

Planning and Rights of Way Panel 24.10.17
Planning Application Report of the Service Lead; Infrastructure, Planning and Development

Application address: Public Plaza, West Quay South			
Proposed development: Installation of temporary Christmas ice rink with ancillary food and drink uses, including the installation and removal of ancillary structures			
Application number	17/01551/FUL	Application type	FUL
Case officer	Andrew Gregory	Public speaking time	15 minutes
Last date for determination:	06.12.17	Ward	Bargate
Reason for Panel Referral: To secure delegated authority to grant temporary planning permission following the close of the public consultation period to reduce the risk of delay to delivery of the ice rink.		Ward Councillors	Cllr Bogle Cllr Noon Cllr Paffey

Applicant: THIS Event Co Ltd	Agent: Barton Wilmore
-------------------------------------	------------------------------

Recommendation Summary	Conditionally approve
-------------------------------	------------------------------

Community Infrastructure Levy Liable	Not applicable
---	-----------------------

Reason for granting Temporary Planning Permission from November 2017 until January 2018

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations including the impact of the proposal on the adjacent scheduled Town Walls and nearby residential properties have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus Temporary Planning Permission until 9 January 2018 should therefore be granted.

Policies - SDP1, SDP4, SDP16 and REI7 of the City of Southampton Local Plan Review (March 2015) and CS3, CS13 and CS14 of the Local Development Framework Core Strategy Development Plan Document (January 2015) and AP16, AP18 and AP25 of the City Centre Action Plan

Appendix attached			
1	Development Plan Policies		

Recommendation in Full

1. Delegate to the Service Lead to grant temporary planning permission following the close of the public consultation period on 27.10.17, subject to no new relevant planning considerations being raised if five or more objections are subsequently received.
2. That the Service Lead be given delegated powers to add, vary conditions as necessary.

Background

The proposal seeks temporary planning permission for a Christmas Ice Rink with ancillary food and drink uses for a temporary period from November to January. The application was received and made valid on 06.09.17 and has a determination target date of 06.12.17. However the applicants have requested that the application be expedited to allow the ice rink to commence in November as part of the build-up of festivities in the City Centre. Procedurally the earliest a delegated decision can be made is 30.10.17 following the close of the statutory public consultation period.

At the time of writing this report the application has received one third party objection which in itself does not trigger a Panel referral under the Council's scheme of delegation. However there is a risk of delay if 5 or more objections are received by the close of the consultation period on 27.10.17 which would trigger referral to the next Planning Panel on 14.11.17. Delayed determination of the application and installation of the Ice Rink until mid-November would delay delivery and could undermine the viability of the scheme.

Therefore it is requested that the Service Lead be given delegated powers to grant temporary planning permission following the close of the public consultation period on 27.10.17, subject to no new relevant planning considerations being raised.

1.0 The site and its context

- 1.1 The application site comprises the Public plaza between the historic town walls to the east and West Quay leisure and dining complex to the west. The Plaza has dual purpose as a public events space and area of open space and landscaping which has been designed to enhance the setting of the historic town walls to the south of Arundel Tower.
- 1.2 The plaza area provides a public route north-south which can be closed for public events because the area has been stopped up as public highway and is leased to the owners of West Quay Shopping Centre. A north-south public route will be maintained at all times at the higher level at the front of West Quay leisure and dining complex.
- 1.3 The nearest residential properties are located within Forest View to the south-east of the site (on top of the walls).

