

Agenda Item A5	Committee Date 20 August 2018	Application Number 18/00777/FUL
Application Site Queen Victoria Memorial Dalton Square Lancaster Lancashire		Proposal Construction of temporary ice rink, temporary siting of chillers and generators, erection of temporary fencing and hoardings, and temporary siting of marquee and tents for skate hire and the sale of refreshments
Name of Applicant Mr Martin Horner		Name of Agent HPA
Decision Target Date 29 August 2018		Reason For Delay N/A
Case Officer		Mrs Petra Williams
Departure		No
Summary of Recommendation		Approval of temporary consent for one year subject to resolution of outstanding matters in respect of tree protection

(i) The application is one which would normally be dealt with under delegated powers but is required to be brought before the Planning and Highways Regulatory Committee as the site in question is within the ownership of the City Council.

1.0 The Site and its Surroundings

- 1.1 The application site is within the centre of Lancaster and relates to Dalton Square which surrounds the Queen Victoria monument and a small section of highway to the front of Palatine Hall. Dalton Square is an oval shaped public space enclosed by stone boundary balustrades. The area has approximate dimensions of 70 metres by 35 metres and comprises simple flag paving, mature trees, grass and public seating with the grade II* Queen Victoria monument at its centre. Due to the differing surrounding land levels there are steps up to the square from the northern end and steps down into the square from the south.
- 1.2 Lancaster Town Hall is located to the south of the site and Palatine Hall is situated to the northern side of the square. Other commercial and office buildings surround the square including shops, bars and restaurants. It is understood that there are a limited number of residential units mainly located on the western side of the square above commercial premises. Sulyard Street to the north-east of the site contains a number of residential dwellings as well as flats within Wesley House. The one-way gyratory road runs in a southerly direction adjacent to the western side of the square with two way traffic running along its southern boundary. One way traffic is directed northwards along the eastern side of the square and can travel west along the northern site boundary feeding into the gyratory or, either onwards to Friar Street or right on to Sulyard Street. Two pedestrian crossings provide connectivity between the site and the heart of the city centre to the west. The eastern and northern sides of the square contain a number of pay and display parking bays.
- 1.3 As highlighted above, the Queen Victoria monument is grade II* listed and the balustrades around the square are grade II listed. The square is surrounded by numerous designated heritage assets including the grade II* listed Lancaster Town Hall and the grade II listed Palatine Hall. Both the

eastern and western sides of the square contain a number of grade II listed buildings including the nearby War Memorial in addition to buildings which are considered as non-designated heritage assets. The site is within Lancaster Conservation Area – Character Area 4. The square is designated as a civic space within the Lancaster District Local Plan proposals map, and within the emerging Land Allocations Policies Map is identified as an area of Open Space, Recreation and Leisure. The western half of the square is within an Air Quality Management Area. Dalton Square and the immediate surrounding area is within a Residential Parking permit zone.

2.0 The Proposal

2.1 The application proposes a temporary ice rink to be erected within Dalton Square around the Queen Victoria monument for use between 24 November 2018 and 6 January 2019 (plus 10 days before for construction and 1 week after for dismantling). The proposal includes the provision of three marquees/tents for selling food and drink, skate rental and administration which will be located at the northern end of the square in front of Palatine Hall. Associated generators and ice machines will be sited within the southern portion of the square. The scheme will require the temporary closure of the northern section of road to Dalton Square. Proposed hours of operation are between 10:00 and 22:00 for 7 days per week. The application form sets out that consent is sought for the scheme to be repeated within the same time frames over the next ten years.

2.2 The key features of the proposal will comprise:

- Ice skating rink – 20m x 35m (with an 8m x 8m cut out for the statue) temporary ice rink system with standard white and clear barrier;
- 1 skate exchange marquee/tent – 10m x 20m clear span temporary marquee structures, with double doors and both glass and solid wall panels;
- 2 food and beverage marquees/tents – 6m x 6m with double doors and both glass and solid wall panels;
- Generators and chillers will be located in an area of 6m x 19m and will include acoustic barriers; and
- Temporary fencing and hoardings will be put in place during the construction and dismantling period.

