

GLOUCESTER CITY COUNCIL - DEVELOPMENT CONTROL

Committee:	Planning
Date:	1 st October 2019
Address/Location:	Orchard Square The Docks Gloucester
Application No:	19/00755/FUL
Ward:	Westgate
Expiry Date:	16.10.2019
Applicant:	Gloucester Quays LLP
Proposal:	Temporary use of land at Orchard Square Llanthony Road, High Orchard Street, Merchants Road, Victoria Dock and Mariners Square for the siting of an Ice Rink, Christmas Market and associated development. Proposal includes the erection of temporary buildings and plant. Permission sought for the Christmas and New Year periods 2019/2020 to 2023/24 from 28 October until 18 January.
Report by:	Adam Smith
Appendices:	Site location plan Proposed site layout plan (for 2019/20)

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application site comprises a large part of the Docks, between the area north of Victoria Dock, extending south between the Dock and Southgate Moorings car park, including the open area between the Barge Arm and Albert Warehouse south of the Dock, and continuing south to include the 'Orchard Square' area between the Waterways Museum and the Barge Arm, Llanthony Road and the northern parts of High Orchard Street and Merchants Road in Gloucester Quays. The site is within the Docks Conservation Area and there are numerous listed buildings in the vicinity.
- 1.2 The proposal is to allow for the temporary use of this land as a Christmas Market and ice rink (comprising of a skating surface 30m by 15m, and associated skate hire, ticket office, and compound/plant areas) for the Christmas and New Year period (28th October to 18th January) for 5 further years. Broadly the same proposal has previously been allowed in preceding years. The new application encompasses all the activities across the Docks whereas permissions were previously granted for the ice rink and Orchard Square proposals, and the Victoria Dock area proposals, separately.

1.3 The maximum extent of the use is proposed as above, although the actual activities will vary within that timeframe;

Ice rink – construction from 28th October and removed by 18th January; operational period from 14 November to 5th January.

Victorian market – construction from 28th October earliest and removed by 13th December; operational period from 14th November to 7th December (at longest).
- 1.4 A layout plan has been provided, showing the ice rink in a similar position to previously on Orchard Square, and an array of stalls/marquees and cabins through the rest of the site. Also of note is a carousel proposed to the south of Victoria Dock, a helter skelter to the north of Victoria Dock, and a bus bar adjacent to Southgate Moorings car park by the Dock entrance.

Furthermore, while power supplies are in place in Orchard Square, generators are required for power around Victoria Dock.

- 1.5 The application is referred to the Planning Committee because the Council has an ownership interest in the land and objections have been received.

2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
Orchard Square area			
14/00415/FUL	Construction of new public square, associated engineering works and hard landscaping (includes removal of existing structures, walls and railings), and works to Llanthony Road.	Granted	09.04.2015
16/00829/FUL	Construction of new public square, associated engineering works and hard landscaping (including relocation of heritage features) (proposed as an interim scheme pending implementation of previously approved scheme of works ref. 14/00415/FUL).	Granted	07.09.2016
16/01212/FUL	Temporary use of Orchard Square for the siting of an Ice Rink, Christmas Market and associated development. Proposal includes the erection of temporary buildings and plant. Permission sought for the Christmas and New Year periods 2016/17, 2017/18 and 2018/19 from 31 October until 15 January	Granted	28.11.2016
17/01004/FUL	Variation of Condition 5 on Planning Permission Ref: 16/01212/FUL to allow the hours of ice rink lighting to be extended Original development is - Temporary use of Orchard Square for the siting of an Ice Rink, Christmas Market and associated development. Proposal includes the erection of temporary buildings and plant. Permission sought for the Christmas and New Year periods 2016/17, 2017/18 and 2018/19 from 31 October until 15 January	Granted	03.11.2017
18/01069/FUL	Variation of condition 1 of permission ref. 17/01004/FUL to elongate the period of use to 29 October 2018 until 18 January 2019. Original development is - Temporary use of Orchard Square for the siting of an Ice Rink, Christmas Market and associated development. Proposal includes the erection of temporary buildings and plant. Permission sought for the Christmas and New Year periods 2016/17, 2017/18 and 2018/19 from 31 October until 15 January	Granted	02.11.2018
Victoria Dock area			
17/01007/FUL	Temporary use of Mariners Square and Victoria Dock for Christmas Markets and associated development. Proposal includes the erection of temporary buildings and plant. Permission sought for the Christmas and	Granted	08.11.2017

