



## **Notice of a meeting of Planning Committee**

**Thursday, 16 September 2021  
6.00 pm  
Council Chamber - Municipal Offices**

<b>Membership</b>	
<b>Councillors:</b>	Garth Barnes (Chair), Paul Baker (Vice-Chair), Barbara Clark, Bernard Fisher, Stephan Fifield, Paul McCloskey, Tony Oliver, John Payne, Richard Pineger, 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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### **Agenda**

- 1. APOLOGIES**  
Councillor McCloskey
- 2. DECLARATIONS OF INTEREST**
- 3. DECLARATIONS OF INDEPENDENT SITE VISITS**
- 4. MINUTES OF LAST MEETING** (Pages 3 - 8)  
Minutes of the meeting held on 19 August 2021
- 5. PLANNING/LISTED BUILDING/CONSERVATION AREA  
CONSENT/ADVERTISEMENT APPLICATIONS,  
APPLICATIONS FOR LAWFUL DEVELOPMENT  
CERTIFICATE AND TREE RELATED APPLICATIONS –**

**SEE MAIN SCHEDULE**

- |    |  |                 |
|----|--|-----------------|
| 5a | <b>21/01517/FUL 17 Merestones Drive, Cheltenham<br/>GL50 2SU</b><br><a href="#">Planning Application Documents</a>   | (Pages 9 - 20)  |
| 5b | <b>21/01518/FUL 21 Merestones Drive, Cheltenham<br/>GL50 2SU</b><br><a href="#">Planning Application Documents</a>   | (Pages 21 - 32) |
| 5c | <b>21/01529/FUL Priory Cottage, 18 Priory Street,<br/>Cheltenham GL52 6DG</b><br><a href="#">Planning Application Documents</a>  | (Pages 33 - 38) |
| 5d | <b>21/01596/LBC The Wilson, Cheltenham Art Gallery<br/>and Museum, Clarence Street, Cheltenham GL50<br/>3JT</b><br><a href="#">Planning Application Documents</a>  | (Pages 39 - 44) |
| 5e | <b>21/01687/FUL &amp; 21/01687/LBC Pittville Pump<br/>Room, East Approach Drive, Cheltenham GL52<br/>3JE</b><br><a href="#">Planning Application Documents 21/01687/FUL</a><br><br><a href="#">Planning Application Documents 21/01687/LBC</a> | (Pages 45 - 56) |
| 6. | <b>APPEAL UPDATES</b><br>For information   | (Pages 57 - 58) |
| 7. | <b>ANY OTHER ITEMS THE CHAIRMAN DETERMINES<br/>URGENT AND REQUIRES A DECISION</b>  |                 |

**Contact Officer:** Harry Mayo  
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### Planning Committee

**Thursday, 19th August, 2021**

**6.00 - 8.20 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Councillor Garth Barnes (Chair), Councillor Paul Baker (Vice-Chair), Councillor Barbara Clark, Councillor Bernard Fisher, Councillor Stephan Fifield, Councillor Tony Oliver, Councillor John Payne, Councillor Richard Pineger, Councillor Diggory Seacome, Councillor Simon Wheeler and Councillor Dilys Barrell (Reserve)
<b>Officers in Attendance:</b>	Daniel O'Neill (Planning Officer), Mike Holmes (Interim Head of Planning), Nick Jonathan (Solicitor) and Emma Pickernell (Senior Planning Officer)

#### **1. Apologies**

Cllr McCloskey had given his apologies and Cllr Barrell substituted for him.

The Chair welcomed Cllr Clark to her first planning meeting. He also advised members that it was the penultimate meeting for the interim Head of Planning, Mike Holmes, who would oversee the September planning meeting together with the new interim Head of Planning, but then would be leaving.

#### **2. Declarations of Interest**

Cllr Barrell declared an interest regarding item 5d, No.7 Park Place, although it would not preclude her from considering the item.

Cllr Baker declared he would have to withdraw from item 5d, 7 Park Place, due to a pre-determination.

Cllr Pineger declared he was now a Non Executive Director for Cheltenham Borough Homes.

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

Cllr Oliver had visited all the sites apart from the Cenotaph, which he had visited previously.

Cllr Payne had visited all the sites, but did not get a good view of Waterside.

Cllr Barrell had visited, Waterside, The Co-op and 7 Park Place.

Cllr Baker had visited Clarence Court Hotel.

Cllr Pineger had visited Clarence Court Hotel and Waterside.

#### **4. Minutes of last meeting**

Minutes of the meeting held on 17 June 2021 were approved as a true record and signed by the vice chair.

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

#### **6. 21/00193/FUL Waterside**

Planning Officer, Emma Pickernell, presented the report relating to the erection of a two storey replacement dwelling and filling in of the swimming pool. The application was at committee at the request of Cllr McCloskey due to the potential impact on neighbour

amenity. The Officer stated the scheme had been revised and considered it to be an acceptable scheme and recommended to permit with conditions.

Members asked the following questions, with the following replies from the Officer:

- Would the pile foundation be hammered piles or board piles? The exact methodology had not yet been finalised. A condition had been attached asking for a piling method statement and the Environment Health team would be consulted when this was received.
- Where would the construction traffic enter the site from and given there are a number of outbuildings between the house and the road, how would construction traffic get in without demolishing one of them? All vehicular access would be from Copt Elm Road and a condition was attached requiring a construction method statement to be submitted clarifying how vehicles would access the site. Some of the outbuildings would be removed and the pool filled in.
- Were there two roof terraces as there only appeared to be a privacy screen for one terrace? The floor plan showed one roof terrace on the first floor and the green areas on the plan were flat roofs which would have sedum planting on them and were not accessible.
- Was the house declared derelict? The Officer was not aware it was derelict.
- Would the pool be filled in with rubble as this could be problematic? A suitable way with drainage would be found and a structural engineer would be on site.
- Regarding the footprint of the new build, it overlapped with the existing one so as not to upset the offset from the river.
- The Officer was not sure about the increase in square meterage, but said there was not a significant difference.

The Chair moved to the debate and members made the following comments:

- A very contemporary design although people in this area may wish to see a more traditional look.
- New design was interesting and exciting.
- Pleased a bat survey would be done before demolition, as supported bio-diversity.
- Why demolishing one building to build another in its place as this was not a green thing to do? The Chair clarified that if that was what the applicant wanted to do they were entitled to ask for planning permission to do this. The Officer also commented that the existing building was dated and probably inefficient from an energy and insulation point of view and that a new build could be more efficient from a sustainable aspect.
- Was the applicant was duty bound to include electric charging points? The Officer replied that there was no specific policy on this and although the Highways Authority had started asking for this, it was not a condition here as this was a replacement rather than a new build. The Chair added though that this could be included retrospectively.