2.0 Proposal

- 2.1 The proposal comprises an outdoor ice rink, ancillary food and drink uses and supporting plant. The proposed outdoor ice rink has an area of 730sqm which is designed to fit within the plaza area. A marque is proposed to accommodate the supporting changing facilities. Ancillary food and drinking area will be housed within a single-storey timber enclosure with additional outdoor seating area. A small ticket kiosk is also proposed.
- 2.2 An exclusion zone, 2metres in width, is provided from the base of the historic town walls. The exclusion zone will be fenced at either end to prevent public access behind the ice rink and ancillary buildings in the interests of safety and security.
- 2.3 The outdoor ice rink and ancillary food and drink use is proposed to be staged for 7 weeks, beginning Saturday 11th November 2017 until Tuesday 2nd January 2018. The set-up would begin on Monday 30th October with a 7-day De-Rig starting Wednesday 3rd January with the event being fully off site on Wednesday 10th January 2018. The proposed opening hours are 10:00 – 23:00 every day with the last skate session finishing at 22:00.

3.0 Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4.0 Relevant Planning History

- 4.1 The plaza area formed part of the outline approval ref 13/00464/OUT for the extension of West Quay Shopping Centre with the officer report stating:
“the plaza has been designed to cater for a number of different uses and events, this includes outdoor dining, outdoor events and leisure associated with the use of the scheme and the city centre.”
- 4.2 Condition 42 of application ref 13/00464/OUT required the submission of a management plan for the Plaza which was approved under application 14/01460/DIS. The 'City Plaza Management Plan' covers management and other arrangements for the holding of events etc in the public plaza. A committee has been formed with representatives from the Council and from Hammerson. The Council are entitled to hold up to 18 events per calendar year free of charge within the Plaza. The Section 106 agreement for application 13/00464/OUT allows Hammerson to hold non-public events in the plaza not exceeding 20 in any calendar year.
- 4.3 Temporary planning approvals were granted in 2011 and 2012 for a Christmas Ice Rink adjacent to the Bargate (references 11/01466/FUL and 12/01219/FUL) and in 2008 temporary planning approval was granted for an Ice rink in Guildhall Square (reference 08/00895/R3CFL).

5.0 Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (06.10.2017) and erecting a site notice (22.09.2017). At the time of writing this report [2] representations had been received: one from Cllr Noon (resident of nearby Forest View in support of the proposal; and one from a neighbouring resident of Forest View against the proposal. The following is a summary of the points raised:

Support - Great idea and will add further excitement's to the city centre experience.

Objection - Last Christmas Forest View residents were subject to noise and disturbance associated with the construction of the West Quay food and leisure complex. The proposed Ice Rink will lead to noise disturbance to nearby residents and instead should be located within Guildhall Square

Officer Response – Officers acknowledge that the ice rink as proposed will affect existing residential amenity and the panel need to determine the significance. No objection has been raised by the Council's Environmental Health Team who are in agreement with the noise control measures as set out within the supporting statement and Event Management Plan 2017 for SKATE Southampton. The proposal does not seek to operate during sensitive night time hours of 11pm-7am. Planning conditions are recommended to secure proposed noise control measures, hours of use and to restrict the temporary consent period to 7 weeks. Furthermore any breach of the proposed noise control measures can be controlled under separate Environmental Health legislation.

The public plaza represents a viable city centre location for the operator because the ice rink will complement and provide linked trips with the surrounding retail and leisure uses.

Consultation Responses

- 5.2 **SCC Highways** - The applicant must consider general circulation unrelated to the ice rink. normally there is a viewing area for the public of the ice rink, and this viewing area must not obstruct the through passage of other pedestrians and wheelchair users.
- 5.3 **SCC Environmental Health** – No objection in principle. The potential noise has been considered and what appear to be appropriate controls have been determined.
- 5.4 **SCCTree Team** – no objections to the proposal from a tree perspective.
- 5.5 **Historic England** – Concerns Raised: The proposals for an ice rink adjacent to the Town Wall (a listed and scheduled nationally important heritage asset), would in their current form, cause harm to the significance of the scheduled monument, in particular through detracting from its aesthetic and architectural significance. Whilst Historic England appreciate that the ice rink is a temporary attraction, and entertainment is a significant part of Southampton's public offer, Historic England emphasise that the collective heritage assets of the Old Town are also important and many people visit this part of Southampton to appreciate and understand its historical significance. Historic England think it is important that any entertainment offer in this area enhances rather than detracts from the

significance of the Old Town and Walls, and that people visiting the town to appreciate its historical sites, buildings, and monuments during temporary entertainment events, do not have a compromised experience.