	New Year periods 2017/18 & 2018/19 from 31 October to 15 January.		
--	-------------------------------------------------------------------	--	--

3.0 RELEVANT PLANNING HISTORY

3.1 The following planning guidance and policies are relevant to the consideration of this application:

3.2 National guidance

National Planning Policy Framework (NPPF) and Planning Practice Guidance

3.3 The NPPF includes relevant policy on;

- Building a strong, competitive economy
- Ensuring the vitality of town centres
- Promoting sustainable transport, including the statement that development should only be prevented on transport grounds whether the residual cumulative impacts of development are severe.
- Requiring good design and promoting healthy communities
- Meeting the challenge of climate change, flooding and coastal change, conserving and enhancing the natural environment, conserving and enhancing the historic environment

3.4 Development Plan

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (Adopted 11 December 2017)

Relevant policies from the JCS include:

- SP1 - The need for new development
- SP2 – Distribution of new development
- SD1 – Employment – Except Retail Development
- SD2 – Retail and City/Town Centres
- SD4 – Design requirements
- SD8 – Historic Environment
- SD14 – Health and Environmental Quality
- INF1 – Transport network
- INF2 – Flood risk management

3.5 City of Gloucester Local Plan (Adopted 14 September 1983)

The statutory Development Plan for Gloucester includes the partially saved 1983 City of Gloucester Local Plan. Paragraph 215 of the NPPF states that '*...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.)*' The majority of the policies in the 1983 Local Plan are out-of-date and superseded by later planning policy including the NPPF and the Joint Core Strategy. None of the saved policies are relevant to the consideration of this application.

3.6 Emerging Development Plan

Gloucester City Plan

The Gloucester City Plan ("City Plan") will deliver the JCS at the local level and provide policies addressing local issues and opportunities in the City. The Draft Gloucester City Plan 2017 takes forward the results of previous consultations and was subject to consultation January and February 2017. As the Plan is at an early stage, it is considered that it carries limited weight in accordance with paragraph 216 of the NPPF.

3.7 Other Planning Policy Documents

Gloucester Local Plan, Second Stage Deposit 2002

Regard is also 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. While there are number of policies in the 2002 Plan which are considered to accord with the NPPF and have not been superseded by the JCS, none of these are considered to be relevant to the current application.

3.8 Supplementary Planning Guidance/Documents

Docks Conservation Area Appraisal

The site is within the 'Gloucester Docks' character area of the Conservation Area and is within the setting of several listed buildings.

All policies can be viewed at the relevant website address:- national policies:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Gloucester City policies:

<http://www.glooucester.gov.uk/resident/planning-and-building-control/planning-policy/Pages/current-planning-policy.aspx>

4.0 CONSULTATIONS

4.1 **The Highway Authority** raises no objection subject to conditions to secure implementation of the measures in the applicant's supplementary transport note in terms of transport management.

4.2 **The Conservation Officer** raises no objection.

4.3 **The Civic Trust** has not commented.

4.4 The **Canal & River Trust** raises several observations/requests:

- Conditions are necessary to address certain matters.
- In principle support to recreational facilities in the Docks.
- Ice rink and facilities turn back on museum and museum wharf at Barge Arm. Museum and wharf should be considered an integral part of Orchard Square and access and views to them should not be blocked, however temporarily.
- Ice rink and associated development will have significant impact on setting and appearance on Grade 2 listed warehouse, creating visual barrier and clutter.
- Proposal conflicts with Policies - SD4 of JCS (doesn't respect character of site and surroundings), BE2 of 2002 Plan (doesn't respect and protect important views), B5 of emerging City Plan (adversely affecting historic built character and management and maintenance of public realm, routes, waterspaces, mooring or waterway infrastructure and quaysides).
- Proposal could affect future businesses operating from the museum quay.
- Ice rink and associated buildings should be moved further away from barge arm and listed building.
- Previous years have seen problems with deliveries access to the museum.
- Visitor numbers reduced during construction and operation of ice rink/market.
- Potential operational and visitor safety issues with the proposed buildings possibly restricting access to the water in an emergency.
- A direct route providing for emergency access and deliveries should be clearly identified by route signs.
- Application should be amended to cover 3 years only (and subject to condition to ensure – to allow a review in context of Heritage Statement, City Plan, and to assess more frequently as Docks evolves.
- Condition proposed to secure details of the access and delivery routes, signage to indicate routes and warn visitors to be agreed each year.