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

FOR : 11

**PERMITTED unanimously**

## **7. 21/00279/FUL Co-op, Leckhampton Road**

The Planning Officer presented the report relating to the proposed demolition of an existing bungalow to create additional car parking for the Co-op Foodstore on Leckhampton Road. The application was at committee at the request of Cllr Horwood. The Parish Council had also objected to the revised plans. An additional 8 car parking spaces would be created bringing the total number of spaces to 15.

There were no speakers for this item. In response to Member questions, the Officer made the following comments:

- There were no details of any other sites that had been considered for car parking in lieu of just assuming it was alright to demolish the bungalow.
- The comments of the Highways Officer about the increase of 8 parking spaces were in the report.
- The extra cycle storage racks were predominantly for shoppers but there was no reason why staff could not use them and the Highways Officer had put a condition for a minimum of 6 spaces for bikes.
- Regarding other developments nearby which could lead to this shop becoming bigger and more like a supermarket, a member would address this in the debate.
- A member noted that in the current car park, cars were parking on the roots of trees of the next building. The Officer confirmed that there was much concern about cars parking dangerously and on the footpaths and this was one reason why it was at committee.

There being no further questions, the Chair moved to debate and members made the following points:

- Since the Co-op had been rebuilt some 10-15 years ago the car park had become very insufficient and had led to traffic problems and safety issues. Pressure was put on the Co-op to purchase the bungalow by the Parish Council to try and alleviate this situation and this current proposal went some way to doing this and making it safer.
- The question of any new development was irrelevant as this was one of the most heavily driven to Co-ops, a member knew of.
- Could not support the loss of a residential building for 8 parking spaces.
- Unconvinced this would help the traffic situation – felt it would generate even more traffic in and out of the site.
- Be even more vehicles on the pavements endangering pedestrians.
- Proliferation of a commercial development on a residential street.
- No representations from local residents in favour of scheme, most against.
- This was a convenience store and should be used by the locals; increasing parking space will increase the problem, make things worse together with the loss of a good dwelling.
- Arguments on both sides – there is very little parking in that area, with a large development around Kidnappers Lane with a huge number of new houses with very few shops. There is a need for people to use this shop, but also the need to maintain the bungalow which is in a good position.
- Supportive of the increase in cycling provision and if parking area full, people may drive further away to a larger supermarket.
- New developments would outweigh the loss of one bungalow.
- Difficult to support – need housing and should be encouraging people to walk and cycle. Approving demolition of a bungalow for a car park is not going to help climate change and will accentuate car use.
- Proposed to refuse on grounds of HM3 loss of accommodation and SL1 impact on loss of neighbourhood amenity, plus Council's policy on bio-diversity and climate change.

There being no further comments the Chair moved to vote on the substantive to permit.  
FOR : 3

AGAINST : 7

ABSTAIN : 1

## LOST

Moved to vote for refusal on grounds of HM3 loss of housing and SL1 loss of amenity on neighbourhood.

FOR: 7

AGAINST : 3

ABSTAIN : 1

**APPROVED TO REFUSE** on grounds as mentioned.

## 8. 21/00583/FUL Clarence Court Hotel

The Planning Officer presented the report relating to retrospective planning permission for the construction of a pergola. The application was at committee at the request of Cllr. Payne, due to the impact on the amenity of the surrounding residents and wider locality.

David Jones spoke in opposition to the application, summarising the key issues that objectors had put forward. Although the application was for a pergola, the intention was to provide a new outdoor dining area with room for 32 spaces. The justification given for this was based on feedback from customers at the end of the first lockdown, which would have been skewed in favour of outdoor dining due to the circumstances at the time. Allowing up to 32 more people to dine and drink outdoors in the evening would increase noise pollution. He did not object to a pergola of appropriate size and style to enhance the garden, but felt that this one did not do this. It would also compromise neighbours' security, since the frame would provide access to their roofs. He asked that members decline the proposal until a modified scheme could be submitted with suitable limitations on trading hours, noise levels and lighting.

In response to Member questions, the Officer made the following comments:

- The issue of noise may be considered as relevant to the application, but the lighting does not require permission. Any homeowner can put up a spotlight on their property without planning permission, although Environmental Health would investigate anything in contravention of building regulations.
- The closing time for outdoor drinking and dining has been set at 9:30pm, and 9pm on Sundays. The 11pm cut-off referenced by the public speaker refers to indoor drinking and dining.
- The hotel may need to have a specific licence for outdoor dining but this is a question for Licensing.

There being no further questions, the Chair moved to debate and members made the following points:

- The majority of comments in favour of the application are from people who do not live near the hotel and would not be affected by the loss of neighbour amenity.
- The application neither conserves nor enhances a Grade 2 listed building.
- The design of the pergola is not in keeping with a Georgian garden.
- The light and noise pollution would cause significant nuisance in what is a residential square.
- The Civic Society has raised major concerns about the application.
- The front lawn of the hotel already offers allows outdoor dining, so the pergola is not offering anything new.

There being no further comments, the Chair moved to vote on the substantive to permit.

FOR : 0  
AGAINST : 10  
ABSTAIN : 1

## LOST

Members discussed the possible reasons for refusal, which included heritage grounds and the impact on neighbour amenity. The Planning Officer outlined the relevant policies, including SL1 from the Cheltenham Plan and JCS policies SD14 and SD8. One Member added that section 16 of the NPPF, regarding conserving and enhancing historic buildings, could be relevant.

There being no further comments, the Chair moved to vote on refusing the application on the following grounds:

1. By virtue of design, scale, layout and form the proposed pergola would lead to less than substantial harm to the significance of the listed building by detracting from its architectural and evidential value. The harm would not be outweighed by the public benefits.

The scheme is contrary to Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the National Planning Policy Framework (2021) and Policy SD8 (Historic Environment) of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2013 (adopted December 2017).

2. The proposed pergola by reason of its use, position and proximity to the neighbouring property would result in an unacceptable impact to the amenity of the surrounding neighbours and the wider locality.

As such, the proposal is contrary to Adopted Cheltenham Plan (2020) policy SL1, adopted JCS policy SD14 and advice contained in the NPPF.

FOR : 10  
AGAINST : 0  
ABSTAIN : 1

**APPROVED TO REFUSE** on grounds as mentioned.

## 9. 21/01102/CONDIT 7 Park Place

Planning Officer, Emma Pickernell, presented the report, which related to a partly retrospective variation of conditions and an alteration of an existing Coach House to create a new dwelling.

