its context and in the interests of preserving and enhancing the setting of the listed buildings and the scheduled monument and the conservation area, in accordance with Policies SD5 and SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014, Paragraphs 58 and 131 of the National Planning Policy Framework and Policies BE.7, BE.23 and BE.35 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 6

Notwithstanding that indicated on the submitted plans, soft landscaping shall be implemented only in accordance with a landscape scheme that has been submitted to and approved in writing by the local planning authority. The submitted design shall include scaled drawings and a written specification clearly describing the species, sizes, densities and planting numbers. Drawings must include accurate details of all existing trees and hedgerows with their location, species, size, condition, any proposed tree surgery and an indication of which are to be retained and which are to be removed.

Reason

In order to protect the visual amenities of the area and in the interests of preserving and enhancing the setting of the listed buildings and the scheduled monument and the conservation area in accordance with Policies SD5, SD9 and INF 4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014, Paragraphs 17 and 58 of the National Planning Policy Framework and Policies BE.4, BE.12, BE.23 and BE.35 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 7

Any gate to be installed shall only be implemented in accordance with details (comprising scaled elevation and layout drawings, materials and external finish) that have been submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of protecting the character and appearance of the Conservation Areas and the setting of listed buildings and the scheduled monument, in accordance with Policies SD5 and SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014, Paragraphs 17, 58 and 131 of the National Planning Policy Framework and Policies BE.5, BE.17, BE.23 and BE.29 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 8

External lighting shall be installed only in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. These details shall include location plans, specifications of the fixtures and details of how they deal with impacts on bats.

Reason

in the interests of preserving and enhancing the special interest of the listed buildings and the scheduled monument and preserving biodiversity, in accordance with Paragraphs 58, 109, 118 and 131 of the National Planning Policy Framework, Policies B.7, BE.7, BE.22 and BE.35 of the Second Deposit City of Gloucester Local Plan (2002) and Policies SD5, SD9, SD10 and INF4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014

Condition 9

External interpretation material (e.g display lecturns) shall be installed only in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The details shall include scaled plans of their location and form, and the visual and written content.

Reason

in the interests of preserving and enhancing the setting of the listed buildings and the scheduled monument, in accordance with Policies SD5 and SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014, Paragraphs 58 and 131 of the National Planning Policy Framework and Policies BE.7, BE.22 and BE.35 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 10

No development including demolition or site clearance shall be commenced on the site or machinery or material brought onto the site for the purpose of development until full details regarding adequate measures to protect trees and hedgerows have been submitted to and approved in writing by the local planning authority. This shall include:

- (a) Fencing. Protective fencing must be installed around trees and hedgerows to be retained on site. The protective fencing design must be to specifications provided in BS5837:2005 or subsequent revisions, unless agreed in writing with the local planning authority. A scale plan must be submitted and approved in writing by the local planning authority accurately indicating the position of protective fencing. No development shall be commenced on site or machinery or material brought onto site until the approved protective fencing has been installed in the approved positions and this has been inspected on site and approved in writing by the local planning authority. Such fencing shall be maintained during the course of development,

- (b) Tree Protection Zone (TPZ) The area around trees and hedgerows enclosed on site by protective fencing shall be deemed the TPZ. Excavations of any kind, alterations in soil levels, storage of any materials, soil, equipment, fuel, machinery or plant, citing of site compounds, latrines, vehicle parking and delivery areas, fires and any other activities liable to be harmful to trees and hedgerows are prohibited within the TPZ, unless agreed in writing with the local planning authority. The TPZ shall be maintained during the course of development

Reason

To ensure adequate protection to existing trees which are to be retained and to retain habitat, in the interests of the character and amenities of the area and protecting biodiversity in accordance with Policies SD10 and INF 4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014, Paragraph 17 the National Planning Policy Framework and Policies B.10 and BE.4 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 11

The development hereby permitted shall not commence until details for the disposal of surface water have been submitted to and approved in writing by the Local Planning Authority. The details submitted shall include proposals for the disposal of surface water in accordance with the principles of Sustainable Urban Drainage Systems (SUDS) and shall be accompanied by an assessment of the impact of the proposed solution on buried archaeological remains and the setting of listed buildings. The approved details shall be implemented prior to the commencement of the use hereby permitted and maintained thereafter for the life of the development.

Reason

To ensure that the development is provided with a satisfactory means of drainage, to reduce the risk of creating or exacerbating a flooding problem, to minimise the risk of pollution and preserve heritage assets and their setting in accordance with Policies SD9, SD15 and INF3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014, Paragraphs 100, 103 and 131 of the NPPF and Policies FRP.1a, FRP.6, FRP.11, BE.23, BE.31, BE.34, BE.35 and BE.36 of the City of Gloucester Second Deposit Local Plan 2002.

Condition 12

Construction work and the delivery of materials shall be limited to the hours of 0800 hours to 1800 hours Monday to Friday, 0800hours to 1300hours on Saturdays and no construction work or deliveries shall take place on Sundays or Bank Holidays.

Reason

To safeguard the amenity of the area in accordance with Policies FRP.9, FRP.10 FRP.11 and BE.21 of the Second Deposit City of Gloucester Local Plan (2002), Policy SD15 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014 and Paragraphs 17, 109, 120 and 123 of the National Planning Policy Framework.

Condition 13

The use hereby permitted shall not commence until robust emergency flood warning and evacuation plans have been submitted to, and approved in writing by, the Local Planning Authority. The use shall operate only in accordance with the approved plans.

Reason

To demonstrate that the development will be safe for its lifetime, taking into account the vulnerability of users in accordance with the NPPF, Policy FRP.1a of the City of Gloucester Second Deposit Local Plan 2002 and Policy INF3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014.

Condition 14

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part 4 has been complied with in relation to that contamination.

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must accord with the provisions of the EPA 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to elsewhere as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with part 3.

5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over an appropriate time period, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy FRP.15 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 15

No groundworks shall commence for the planting of trees until details of a root barrier system have been submitted to and approved in writing by the Local Planning Authority. The approved root barriers shall be implemented in full in association with each of the newly planted trees.

Reason

To mitigate the potential impact on archaeological remains, in accordance with paragraph 141 of the National Planning Policy Framework and Policies BE.36, BE.37 and BE.38 of the Gloucester Local Plan (2002 Second Stage Deposit) and Policy SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Submission Version November 2014.

Note 1

In accordance with the requirements of the National Planning Policy Framework the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the Council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

Note 2

All birds, their nests and eggs are protected by law and it is thus an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to £5,000, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from English Nature and the Council's Ecologist.

Note 3

It is an offence for any person to:

- Intentionally kill, injure or take a bat. Under the Habitats Regulations it is an offence to deliberately capture or kill a bat.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.
- Under the Habitats Regulations it is an offence to damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and Conservation Regulations 1994 that works to trees or building where that work involves the disturbance of a bat is an offence if a licence has not been obtained by DEFRA. If a bat is discovered while work is being undertaken, all work must stop and advice sought from English Nature and the Council's Ecologist. You can also call the UK Bat helpline on 0845 133 228.

Decision:

Notes:

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Person to contact: Adam Smith
(Tel: 396702)

16/00357/FUL

**Llanthony Wharf
Llanthony Road
Gloucester**

Planning Committee 14.06.2016