- 4.5 The City Centre Improvement Officer (Environmental Protection) raises no objection subject to the conditions offered by the applicant plus an operational noise management plan to address the early-morning set up activities.

5.0 PUBLICITY AND REPRESENTATIONS

5.1 Neighbouring properties were notified and press and site notices were published.

5.2 Two representations have been received raising the following issues

Regular cycle of events affecting residents

Visual impact of structures

Noise and disturbance

Proposal should be sited elsewhere in City

Ice rink should be moved into the centre and help keep City alive

Should be no reductions in mitigation measures previously taken and would welcome further improvements

Acoustic padding made improvements last year

Ice rink has had biggest impact on amenity

5.3 The full content of all correspondence on this application can be viewed on:

<http://www.goucester.gov.uk/resident/planning-and-building-control/Pages/public-access.aspx>

6.0 OFFICER OPINION

6.1 *Legislative background*

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Local Planning Authority to determine planning applications in accordance with the Development Plan, unless material considerations indicate otherwise.

6.2 Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that in dealing with a planning application, the Local Planning Authority should have regard to the following:

- a) the provisions of the development plan, so far as material to the application;
- b) any local finance considerations, so far as material to the application; and
- c) any other material considerations.

6.3 The development plan consists of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) and the partially saved 1983 City of Gloucester Local Plan. However, as outlined earlier, the 1983 Local Plan is considered to be out-of-date.

6.4 It is considered that the main issues with regards to this application are as follows;

Principle

Residential amenity and noise

Heritage / design

Traffic and transport

Flood risk

Economic considerations

6.5 **Principle**

The NPPF seeks to support economic growth, recognises town centres as the heart of communities and seeks to support their viability and vitality. It adopts a sequential test for main

town centre uses focusing on town centres first (which for retail proposals is the primary shopping area), then edge, then out of centre sites, and also an impact test for proposals outside of town centres. Policy SD2 of the JCS also includes the sequential and impact tests.

- 6.6 The site is within the city centre area and is considered to be a sustainable location in principle with public transport options available in the locality. Events at the Docks are well established with a number taking place through the year (usually of a short duration such as not to require planning permission). While the site is outside the primary shopping area and therefore out of centre for the purposes of considering retail applications, the nature and temporary duration of the proposal is such that any 'harm' to the Primary Shopping Area is likely to be minimal, if at all, and the principle of the development is considered acceptable subject to assessment against other planning considerations in the remaining sections of this report.
- 6.7 On this basis it is considered that the proposed limited-duration use would not conflict with the development plan and NPPF in terms of the principle.
- 6.8 ***Residential amenity and noise***
Paragraph 127 of the NPPF sets out that development should ensure a high standard of amenity for existing and future users. This is reflected in Policy SD14 of the JCS which requires that new development must cause no harm to local amenity including the amenity of neighbouring occupants. The NPPF also address pollution specifically at chapter 15 setting out that decisions should ensure development is appropriate for its location taking into account effects of pollution on health and living conditions, and should mitigate and reduce to a minimum adverse impacts from noise, and avoid noise giving rise to significant adverse impacts on health and quality of life.
- 6.9 The area is mixed use in character although with a large number of residential flats in the converted warehouses and new buildings, several of which face directly onto the application site. Within this central, mixed-use area it is to be expected that a degree of noise and disturbance will be apparent from the range of uses, visitors and events. However as the policies outlined above require, there is also clearly a need to protect local residents from significant impacts on the amenities they enjoy in their homes.
- 6.10 ***Construction, dismantling, and traders' set up and changeover***
The period for construction of the ice rink market and associated structures at the start and for dismantling at the end is two weeks. The applicant proposes limiting times of these works to 8am to 6pm Monday to Friday and 8am to 1pm Saturday and not on Sunday for the Orchard Square, Llanthony Road, Merchants Road and High Orchard Street areas, including the ice rink, but longer hours for the market on Mariners Square and around Victoria Dock. Here the hours would be 8am to 9pm Tuesdays to Saturdays, 8am to 7pm Sundays and 7am to 9pm on Mondays and the first day of the event only. This is to reflect the different operation and the need for stall holders to restock and change over. It is considered that given the proposed start is now 7am on certain days, earlier than previously and earlier than the Council's standard hours restrictions condition, an Operational Noise Management Plan should be secured. The applicant has now submitted a Plan which sets out a number of measures, including preventing access prior to 7am and requiring stall holders not to wait in the vicinity; requiring loading/unloading to take place with engines switched off where possible, no radios/music, and various courtesies such as avoiding door slamming, minimizing manoeuvring and loading directly into/out of vehicles; considerate driving of vehicles; and oversight of the measures by GQLLP management. The plan would be provided to all traders in advance of commencing trading. The Environmental Health Officer is broadly happy with the plan but has requested some clarifications. A condition has been drafted on the basis of securing compliance with a submitted plan, and it is expected that a final version of the plan will be agreed shortly. If additional work remains necessary at the time of determining the application, the condition will need to be reworded. An update will be provided at the Committee meeting.