Mr Andrew Booton spoke in objection to the application on behalf of Cheltenham Civic Society, suggesting that the application failed to preserve or enhance the character or appearance of the building or the area. He suggested that the applicant was seeking to reverse engineer the situation and subvert provisions for heritage assets. Citing NPPF paragraph 135, he warned that the Council could be in breach of its duty to ensure that the quality of approved development was not materially diminished between permission and completion. He also argued that the proposed materials were both uncharacteristic of the conservation area and unsustainable, contradicting the Council's green policies.

Members asked the following questions:

- Would the timber windows in at the moment be changed to aluminium, or the other way round? The Planning Officer clarified that if the application was approved, the front and gates would be changed to timber, while the windows would stay as they are.

- A member asked if the roof change or stay as it is as the tiles currently appeared to be black and shiny and dominate the area, but the photos looked different. The Planning Officer confirmed that the roof was Spanish natural slate, and it would stay as it was.

The Chair moved to debate, where Members made the following points:

- The changes in material improved the application as it would be more in keeping with the character of the building and area.
- The application sought to preserve a meaningful dwelling for someone to live in and that was a positive thing. The Planning Officer clarified that the policy objective was to preserve or enhance dwellings, and this application did the former.
- The application should not be rejected simply because it was not perfect, when a perfect option may not come along.
- The current building was interesting and well-preserved but nothing special, and could be improved.

The Chair moved to a vote on the Officer recommendation to permit.

For: 9

Against: 1

Abstain: 1

**PERMITTED**

#### **10. 21/01351/LBC Cenotaph**

There being no questions or comments from members, the Chair moved straight to a vote on the incising of two new names on the war memorial within the curtilage of the Municipal Offices and the Officer's recommendation to permit.

**GRANTED unanimously.**

#### **11. Appeal Updates**

Noted.

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

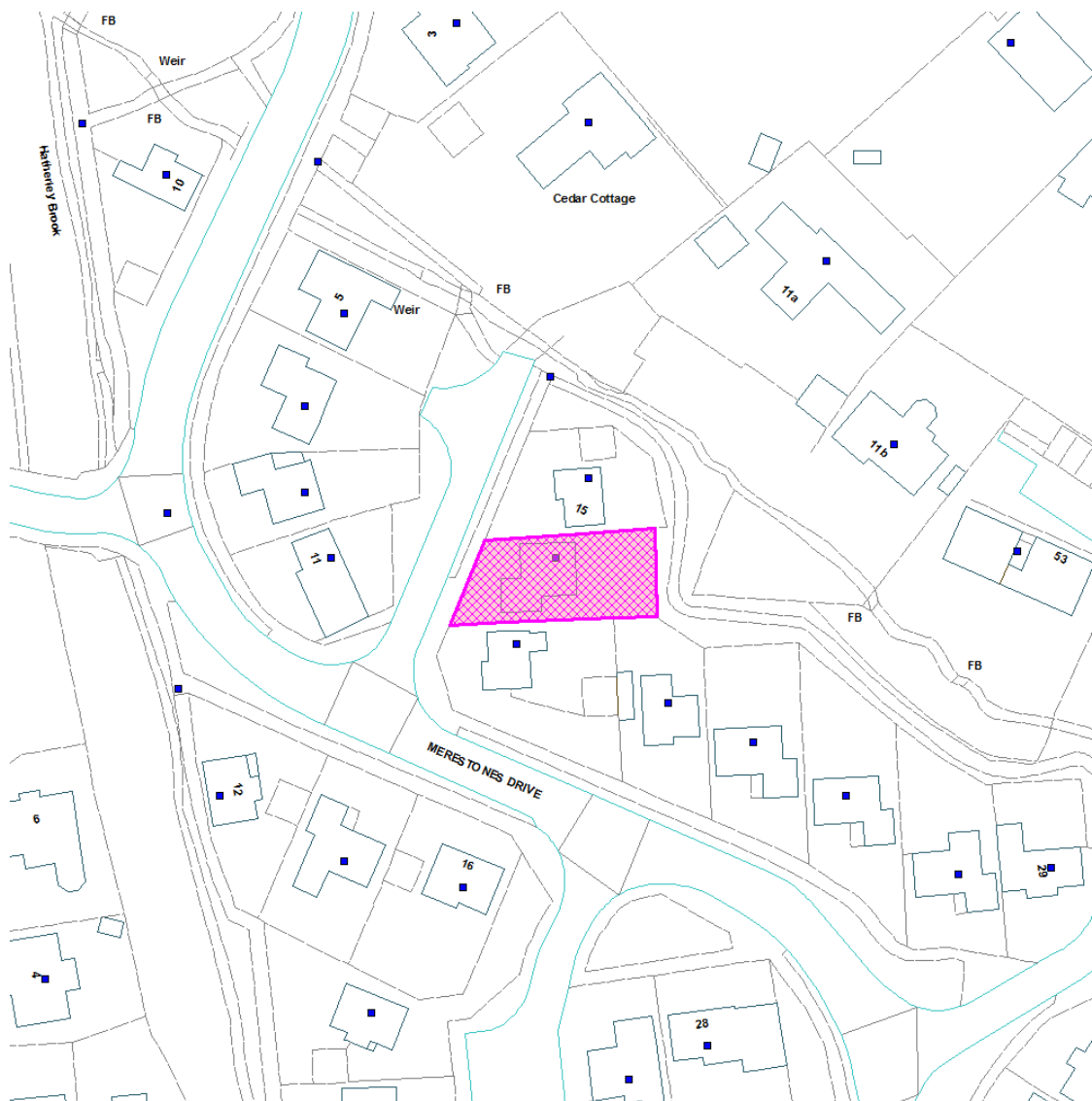
None.

