



# CHELTENHAM BOROUGH COUNCIL

## Notice of a meeting of Planning Committee

Thursday, 22 April 2021  
2.00 pm

Virtual WEBEX video conference via the Council's YouTube Channel:  
[www.youtube.com/user/cheltenhamborough](http://www.youtube.com/user/cheltenhamborough)

Membership	
<b>Councillors:</b>	Garth Barnes (Chair), Paul Baker (Vice-Chair), Dilys Barrell, Mike Collins, Stephen Cooke, Bernard Fisher, Paul McCloskey, Tony Oliver, John Payne, Diggory Seacome and Simon Wheeler

The Council has a substitution process and any substitutions will be announced at the meeting.

### Important Notice

#### **FILMING, RECORDING AND BROADCASTING OF PLANNING COMMITTEE MEETINGS**

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If you make a representation to the meeting you are consenting to the use of those sound recordings for broadcasting and training purposes.

### Agenda

- 1. APOLOGIES**
- 2. MINUTES OF LAST MEETING** (Pages 3 - 8)  
Minutes of the meeting held on 25<sup>th</sup> March 2021.
- 3. DECLARATIONS OF INTEREST**
- 4. DECLARATIONS OF INDEPENDENT SITE VISITS**
- 5. PLANNING/LISTED BUILDING/CONSERVATION AREA CONSENT/ADVERTISEMENT APPLICATIONS, APPLICATIONS FOR LAWFUL DEVELOPMENT CERTIFICATE AND TREE RELATED APPLICATIONS – SEE MAIN SCHEDULE**

- 5a            **20/01415/FUL & LBC Hampton House, Shurdington Road, GL53 ONH**            (Pages 9 - 16)  
[Planning Application Documents](#)  
[Listed Building Consent](#)
- 5b            **21/00483/FUL Hatherley Park, Hatherley Court Road, Cheltenham, GL51 3AQ**            (Pages 17 - 30)  
[Planning Application Documents](#)
- 5c            **21/00552/FUL 21 The Lanes, Cheltenham, GL53 0PU**            (Pages 31 - 42)  
[Planning Application Documents](#)
6.            **APPEAL UPDATES**            (Pages 43 - 44)  
Appeals updates for information.
7.            **ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION**

**Contact Officer:** Democratic Services,  
**Email:** [democraticservices@cheltenham.gov.uk](mailto:democraticservices@cheltenham.gov.uk)

### Planning Committee

**Thursday, 25th March, 2021**

**2.00 - 4.05 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Councillor Garth Barnes (Chair), Councillor Paul Baker (Vice-Chair), Councillor Dilys Barrell, Councillor Mike Collins, Councillor Stephen Cooke, Councillor Bernard Fisher, Councillor Paul McCloskey, Councillor Tony Oliver, Councillor John Payne, Councillor Diggory Seacome and Councillor Simon Wheeler
<b>Officers in Attendance:</b>	Mike Holmes (Interim Head of Planning) and Nick Jonathan (Solicitor)

#### **1. Apologies**

There were none.

#### **2. Minutes of last meeting**

The minutes of the meeting held on 11<sup>th</sup> February were unanimously approved as a correct record.

#### **3. Declarations of Interest**

Cllr. Barrell declared an interest in item 5c, Bournside Road. She intended to leave the meeting for the duration of the item.

Cllr. Baker declared an interest in item 5d, Hewlett Road, as he was the applicant. He intended to leave the meeting when it came to that item.

Cllr Barnes declared a personal, non-prejudicial interest in item 5d, Hewlett Road. He noted that all Liberal Democrat members would likely have a personal and non-prejudicial interest in the item.

#### **4. Declarations of independent site visits**

Cllr Baker had visited from the road 45 Bournside Road and 4 Hartley Close

Cllr Oliver had visited all sites externally.

Cllr McCloskey had visited Bournside Road, Hartley Close and Hewlett Road and previously visited the BT site

Cllr Barrell had visited Hartley Close and Hewlett Road

Cllr Cooke had visited Hartley Close and Bournside Road and previously visited the BT Site.

Cllr Payne had visited all sites.

Cllr Collins had visited Hewlett Road.

Cllr Seacome had previously visited the BT site.

#### **5. Planning/Listed Building/Conservation Area Consent/Advertisement Applications, Applications for Lawful Development Certificate and Tree related applications – see Main Schedule**

#### **6. 20/01680/FUL British Telecom, Oriel Road, Cheltenham, GL50 1BA**

The Planning Officer introduced the report relating to the British Telecom building site seeking planning permission for a new sliding vehicle access gate to Oriel Road,

replacement of existing gate to Vittoria Walk and new metal railings on top of the existing low level brick wall opposite Wolseley Terrace. The application was at committee due to the impact on the conservation area, listed building and design approach. The application had been deferred at the January 2021 planning meeting for further revisions and justification. Revised plans had been submitted and considered, notably these were the boundary facing Oriel Road was now reduced to 1.6m; the sliding gate was now similar to neighbouring property and would be similar height and the brick wall with railings would also be similar to the surrounding area.

Public speaker, Mr Ratcliffe, spoke in objection to the application stating that the unattractive and unsympathetic location, design and appearance of the proposed railings would change the appearance of the Grade II listed Wolseley Terrace and result in visual clutter, contrary to policy MP8 of the conservation area appraisal. He raised the issue of increased flood risk to the lower ground floors of buildings in Wolseley Terrace and contested the application was unacceptable from a security and environmental standpoint. He stated the harm to Wolseley Terrace could be avoided by an alternative location and said that less harmful options had not been explored.

In response to members' questions, the Planning Officer confirmed:-

- The flooding issue was not referred to in the Officer's report because as the proposal was classed as minor development, the impact of flooding is considered under government advice which is that this level of development would not require any risk assessment or have any potential impact, so was not taken into consideration.
- The 74 letters of notification were sent to all properties that joined the boundary to the BT building. As the BT building is large many letters went to properties at the rear.
- Regarding the securing of the underpass, this was slightly discussed but BT did not consider it a viable option and wanted to continue with what was originally proposed.
- Access to the site and Wolseley Terrace for heavy maintenance vehicles and equipment, was wholly up to BT's ownership and was a civil matter.
- The Officer was unsure about an objection in the papers (page 23) with no indication as to whom this related. He suggested it could be anonymous.
- The Officer was not sure what engagement was made between BT and residents of Wolseley Terrace, stating it was up to BT to determine that.
- The reason for deferral was to understand BT's rationale for this and a member wished to know more about the consultation and whether people got a letter from BT. The Officer stated that revised plans were received quite late on and Officers did not feel there was a great deal of difference to what was originally proposed, so a summary was added to the report the day before it's deadline so as not to delay the report further. The BT letter basically stated the reasons for access to the site and reasons why they would like to do it, which predominantly related to security. The Officer was more concerned about the impact of the railings.

During the member debate the following points were made:-

- Did not feel this had progressed very far. This is a conservation area and was this necessary. It should not have a harmful effect or detract from the central conservation and think it does. BT appeared not to have consulted with neighbours.
- In principle think BT's suggestion of the addition of railings on the brick wall not a bad one and as seen by properties nearby they look elegant. Several members had no objections to the railings and agreed this might make the property look better.
- In serious doubt though was the impact on Wolseley Terrace and agree with the objector that the plans will detract from the value of the properties if there was restricted access even though that is a civil matter. BT should move those railings

some distance from Wolseley Terrace, have a social conscience and need to take a more responsible attitude.