6.11 *Operating/trading hours*

The proposed trading hours of the market are 10am to 8pm Monday to Saturday and 10am to 5pm Sunday.

The ice rink would close at 9pm on weekdays and Saturdays, and 6pm Sundays – for skaters to leave the ice – then a 30 minute close down period so a final closure time of 9:30pm on weekdays and Saturdays and 6:30pm on Sundays. The ice rink would be illuminated by 12 floodlights at 5m directed down onto the ice. The rink would operate on one hour sessions with a maximum capacity of 150 people. Ambient music would also be played.

The proposed end time for use of the bandstand is 7pm.

The ‘Big Red Bus’ has previously caused problems in previous events as it included a soundsystem however the applicants have confirmed that this would not now include loud amplified sound.

Conditions are proposed to impose an end time for use of these various elements, including the ice rink lights, which would preserve the amenities of the area.

6.12 *Power arrangements*

Electricity would be the primary power source to keep the ice rink cold, minimizing the need to use generators, however they are proposed as a necessary back up. There should be less use of the generators compared to the earlier years of using the ice rink, as electrical connections have been introduced within the re-modelling of Orchard Square. As mentioned earlier the ice rink infrastructure has previously been fully enclosed in an acoustically-treated compound and this is again proposed.

6.13 Noise Assessments from 2016 and 2017 have been provided. The Environmental Health Officer is content that the noise environment will not have changed significantly. The reports conclude that with the acoustic enclosure to the ice rink compound the BS8233 criteria would be achieved at the closest receptors during daytime and nighttime periods in Orchard Square and Victoria Basin with windows open and closed when all generators are in operation, and would not have a significant adverse impact on health or quality of life.

6.14 The generators around Victoria Dock would be subject to restrictions on their times of use (0800 – 2100 hours Monday to Saturday and 0800 – 1900 on Sundays). These are slightly earlier (by 2 hours) and later (by 1-2 hours) than the market operating hours to provide power for lighting and refrigeration to enable set up and close down of the stalls. This would be subject to a condition in the interests of amenity.

6.15 The applicant notes that they also have a policy of providing contact details for the Ice Rink Manager and Quays Management Suite to residents to deal with any concerns. The Environmental Health Officer noted that the number of complaints about the market and ice rink to that department decreased last year.

6.16 In addition to the residencies set out above there are also persons using barges in Victoria Dock. Planning permissions have not been granted for their use as permanent residential accommodation and the boaters in the adjacent moorings are likely to be classed as transient recreational users who move on from time to time. Permission has previously been granted for these proposals and no complaints have been received in this respect, although it is possible that this may occur. If action is needed under a nuisance complaint to Environmental Health, the applicant may need to consider making alternative arrangements for power in future years.