- 5.5.1 Historic England think that harm is greatest from the extension of the ice rink and chillers southwards around the dog leg of the walls, and from the addition of buildings adjacent to the Town Walls. Historic England would therefore encourage the Council to consider whether the overall area of the ice rink and its associated paraphernalia could be reduced and contained within the widest area of the plaza. Consideration could be given to whether the scale and number of buildings could be reduced, and whether a greater buffer can be created to allow better public access to the base of the town walls.

Officer Comment: - The comments from Historic England are noted and discussed in the considerations section of this report. These comments are also balanced with the comments of the Council's own Conservation Officer.

- 5.6 **SCC Conservation and Heritage** – No objection. The Walls are an outstanding historic asset in the City of Southampton and are directly affected by the proposed works to erect a temporary ice rink and associated structures in the near future.

- 5.6.1 The Walls are a Scheduled Ancient Monument and enjoy listed status. Fabric of such ancient date has clearly been subject to much restoration but the plan, foundations and numerous visible features above ground make a massive contribution to the significance of Southampton and its history. A landscaping scheme of recent date and the nearby construction of new buildings and their associated retail and entertainment facilities have been devised in such a way as to retain and to display the Walls to advantage.

- 5.6.2 As a result of this display the outer face of the Walls is clearly visible over a considerable length and the open area in front has been laid out in a manner to enable viewers from the nearby promenade to appreciate the whole architectural quality of the remains of the Walls. This open area represents the former 'glacis' (an area maintained without obstructions in front of Medieval fortifications or city boundary walls for the purposes of surveillance and even for the conduct of defensive military action) and this open quality now contributes to a high degree to the appreciation of the setting of the Walls.

- 5.6.3 The open area is partly to be covered by the proposed ice rink etc. and this would be detrimental to what is described above. In addition the buildings of the temporary supporting facilities will cover up part of the elevations of the Walls.

- 5.6.4 Such a proposal would not be acceptable if it was permanent. The reason would be that it is detrimental to the 'significance' of the historic asset. This would result in a Refusal for the proposals.

- 5.6.5 A balancing of detriment against benefits is now National Policy (see the NPPF esp. Section 12 paragraph. 132) where 'justification' is required.

- 5.6.6 In the circumstances set out in the proposals the social, economic and cultural benefits of the entertainment provided by the temporary ice rink may be used to balance against the undoubted detriment.

- 5.6.7 For these reasons the proposals are not opposed but the time limits need to be observed so that the Walls can be returned to their current state in good condition and without any resulting physical damage immediately after the festivities.

6.0 Planning Consideration Key Issues

6.1 The key issues for consideration in the determination of this planning application are:

- Principle of development;
- Impact on the setting of the Town Walls;
- Impact on neighbouring amenities; and
- Impact on pedestrian circulation

6.2 Principle of Development

6.2.1 The City Centre Action Plan (CCAP) indicates that the site is located within the heart of the City quarter and Primary Shopping Area. The aim for this Quarter is the development of a modern, attractive and vibrant core to the city with the priority being the enhancement of the existing shopping area. Policy AP25 (a) of the CCAP indicates that leisure use is supported as part of the mixed use development at Watermark WestQuay. In this area development is required to respect and enhance the Town Walls and their setting to create a major civic square at the foot of the Town Walls.

6.2.2 The plaza area is consented to hold some public outdoor events as set out within The 'City Plaza Management Plan'. The Council are entitled to hold up to 18 events per calendar year free of charge within the Plaza. The Section 106 agreement for application 13/00464/OUT allows Hammerson to hold non-public events in the plaza not exceeding 20 days in any calendar year. Therefore planning permission is required because the proposed 7 week temporary period will exceed the existing limits within the S106 Agreement.