- Happy with railings on Vittoria Walk and Oriel Road. Solution is to secure the undercroft and need to take seriously paragraph 194 of MPO with clear and convincing justification for significant harm.
- Problems with this proposal just from point of view of flooding. Where are the gullies in Wolseley Terrace and where would the water go? No planning application should make flooding worse. The question of why the railings would increase flooding risk was also raised.
- A member felt there was not enough information on the flooding issue and would not want to agree to something and there be flooding issues as a result.
- Noted that the Heritage and Conservation people think this acceptable. The railings would make the area look better, the problem was the original building that was not attractive.
- A member queried that if railings on Oriel Terrace and Vittoria Walk were approved, and the railings in Wolseley Terrace not included in the application, could they put up a 1m wall without planning permission?
- A member queried whether there was sufficient justification for 1.2 m fence to be built within close proximity to Wolseley Terrace and whether this would prevent people climbing over anyway. Could end up with a fence that was no good and have no impact on the terrace.
- BT have given no justification for anti-social behaviour issues, the Police have not reported anything and once out of lockdown people may disperse and go further afield which they cannot at moment.

Chair stated there was a clear view from the committee that they were not happy with the situation and that he was also disappointed that BT had not communicated with the residents of Wolseley Terrace which was one of the reasons why it was deferred last time as it would have been an opportunity to talk to each other and come to an arrangement to satisfy everyone and that had not happened. This was a community and neighbourhood issue over which the committee had limited control but there were certain issues that had been raised by members on this and the Chair also had some concerns.

The Planning Officer referred to the couple of questions asked.

- Regarding the flooding he reiterated that as it was such minor development it fell within Government advice as unlikely to cause an increase risk in flooding.
- Regarding height of wall, BT could still incorporate a 1m high fence of any type on top of the wall regardless without planning permission.

Members expressed deep concern about this as they would then have no say and could end up with something worse.

An alternative solution would be to move the railings further away from Wolseley Terrace. The application fell short of the best interests of the town and it was proposed to refuse on grounds of failure to deal with paragraph 194 of NPPF.

There was consensus from the members on the railings on Vittoria Walk and Oriel Road, but concern about the railings facing Wolseley Terrace and even more concern that BT could put up anything up to 1m under permitted development rights.

The Head of Planning could see members' reluctance to refuse but could also understand the unhappiness with the proposal. He therefore proposed to defer again and put members' views to BT and if they did not move then to refuse. By clearly putting to BT what members found acceptable or not, may give the response members would accept.

It was suggested requesting a representative from BT to attend the next hearing.

There being no further comments and on the advice of the Legal Officer, the Chair moved to vote for a deferral in the first instance. If this was not passed, a vote for refusal would follow.

Vote to defer:

For : 8

Against : 3

Abstain : 0

## **DEFERRED**

### **7. 21/00078/FUL 4 Hartley Close, Cheltenham, GL53 9DN**

The Planning Officer presented the application, which related to extensions, alterations and remodelling to form a two storey pitched and flat roof dwelling, as well as existing brick work to be rendered. The application was before the committee at the request of Cllr Baker due to the level of local interest in the item. An application at the same site had been rejected by the committee in December 2020, and this was an updated and amended version. Planning officers had reviewed the revised plans and concluded that the concerns previously raised by members had been properly addressed, so the recommendation was to permit the application.

Mark Godson of SF Planning spoke in support of the application, emphasising that the concerns raised at the committee in December 2020 had been taken into account. While no neighbours were in support of the previous application, 7 were now in support, and while 9 neighbours had objected to the previous design, only 4 objected now. He explained the changes that had been made in greater detail.

In response to a question about the application's environmental impact, the Planning Officer responded that there was not any specific information available on this point, but the standard approach to a dwelling had been taken. A member suggested that in the future, details on environmental impact ought to be automatically included in all planning reports, considering the council's commitments regarding the climate emergency.

Regarding whether the relatively large space up to the road would be treated like a front garden, the Planning Officer responded that the 26m space between the property and the road would be treated as a normal garden. As such, permission would be required for any significant elevated structures, though a boundary fence up to 1m tall would not require this.

A member noted that it was an application of great public interest, both positive and negative and thanked the applicant for going back to the drawing board and reconsidering key aspects of the plan, and presenting it well to the committee. He concluded that he would support the application.

Another member echoed this, suggesting that the applicant had taken the committee's criticism seriously and made the necessary changes to the application in a professional way. A member pointed out that the last design did not fit with the area but the applicant had gone to a lot of trouble this time to ensure it did this time.

There being no further questions or comments the Chair moved to the vote on the Officer's recommendation to permit.

For: 11

Against: 0

Abstain: 0

## **PERMITTED unanimously**

**8. 21/00179/FUL 45 Bournside Road, Cheltenham, Glos, GL51 3AL**

The Planning Officer presented the report relating to a two storey side extension, rear single storey extension and loft conversion with rear dormer to a semi-detached dwelling in Bournside Road. The application was before Committee at the request of Councillors Barrell and Harman over design, impact on neighbouring amenity and impact on the wider street scene and because of the nature of the material being used in the dormer extension.

The ward councillor addressed members and drew their attention to the strong arguments put together by local chartered town planner on behalf of the objector. Although recognising that the dormer was permitted development they still believed it contradicted Council's policy. It also had a big impact on the Hatherley Park development and the Friends of Hatherley Park were very much against it. The ward councillor believed this extension would have a considerable impact on the objector and urged members to reject it.

In response to members' questions, the Planning Officer confirmed:-

- Revised plans and drawings submitted on 10 and 16 March did not change the impact or design and therefore did not alter the Planning Officer's consideration and thus the report was still published on 17 March.
- A member asked when permitted development was adopted regarding dormers and whether this contradicted SD4. The Officer replied that the GPDO was altered in 2015 and the residential alterations and extension guides in 2007/8, with the Cheltenham Plan adopted last year. The JCS was adopted in 2017 but was open in design and up to Officers to determine the impact of neighbouring amenity. The member commented that some policies may need to be reviewed if several years old.
- There was no concern over shadowing from the dormer and no loss of light from the 2 storey side extension. There was a significant gap and the 45 degree light test had been carried out.
- The choice of aluminium as the material was up to the applicant who wanted a contemporary design.

During the member debate the following points were made:-

- The design was not good, the rear dormer window spoilt the design of the house and failed on SD4. There had been many rear extension changes in this area, many also of a bad design and did not want to compound it. Suggested refusal on grounds of SD4.
- Concerned about the elevation at the rear of building as it did seem an extremely large dormer window and out of proportion. It would be immediately adjacent to other half of the property and be effectively like an observation tower into the neighbouring garden. The neighbours would feel like they were being continuously watched and it would be a looming presence over the next door semi. Others in the area had smaller dormer windows, with one exception. The member thought this development could be permitted under permitted development and was impressed to read there were grounds to refuse it and not permit just because there were others in the area. He felt inclined to refuse given the effect the dormer window would have on the adjacent property. His grounds for refusal being SD4 and SD1 as in the objection letter.
- A lot of development in this area which could be seen as good use of what is there or as spoiling the street scene. The use of aluminium could also look out of place here. Felt that it was the size of the window that was the issue but the Officer confirmed the size of the window was not restricted under permitted development rights.

A member questioned permitted development rights when the window looked as if it went right to the very edge of the building. The Officer replied that permitted development allowed 200mm from the eaves which is what was proposed in this application. As long as the dormer did not interrupt the eaves and project from the rear elevation it would fall under permitted development regulations.

In response to a further question, the Officer said the Architects Panel may have looked at the application but had not provided any comments.

There being no more questions or comments, the Chair moved to vote on the substantive motion to permit as per the Officer's recommendation, in the first instance.