Chairman



<b>APPLICATION NO:</b> 21/01517/FUL		<b>OFFICER:</b> Mr Daniel O Neill
<b>DATE REGISTERED:</b> 30th June 2021		<b>DATE OF EXPIRY:</b> 25th August 2021
<b>DATE VALIDATED:</b> 30th June 2021		<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Park		<b>PARISH:</b>
<b>APPLICANT:</b>	Mr A Busk and Ms A Donald	
<b>AGENT:</b>	N/A	
<b>LOCATION:</b>	17 Merestones Drive, Cheltenham, Gloucestershire	
<b>PROPOSAL:</b>	Change of use of land to residential garden to rear with an fence to the rear. Extension of existing dropped kerb to allow for increased parking at front of property	

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 17 Merestones Drive is a detached two storey dwelling located in a residential cul-de-sac within the Park ward. The site does not lie within a conservation area or within a local parish boundary.
- 1.2 The applicant is seeking planning permission for a change of use of land to residential garden to rear with fencing. Extension of existing dropped kerb to allow for increased parking at front of property.
- 1.3 This application has been referred by Cllr Barrell to planning committee due to the impact on the visual amenity of the wider locality.
- 1.4 An application for a similar change of use of land to residential garden or curtilage land has also been made by the adjoining land user 21 Merestones Drive. This applications have been submitted and considered separately.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Flood Zone 2  
Principal Urban Area  
Non Contact Residents Association  
Smoke Control Order

### **Relevant Planning History:**

21/00478/FUL 27th April 2021 PER  
Side and rear extensions and internal reconfiguration

## 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  
D3 Private Green Space  
SL1 Safe and Sustainable Living

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

SD4 Design Requirements  
SD6 Landscape  
SD9 Biodiversity and Geodiversity  
SD14 Health and Environmental Quality  
INF1 Transport Network  
INF3 Green Infrastructure

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

Residential Alterations and Extensions (2008)

#### 4. CONSULTATIONS

##### **GCC Highways Planning Liaison Officer**

*27th July 2021*

Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 has no objection.

The justification for this decision is provided below.

The proposal seeks the change of use of land to residential garden to rear with a fence to the rear. Extension of existing dropped kerb to allow for increased parking at front of property at 17 Merestones Drive Cheltenham.

The information collected shows the section of land being considered for a change of use to residential garden forms part of publicly maintainable highway by GCC. The Highway Authority does not consider this area of land of sufficient public utility to justify an objection.

There could be existing utility services under this section of land, and the applicant is recommended to contact the concerned bodies prior to any works commencing. The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

The Highway Authority therefore submits a response of no objection.

##### **Informatives**

###### **Alterations to Vehicular Access**

The Local Highway Authority has no objection to the above subject to the applicant obtaining a section 184 licence. The construction of a new access will require the extension of a verge and/or footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the Applicant is required to obtain the permission of Gloucestershire Highways on 08000 514 514 or [highways@gloucestershire.gov.uk](mailto:highways@gloucestershire.gov.uk) before commencing any works on the highway.

###### **Stopping Up/Diversion of Adopted Highway**

You are advised that to facilitate the development an order must be obtained to stop up or divert the adopted highway under sections 247 and 248 of the Town and Country Planning Act 1990. Contact the National Transport Casework team on [nationalcasework@dft.gov.uk](mailto:nationalcasework@dft.gov.uk).

##### **Merestones Residents Association**

*16th July 2021*

Thank you for sending information regarding the above to the Merestones Residents Association. In 2014 grass verges and parcels of land were put up for auction by the family of Percy Bilton the builder of Merestones Estate. This caused great consternation and controversy amongst the residents. Meetings were held and the help of local councillors was invoked. The councillors went to a great deal of trouble checking through archives to ensure that the verges are open land and as such could not be built on.

It is not clear whether these applications relate to the above verges/parcels of land but regardless of that, as Chairman of the Association I object to the applications. If permission

were granted, it would set a precedent for other verges and parcels of land to be incorporated into resident's property thus removing open green spaces which are an integral part of the Merestones estate. This is a major concern. Residents have a right of access over these areas.

As detailed in the attached letter from Robert Garnham (councillor) [available to view in Documents tab] if the owners wanted to stop a public right of way, they would have to apply for a 'Stopping Up Order'. I would seek to oppose this also. I attach a copy of Councillor Robert Garnham's letter confirming this, this letter was addressed to the Residents of this estate.

### **Public Rights Of Way Department**

*15th July 2021*

The footpath located behind the property is defined as a Class 6 Highway and does not form part of the public right of way network. Therefore this development does not appear to affect any public right of way, however if there is any suggestion that it will, whether through a need for a temporary closure or permanent diversion then contact should be made with the PRow team at the earliest opportunity.

## **5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>4</b>
Total comments received	<b>2</b>
Number of objections	<b>1</b>
Number of supporting	<b>0</b>
General comment	<b>1</b>

**5.1** Following notification to neighbouring properties, 2 comments were received and one objected to the application. These objections have been summarised but not limited to the following points;

- Impact on the footpath
- Obstructing of public right of way
- Loss of grass verge
- Impact on the character of the area
- Maintenance of the footpath

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

**6.2** The main considerations when determining this application are the principal of the change of use in relation to its impact on the character of the area, design of the proposed fencing, impact on the amenity of the surrounding neighbours, biodiversity and the transport network.

### **6.3 The site and its context**

**6.4** The application site is a detached dwelling with a considerable large garden and a strip of land located to the rear boundary line of the property known as 17 Merestones Drive. This

strip of land is an area of flat grassland adjacent to a footpath that abounds the rear of the surrounding properties and provides a walkable connection through the wider Merestones estate.

- 6.5** Surrounding the footpath is a verge of flat grassland and this is quite a common feature along the entire pathway throughout the estate. Some areas of the footpath further south have small verge of grassland adjacent to the pathway and boundary fences.

### **6.6 Principal of Development**

- 6.7** The application proposes to incorporate a strip of grass land, adjacent to the rear footpath of the Merestones Estate, into the residential garden land or curtilage of the property known as 17 Merestones Drive. This application will remove the existing rear boundary fence and erect a new fencing acting as the new boundary line.

- 6.8** Officers consider that the principle of change of use in this instance is considered to be acceptable. The strip of grassland in question and the property are located within an established urban setting characterised by garden lands with timber boundary fences. This new boundary will adjoin and follow the line of 15 Merestones Drive rear boundary fence, the adjoining neighbouring property.

- 6.9** Consideration has been given to the proposed development and the impact on the character of the area, including the landscape and green infrastructure. Policy SD6 of the JCS indicates that landscape character is a key component of an areas identity and development will be requested to respect it. The change of use subject to this application covers a modest strip of grassland with no mature vegetation or trees located on it. This new residential curtilage would not project further eastwards than the curtilage and rear boundary fence of the adjoining neighbouring property to the north, 15 Merestones Drive.

- 6.10** Whilst the land subject to the change of use was formerly undeveloped, the land in question is not subject to any formal landscape designation and does not appear to have been formally appraised for its landscape value. This land is associated with the intended footpath of the wider estate which remains untouched. There is a distinct lack of openness given how the land surrounds high fencing and dense vegetation across the eastern side of the footpath. When viewed from the north, the enlarged residential curtilage does not result in any visual incongruity and it is considered to integrate effectively within the pattern of the boundary lines and subsequent landscape. Overall, officers consider that the proposed development will not result in an adverse impact to the landscape character of the wider area.