6.2.3 Therefore the proposed Christmas ice rink is considered acceptable in principle as an appropriate temporary leisure use for the public plaza. The ice rink represents seasonal entertainment that will enhance the vitality and viability of the city centre during this temporary 7 week period and will complement and provide linked trips with the surrounding retail and leisure uses. This proposed attraction will draw both the local community and visitors to the City Centre which will support the local economy, whilst allowing users to appreciate the walls close up.

6.3 Impact on the setting of the Town Walls

6.3.1 The Ice Rink, will only be operational for a limited temporary period of 7 weeks (11th November 2017 until Tuesday 2nd January 2018). The proposed development is considered to lead to less than substantial harm to the significance of the scheduled Town Walls 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 134.

6.3.2 The Westquay Public Plaza has always intended to be a location for public and private events which was recognised in the Officer's Report for Westquay Outlined Planning Application (13/00464/OUT) which states that "the plaza has been designed to cater for a number of different uses and events, this includes outdoor dining, outdoor events and leisure associated with the use of the scheme and the city centre."

6.3.3 Measures are proposed to include a heritage exclusion zone to safeguard the Town Walls over the course of the development and protective fencing is proposed during site set up and dismantling. A planning condition is recommended to support these safeguarding measures and 24 hour site

security. A further condition is also recommended to prevent any adverse vibration impact from the associated chiller units.

- 6.3.4 There are nationwide precedents for temporary ice rinks adjacent to national heritage assets such as Winchester Cathedral and Somerset House in London. Heritage assets, such as the Scheduled Town Walls provide an attractive setting for the Ice Rink and can assist the public appreciation of the historic environment.
- 6.3.5 Inevitably ancillary buildings are required to support the function and viability of the ice rink. The single-storey scale and temporary nature of the supporting buildings are not considered to be substantially harmful to the setting of the town Walls. The design of these temporary buildings are appropriate for a public event space and the 2m width heritage exclusion zone, defined by existing low bollards, will safeguard the town walls. Therefore the proposal is considered to accords with the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.4 Impact on neighbouring amenities

- 6.4.1 Policy AP8 of the City Centre Action Plan indicates the Council will use its planning and licensing functions to promote a night time economy with a range of activities that contribute to a vibrant city centre whilst minimising potential disturbance to nearby residential areas. The proposal is supported by a noise management plan to provide appropriate noise controls within the outdoor events space have regard to the proximity to nearby residential properties within Forest View. No objection has been raised by the Council's Environmental Health Team to the proposed noise management and any breach of noise controls during this temporary period can be addressed through Environmental Health legislation. The proposed seeks operating hours of 10am until 11pm during the 7 week period with amplified music to be turned off at 10.15pm on the ice and 10.45pm within the bar area. Noise levels will be monitored over the course of the temporary period to ensure that proposed noise levels are in keeping with the noise levels as set out within the supporting management plan, as amended by subsequent correspondence from Barton Wilmore which confirms that the maximum noise level has been reduced to a maximum LAeq of not more than 65 dB. Odour can be managed through separate Environmental Health legislation and litter is managed through the overarching management plan for the Plaza.
- 6.4.2 Therefore the proposal is not considered to adversely harm the residential amenities of neighbouring occupiers having regard to the proposed noise control measures and the temporary nature of the development. Planning conditions are recommended to secure the noise control measures and hours of use. Policy SDP1(i) is satisfied for a temporary basis.

6.5 Impact on pedestrian circulation

- 6.5.1 The plaza area provides a public route north-south which can be closed for public events because the area has been stopped up as public highway and is leased to the owners of West Quay Shopping Centre. A north-south public route will be maintained at all times at the higher level at the front of West Quay leisure and dining complex.