For : 5

Against : 4

Abstain : 1

### **PERMITTED**

#### **9. 21/00171/FUL 16 Hewlett Road, Cheltenham, Glos GL52 6AD**

The Planning Officer presented the application, which sought to make alterations to the rear of the property to include a first floor balcony with a staircase, replacement door, new first floor window, and rear garden courtyard. The application was before the committee because the applicant was a borough councillor.

It was noted that no objections had been received. A member commented that it was a good use of space and that the balcony would enhance the garden and the dwelling in general.

There being no further comments the Chair moved to vote on the Officer's recommendation to permit.

For: 10

Against: 0

Abstain: 0

### **PERMITTED unanimously**

#### **10. Appeal Updates**

There were no appeal updates.

#### **11. Any other items the Chairman determines urgent and requires a decision**

The Chair and members of the committee wished to place on record their thanks to Councillor Cooke, who was standing down at the May elections, for his work on the committee. Cllr Cooke had been an exemplary member of the Planning Committee and was thanked for his contributions and deliberations.

<b>APPLICATION NO:</b> 20/01415/FUL & 20/01415/LBC	<b>OFFICER:</b> Miss Claire Donnelly
<b>DATE REGISTERED:</b> 12th March 2021	<b>DATE OF EXPIRY:</b> 7th May 2021
<b>DATE VALIDATED:</b> 12th March 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Warden Hill	<b>PARISH:</b> Leckhampton With Warden Hill
<b>APPLICANT:</b> Mr Martin Horwood	
<b>AGENT:</b> n/a	
<b>LOCATION:</b> Hampton House, Shurdington Road, Cheltenham	
<b>PROPOSAL:</b> Erection of railings to the existing veranda	

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application relates to Hampton House; a grade II listed, detached, residential property accessed off Shurdington Road. The site is located within the Parish of Leckhampton with Warden Hill and is not in a Conservation Area.
- 1.2 The application is seeking planning permission and listed building consent for the erection of railings to an existing veranda.
- 1.3 The application is at planning committee, as the applicant is a local councillor.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport safeguarding over 15m  
Listed Buildings Grade 2  
Principal Urban Area

### **Relevant Planning History:**

**20/00105/PREAPP** 4th February 2020 CLO  
Refurbishment

**04/01783/LBC** 9th December 2004 GRANT  
Carry out essential repairs to the render of the south west elevation

**79/00681/PF** 6th November 1979 REF  
Retention of existing vehicular access

## 3. POLICIES AND GUIDANCE

### **National Planning Policy Framework**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 8 Promoting healthy and safe communities  
Section 12 Achieving well-designed places  
Section 16 Conserving and enhancing the historic environment

### **Adopted Joint Core Strategy Policies**

SD4 Design Requirements  
SD8 Historic Environment  
SD14 Health and Environmental Quality

### **Cheltenham Plan Policies**

D1 Design  
SL1 Safe and Sustainable Living

### **Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

## 4. CONSULTATIONS

### **Heritage And Conservation**

*18th March 2021*

#### Significance

The building was likely to have been constructed in the early nineteenth century. First listed (Grade II) on 22 October 1987, list entry number: 1152862.

#### Legislation and policy

Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority when considering whether to grant listed building consent to 'have special regard to the desirability of preserving the building' or any features of special architectural or historic interest which it possesses.'

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority when considering whether to grant planning permission, to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

Paragraph 184 of the National Planning Policy Framework (MHCLG: 2019) (NPPF) states that 'Heritage assets' are an irreplaceable resource, and should be conserved in a manner appropriate to their significance'.

Paragraph 192 of the NPPF states that 'In determining applications, local planning authorities should take account of' the desirability of sustaining and enhancing the significance of heritage assets'.

Policy SD8 (Historic Environment) of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2013 (adopted December 2017) (JCS) states that 'Designated' heritage assets and their settings will be conserved and enhanced as appropriate to their significance.'

#### Consideration

The consideration of the scheme is undertaken as a desk based assessment.

The submission contends that the veranda was constructed c.1962; comprising red brick and concrete slabs and coping.

The design of the proposed railings reads as a later addition to a structure that dates from the latter half of the twentieth century and draws from both historic and contemporary styles. Given this and its location in relation to the side (south) elevation, it will not detract from the architectural or evidential value of the building and is therefore acceptable.

Though not included in the description of the scheme, works to repair the veranda are referred to in the submission. Repairs of relatively minor extent on a like for like basis do not require consent, though the actual extent is not evident it appears that works to the veranda, including extending the line of concrete coping, the repair and re-pointing brick work and re-paving are acceptable.

#### Conclusion

The scheme will not be detrimental to the significance of the listed building and therefore it is acceptable.

#### Suggested conditions may include:

- Disturbed surfaces made good.

**Building Control**

31st March 2021

No comments to be made.

**Parish Council**

6th April 2021

The Parish council has no objection to this application

**5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>8</b>
Total comments received	<b>0</b>
Number of objections	<b>0</b>
Number of supporting	<b>0</b>
General comment	<b>0</b>

- 5.1 Letters have been sent to eight neighbouring properties, a site notice has been displayed and an advert places in the Gloucestershire Echo; no responses have been received.

**6. OFFICER COMMENTS**

**6.1 Determining Issues**

- 6.2 The application proposes the erection of railings to an existing veranda to a listed building; the key considerations are therefore the design, the impact on the listed building, and any impact on neighbouring amenity.

**6.3 Design and impact on the listed building**

- 6.4 Policy SD4 of the JCS and policy D1 of the Cheltenham Plan require development to be of a high standard of architectural design that responds positively to and respects the character of the site and its surroundings. This draws from paragraph 127 of the NPPF which seeks development to be visually attractive and sympathetic to local character.

- 6.5 Policy SD8 of the Joint Core Strategy requires development to make a positive contribution to local character and distinctiveness, having regard to the valued elements of the historic environment. Section 16 of the NPPF seeks development to consider the impact of a proposed development on the significance of a designated heritage asset; great weight should be given to the asset's conservation.

- 6.6 The application proposes to erect railings on an existing veranda which is located off the southerly facing elevation of Hampton House. The land on site slopes away, as such, the existing veranda is a minimum of approximately 0.25m from ground level and has a maximum of height of 0.8m from ground level. The proposed railings would be placed on the southern and western sides of the veranda; the eastern elevation would remain open providing access to the garden. The proposed railings would be 1.1m in height.

- 6.7 The conservation officer has been consulted on this application given the listed status of the building; full comments can be read in section 4 of this report. It is considered that the railings would read as a later addition to the listed building and given its location would not detract from the architectural or evidential value of the building. It has therefore been concluded by the conservation officer that the proposed works would not be detrimental to the significance of the listed building.

- 6.8 The submission includes reference to minor repair works to the veranda to repair loose slabs and the addition of concrete edging slabs. These minor works are acceptable.
- 6.9 The erection of the railings and minor associated works are considered to be acceptable, achieve an acceptable standard of design and would not detract from the significance of the listed building. The proposal therefore complies with policy SD4 and SD8 of the JCS, policy D1 of the Cheltenham Plan and the relevant guidance set out within the NPPF.

### 6.10 **Impact on neighbouring property**

- 6.11 Policy SD14 of the JCS and policy SL1 of the Cheltenham Plan require development not to cause unacceptable harm to the amenity of adjoining land users; this echoes section 12 of the NPPF which requires development to be of a high standard of amenity for existing and future users.

- 6.12 There have been no public representations received in relation to this application. The impact on neighbouring amenity has been assessed. It is considered that given that the application property benefits from a good sized garden and the veranda is existing with no changes to the existing height, the addition of railings and the minor associated works are appropriate and would not result in harm to the existing amenity of adjoining land users. The proposal therefore complies with policy SD14 of the JCS and policy SL1 of the Cheltenham Plan, as well as the guidance set out within the NPPF.