6.17 *Impact of structures*

In terms of impacts from the physical presence of the structures, the most noteworthy is the

helter skelter at 14.5m high (the same one as on site previously). The separation from residential properties (approximately 54m) and temporary duration of its presence indicate that it would cause no significant harm to amenity. All the other structures are of such a scale and location that they would not be harmful either as a result of their physical presence.

- 6.18 Overall it is considered that, subject to conditions, the proposal complies with the above-cited policies in terms of residential amenity and no objection is raised in these terms.

6.19 **Heritage / design**

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that where an area is designated as a conservation area '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area*'. Section 66(1) provides that the determining authority shall have special regard to the desirability of preserving a listed building or its setting.

In terms of heritage the NPPF sets out the importance of protecting and enhancing the historic environment, and conserving heritage assets in a manner appropriate to their significance. In particular, paragraph 192 states that in determining planning applications, local 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*'. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. In terms of design the NPPF states that new developments should be visually attractive, sympathetic to local character and history, and establish/maintain a strong sense of place and create attractive, welcoming and distinctive places.

In terms of heritage JCS Policy SD8 requires heritage assets and their settings to be conserved and enhanced as appropriate to their significance, and for their important contribution to local character, distinctiveness and sense of place. Development should aim to sustain and enhance the significance of heritage assets. In terms of design JCS Policy SD4 sets out requirements to respond positively to, and respect the character of, the site and surroundings, and enhance local distinctiveness. Part vi of the policy sets out that new development should provide access for all potential users, including people with disabilities, to buildings, spaces and the transport network, to ensure the highest standards of inclusive design.

- 6.20 The development would affect the character and appearance of the Docks Conservation Area (including some of the positive spaces and important views set out in the Conservation Area Appraisal) and the setting of several grade 2 listed warehouses, Mariners Church and buildings on Commercial Road, and Llanthony Road, on a temporary basis.
- 6.21 The Conservation Officer raises no objection. The use and structures would be in place temporarily and their effect would not be lasting on these heritage assets. Boards would be laid to span the historic rails in the Orchard Square hard surfacing to spread the weight.
- 6.22 The Canal and River Trust raises significant concerns about the impact on the setting and appearance of the listed warehouse (museum), though does not recommend refusal on this basis. The Trust also raises concerns about blocking views, although, while the setting of the listed warehouse is clearly relevant, the view of the building into which the proposed structures would be sited is not identified as an 'important view' in the Conservation Area Appraisal, nor is it a protected view in the heights of buildings SPD. It seems inevitable that with a use of this kind with temporary, removable structures requiring assembly by components their appearance will be fairly rudimentary and not as well designed as would be expected of a permanent building, and in this context it is considered that their temporary presence at the site as mentioned above is of relevance, and no lasting effect would accrue. It is considered that the Conservation

Officer's conclusions are sound and no objection should be raised. In respect of the Trust's request to move the ice rink, this has been discussed with the applicant and who advises that this is not practical due to the gradient of the square. The applicant also identifies that siting the ice rink further up the square gradient would lead to a panelled area on the north side of the ice rink covering the supporting structure that would be undesirable in terms of appearance and create access difficulties for customers. The application now needs to be determined on the submitted basis with the proposed layout for 2019/2020.