- 6.11** With regard to the impact on character of the area in relation to its green infrastructure, policy INF3 indicates existing green infrastructure and the connectivity will be protected. Local green infrastructure includes Public Right of Way, cycle paths and footpaths. It is acknowledged that adjacent footpath to the rear of property is not a known public right of way but was part of the original estate plan to provide a form of connectivity through the estate. The majority of this footpath within this area of Merestones Drive will remain undisturbed. While this land subject to change will result in the boundary closer to the footpath, ease of access will remain unrestricted and the resultant visual pattern will be similar to the appearance of footpath located further south-east of the estate adjacent to properties 23-29 Merestones Drive. Officers therefore considered that the proposal will not detract from the overall established pattern of the residential estate and will protect the existing green infrastructure of the rear footpath provided during the development of the estate.

- 6.12** In light of the above, officers consider that the development does not result in any unacceptable impact on the intrinsic character, appearance and connectivity to the immediate surrounding area.

### **6.13 Design and Impact on neighbouring amenity**

- 6.14** The proposed fence will be approximately 2.4m high and sit somewhat higher than the existing fence line. This will be of a similar height to the fence proposed with regard to the Change of Use of land at 21 Merestones Road.
- 6.15** This boundary form will provided a consistent appearance to the established boundaries of the wider area. Whilst it will be higher than the existing rear boundary, it will mirror the height of the property's existing side boundary fence and it will not stand out visually to an unreasonable level. A condition has been added to provide further design details of the fence.
- 6.16** Due to its nature, the change of use has minimal, if any, impacts on the residential amenity of the occupants of the surround properties. The proposed fence will offer increased privacy the occupants of the site and users of the footpath. Given the orientation of the land, there will be no unacceptable loss of light or outlook to the surrounding neighbours.
- 6.17** For this reason, the proposed development would adhere to the relevant Cheltenham Plan policies and JCS polices related to design.

### **6.18 Biodiversity**

- 6.19** Policy SD9 of the JCS requires development to respect landscape features of importance for biodiversity and protect important habitats and species.
- 6.20** The Gloucestershire Centre for Environmental Records (GCER) which screens planning application identifies that the records indicate that no known protected species have been sighted on or near the application site.
- 6.21** The grass land subject to change is considered rough in its nature will little evidence of any wildlife or wild flowers. This was evidenced when officers visited the site through the height of summer. By incorporating this land within the residential curtilage of the 17 Merestones Drive, this area will consist of garden grassInland which can sustain future biodiversity as gardens can help promote ecological life. There is no solid built form proposed and any future outbuildings will be subject to planning permission.
- 6.22** Overall, officers are satisfied that the proposed development will respect and preserve existing biodiversity without causing any significant harm to important habitats and species.

### **6.23 Other considerations**

#### **6.24 Precedent Set**

- 6.25** A concern has been raised that permitting this application could set a precedent for other verges and parcels of land to be incorporated into residential curtilage. Merestones estate is known for its large open spaces and verges across its form, and there are noticeable open spaces at corner plots within the street scene. Each application is considered on its own merits and further assessment maybe taken in those different areas.

#### **6.26 Public Right of Way**

- 6.27** Comments were made that any infringement of the footpath would require a 'stopping up' order. There is no infringement of the path, the land subject to a change of use only relates to a grassland verge. This footpath is also not a designated public right of way and this has been confirmed by the Public Right of Way department.

**6.28 Maintenance**

**6.29** Any future maintenance of the footpath by the County Council or Borough Council is not pertinent to this application. Only a small area of the entire length of the footpath is affected by the proposed development. This land is privately owned and it is a civil matter as to ensure the maintenance of this land.

**6.30 Dropped Kerb**

**6.31** This application also seeks planning permission for a extending the dropped kerb and hardstanding part of the front outside area. The Local Highways officer raises no objection and the proposal will not cause an impact to highway safety.

**6.32** The proposed hardstanding will be part tarmac surrounding be permeable paving blocks. Other properties within the surrounding area have fully hardstanding front driveways, while the surround of permeable surface will allow for water runoff and this is considered acceptable.

**7. CONCLUSION AND RECOMMENDATION**

**7.1** The land subject to the proposed change of use is modest area of rough grassland adjacent to an established footpath that will be incorporated as residential garden land or curtilage. Officer considered that the principal of this development is acceptable, as to be the design and impact on the amenity of the surrounding neighbours.

**7.2** It is acknowledged that the proposal will undoubtedly alter the character and appearance as residential curtilage is increase, while boundary lines are changing. On balance, officers consider that the proposal will respect the pattern of development without causing an adverse harm on the existing landscape and green infrastructure, or any unacceptable impact on the character of the wider area.

**7.3** In light of the above, it is considered that this application complies with the relevant Cheltenham Plan policies, JCS policies, NPPF and any supplementary guidance.

**7.4** Officer recommendation therefore is to permit this application subject to the conditions set out below;

**8. CONDITIONS**

- 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 The following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority, and shall be retained as such thereafter;

Boundary Fencing (to include but not limited to specific product details (including material(s), finish/colour(s) and dimensions)).

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 SD8 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.

- 2 The Local Highway Authority has no objection to the above subject to the applicant obtaining a section 184 licence. The construction of a new access will require the extension of a verge and/or footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the Applicant is required to obtain the permission of Gloucestershire Highways on 08000 514 514 or [highways@gloucestershire.gov.uk](mailto:highways@gloucestershire.gov.uk) before commencing any works on the highway.
- 3 There could be existing utility services under this section of land, and the applicant is recommended to contact the concerned bodies prior to any works commencing.



APPLICATION NO: 21/01517/FUL		OFFICER: Mr Daniel O Neill
DATE REGISTERED: 30th June 2021		DATE OF EXPIRY : 25th August 2021
WARD: Park		PARISH:
APPLICANT:	Mr A Busk And Ms A Donald	
LOCATION:	17 Merestones Drive, Cheltenham, Gloucestershire	
PROPOSAL:	Change of use of land to residential garden to rear with an fencing. Extension of existing dropped kerb to allow for increased parking at front of property	

## REPRESENTATIONS

Number of contributors	2
Number of objections	1
Number of representations	1
Number of supporting	0

1 Merestones Close  
Cheltenham  
Gloucestershire  
GL50 2ST

### Comments: 13th July 2021

I wish to strongly object the two above planning applications in respect of enlarging gardens into a public area. These pathways and open verges around the Merestones area are popular with local residents and some from further afield. During the recent COVID lockdown, such local walks have been even more popular and extending the gardens and adding high fences and walls will change the appearance significantly for the public yet only add a few yards to the present large gardens. Instead of walking along a path with grass verges and wildflowers, we will have a narrow passage assuming that the proposals to not actual obstruct the path. I am sure the Estate was originally designed and approved by CBC to provide a pleasant environment so why backtrack now.