### 6.13 **Other considerations**

#### 6.14 Public Sector Equalities Duty (PSED)

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

In the context of the above PSED duties, this proposal is considered to be acceptable.

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 For the reasons set out within this report, the erection of railings to the existing veranda at the grade II listed Hampton House are considered to be acceptable in terms of their design, furthermore there would be no harm to the significance of the listed building and would protect the existing amenity of adjoining land users.
- 7.2 The recommendation is to therefore permit this application subject to the suggested conditions set out below.

## 8. SUGGESTED CONDITIONS / INFORMATIVES

### 20/01415/FUL

- 1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

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

### 20/01415/LBC

- 1 The listed building consent hereby granted shall be begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The listed building consent hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

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

- 3 All disturbed surfaces shall be made good using materials to match the existing materials, composition, form, finish and colour of the existing building.

Reason: In the interests of the special architectural and historic qualities of the listed building, having regard to adopted policy SD8 of the Joint Core Strategy (2017), Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Historic Environment Good Practice Advice Note 2.

## INFORMATIVES

### 20/01415/FUL

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

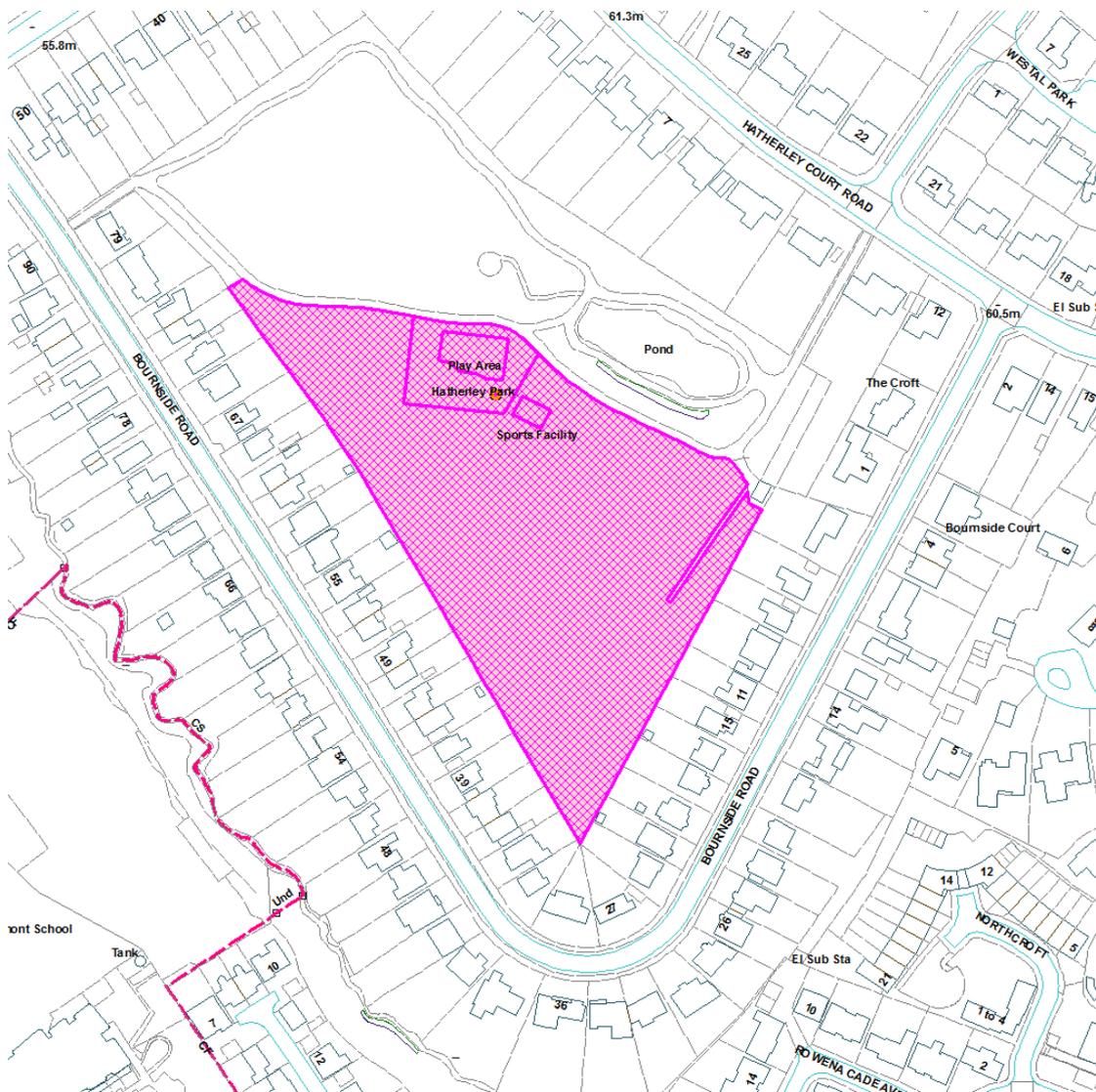
In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.



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<b>APPLICATION NO:</b> 21/00483/FUL		<b>OFFICER:</b> Miss Claire Donnelly
<b>DATE REGISTERED:</b> 9th March 2021		<b>DATE OF EXPIRY:</b> 4th May 2021
<b>DATE VALIDATED:</b> 9th March 2021		<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Park		<b>PARISH:</b> n/a
<b>APPLICANT:</b>	Mr Jay Adler	
<b>AGENT:</b>	n/a	
<b>LOCATION:</b>	Hatherley Park, Hatherley Court Road, Cheltenham	
<b>PROPOSAL:</b>	Siting of a temporary structure on a purpose built hard standing area within Hatherley Park to serve refreshments	

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application relates to a small area of Hatherley Park adjacent to the existing play area. The site is within the Park ward and is not in a conservation area.
- 1.2 The applicant is seeking planning permission for the siting of a temporary structure on a purpose built hardstanding to serve refreshments.
- 1.3 The application is at planning committee as the proposed structure is on council owned land.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Conservation Area  
Principal Urban Area  
Public Green Space (GE36)  
Residents Associations  
Residents Associations  
Youth and Adult Play Area

### **Relevant Planning History:**

**89/01571/PF 18th January 1990 PER**  
Resiting Of Childrens Play Area And Replacement Of Equipment

**15/02082/FUL 22nd January 2016 PER**  
Construction of a gravel path

## 3. POLICIES AND GUIDANCE

### **National Planning Policy Framework**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 6 Building a strong, competitive economy  
Section 8 Promoting healthy and safe communities  
Section 12 Achieving well-designed places

### **Adopted Joint Core Strategy Policies**

SD4 Design Requirements  
SD14 Health and Environmental Quality

### **Cheltenham Plan Policies**

D1 Design  
SL1 Safe and Sustainable Living

## 4. CONSULTATIONS

**Building Control**  
*25th March 2021*

No comments to be made.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	n/a
Total comments received	3
Number of objections	3
Number of supporting	0
General comment	0

- 5.1 The proposed development was advertised by site notice only; 2no. site notices were erected, 1no. at the Hatherley Court Road entrance and 1no. at the Bournside Road entrance. As a result of the advertisements, three responses have been received, all of which object to the proposal.
- 5.2 The main comments raised in the objections include, but are not limited to, the following;
- Idyllic location 'despoiled',
  - Parking and increase in traffic,
  - Park now a destination/meeting place,
  - Lack of facilities.

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

- 6.2 The key considerations for this application are the acceptability of the structure, the design and any impact on neighbouring amenity or the wider area.

