

Agenda Item	Committee Date	Application Number
A6	16 September 2019	19/00934/FUL

Application Site	Proposal
Queen Victoria Memorial Dalton Square Lancaster Lancashire	Construction of temporary ice rink, temporary siting of observation wheel, chillers, erection of temporary fencing and hoardings, and temporary siting of marquee, access ramps, ticket booth, market stalls and tents for skate hire and the sale of refreshments and erection of two electricity cabinets

Name of Applicant	Name of Agent
Mr Martin Horner	HPA

Decision Target Date	Reason For Delay
16 September 2019	N/A

Case Officer	Mrs Petra Williams
Departure	No
Summary of Recommendation	Approval subject to receipt of satisfactory Highways and aboricultural details.

- (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 sections of highway to the front of Palatine Hall (to the north of the Square) as well as the eastern side of the square. 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 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 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

other buildings which are considered as non-designated heritage assets. The site is within Lancaster Conservation Area. 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 submission seeks consent for the construction of temporary ice rink, temporary siting of observation wheel, chillers, erection of temporary fencing and hoardings, and temporary siting of marquee, access ramps, ticket booth, market stalls and tents for skate hire and the sale of refreshments. The temporary structures would be in situ for the period between 23 November 2019 until 5th January 2020 and there would be a 2 weeks at either end of this time frame for construction dismantling. The submission also includes the erection of two electricity cabinets on a permanent basis.

3.0 Site History

3.1 The most relevant site history is set out below.

Application Number	Proposal	Decision
19/00935/LB	Listed building application for the construction of temporary ice rink and erection of temporary fencing and hoardings	Pending consideration
18/00777/FUL	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	Permitted – temporary one year consent.
18/00778/LB	Listed building application for works to facilitate the construction of temporary ice rink and the erection of temporary fencing and hoardings	Permitted – temporary one year consent.

4.0 Consultation Responses

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

Consultee	Response
Conservation Officer	No objections - The proposal will cause a degree of harm to the setting of these designated heritage assets, but it is considered that as these are temporary this level of harm is justified.
Tree Protection Officer	No comments received at the time of compiling this report. Any forthcoming comments will be reported verbally to Committee.
Environmental Health (Noise)	No objections – Environmental Health did not receive any complaints about noise or anti-social behaviour as a result of last year’s event. The new electrical cabinet proposed within the square as part of this submission
Environmental Health (Air Quality)	No objections The removal of generators from this year’s event is positive in terms of air quality.
Property Group (Lancaster City Council)	No comments received at the time of compiling this report. Any forthcoming comments will be reported verbally to Committee.
Civil Contingencies Officer (Lancaster City Council)	No concerns raised – The event organiser gave a presentation on proposed arrangements at an Event Safety Advisory Group (ESAG) meeting in July and was

	questioned at length by representatives of the emergency services, county highways and city council officers. Overall the ESAG group had no major concerns.
Public Realm Development Manager	No comments received at the time of compiling this report. Any forthcoming comments will be reported verbally to Committee.
Parking Services (Lancaster City Council)	No comments received at the time of compiling this report. Any forthcoming comments will be reported verbally to Committee.
Licensing	No comments received at the time of compiling this report. Any forthcoming comments will be reported verbally to Committee.
County Highways	No objections subject to the receipt of a satisfactory method statement detailing the build phase, event phase, and dismantling phase.
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	Neither objects or supports but offers advice regarding licensing and security.
Historic England	No comments to make – Refers to advice within Historic England document “Temporary Structures in Historic Places” and suggest that the views of the Conservation Officer are obtained.
Lancaster Civic Society	No comments received at the time of compiling this report. Any forthcoming comments will be reported verbally to Committee.
Cadent/ National Grid	No objections – Recommendations and advice provided for attention of the applicant.