7.0 Summary

- 7.1 On balance, the social, economic and cultural benefits of the entertainment provided by the temporary ice rink and ancillary buildings within this public plaza are considered to outweigh the temporary impacts to the setting of the Scheduled Town Walls. Appropriate safeguarding measures are proposed to

protect the adjacent heritage asset and noise control measures are in place to prevent adverse harm to neighbouring amenities. A note to applicant is recommended to make it clear that the proposed ice rink and design of ancillary buildings will be subject to review and if temporary consent is granted this does not represent a fixed design going forward. The applicant is encouraged to undertake pre-application consultation with the Council and Historic England before submitting future temporary applications for an ice rink on this site.

8.0 Conclusion

- 8.1 Taking a balanced assessment of the details discussed above, this application is recommended for approval for the reasons set out above.

Local Government (Access to Information) Act 1985
Documents used in the preparation of this report Background Papers

1a, b, c, d, 2b, d, g, 4f, 6a,

AG for 24/10/17 PROW Panel

PLANNING CONDITIONS

01. APPROVAL CONDITION - Time Limited (Temporary) Permission Condition - physical development

The development works hereby permitted shall be discontinued either on or before the period ending on 02.01.2018. After this time the land shall be restored to its former condition, or to a condition to be agreed in writing by the Local Planning Authority prior to this time, by 10.01.2018.

Reason:

In the interests of the setting of the Town Walls (Grade II listed structure and Scheduled Monument).

02. APPROVAL CONDITION - Security and protection measures - [Performance Condition]

No development or associated external storage shall take place within the heritage exclusion zone as shown on drawing no. SKB/08.

Furthermore protective fencing shall be installed around the perimeter of the site during the installation and removal periods from 30/10/17 to 10/11/17 and then again 03/01/17 – 10/01/17 to protect the scheduled Town Walls. At no point within these dates shall the fencing be removed. Furthermore 24 hours on site security shall be provided as set out within the supporting Event Management Plan 2017 for SKATE Southampton.

Reason

To protect the adjacent scheduled Town Walls and to ensure public safety

03. APPROVAL CONDITION - Noise levels - [Performance Condition]

The development shall be carried out in accordance with the noise control measures as set out within the supporting statement and Event Management Plan 2017 for SKATE Southampton, as amended by the email from Barton Wilmore dated 11.10.17 to require a maximum LAeq of not more than 65 dB.

Reason

In the interests of public and residential amenity

04. APPROVAL CONDITION - Hours of Use - [Performance Condition]

The temporary use hereby permitted shall not operate (meaning that customers shall not be present on the premises, outside the following hours:

Monday to Sunday - 10am to 11pm

Closed Christmas Day

Unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To protect the amenities of the occupiers of existing nearby residential properties.

05. APPROVAL CONDITION - Use of Chillers (Performance Condition)

The Chiller units to be used in associated with the approved use must be mounted on a plinth (or similar) above ground floor level and sited so as to minimise the impact of vibration on the Scheduled Town Walls.

Reason

To protect the adjacent Scheduled Town Walls

06. APPROVAL CONDITION - Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below and supporting Event Management Plan 2017 for SKATE Southampton, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

For the avoidance of doubt and in the interests of proper planning.

Note to Applicant

1. Any subsequent future proposals for a temporary ice rink within this area should be subject to pre-application discussions with the Council and Historic England to minimise the impact on the setting of the Scheduled Town Walls going forward. Any future application should also be submitted at least 3 months prior to the site set up date to reduce the risk of delay.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS1	City Centre Approach
CS3	Promoting Successful Places
CS13	Fundamentals of Design
CS14	Historic Environment

City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP4	Development Access
SDP16	Noise
REI7	Food and Drink Uses (Classes A3, A4 and A5)