### 6.3 The site and its context

- 6.4 The structure has been in place since early July 2020. The structure sought acceptance from the council as part of the temporary relaxation of enforcement for temporary structures in response to COVID-19 to support local businesses as a result of government restrictions and guidelines.

- 6.5 As a result of the success of the structure, the land has been leased to 'The Butterfly Box' after being the successful applicant for the lease. The structure is in place as it is still covered by the temporary relaxation of enforcement until 1<sup>st</sup> June 2021. However the lease runs beyond this date and therefore planning permission has been sought for the siting of the structure on a longer term basis.

- 6.6 A hardstanding has been laid due to the existing grass being churned up over winter. The surface is a rubble and stone surface which is considered to be permeable. It has also been advised that the area can be easily reverted back to grass.

### 6.7 Design

- 6.8 Policy SD4 of the JCS and policy D1 of the Cheltenham Plan require development to be of a high standard of architectural design that responds positively to and respects the character of the site and its surroundings. This draws from paragraph 127 of the NPPF which seeks development to be visually attractive and sympathetic to local character.

- 6.9 The application proposes a structure to be sited within Hatherley Park serving light refreshments (coffees, teas, cakes, ice creams etc.). The structure is a converted 1950s

heritage horsebox to meet the needs of the use, made from natural wooden material and has a footprint of 2m x 3m. The structure in terms of the scale, design, use and as a temporary measure is considered to be acceptable. The design is therefore considered to be appropriate and comply with policy SD4 of the JCS and policy D1 of the Cheltenham Plan as well as the guidance set out within the NPPF.

### 6.10 Impact on neighbouring property

6.11 Policy SD14 of the JCS and policy SL1 of the Cheltenham Plan require development not to cause unacceptable harm to the amenity of adjoining land users; this echoes section 12 of the NPPF which requires development to be of a high standard of amenity for existing and future users.

6.12 As set out above, three objections have been received; the main concerns raised relating to the structure have been summarised in section 5.2 of this report. The impact on neighbouring amenity has been assessed. It is considered that as a result of the siting of the structure there would be not harm to neighbouring amenity in terms of a loss of light or loss of privacy. It is acknowledged that as a result of the kiosk there may be more people visiting due to the refreshments provided. The opening hours of the kiosk would be 8am-6pm Monday-Sunday. It is therefore considered that there would not be any harmful impact on local residents as a result of the kiosk.

6.13 Whilst objecting neighbouring residents concerns have been duly noted, in regards to the relevant policies there would be no undue harm to amenity of adjoining land users. The proposal is therefore considered to comply with policy SD14 of the JCS and policy SL1 of the Cheltenham Plan, as well as the guidance set out within the NPPF.

### 6.14 Other considerations

#### 6.15 Temporary permission

The structure is a temporary structure and is not considered to be appropriate for long term use. It is for that reason that a condition has been added permitting planning permission for the structure for 3 years. It is the council's opinion that if a kiosk is to remain long term within Hatherley Park, a more suitable and permanent building/structure should be put forward.

#### 6.16 Parking/traffic

The issue of parking and increase in traffic has been raised by objecting neighbouring residents. Whilst this may be the case, the park is within a sustainable location and in walking distance for many residents. As such, it would seem unreasonable to refuse the application based on this when it is unclear if the kiosk itself has resulted in the rise in traffic and lack of parking.

#### 6.17 Lease

One resident has raised a concern in regards to the lack of facilities to go alongside the use of the kiosk. The lease for the kiosk sets out that if there is a need for facilities then it is for the leaseholder to provide, run and maintain these facilities. As the structure is temporary, with a 3 year permission suggested, if the kiosk was to become a permanent facility in the park, then facilities such as toilets would likely be required.

#### 6.18 Public Sector Equalities Duty (PSED)

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

In the context of the above PSED duties, this proposal is considered to be acceptable.

### **7. CONCLUSION AND RECOMMENDATION**

- 7.1 For the reasons set out above, the proposed siting of a temporary structure within Hatherley Park is considered to be of an appropriate design, would not result in undue harm to neighbouring amenity and therefore is acceptable. Whilst concerns raised by neighbouring residents have been duly noted, the siting of the structure is considered to be appropriate.
- 7.2 The recommendation is to therefore permit this application subject to the conditions set out below.

### **8. SUGGESTED CONDITIONS / INFORMATIVES**

- 1 The temporary structure hereby approved shall be removed from the site and the land restored to its former condition 3 years from the date of this permission.

Reason: The structure is of a temporary nature, and is not suitable for permanent use and therefore the Local Planning Authority wish to retain control over the structure in the interests of the visual amenities of the area.

- 2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

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

### **INFORMATIVES**

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

<b>APPLICATION NO: 21/00483/FUL</b>		<b>OFFICER: Miss Claire Donnelly</b>	
<b>DATE REGISTERED: 9th March 2021</b>		<b>DATE OF EXPIRY : 4th May 2021</b>	
<b>WARD: Park</b>		<b>PARISH:</b>	
<b>APPLICANT:</b>	Mr Jay Adler		
<b>LOCATION:</b>	Hatherley Park, Hatherley Court Road, Cheltenham		
<b>PROPOSAL:</b>	Siting of a temporary structure on a purpose built hard standing area within Hatherley Park to serve refreshments		

**REPRESENTATIONS**

Number of contributors	<b>3</b>
Number of objections	<b>3</b>
Number of representations	<b>0</b>
Number of supporting	<b>0</b>

80 Bournside Road  
 Cheltenham  
 Gloucestershire  
 GL51 3AH

**Comments: 11th April 2021**

I am writing to express my opposition to the above application. My reasons for doing so are set out below but principally I object to an idyllic and arguably, unique part of Cheltenham that has been enjoyed, by generations for over eighty years, should be despoiled in this way. Further, a public notice has recently appeared inviting comments by 12 April to be put before the Planning Committee in order to assess an application, to dispose of the land.

However, the land has now been disposed of, a lease agreed with a for-profit business and the business is trading as it has been doing for the past nine months, save a brief period whilst a concrete hard standing and electrical supply were installed. I enquired of the Council if this was not 'putting the cart before the horse' but was told that the scheme was given the green light under the temporary relaxation for planning permission on temporary structures, authorised by the government in response to the CV-19 situation. Reading the governments rationale for introducing this easement, it is clear it was designed to assist essential services to function effectively during the emergency and cites temporary mortuaries, medical facilities, and existing businesses to allow them to operate continuing to supply services and to protect employment. That CBC have used this vital emergency concession to nod through a vanity project is, in my view shameful.

There are many aspects to this application and indeed to the whole scheme that should be of concern to all council tax-payers, not least that the decision to grant planning permission was given three days prior to the application date, however there are too many to list here, so I have composed a set of questions, that if necessary I will obtain answers under the FOI Act, that need answering.

What concerns me greatly is that once public land in has been disposed of to a for-profit business, with little or, I would say, no proper public consultation, this establishes the

principle that public amenities can be sold off to private businesses, and I have to wonder when we will see the time when advertisements appear from large housing developers offering "Hatherley Park, Unique Lakeside Executive Development".

I have attached the above list as an appendix to this letter.

**Comments:** 11th April 2021

Appendix attached.

26 Hatherley Court Road  
Cheltenham  
Gloucestershire  
GL51 3AG

**Comments:** 6th April 2021

Application is missing critical analysis of the parking problems the development is causing around park entrances. The park has become a destination/meeting place due to the cafe and this is clearly evidenced in the parking accumulations around the entrances during peak times, with cars parking wherever they can find a space, or up on the footways if not.