3.0 Site History

3.1 The most relevant site history is set out below.

Application Number	Proposal	Decision
18/00778/LB	Listed building application for works to facilitate the construction of temporary ice rink and the erection of temporary fencing and hoardings	Under Consideration

4.0 Consultation Responses

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
Senior Conservation Officer	Support – Subject to conditions regarding precise details of proposed scaffolding, construction and dismantling phases, protection of steps and photographic survey prior to commencement. Suggest that consent is granted for the time specified for the coming winter initially: between 24 November 2018 and 6 January 2019 (plus 10 days before for construction and 1 week after for dismantling).
Tree Protection Officer	Objections – subject to the receipt of the submission and agreement in writing of a detailed Tree Protection Plan, and Arboriculture Method Statement.
Environmental Health	No objections – While there may be some observed effects to nearby residential receptors from people noise, this is not likely to be intrusive or unreasonable considering the existing level of ambient noise in this location as it is a well trafficked area by people and is served by an existing number of licensed premises which operate in line with the proposed times for operation of the temporary rink.

Property Group (Lancaster City Council)	No objections – Very much in support such an event. A detailed formal agreement would have to be negotiated and agreed with Property Group and documented by Legal Services before the applicant could use the land.
Public Realm Development Manager	No objections – Applicant will be required to submit a formal event application to the Council to hold an event on Council land.
Parking Services (Lancaster City Council)	No comments to make in respect of this application. Any operational issues would be dealt with by Parking Services outside the planning process.
Licensing	No objections – Should the applicant wish to conduct licensable activities they must apply for the appropriate premises licence. Activities that are licensable include the sale of alcohol and regulated entertainments (including but not limited to playing of recorded music).
County Highways	No objections
Lancashire Fire and Rescue	No comments received at the time of compiling this report. Any forthcoming comments will be reported verbally to Committee.
Lancashire Constabulary	No objections
Historic England	No comments to make - suggest that the views of the Senior Conservation Officer are obtained.
Lancaster Civic Society	No objections – It is noted that steps will be taken to mitigate intrusion of noise to neighbouring properties. Care should be taken to protect the listed structure.
Cadent/ National Grid	No objections – Recommendations and advice provided for attention of the applicant.

5.0 Neighbour Representations

5.1 No public comments have been received at the time of writing this report.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

Paragraphs 7, 8 and 11 - Sustainable Development
Paragraphs 80, 81 and 82 – Building a Strong Competitive Economy
Paragraph 85 – Ensuring the Vitality of town centres
Paragraphs 92 and 95 – Promoting Healthy and Safe Communities
Paragraph 97 – Open Space and Recreation
Paragraphs 124 and 127 - Achieving Well Designed Places
Paragraph 170 - Natural Environment (Trees)
Paragraphs 184, 189, 190, 193, 194 and 196 – Conserving and Enhancing the Historic Environment

6.2 Local Planning Policy Overview – Current Position

At the 20 December 2017 meeting of its Full Council, the local authority resolved to publish the following 2 Development Plan Documents (DPD) for submission to the Planning Inspectorate:

- (i) The Strategic Policies and Land Allocations DPD; and,
- (ii) A Review of the Development Management DPD.

This enables progress to be made on the preparation of a Local Plan for the Lancaster District. The DPDs were published on the 9 February for an 8 week consultation in preparation for submission to the Planning Inspectorate for independent Examination. If an Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council, potentially in late 2018.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2017, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

6.3 Lancaster District Core Strategy Saved Policies (adopted July 2008)

SC1 – Sustainable Development
SC5 – Achieving Quality in Design

6.3 Development Management DPD

DM1 – Town Centre Development
DM3 – Public Realm and Civic Space
DM4 – The Creation and Protection of Cultural Assets
DM20 – Enhancing Accessibility and Transport Linkages
DM21 – Walking and Cycling
DM22 – Vehicle Parking Provision
DM27 – The Protection and Enhancement of Biodiversity
DM30 – Development affecting Listed Buildings
DM31 – Development Affecting Conservation Areas
DM32 – The Setting of Designated Heritage Assets
DM33 – Development Affecting Non-Designated Heritage Assets or their settings
DM34 – Archaeological Features and Scheduled Monuments
DM35 – Key Design Principles
DM39 – Surface Water run-off and Sustainable Drainage

6.5 Other Material Considerations

Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended states that the local planning authority shall have regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72 sets out that special attention should be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

7.0 Comment and Analysis

7.1 The main issues to be considered in the determination of this application are:

- Principle
- Impact on Heritage Assets
- Impact on Trees
- Impact of Residential Amenity
- Highway Implications

7.2 Principle

7.2.1 The NPPF is supportive of economic growth and policy DM12 of the Development Management DPD sets out that minor leisure facilities or attractions will be considered favourably where they are located within an accessible town centre and would not result in an adverse impact on the visual amenity of the area. Policy DM3 relates to public realm and civic space and seeks to ensure that proposals within the urban areas make a positive contribution to their surroundings.