5.0 Neighbour Representations

5.1 At the time of writing this report 7 items of objection have been received. The following points are made:

- Impacts on residential amenity
- Loss of privacy
- Impacts on Dalton Square
- Health and safety issues
- Objection to approved for use over 10 years
- The square belongs to the people of Lancaster it's a place to and sit and relax
- Parking issues
- Noise and pollution from generators
- Unsightly barriers during last year's event.
- Increased noise and litter
- Impacts from lighting

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

On 15 May 2018, and in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), Lancaster City Council submitted the following documents to the Secretary of State (Planning Inspectorate) for examination:

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

The Examination Hearing Sessions commenced on 9 April 2019.

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.

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.

Given the current stage of both DPDs, it is considered that significant weight can be attributed to the policies contained therein subject to the extent to which there are unresolved objections to the relevant policies and their consistency with the National Planning Policy Framework.

6.3 Lancaster District Core Strategy

SC1 – Sustainable development
SC5 – Achieving quality in design
SC6 – Crime and community safety

6.4 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 of Development
- Impact on Heritage Assets

- Impact on Trees
- Impact of Residential Amenity
- Highway Implications

7.2 Principle of Development

- 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 Councillors will no doubt recall last year's inaugural Lancaster on Ice event which took place within Dalton Square which the applicants estimate attracted more than 70,000 visitors including 35,669 skaters over the 6 week period when the ice rink was in place. This undoubtedly made a positive contribution to the vibrancy of Dalton Square and Lancaster as a whole as a visitor destination during the festive period.
- 7.2.3 Building on the success of last year's event the applicant seeks a further temporary consent for the siting of the ice rink in addition to an observation wheel and market stalls within the square. It is considered that the event would animate this attractive historic area and like last year it would enable many more people to enjoy and appreciate this area at a time of year when it is usually only passed through transiently (and is usually dominated by parked cars). Dalton Square is a viable city centre location for the event attraction which will complement and provide linked trips with the surrounding retail and leisure uses. It is therefore anticipated that the scheme would bring associated economic benefits to the city and help to further raise the profile of Lancaster as a visitor destination.
- 7.2.4 The application seeks consent to hold the event on an annual basis over a 10 year period. However, it is considered more appropriate to grant a 5 year consent which would allow for the Council to respond to any changes in policy or strategic plans which may arise in the future.
- 7.2.5 The current submission includes the permanent installation of two electrical cabinets in the southern end of the square. This would have the benefit of precluding the requirement for temporary large generators which were sited in this location to serve last year's event and were unsightly. The permanent siting of these cabinets would bring the added benefit of opening up the opportunity of using Dalton Square for other public events.
- 7.2.6 The ice rink represents seasonal entertainment and alongside the observation wheel and market stalls it 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 in this city centre location, 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, observation wheel and associated marquees and market stalls will only be operational for a temporary period of 6 weeks. 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 rectangular ice rink (32.1 metres by 20.3 metres with a 8 metre by 8 metre central opening for a statue) and access ramp would be placed above the paved area and grass around and upto the grade II* listed Queen Victoria monument (similar in construction to last year) 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. A method

statement in this regard has been submitted and as in the case of last year, these details will be conditioned.

- 7.3.4 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 and memorial are not impacted unduly during the delivery of the events infrastructure and during its deconstruction.
- 7.4.5 The observation wheel itself will have a 30 metres diameter and will stand approximately 35 metres from ground level once in position. Whilst not attached to any designated or non-designated heritage assets, the wheel along with the marquees will be immediately adjacent to and in front of many listed buildings including Palatine Hall. These structures will obstruct views of the buildings and, in the case of the observation wheel, dominate views and appreciation of historic buildings which will lead to a level of harm. However, this harm is considered to be less than substantial and can be justified as it is temporary feature. Conditions will be included to ensure satisfactory protection of the traditional historic paving and cobbles in the location of the observation wheel.
- 7.3.6 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 recreational/leisure facilities 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 accord 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 the amenity or structural integrity of these trees.
- 7.4.2 The submission includes a Tree Protection Plan and Arboricultural Impact Assessment which takes account of the trees within Dalton Square itself as well as the two trees site to the front of Palatine Hall. It is considered that the suggested Tree Protection Measures in respect of the siting of the ice rink and observation wheel are satisfactorily and would be conditioned.
- 7.4.3 During the course of the application the scheme has been revised to include the installation of two electricity cabinets within the southern end of the square. The original submission proposed only one cabinet and as such this element of the Tree Protection Plan and Arboricultural Impact Assessment will need to be revised in order to ensure protected trees do not suffer adverse impacts as a result of the cabinet installation. Councillors will be updated on this point during the 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. While it is acknowledged that public comments include objections regarding noise, the Environmental Health Officer states that no complaints were received in respect of last year's event. It is considered that 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, it is considered that this would not be unreasonable considering the busy commercial location and the proposed times for operation of the temporary rink and observation wheel. In the event that noise complaints arise, the Environmental Health Team would take action to address this issue under separate Environmental Health legislation.
- 7.5.2 Public comments also raise concerns regarding loss of privacy in relation to the observation wheel. It is understood that the nearest residential property would be located approximately 21 metres away from