As a local resident I am supportive of the cafe and the wider benefits it brings to Hatherley Park, particularly contributing towards park maintenance. As a highway consultant (owner of Cotswold Transport Planning in Cheltenham), I feel very apprehensive of the risk to local highway safety that parking congestion is causing around the park entrances, exacerbated by this cafe. The conflict between people in the road, and cars navigating the bottleneck caused by cars parking on both sides of the road, is evident to me, and should at least be acknowledged through some kind of transport assessment.

The cafe use has caused a tangible change in the level of traffic (and parking) to Hatherley Court Road and Bournside Road and I do not think it would be reasonable to assume the park prior to this development was causing the issue at the level it is now occurring. I would encourage CBC to ask the applicant for more information regarding trip attraction and parking accumulation, and would like to see GCC consulted with as the local highway authority.

Based on what I observe almost daily, I feel it is a matter of time until there is an accident on the road, where excited children move so freely around parked vehicles. I hope my objection triggers some collaborative discussion between CBC, GCC and the applicant over some sensible mitigation, or as a minimum an audit trail demonstrating assessment of the risks.

5 Hatherley Court Road  
Cheltenham  
Gloucestershire  
GL51 3AQ

**Comments:** 19th March 2021

I wish to formally object to the proposed construction of a structure in Hatherley Park, Cheltenham for the sale of refreshments.

Montpellier Gardens has a small café. Pittville Park has two cafés. Imperial Gardens has a bar. However, these parks also have public toilets and baby changing facilities.

Some years ago, Hatherley Park had public toilets behind 6 Hatherley Court Road which were removed by Cheltenham Borough Council. Despite my requesting an explanation for the removal, I have never been given one by the Council.

Last year the Friends of Hatherley Park needed to cut down some shrubbery in an area of the park which was being used by the public as a toilet. The closest public toilets are at Morrisons supermarket or Montpellier Gardens. On several occasions, I have found the same gentleman urinating in Hatherley Park against the fence at the bottom of our garden during a break in walking his two dogs. I have also often seen mothers changing their babies on the ground behind a tree.

I believe that the construction of a structure in Hatherley Park for the sale of refreshments needs to go hand in hand with the development of some public toilets and baby changing facilities in Hatherley Park for reasons of public hygiene.

There is a pavilion with a toilet in Hatherley Park, but it is never open for the public to use.

I assume that Cheltenham Borough Council regulates, monitors and cleans the public toilets and baby changing facilities in Montpellier Gardens, Pittville Park and Imperial Gardens. I therefore fail to understand why the Council could not do so with public toilets and baby changing facilities in Hatherley Park.

The Council never mailed the opportunity out to me as promised in its letter of 20 November 2020.

Hatherley Court Road is very busy with parking and traffic. The police were called to a serious incident two years ago.

The proposal has been supported by people whose properties do not back onto Hatherley Park.

I thank you for your attention to this matter and look forward to hearing from you further.

**Comments:** 29th March 2021

I wish to formally object to the proposed construction of a structure in Hatherley Park, Cheltenham for the sale of refreshments without also the construction of some public toilets and baby changing facilities.

## Page 26

Montpellier Gardens has a small café. Pittville Park has two cafés. Imperial Gardens has a bar. However, these parks also have public toilets and baby changing facilities.

Some years ago, Hatherley Park had public toilets behind the garden of 6 Hatherley Court Road which were removed by Cheltenham Borough Council. Despite my requesting an explanation for the removal, I have never been given one by the Council.

Last year the Friends of Hatherley Park needed to cut down some shrubbery in an area of the park which was being used by the public as a toilet. The closest public toilets are at Morrisons supermarket or Montpellier Gardens. On several occasions, I have found the same gentleman urinating in Hatherley Park against the fence at the bottom of our garden during a break in walking his two dogs. I have also often seen mothers changing their babies on the ground behind trees. Moreover, I have witnessed mothers trying to breast feed their babies on park benches with members of the public walking past.

I believe that the construction of a structure in Hatherley Park for the sale of refreshments needs to go hand in hand with the development of some public toilets and baby changing facilities in Hatherley Park for reasons of public hygiene. At this time of the covid-19 pandemic and the busy use of public parks, it is also vital that there are facilities in which people can thoroughly wash their hands.

There is a pavilion with a toilet in Hatherley Park, but it is never open for the public to use. I have wondered whether this building could please be adapted.

I assume that Cheltenham Borough Council regulates, monitors and cleans the public toilets and baby changing facilities in Montpellier Gardens, Pittville Park and Imperial Gardens. I therefore fail to understand why the Council could not also do so with public toilets and baby changing facilities in Hatherley Park.

I thank you for your attention to this matter and look forward to hearing from you further.

**Copy of 'Decision details' relating to the disposal of land in Hatherley Park. Dated 24 February 2021**

**Questions posed (1-11) are mine, added in bold type.**

.....

**Decision:**

To grant a Tenancy to The Butterfly Box. The Tenancy, will allow the Company to place a coffee kiosk and seating to sell refreshments and snacks. The Tenancy will run for three years with appropriate break provisions.

**Reasons for the decision:**

Following a successful trial period there was overwhelming community support for the continuation of the provision of a kiosk in Hatherley Park. Therefore, the Council is agreeing a lease for 3 years (with appropriate break provisions).

**Q1. On what basis was the success measured and what constitutes 'overwhelming community support'?**

**Q2. The head of Planning says: a) "The structure has been allowed under the temporary relaxation of enforcement for temporary structures since June 2020, and has therefore been in place since then and will be covered until that initiative comes to an end. The initiative is only temporary, brought in in response to COVID restrictions and has been encouraged by the Government. It will eventually come to an end once the Council feel that the Pandemic restrictions are eased, at least enough to allow businesses to recover and thrive as 'normal'. b)The Decision states "Therefore, the Council is agreeing a lease for 3 years" and c) the S123 Notice states: the span of the lease as "a term up to 7 years".**

**Which version is correct**

A tender exercise took place and interested parties were able to submit their applications which were considered for a more permanent provision of a mobile kiosk. This vendor was the successful candidate.

**Q2. How many applications were considered?**

It offers this business a lifeline during this difficult period. This opportunity is very much about local, and about people being given an opportunity to survive.

**Q3. Can we assume that CBC will now offer a 'lifeline' to all local businesses?**

The chosen vendor had already set up their business, acquired all equipment, vehicles and branding needed and had a robust business plan. They were ready to trade. The applicants are local residents.

**Q4. The Application For Planning Permission is dated 27/02/2021 and attests that that no prior advice on this application had been sought from the local authority. The Decision granting planning permission was dated 24/02/2021, three days earlier. Demonstrably much congress must have taken place between the two parties before the application was submitted. Does this factor alone disqualify this application?**

**Q5. Does CBC believe that a business who has "already set up their business, acquired all equipment, vehicles and branding needed" before establishing whether, a site from which to operate their business could be found at a sustainable cost, has sufficient business acumen to run a successful business?**

Our resources are being stretched because of the pandemic. However, we have found, where the trials are occurring that the kiosks are a conduit that people can use to report back to us. Effectively they are helping us to manage the space and help manage antisocial behaviours. They are our eyes and ears.

**Q6. Can the residents of Cheltenham assume that we are all under surveillance now, by Agents appointed by CBC?**

**Q7. If this is the case, and the above text is unambiguous and clear, (indeed it is reiterated in the 'Alternative options considered' paragraph below) who do these Agents report to, and what powers do they (he or she) have to act on information received?**

The Tenancy is a progression of the trials that are still ongoing in a number of our Parks, it will be on similar terms, but with a little more security. The Council and the vendor can terminate this agreement by serving notice, if it is not working for any reason. This was an important provision to take on board comments and objections received during the consultation process. By allowing this Tenancy the council will be receiving income and allow a local business an opportunity to trade in these difficult times.