7.2.2 As part of the build-up of festivities in the city centre, it is considered that the temporary ice rink would animate this attractive historic area and enable many more people to enjoy and appreciate it at a time of year when it is usually only passed through transiently. It is considered that Dalton Square is a viable city centre location as the ice rink will complement and provide linked trips with the surrounding retail and leisure uses. Therefore the scheme would bring associated economic benefits to the city and help raise the profile of Lancaster as a visitor destination. The ice rink

represents seasonal entertainment that will enhance the vitality and viability of the city centre during this temporary 6 week period. As such it is considered that the principle of the proposal is acceptable subject to other material considerations which will be discussed below.

7.3 Impact on Heritage Assets

- 7.3.1 In accordance with the Listed Building and Conservation Areas Act, when considering any application that affects a Listed Building and or a Conservation Area or their setting, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the heritage asset or its setting. This is reiterated by policies DM30, DM31 and DM32.
- 7.3.2 The ice rink, will only be operational for a limited temporary period of 6 weeks (24 November 2018 and 6 January 2019). The proposed development is considered to lead to less than substantial harm to the significance of the grade II* monument and this harm (which will be temporary) should be weighed against the public benefits of the proposal as set out above, including securing its optimum viable use as per NPPF Paragraph 196.
- 7.3.3 The temporary rectangular ice rink and access ramp would be placed above the paved area and grass around and up to the grade II* listed Queen Victoria monument and therefore careful consideration must be given as to how this will be achieved in order to provide assurance that the historic physical structure will not be damaged. Consideration must also be given to the protection of the listed stone balustrade and steps, particularly during the construction and dismantling phase.
- 7.3.4 The rink will be 35 metres by 20 metres and will be set out upon a scaffold frame with a 2 metre wide access ramp at the northern end. However, the applicant would not be in a position to provide precise details until the final contract has been signed with the ice rink supplier and this cannot be done until planning consent has been granted. It is always preferable in the case of designated heritage assets to consider detailed information prior to determination of applications, but the Senior Conservation Officer is satisfied in this instance that an acceptable solution can be achieved and that this can be conditioned.
- 7.3.5 The submitted Design and Access Statement advises that 'sterile zones' will be provided during the delivery of the infrastructure and during its deconstruction in order to ensure that the listed balustrades around the square are not impacted unduly during the delivery of the events infrastructure and during its deconstruction. While this indicates mindful consideration of the heritage assets involved, this method statement would require updating once the scaffolding contractor has been appointed. This point will be conditioned.
- 7.3.6 As highlighted above, ancillary structures are required to support the function and viability of the ice rink. The three marquees/tents to be located in the northern part of Dalton Square to the front of Palatine Hall are of a temporary nature and are not considered to be substantially harmful to the setting of the listed structures. The design of these temporary structures are appropriate for a public event space. At the southern end of the square and within the confines of the balustrades, the generators and ice machines will be located (area E on plan). The generators will be enclosed by acoustic barriers. This part of the square is set lower than the adjacent highway and this will help minimise the visual impact of this element of the scheme.
- 7.3.7 While offering full support for the scheme in principle, the Senior Conservation Officer has advised against this temporary permission being granted over a ten year period in the first instance. Given the importance of the heritage assets involved it would be prudent to grant consent initially for one year only at this time. This would allow the applicant and the Council to assess the effect of the works on the site. A pre-commencement condition would require the carrying out of a detailed photographic survey to be produced prior to the works being carried out. This would allow an accurate assessment of impacts (if any) following the dismantling of the temporary structures. If there is no adverse impact, then an application to vary the timescale condition could be made to allow the event to be repeated the following year.
- 7.3.8 The proposed temporary development would lead to a level of harm on the setting and significance of designated and non-designated heritage assets and this harm is considered to be less than substantial. A balancing of detriment against benefits is set out in NPPF paragraph. 196 where 'justification' is required. In the circumstances the social, economic and cultural benefits of the

entertainment provided by the temporary ice rink may be used to balance against the undoubted detriment. The proposal would be subject to conditions to ensure that the affected heritage assets are returned to their current state in good condition and without any resulting physical damage immediately after the festivities. Therefore the proposal is considered to accords with the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7.4 Impact on Trees

7.4.1 There are a range of large mature lime trees as well more recently planted lime trees within and around the square. The largest trees are the original trees planted circa 1909, when Dalton Square was first developed. These trees make a significant visual and historic impact on the city centre and are a legacy which should be retained and protected for future generations to enjoy. As the site is within the Conservation Area these trees are protected by law. It is therefore critical that the proposal would not have adverse impacts on these trees.