In 2014, the many grass verges and other larger open areas were sold by the original developer Percy Bilton to a land holding company. Residents were naturally very concerned, and the situation was investigated by Cllr Rob Garnham. Please see attached letter from Cllr Garnham to residents where we were re-assured that:

- All of existing rights over the affected land will be maintained including utilities etc.
- The Borough Council currently maintains the verges under a mini-agency agreement with the County Council. These verges would continue to be maintained and I have not seen anything that says otherwise.
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It is not just these two applications which are of concern as, if this theft of public land is permitted then other open areas may be also at risk. A clear refusal is needed to discourage others. It would be better if the local council had taken ownership of this land that they maintain.

### Comments: 13th July 2021

2014 letter from Cllr Garnham available to view in Documents tab.

3 Taylors End  
Cheltenham  
Gloucestershire  
GL50 2QA

**Comments:** 14th July 2021

I am not objecting to this application, but I am concerned that [a] no dimensions are given on the drawings and [b] no mention is made of the footpath running behind the house and garden.

In the case of [a] there is space for some extension of the garden but without dimensions we cannot see whether the new fence will interfere with the footpath.

And in the case of [b], apart from the point made above, I believe a condition of any grant of planning permission should specify that free access along the footpath should be retained at all times and that any construction work should be carried out from within the garden.



CHELTENHAM  
BOROUGH COUNCIL

2014 letter to  
residents from  
Cllr Garnham

Councillor Rob Garnham

Dear Resident,

13<sup>th</sup> March 2014

**Merestones Estate - Sale of Grass Verges and Parcels of Land**

Since last weekend I have been working hard to find out as much information as possible about this sale and the likely impacts, if any, for local residents.

Already I can confirm that:-

- Neither Cheltenham Borough Council nor Gloucestershire County Council own the land being sold. The vendors are Bilton Land Ltd, based in Farnham. Please see the reverse of this letter for more details about the land and sale.
- All of existing rights over the affected land will be maintained including utilities etc.
- The Borough Council currently maintains the verges under a mini-agency agreement with the County Council. These verges would continue to be maintained and I have not seen anything that says otherwise.
- All of the said land is adopted public highway and as such people have a right of access over it.

I am still at a loss as to why anyone would want to buy the land. With many years of experience as a member of Cheltenham Borough Council's planning committee I cannot foresee a situation where any of these plots of land would ever be granted planning permission. I would certainly fight on your behalf to prevent this should such an application come forward, although one seems very unlikely to me.

In addition, if the new owners wanted to stop a public right of way they would have to apply for a "Stopping Up Order". Again I would oppose this on your behalf and it would be very unlikely to be granted.

There is a public meeting called by Merestones Resident's Association tomorrow evening, Friday 14<sup>th</sup> March, at Church House, Painswick Road, at 7pm. Due to the short notice, which is understandable in these circumstances, I can't attend - my apologies. If I have more information by then I will ensure the organisers have it in time for the meeting.

Please do not hesitate to contact me if you have any questions.

Best wishes.

[Redacted signature]

[Redacted contact information]

mobile [Redacted contact information]

Details of the sale, including a map of the sites, can be found on the auctioneers web site at:

<http://www.auction.co.uk/residential/LotDetails.asp?A=876&MP=24&ID=876000158&S=L&O=A>

Once on this web site select the online catalogue for March 27<sup>th</sup> and look for lot 156.

**Description of Sale:**

Twelve Freehold Sites extending to Approximately 0.6 Hectares (1.49 Acres) in total. Possible Potential for Development in Part subject to obtaining all necessary consents. To be offered as One Lot.

**Tenure**

Freehold.

**Location**

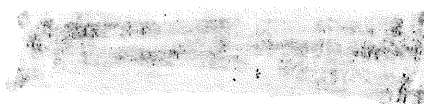
The sites are located to the north of Shurdington Road and to the south of 'The Park' and to the east of Hatherley Brook. Cheltenham town centre is within easy reach to the north. The sites are ideally situated being within the A40 to the north providing links to Cheltenham and Gloucester. Cheltenham Spa Rail Station is within easy reach.

**Description**

The property comprises twelve irregular shaped sites extending to approximately 0.6 hectares (1.49 acres) in total. The sites will be offered collectively as one lot. ***We are informed that these sites are adopted highway.***