- 6.23 The significance of the heritage assets on and surrounding the site would be preserved. The requirements of the 1990 Listed Buildings and Conservation Areas Act are satisfied and the proposals comply with the above policy context.
- 6.24 **Traffic and transport**
The NPPF requires that development proposals provide for safe and suitable access for all and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Policy INF1 of the JCS requires safe and accessible connections to the transport network.
- 6.25 The principal vehicular access into the Docks off Southgate Street next to the Tall Ships public house would be utilised. There is an established route northwards adjacent to Victoria Dock and southwards between the Barge Arm flats – egress onto Llanthony Road to the south is available here. Commercial premises also use these routes as do residents to access the car park adjacent to Albert Warehouse and the Barge Arm car park entered from between Albion Cottages and the Tall Ships public house, and for general deliveries and maintenance use. The Llanthony Road, Merchants Road and High Orchard Street parts of the site can be accessed via the existing loading area on Llanthony Road.
- 6.26 **Trip generation**
The applicant envisages that visitors would visit the site in conjunction with other shopping and/or leisure activities within the City Centre/ Quays Outlet and that many of the trips associated with the development would already be on the network, linked to existing trips into and out of the City.
- 6.27 The applicants have set out commitments to promoting sustainable travel. Measures include a coach parking strategy identifying set down points and a coach parking area at the Peel Centre, looking at potential to increase the Park and Ride service, encouraging non car borne travel and providing details of available car parking for those that do drive through the marketing campaign, and liaising with the County Council's Think Travel team. It is recommended that this strategy is secured by condition
- 6.28 **Parking**
There is no specific on-site parking within the application proposals but in this City Centre location the site is accessible via sustainable modes such as walking, cycling and public transport, and parking requirements would be adequately served by the existing parking facilities (previously shown as around 2000 car parking spaces within a 5 – 10 minute walk from the site) within the City Centre and at the Quays, some of which are immediately adjacent to the market area. The applicant notes that customers would in the first instance be directed to use public transport or other sustainable modes of transport.
- 6.29 **Servicing and management**
The applicant confirms that servicing of the ice rink and market would be within the above restricted hours only. Existing service access to the businesses and residencies surrounding the site would be maintained although the applicant seeks to restrict as many movements through the market area through agreement with organisations and individuals. Refuse would be collected by stall holders at the end of each day. A Traffic Management Plan has been provided

and it is recommended that this is required by condition in the interests of public safety.

- 6.30 Vehicle tracking has been illustrated within the Transport Statement to demonstrate vehicle manoeuvres along the routes kept open from the activities. For example, a standard fire tender and refuse vehicle can travel along the Victoria Dock access road in a forward gear turn and leave in a forward gear, access to the Wetherspoons public house (a 10m rigid service vehicle and refuse vehicle are tracked in a forward gear) and Waterways Museum are retained. Operatives would be on hand to escort vehicle movements through the site.
- 6.31 The Canal and River Trust raises concerns about access routes. However, planning issues need to be separated out from private business/landowner/neighbour matters. It appears several issues would best be resolved by liaison between the various users of the Docks. The relevant planning consideration is facilitating safe vehicular access, which is demonstrated on the applicant's tracking plans. It is not apparent from the representation what is the fundamental problem with access for deliveries and in this regard there is no evidence to substantiate a refusal of planning permission. The applicant has offered to provide signage for delivery route access and for pedestrian/customer movements. It is not considered that this is a necessary condition for the Authority seek approval of and administer, but can evidently be resolved between the parties. Furthermore, as the applicant notes, the proposed condition of agreeing a layout on an annual basis gives some flexibility and scope to refine any issues that might arise.
- 6.32 Overall subject to conditions, the proposal is considered to comply with the above policy context, would not cause a significant residual effect on the highway, and no objection is raised in these terms.

6.33 **Flood risk**

The NPPF requires that development is directed to the areas at lowest risk of flooding, that new development should take the opportunities to reduce the causes or impacts of flooding, should not increase flood risk elsewhere and take account of climate change. Policy INF2 of the JCS reflects the NPPF, applying a risk based sequential approach, requiring new development to contribute to a reduction in flood risk and requiring the use of sustainable drainage systems.

- 6.34 A small part of the site in the vicinity of the ice rink skate hire area is within Flood zone 2. In terms of the sequential test, the proposal utilises a large open area in close proximity to the city centre that is well established as a location for events (most of which take place without needing planning permission) and provides an economic benefit to the locality. Given the nature of the proposal it is not considered that there are other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The proposal is temporary and would not increase flood risk elsewhere, and would maintain the safety of users, with flood zone 1 areas immediately adjacent.
- 6.35 The proposal is considered to be compliant with the above policy context in terms of flood risk.