7.4.2 It is considered that where the structures are proposed on established areas of hardstanding there is unlikely to be any significant impacts upon the rooting areas of the trees or the above ground structures. However, the location of the infrastructure within the southern end of the square is to be located on soft ground immediately adjacent to established protected trees. Consequently the Tree Protection Officer has requested the submission and agreement of an Arboricultural Method Statement (AMS) and Tree Protection Plan (TTP) to ensure that the proposed infrastructure is placed without causing damage to tree root systems, through compaction of the soil profile. The Tree Protection Officer is confident that an acceptable mitigation solution could be achieved. An AMS and TTP have now been submitted but at the time of writing this report, these details have yet to be considered and agreed by the Tree Protection Officer. Members will be updated on this critical point during the presentation of the application at the Planning Committee meeting.

7.5 Impact of Residential Amenity

7.5.1 It is acknowledged that there are a number of residential properties in the vicinity of Dalton Square. It is the view of the Environmental Health Officer that the ambient noise levels at this busy city centre location are relatively high and this is dominated by road traffic noise. While there may be some observed effects to nearby residential receptors from people noise, this is not likely to be intrusive or unreasonable considering the busy commercial location and the proposed times for operation of the temporary rink. The Environmental Health Officer is satisfied that the acoustic barriers proposed for mitigation in respect of the generators is acceptable considering the distance away from nearest residential receptors. A scheme will be conditioned regarding the location of 2 speakers which will be provided to the ice rink to ensure that they are not directed towards any residential property. In the event that noise complaints arise, the Environmental Health Team would take action to address this issue under separate Environmental Health legislation.

7.6 Highway Implications

7.6.1 Dalton Square is easily accessible by a choice of sustainable travel modes including foot, cycle and public transport. The surrounding pedestrian environment is of an acceptable quality, with footways being well lit adding to a sense of personal security. Signage and the built form add to a good level of legibility with adjacent pedestrian footway links providing an acceptable means of access to the site. Cycle parking stands are available within the square and the site is within a short walking distance of a number of public car parks on the edge of the city centre.

7.6.2 As highlight earlier in this report, the scheme would involve the temporary closure of an area of public highway to vehicles along the northern part of the square and this would require authorisation under Section 16 (Temporary Traffic Regulation Order) of the Road Traffic Regulation Act which is separate legislation to planning. The scheme would also result in the temporary loss of 9 pay and display parking bays which are located to the front of Palatine Hall. The submission has been considered by the County Highways consultee who has raised no objections to the scheme but rightly highlights the fact that the area surrounding the site is traffic sensitive with high numbers of vehicle movements. However, there request for the submission of a traffic management scheme for the construction and dismantling phases is unacceptable as this should be covered by the aforementioned Order, and not planning conditions.

8.0 Planning Obligations

8.1 There are no planning obligations to consider as part of this application.

9.0 Conclusions

9.1 The application represents an exciting opportunity for the temporary use of a public space which will undoubtedly attract visitors to the city centre and have associated economic benefits. While the proposal will lead to a level of harm on the settings of both the designated and non-designated heritage assets this impact will be temporary. On balance, the social, economic and cultural benefits of the entertainment provided by the temporary ice rink and ancillary buildings within this public space are considered to outweigh the temporary impacts to the setting of the Queen Victoria monument and other surrounding designated heritage assets. With the addition of conditions to provide certainty that there will be no detrimental physical impacts it is considered that the requirements of policies DM30, 31 and 32 of the DM DPD would be satisfied. Subject to the applicant resolving the outstanding matters in respect of the protection of on-site trees, Members are recommended that the application can be supported on a temporary one year basis.

Recommendation

That Planning Permission **BE GRANTED** subject to the following conditions:

1. Temporary consent for one year
2. Development in accordance with approved plans
3. Full details and sectional drawings of scaffolding around the Queen Victoria Memorial, including ground levelling platform, ramp and handrail, to be submitted and agreed prior to commencement.
4. Revised method statements and risk assessment to cover the construction and dismantling phases, and protection of the Queen Victoria Memorial and stone balustrade to be submitted and agreed prior to commencement.
5. Precise details of the method and materials proposed to protect the stone steps to the Queen Victoria Memorial be submitted and agreed prior to commencement.
6. AMS and TTP
7. No equipment/ advertisements/ lighting to be attached to trees
8. Precise details of marquees/tents including layout
9. Photographic survey of the site (including all elevations of the Queen Victoria Memorial) to be carried out prior to the installation of the scaffolding as a record of the condition of the area prior to commencement.
10. Hours of operation 10:00 to 22:00 7 days a week
11. Scheme to be provided for the location/position of speakers and lighting
12. Implementation of mitigation for generator noise.

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm the following:

In accordance with the above legislation, the City Council can confirm that it has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/Guidance.

Background Papers

None