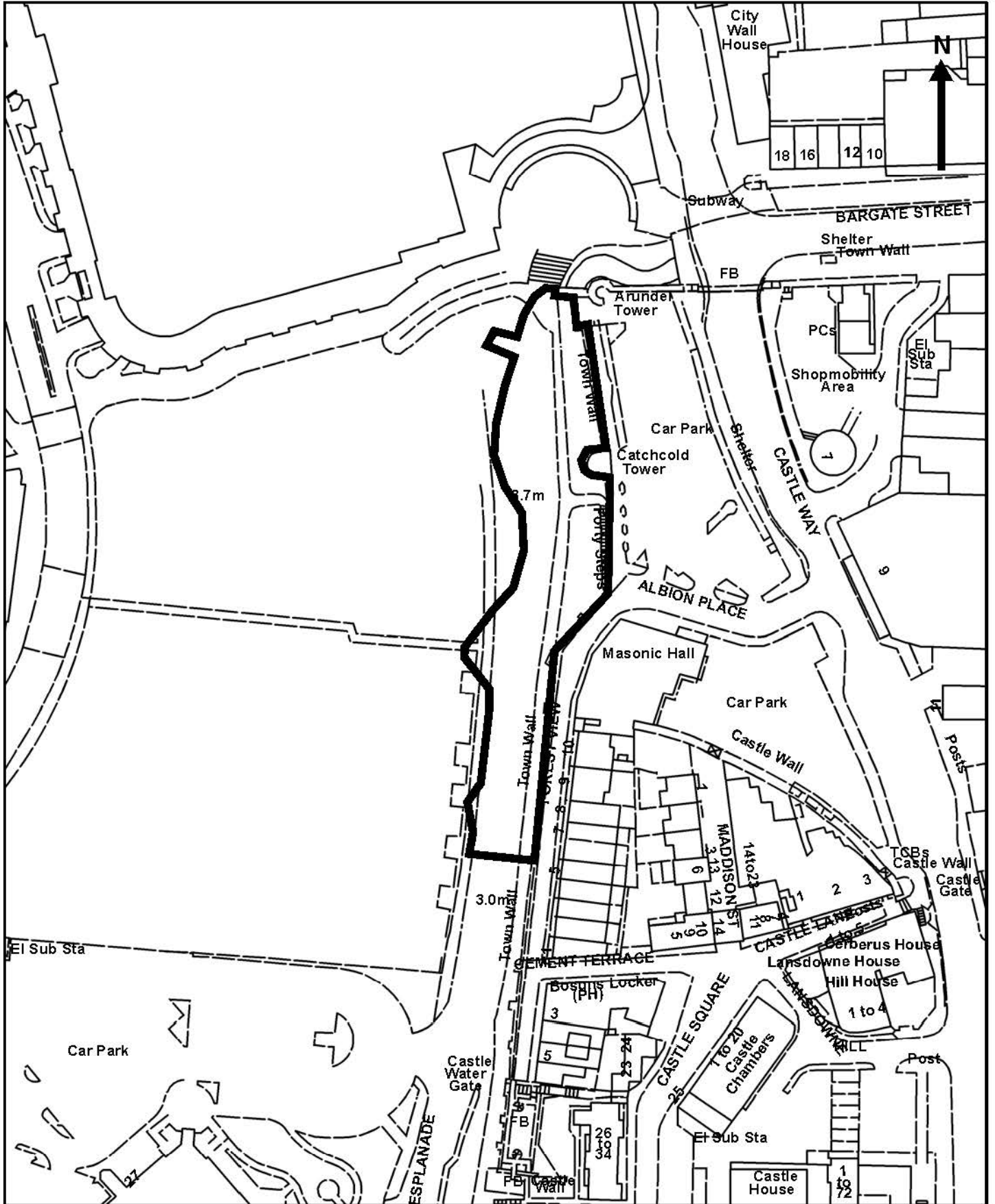
City Centre Action Plan - March 2015

AP 16	Design
AP 18	Transport and movement
AP 19	Streets and Spaces
AP 25	MDZ – North of West Quay Road

Other Relevant Guidance

The National Planning Policy Framework (2012)

17/01551/FUL



Scale: 1:1,250

©Crown copyright and database rights 2014 Ordnance Survey 100019679