the observation wheel. Although the wheel will clearly be observed from this property, in terms of separation distances (and the angle of the property relative to the wheel) this is considered acceptable. It is also considered that the inclusion of electrical cabinets rather than generators will minimise the impact of noise, fumes and the regular supply of fuel to the site by large vehicles, thus improving amenity when compared to last year's event.

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 The scheme would involve the temporary closure of an area of public highway to vehicles along the northern and eastern 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. This would involve the one way traffic system along Sulyard Street being reversed to allow vehicles to travel proceed north along Friar Street. The scheme would also result in the temporary loss of a number of pay and display parking bays which are located to the front of Palatine Hall and along the eastern side of the square. It is worth noting that two parking bays will remain outside the red line boundary and these relate to the GP surgery in the south-east corner of the square.
- 7.6.3 The County Highways consultee raised a number of queries regarding the scheme in his initial comments. A subsequent meeting on site has taken place which was attended by County Highways representatives and the event manager. Discussions on site resulted in County Highway Officers being satisfied with the proposed mitigation of impacts to other users of the square and pedestrians. A full method statement detailing the build phase, event phase, and dismantling phase based on the on-site discussions is to be submitted and Councillors will be updated on this during the meeting.

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 seeks to build on the success of last year's Lancaster on Ice event and 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.
- 9.2 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, observation wheel and ancillary structures 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. The inclusion of permanent electrical cabinets will provide a long term solution for power supply for this event as well as opening up the opportunity to hold other public events in the square. With the addition of conditions to provide certainty that there will be no detrimental physical impacts it is considered that the requirements of policies DM27, DM30, DM31 DM 32 and DM35 of the DM DPD would be satisfied. Subject to the applicant resolving the outstanding points in respect of highway matters and the protection of on-site trees, Councillors are advised that the application can be supported.

Recommendation

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

1. Temporary consent for 5 years for a 6 week period, in addition to 2 weeks either side of the scheduled event for construction and dismantling.
2. Development in accordance with approved plans including scaffolding sections.
3. Full highways method statement detailing the build phase, event phase, and dismantling phase to be submitted prior to commencement

4. Notwithstanding the submitted details precise details of surfacing under the observation wheel to be submitted and agreed prior to commencement.
5. Notwithstanding the submitted details precise details of marquees/tents including layout to be submitted and agreed prior to installation.
6. Protection of the stone steps to the Queen Victoria Memorial.
7. Method statements and risk assessment to cover the construction and dismantling phases, and protection of the Queen Victoria Memorial and stone balustrade.
8. Method statement and risk assessment to cover the construction and dismantling phases for observation wheel
9. AMS and TTP including cabinet installation and observation wheel
10. No equipment/ advertisements/ lighting to be attached to trees
11. 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 and after the event (each year).
12. Hours of operation 10:00 to 22:00 seven days a week
13. Scheme to be provided for the location/position of speakers and lighting
14. Details of cabinets (including colour) and cabling.
15. Existing surfacing to be re-instated following installation of cabinets.
16. Details of protective fencing, barricades and hoardings.

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:

Lancaster City Council 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