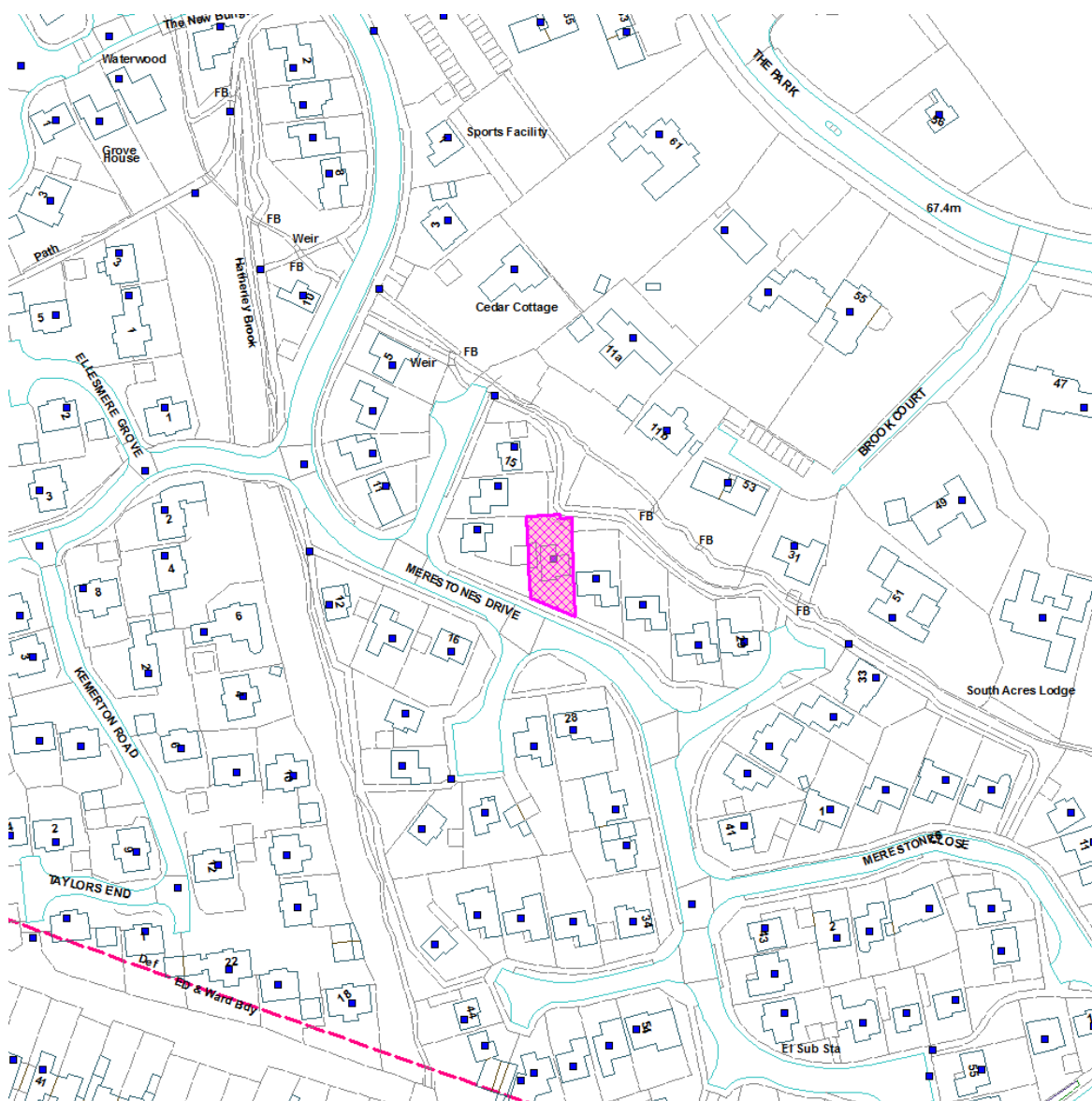
**Accommodation**

Total Site Area Approximately 0.6 Hectares (1.49 Acres)



<b>APPLICATION NO:</b> 21/01518/FUL	<b>OFFICER:</b> Mr Daniel O Neill
<b>DATE REGISTERED:</b> 30th June 2021	<b>DATE OF EXPIRY:</b> 25th August 2021
<b>DATE VALIDATED:</b> 30th June 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Park	<b>PARISH:</b> n/a
<b>APPLICANT:</b>	Mr And Mrs Slimmings
<b>AGENT:</b>	n/a
<b>LOCATION:</b>	21 Merestones Drive, Cheltenham ,Gloucestershire
<b>PROPOSAL:</b>	Change of use of land to residential garden to rear of property and erection of fence at up to 8 ft high, on land to the rear of 21 Merestones Drive

**RECOMMENDATION:** Permit



This site map is for reference purposes only. OS Crown Copyright. All rights reserved Cheltenham Borough Council 100024384 2007

## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 21 Merestones Drive is a detached two storey dwelling located in a residential cul-de-sac within the Park ward. The site does not lie within a conservation area or within a local parish boundary.
- 1.2 The applicant is seeking planning permission for a change of use of land to residential garden to rear of the property and erection of a fence on land to rear of 21 Merestones Drive.
- 1.3 This application has been referred by Cllr Barrel to planning committee due to impact on the visual amenity of the wider locality.
- 1.4 An application for a similar change of use of land to residential garden or curtilage land has also been made by the adjoining land user 17 Merestones Drive. These application have been submitted and considered separately.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Principal Urban Area  
Residents Associations  
Smoke Control Order

### **Relevant Planning History:**

**81/00972/PF 17th December 1981 PER**

Erection of 2 storey extension at rear to provide kitchen with music room over

**21/01939/FUL PCO**

Replace the hung tile to the front of the property with composite cladding in Stone Grey colour. Render a small area around the front downstairs window and increase the rear boundary fence height.

## 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  
D3 Private Green Space  
SL1 Safe and Sustainable Living

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

SD4 Design Requirements  
SD6 Landscape  
SD9 Biodiversity and Geodiversity  
SD14 Health and Environmental Quality  
INF1 Transport Network  
INF3 Green Infrastructure

**Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

**4. CONSULTATIONS**

**Public Rights Of Way Department**

*15th July 2021*

The footpath located behind the property is defined as a Class 6 Highway and does not form part of the public right of way network. Therefore this development does not appear to affect any public right of way, however if there is any suggestion that it will, whether through a need for a temporary closure or permanent diversion then contact should be made with the PRoW team at the earliest opportunity.

**GCC Highways Planning Liaison Officer**

*13th August 2021*

Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 has no objection.

The justification for this decision is provided below.

The proposal seeks the change of use of land to residential garden to the rear of property and erection of fence at upto 8ft high, on land to the rear of 21 Merestones Drive Cheltenham.

The information collected shows the section of land being considered for a change of use to residential garden forms part of publicly maintainable highway by GCC. The Highway Authority does not consider this area of land of sufficient public utility to justify an objection.

There could be existing utility services under this section of land, and the applicant is recommended to contact the concerned bodies prior to any works commencing. The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

The Highway Authority therefore submits a response of no objection.

**Merestones Residents Association**

*16th July 2021*

Thank you for sending information regarding the above to the Merestones Residents Association.

In 2014 grass verges and parcels of land were put up for auction by the family of Percy Bilton the builder of Merestones Estate. This caused great consternation and controversy amongst the residents. Meetings were held and the help of local councillors was invoked. The councillors went to a great deal of trouble checking through archives to ensure that the verges are open land and as such could not be built on.

It is not clear whether these applications relate to the above verges/parcels of land but regardless of that, as Chairman of the Association I object to the applications. If permission

were granted, it would set a precedent for other verges and parcels of land to be incorporated into resident's property thus removing open green spaces which are an integral part of the Merestones estate. This is a major concern. Residents have a right of access over these areas.

As detailed in the attached letter from Robert Garnham (councillor) [available to view in Documents tab] if the owners wanted to stop a public right of way, they would have to apply for a 'Stopping Up Order'. I would seek to oppose this also. I attach a copy of Councillor Robert Garnham's letter confirming this, this letter was addressed to the Residents of this estate.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	8
Total comments received	3
Number of objections	2
Number of supporting	0
General comment	1

**5.1** Following notification to neighbouring properties, 3 comments were received and two objected to the application. These objections have been summarised but not limited to the following points;

- Impact on the footpath
- Obstructing of public right of way
- Loss of grass verge
- Impact on the character of the area
- Maintenance of the footpath

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

**6.2** The main considerations when determining this application are the principal of the change of use in relation to its impact on the character of the area, design of the proposed fencing, impact on the amenity of surrounding neighbours, biodiversity and the transport network.