**Q8. Much is made of the claim that the income derived from disposal of public amenity land will generate revenue, sufficient to contribute to the Park's maintenance budget. What is the expected net annual income that disposing of this land will realise?**

**Alternative options considered:**

The Council could decide not to have a coffee kiosk in the park but it would mean that we would not be receiving any income; there would be no conduit to help be our eyes and ears or the ability to help a struggling local business.

**Q9. There is clear evidence that CBC were very active in promoting this application long before this Decision was published. Can you explain why the business is classified as 'a struggling local business' when a very short time ago the business plan it submitted was seen as 'robust' and the Interim Head of Planning writing on 31/03/2021, said 'the space [has been] leased out to a successful business', and further 'the success of the kiosk...has resulted in the space being leased...' The question is, is the business successful or is it a business that is struggling and do the CBC really believe that the success or otherwise of an embryonic limited company, can be determined after just a few months trading time-span, in most unusual market conditions, that has yet to submit public accounts, has yet to expend considerable amounts of capital on seating, security, and toilet facilities along with on-going operational costs including leasing, electricity, water, waste collection and disposal and accounting costs etc ?**

**Wards Affected:** (All Wards);

**Other reasons / organisations consulted**

Generally, the feedback was overwhelmingly in support. However, there were a handful of strong views in opposition and the terms of the tenancy will seek to manage and mitigate these concerns.

**Q10. Given the remote location and obvious attraction for thieves and vandals added to the ease in which such activity can be assured by accomplices watching the park entrances, will we see the installation of surveillance cameras and security lights and is CBC relaxed about the fact that the most secure route of escape is through a garden the bounds the park, putting the owner into a highly risky situation?**

**Q11. The issues of significant parking problems was key, yet no clear indication has been given to solve this on-going problem. What do CBC intend to do to**

**resolve this issue, that is not only creating community unrest but is in many instances highly dangerous?**

**Consultees**

Consultation has taken place in relation to the Cabinet papers

**Contact:** Executive Director – Finance and Assets - Paul Jones 01242 264365.

**Publication date:** 24/02/2021

**Date of decision:** 24/02/2021

<b>APPLICATION NO:</b> 21/00552/FUL	<b>OFFICER:</b> Mr Ben Warren
<b>DATE REGISTERED:</b> 10th March 2021	<b>DATE OF EXPIRY:</b> 5th May 2021
<b>DATE VALIDATED:</b> 10th March 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Leckhampton	<b>PARISH:</b> Leckhampton With Warden Hill
<b>APPLICANT:</b>	Mr And Mrs S And T Wadley
<b>AGENT:</b>	VJM Design House Ltd
<b>LOCATION:</b>	21 The Lanes, Cheltenham, Gloucestershire
<b>PROPOSAL:</b>	Extension over existing garage (Revised scheme to 21/00185/FUL)

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to a detached property located within a residential area on The Lanes.
- 1.2 The applicant is seeking planning permission for a first floor side extension over an existing garage. This is a revised scheme to an application previously refused under application number 21/00185/FUL).
- 1.3 The application is at planning committee at the request of Councillor Cooke due to the impact on neighbouring amenity, this concern is also raised in a Parish Council objection.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Principal Urban Area

### **Relevant Planning History:**

**21/00185/FUL 5th March 2021 REF**  
Extension over existing garage

## 3. POLICIES AND GUIDANCE

### **National Planning Policy Framework**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 8 Promoting healthy and safe communities  
Section 11 Making effective use of land  
Section 12 Achieving well-designed places

### **Adopted Cheltenham Plan Policies**

D1 Design  
SL1 Safe and sustainable living

### **Adopted Joint Core Strategy Policies**

SD4 Design Requirements  
SD14 Health and Environmental Quality

### **Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

## 4. CONSULTATIONS

### **Building Control**

*25th March 2021*

The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

**Parish Council**

*7th April 2021*

Report attached.

**Parish Council**

*1st April 2021*

The Parish Council objects to this application. The PC have asked for it to go to a planning committee. The full objection response was sent to the case office on March 30th.

## **5. PUBLICITY AND REPRESENTATIONS**

**5.1** A total of 4 letters were sent to neighbouring properties, 2 letters of objection have been received in response to this neighbour notification process. The objections come from number 3 The Spindles and number 23 The Lanes, the comments/objections have been summarised but are not limited to the following:

- Unacceptable impact on neighbouring amenity – loss of outlook and overbearing impact.

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

**6.2** The main considerations in relation to this application are the design and the impact of the proposal on neighbouring amenity.

**6.3** Officers have viewed the application from the road side, in addition, site photos have been provided and google maps / google street view have been used to fully consider the proposed development.

### **6.4 Previous application**

**6.5** Officers recently refused an application on this site (21/00185/FUL) for a first floor side extension due to the impact of the proposal on neighbouring amenity, the refusal reason read:

‘The proposed first floor extension by reason of its position and proximity to the neighbouring property would result in an unacceptable impact upon the residential amenity of 23 The Lanes by reason of loss of outlook and an overbearing impact. As such the proposal is contrary to Adopted Cheltenham Plan (2020) policy SL1, adopted JCS policy SD14 and advice contained in the NPPF.’

**6.6** This revised application has been submitted in an attempt to overcome this refusal reason, the change submitted within this application is a reduction in width of the proposed extension.

### **6.7 Design**

**6.8** Section 12 of the NPPF refers to achieving well designed spaces and states that planning decisions should ensure that developments are visually attractive as a result of good architecture and layout.

- 6.9** Adopted Cheltenham Plan Policy D1 requires extensions and alterations of existing buildings to avoid causing harm to the architectural integrity of the building or group of buildings. JCS policy SD4 relates to design and identifies the key considerations to include context, character, legibility and identity, amenity and space.
- 6.10** Cheltenham's Supplementary Planning Document (SPD) – Residential Alterations and Extensions identifies that development should maintain character, achieve subservience, maintain space between buildings, maintain privacy and ensure adequate daylight is maintained.
- 6.11** The proposed extension would sit comfortably within the plot and would read clearly as a subservient addition to the existing building. The scale, form and design is considered to be acceptable, and the proposed materials are to match existing, which is wholly appropriate.
- 6.12** It is not considered that this proposed extension would result in any unacceptable impact to the design or character of the existing building or its surroundings and is therefore considered to be compliant with the requirements of the Adopted Cheltenham Plan (2020) policy D1, adopted JCS policy SD4 and the Supplementary Planning Document – Residential Alterations and Extensions (adopted 2008).
- 6.13 Impact on neighbouring property**
- 6.14** It is necessary to consider the impact of development on neighbouring amenity. JCS Policy SD14 and Cheltenham Plan Policy SL1 state how development should not cause unacceptable harm to the amenity of neighbouring properties. Matters such as a potential loss of light, loss of privacy, loss of outlook, noise disturbances and overbearing impact will therefore be considered. Note 2 of adopted Cheltenham Plan policy SL1 specifies minimum distances that are required.
- 6.15** Previously, the proposed extension was shown to be built up to the shared boundary with Number 23 The Lanes and achieved a distance of approximately 10 metres to the rear elevation of this neighbouring property. Officers considered this to be unacceptable as it did not achieve the minimum of 12 metres that is set out in Cheltenham Plan Policy SL1, 12 metres is also applied when considering the distance between existing neighbouring properties/windows and a new two storey flank wall. A flank wall less than this 12 metres is considered to result in an unacceptable loss of outlook and overbearing impact.
- 6.16** This revised application has reduced the width of the proposed first floor extension by 2 metres, therefore bringing the extension away from the shared boundary with number 23 the Lanes. The proposal now achieves a distance of 12 metres between the neighbour's rear elevation and the proposed development, this now complies with policy and is considered to represent an acceptable relationship with the neighbouring property. Whilst officers acknowledge that the proposed extension will be visible from this neighbouring property/garden, and will have an impact, it is not considered that the impact would be of an unacceptable level and therefore would not warrant the refusal of planning permission.
- 6.17** In terms of privacy, the first floor front elevation window will overlook the highway in front of the application site and will therefore not result in any privacy issues. A single skylight window is proposed in the rear roof slope and will also not result in any privacy issues. Officers do however consider that any window located in the side or rear elevation of the new development would result in potential privacy issues and therefore a condition has been suggested to remove permitted development rights for new openings.
- 6.18** Having considered all of the above, officers consider this revised application to appropriately protect the amenity of neighbouring land users, will not result in any

unacceptable loss of outlook or overbearing impact and is therefore considered to accord with adopted Cheltenham Plan policy SL1 and adopted JCS policy SD14.