6.36 **Economic considerations**

The proposal is likely to contribute modestly to employment opportunities, and is likely to be a visitor attraction for the City with the potential for linked trips to other businesses and therefore the proposal would have some economic benefit. In the context of the NPPF advice that 'significant weight should be placed on the need to support economic growth through the planning system', this adds some weight to the case for granting permission. The Canal and River Trust is clearly concerned about economic impacts on the museum business and possible future ventures in the vicinity. Given the limited evidence, scope of the effect and speculative nature of future effects, this is afforded limited weight and is not considered of such harm as to warrant refusal (which the Trust does not propose anyway). The applicant has also noted that they have always worked constructively to address minor problems and would continue to do so, and again, agreeing a layout annually gives scope to address problems.

6.37 Other issues raised by the Canal & River Trust

It is worth noting first that in their reply to the Trust's representation, the applicant commits to working positively with the Trust and other stakeholders in the Docks to deliver events. The Trust raises potential safety issues with the structures possibly restricting access to the water in an emergency. However, no actual problems are identified either in relation to the proposed plan or from recent years' experience. The Trust asks for signs to direct access. As above, this seems to be an issue capable of being resolved between parties rather than through a planning condition. In terms of management and maintenance of waterspaces, moorings, and waterway infrastructure again no outright objection is made or specific issues identified. Again discussions between respective operators would resolve this.

The Trust asks for a limitation on the permission of 3 years instead of 5 as requested by the applicant. The applicant has responded that they would not accept a 3 year limitation and request that the application be determined on the basis of 5 years. There is clearly a balance to be struck between not unreasonably requiring applications every year where significant changes in circumstances are unlikely, giving some certainty for the applicant over a period of time to make a business decision on implementing the proposals, and granting the flexibility to reconsider the appropriateness of the proposal over time where circumstances may alter over a long enough period. It is not considered appropriate to foreshorten the desired timescale just to review in the context of emerging planning documents as indicated in the representation. Overall five years is considered an appropriate balance of the issues given the circumstances. The Trust asks for a condition to require details of access and delivery routes, and proposed routeing and warning signage, to be agreed each year. An adaptation of the condition proposed by the applicant, as set out below, is considered to satisfactorily deal with the planning issues in this regard.

6.38 Conclusion

This application has been considered in the context of the policies and guidance referred to above. The proposal is consistent with those policies and guidance in terms of the principle of the use in this part of the City, residential amenity and noise, heritage / design, traffic and transport, flood risk, and economic considerations; the proposal is acceptable and accordingly it is recommended that conditional planning permission be granted. As referred to above, the applicant seeks some flexibility in the layout to allow for variations to take account of residents, and market operator requirements, and as such seeks a condition to allow approval of the precise layout in advance each year. This was done on the previous permission and worked satisfactorily.

7.0 RECOMMENDATION OF THE CITY GROWTH AND DELIVERY MANAGER

7.1 That planning permission is GRANTED subject to the following conditions;

Condition 1

The use hereby permitted shall permanently cease and the land restored to its former condition on or before 18th January 2024. Within that period the development shall only be undertaken during the periods 28th October 2019 to 18th January 2020, 28th October 2020 to 18th January 2021, 28th October 2021 to 18th January 2022, 28th October 2022 to 18th January 2023 and 28th October 2023 to 18th January 2024. Outside of these times associated structures and materials shall be removed from the site.

Reason

To clarify the terms on which the application is sought and to preserve the character and appearance of the Conservation Area and setting of listed buildings, and to establish the basis of the planning assessment.

Condition 2

During the period from 28th October 2019 to 18th January 2020 the development shall be undertaken in accordance with the layout plan ref. GQ-1.2 0606 – WHOLE SITE – (PLANNING) received by the Local Planning Authority on 16th July 2019 unless otherwise required by conditions of this permission.

Reason

To maintain servicing and operational arrangements within the locality and the amenities of the area.

Condition 3

Within the authorised periods of development in 2020/21, 2021/22, 2022/23 and 2023/24 respectively the development shall be undertaken in accordance with a scaled site layout plan that shall be submitted to and approved in writing in advance by the Local Planning Authority except where otherwise required by conditions of this permission. The site layout plan shall be submitted to the Local Planning Authority not less than 8 weeks in advance of the anticipated date of commencement of construction works on site each year and shall include (but not limited to) the proposed arrangement of structures and stalls, associated infrastructure such as power provision, and tracking plans to demonstrate the ability to access, service, and allow for emergency vehicle access to the site and surrounding uses.