### 6.19 Other considerations

#### *Public Sector Equalities Duty (PSED)*

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

In the context of the above PSED duties, this proposal is considered to be acceptable

## 7. CONCLUSION AND RECOMMENDATION

- 7.1 Having considered all of the above, officer recommendation is to permit the application subject to the conditions set out below;

## 8. CONDITIONS / INFORMATIVES

- 1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

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

- 3 All external facing and roofing materials shall match those of the existing building unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017).

- 4 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification), no additional windows, doors and openings shall be formed in the new first floor extension without express planning permission.

Reason: Any further openings require detailed consideration to safeguard the privacy of adjacent properties, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

### **INFORMATIVES**

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

<b>APPLICATION NO: 21/00552/FUL</b>		<b>OFFICER: Mr Ben Warren</b>
<b>DATE REGISTERED: 10th March 2021</b>		<b>DATE OF EXPIRY : 5th May 2021</b>
<b>WARD: Leckhampton</b>		<b>PARISH: LECKH</b>
<b>APPLICANT:</b>	Mr And Mrs S And T Wadley	
<b>LOCATION:</b>	21 The Lanes, Cheltenham, Gloucestershire	
<b>PROPOSAL:</b>	Extension over existing garage (Revised scheme to 21/00185/FUL)	

**REPRESENTATIONS**

Number of contributors	<b>2</b>
Number of objections	<b>2</b>
Number of representations	<b>0</b>
Number of supporting	<b>0</b>

3 The Spindles  
Cheltenham  
Gloucestershire  
GL53 0QD

**Comments:** 19th March 2021  
Letter attached.

23 The Lanes  
Cheltenham  
Gloucestershire  
GL53 0PU

**Comments:** 19th March 2021  
Letter attached.

Mr David Oakhill  
Head of Planning  
Cheltenham Borough Council

13<sup>th</sup> March 2021

Dear Mr Oakhill

Re: Planning Application 21/00552/Ful (21 The Lanes )

The purpose of this letter to you is to submit our joint objection to the above planning application on the basis "visual impact".

We are the two adjoining houses/gardens to #21:

- [REDACTED] 23 The Lanes)
- [REDACTED] (3 The Spindles)

This is a revised plan to the original (21/00185/Ful) which was refused on the 5<sup>th</sup> March 2021 "would result in an unacceptable impact upon the residential amenity of 23 The Lanes by reason of loss of outlook and an overbearing impact"

It is felt that the propose offset by 2 meters of the first floor extension from the boundary line of 23 The Lanes, is only a marginal cosmetic adjustment and that the revised plan will still "result in an unacceptable impact upon the residential amenity", primarily for 23 The Lanes.

Shown below is photographic evidence that the proposed extension will still create a considerable visual impact and dominance over the relatively small gardens and our properties.

Regards

[REDACTED]  
23 The Lanes

[REDACTED]  
3 The Spindles

Current outlook



Evidence from 23 The Lanes



Current outlook

Evidence from: 3 The Spindles



Potential impact of extension:



# The Parish Council of Leckhampton with Warden Hill

Cheltenham, Gloucestershire

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tel. ( [REDACTED]

Clerk: [REDACTED]

email – clerk@leckhamptonwithwardenhill-pc.gov.uk

Head of Development Services,  
Cheltenham Borough Council,  
Municipal Offices,  
Promenade,  
Cheltenham  
GL50 1PP.

Planning Application Consultation ref 21/00552/FUL. Observations by Leckhampton with Warden Hill Parish Council

LOCATION: 21 The Lanes

PROPOSAL: Extension over existing garage

**The Council objects to this application for the following reason:**



The construction of the extension over the existing garage as presented in the plans, would significantly impact the **visual amenity to the neighbouring property at No 23 The Lanes.**

**The extension would result in a loss of outlook and would have an overbearing impact on neighbours.**

The photo on the left shows No 21 The Lanes in the foreground with No 23 behind and illustrates the close proximity of the properties. It also shows how the extension will go above the garage facing No 23.

The photo on the right shows clearly the garage and house wall of No 21 behind No 23. **The proposed top storey will stretch well across the open sky shown here as the roofline will extend at the height of the house and right across to the right of the garage wall (per drawings). This will reduce the light considerably and will overshadow No 23.**

The photos below show the existing garage and top floor of No 21 The Lanes.

No 23 has a conservatory attached to the rear of their property, facing No 21 garage wall.



It is understood that the initial plans submitted showed the first-floor extension coming right out in line with the garage which resulted in the first floor facing wall being less than the requisite 12 metres minimum distance from the neighbouring property. The initial plans were refused due to "Loss of outlook and an overbearing impact".



The revised plans have offset the upper storey extension above the garage by 2 mtrs but **the width and pitch of the roof are still the same as before thus blocking a similar amount of light from No 23.** Furthermore, the measurements from the rear of No 23 are: Conservatory depth 3.5mtrs plus distance from conservatory wall to the property boundary (No 21 garage wall) is barely 6 mtrs **thus total distance from No 23 upper storey wall to proposed upper storey of No 21 is approx. 11.5 mtrs.** Furthermore, I believe the revised plans will still result in a loss of outlook and have an overbearing impact on the neighbouring properties.

I am therefore requesting that this application be "called in" by the local Borough Councillor to be put to Planning Committee and that measurements be checked by the Planning Officer.



Signed by authority of the Council: Emma Nelson Date: 30 March 2021

**Appeals Lodged MAR/APR 2021**

<b>Address</b>	<b>Proposal</b>	<b>Delegated or Committee Decision</b>	<b>Appeal Type</b>	<b>Anticipated Appeal Determination Date</b>	<b>Reference</b>
1 - 2 Montpellier Walk Cheltenham Gloucestershire GL50 1SD	Insertion of new mansard roof window (and associated internal alterations and refurbishment works to second floor flat).	Delegated Decision	Written representations	July 2021	Appeal ref: 21/00003/PP1 Planning ref: 20/00914/FUL

**Appeals Determined**

<b>Address</b>	<b>Proposal</b>	<b>Delegated/Committee Decision</b>	<b>Appeal Type</b>	<b>Outcome</b>	<b>Reference</b>
24 Charlton Close Cheltenham Gloucestershire GL53 8DJ	Proposed car port and garage - re-roofing and render walls (revised proposal to previously approved application; 20/00542/FUL, to increase the width of the car port) (part retrospective)	Committee Decision	Written Representation	Appeal Allowed	Appeal ref: 21/00001/PP1 Planning ref: 20/01946/FUL

Authorised By: Mike Holmes 12.04.2021

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