Reason

To maintain servicing and operational arrangements within the locality and the amenities of the area.

Condition 4

Generators on Orchard Square shall only be operated within a compound that is fully enclosed by a 2.4 metre solid barrier with acoustic panels unless an alternative form of noise mitigation is agreed in advance and in writing by the Local Planning Authority.

Reason

To preserve the amenities of the area.

Condition 5

Generators on and adjacent to Mariners Square and Victoria Dock shall only be operated during the hours 0800 – 2100 hours Monday to Saturday and 0800 – 1900 on Sundays. Generators shall be screened from view.

Reason

To preserve the amenities of the area.

Condition 6

Lighting to the ice rink shall only be switched on between 0845hours and 2130hours Mondays to Sundays (to reflect the operational hours of the ice rink).

Reason

To preserve the amenities of the area.

Condition 7

On Orchard Square, Llanthony Road, Merchants Road and High Orchard Street, construction and dismantling of the structures associated with the development and the delivery and collection of materials, goods shall be limited to the times of 0800hours to 1800hours Monday to Friday, 0800hours to 1300hours Saturdays and no construction/dismantling works or delivery/collection of materials shall take place on Sundays or bank holidays.

Reason

To preserve the amenities of the area.

Condition 8

On Mariners Square and around Victoria Dock, construction and dismantling of the structures associated with the development and the delivery and collection of materials and goods shall be limited to the times of 0800hours to 2100hours Tuesday to Saturday and 0800hours to 1900hours Sundays (unless they are the first day of the event) and 0700-2100hrs on Mondays and the first day of the event .

Reason

To preserve the amenities of the area.

Condition 9

The use hereby permitted shall only take place on Mariners Square and around Victoria Dock in compliance with the Operational Noise Management Plan for stall holders (received by the Local Planning Authority on xxxxxxxx 2019).

Reason

To preserve the amenities of the area.

Condition 10

The market stalls shall only be open to trade to customers between

- o 1000hours and 2000hours Mondays to Saturday, and
- o 1000hours and 1700hours Sundays.

Reason

To preserve the amenities of the area.

Condition 11

The bandstand shall only be used between

- o 1200hours and 1830hours Monday to Saturday, and
- o 1200hours and 1630hours Sundays.

Reason

To preserve the amenities of the area.

Condition 12

No amplified sound system shall be used anywhere on the site except a) in association with the bandstand and b) to provide background seasonal music. The amplified sound system for the bandstand shall not be used outside of the hours set out in Condition 11. The amplified sound system for the background seasonal music shall not be used outside the lighting hours of the ice rink set out in Condition 6.

Reason

To preserve the amenities of the area.

Condition 13

The operation of the market shall be undertaken in accord with the submitted traffic management plan (Appendix 5 to the PEP Transport Statement June 2019, received by the Local Planning Authority on 8th July 2019). The uses hereby approved shall be operated at all times in accordance with the approved traffic management plan.

Reason

To preserve the amenities of the area.

Condition 14

The measures outlined in the PEP Supplementary Transport Note dated August 2019 (received by the Local Planning Authority on 23rd August 2019) shall be adhered to at all times that the use is in operation, or as otherwise agreed within an alternative Supplementary Transport Note at least 8 weeks in advance of each year's event.

Reason

In the interests of promoting sustainable transport modes in accordance with the NPPF.

Notes

The applicant should contact Phil White, Waterway Engineer on 07710 175496 or by e-mail on phil.white2@canalrivertrust.org.uk to ensure that the proposal complies with the Canal and River Trust's Code of Practice for works affecting the Canal and River Trust.

Some of the application site is leased from the Canal and River Trust and may be the subject of restrictive covenants. The applicant is advised to contact the Trusts Estate Management team on 0303 040 4040 or by e-mail to David.Faull@canalrivertrust.org.uk in order to ensure that any necessary consents are obtained.

Person to Contact: Adam Smith (396702)

Planning Application: | 19/00755/FUL

Address: | Orchard Square The Docks
Gloucester

Committee Date: |