### 6.3 The site and its context

**6.4** The application site is a detached dwelling with a considerable large garden and a strip of land located to the rear boundary line of the property known as 21 Merestones Drive. This strip of land is an area of flat grassland adjacent to a footpath that abounds the rear of the surrounding properties and provides a walkable connection through the wider Merestones estate.

**6.5** Surrounding the footpath is a verge of flat grassland and this is quite a common feature along the entire pathway throughout the estate. Some areas of the footpath further south have small verge of grassland adjacent to the pathway and boundary fences.



## **6.6 Principal of Development**

- 6.7** The application proposes to incorporate a strip of grass land, adjacent to the rear footpath of the Merestones Estate, into the residential garden land or curtilage of the property known as 21 Merestones Drive. This application will remove the existing rear boundary fence and erect a new fencing acting as the new boundary line.
- 6.8** Officers consider that the principle of change of use in this instance is considered to be acceptable. The strip of grassland in question and the property are located within an established urban setting characterised by garden lands with timber boundary fences. A revised plan was submitted to provide further mitigation to the established footpath.
- 6.9** Consideration has been given to the proposed development and the impact on the character of the area, including the landscape and green infrastructure. Policy SD6 of the JCS indicates that landscape character is a key component of an areas identity and development will be requested to respect it. The change of use subject to this application covers a modest strip of grassland with no mature vegetation or trees located on it. This new residential curtilage would project further north than the curtilage and rear boundary fence of the adjoining neighbouring property 23 Merestones Drive, but would adhere to pattern of boundary established by 15 Merestones Drive and the potential boundary proposed at 17 Merestones Drive.
- 6.10** Whilst the land subject to the change of use was formerly undeveloped, the land in question is not subject to any formal landscape designation and does not appear to have been formally appraised for its landscape value. This land is associated with the intended footpath of the wider estate which remains untouched. There is a distinct lack of openness given how the land surrounds high fencing and dense vegetation across the eastern side of the footpath.
- 6.11** When viewed from the north, the enlarged residential curtilage does not result in any significant visual incongruity and it is considered to integrate effectively within the pattern of the boundary line. When viewed from the south-eastern side, the proposed fence line will provide a corner point. However, corner points are prominent along the length of the pathway, especially when the land bends to follow the form of footpath. This subject land runs adjacent to the footpath bend and therefore follows the contour of the land without appearing as inconsistent. Overall, officers consider that the proposed development will not result in any significant adverse impact to the landscape character of the area that would subsequently would warrant a refusal of planning permission.
- 6.12** With regard to the impact on character of the area in relation to its green infrastructure, policy INF3 indicates existing green infrastructure and the connectivity will be protected. Local green infrastructure includes Public Right of Way, cycle paths and footpaths. It is acknowledged that adjacent footpath to the rear of property is not a known public right of way but was part of the original estate plan to provide a form of connectivity through the estate. The majority of this footpath within this area of Merestones Drive will remain undisturbed. While this land subject to change will result in the boundary closer to the footpath, ease of access will remain unrestricted and the resultant visual pattern will be similar to the appearance of footpath located further south-east of the estate adjacent to properties 23-29 Merestones Drive. Officers therefore considered that the proposal will not detract from the overall established pattern of the residential estate and will protect the existing green infrastructure of the rear footpath provided during the development of the estate.
- 6.13** In light of the above, officers consider that the development does not result in any unacceptable impact on the intrinsic character, appearance and connectivity to the immediate surrounding area.

### **6.14 Design and Impact on neighbouring amenity**

- 6.15** The proposed fence will be approximately 2.4m high and sit somewhat higher than the existing fence line. This will be of a similar height to the fence proposed with regard to the Change of Use of land at 17 Merestones Road.
- 6.16** This boundary form will provided a consistent appearance to the established boundaries of the wider area. Whilst it will be higher than the existing rear boundary, it will mirror the height of the property's existing side boundary fence and it will not stand out visually to an unreasonable level. A condition has been added to provide further design details of the fence.
- 6.17** Due to its nature, the change of use has minimal, if any, impacts on the residential amenity of the occupants of the surround properties. The proposed fence will offer increased privacy the occupants of the site and users of the footpath. Given the orientation of the land, there will be no unacceptable loss of light or outlook to the surrounding neighbours.
- 6.18** For this reason, the proposed development would adhere to the relevant Cheltenham Plan policies and JCS polices related to design.

### **6.19 Biodiversity**

- 6.20** Policy SD9 of the JCS requires development to respect landscape features of importance for biodiversity and protect important habitats and species.
- 6.21** The Gloucestershire Centre for Environmental Records (GCER) which screens planning application identifies that the records indicate that no known protected species have been sighted on or near the application site.
- 6.22** The grass land subject to change is considered rough in its nature will little evidence of any wildlife or wild flowers. This was evidenced when officers visited the site through the height of summer. By incorporating this land within the residential curtilage of the 17 Merestones Drive, this area will consist of garden land which can sustain future biodiversity as gardens can help promote ecological life. There is no solid built form proposed and any future outbuildings will be subject to planning permission.

### **6.23 Other Considerations**

#### **6.24 Precedent Set**

- 6.25** A concern has been raised that permitting this application could set a precedent for other verges and parcels of land to be incorporated into residential curtilage. Merestones estate is known for is large open spaces and verges across its form, and there are noticeable open spaces at corner plots within the street scene. Each application is considered on its own merits and further assessment maybe taken in those different areas.

#### **6.26 Public Right of Way**

- 6.27** Comments were made that any infringement of the footpath would require a 'stopping up' order. There is no infringement of the path, the land subject to a change of use only relates to a grassland verge. This footpath is also not a designated public right of way and this has been confirmed by the Public Right of Way department.

#### **6.28 Maintenance**

- 6.29** Any future maintenance of the footpath by the County Council or Borough Council is not pertinent to this application. Only a small area of the entire length of the footpath is

affected by the proposed development. This land is privately owned and it is a civil matter as to ensure the maintenance of this land.

### 7. CONCLUSION AND RECOMMENDATION

- 7.1** The land subject to the proposed change of use is modest area of rough grassland adjacent to an established footpath that will be incorporated as residential garden land or curtilage. Officers consider that the principal of this development is acceptable, as to be the design and impact on the amenity of the surrounding neighbours.
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- 7.3** In light of the above, it is considered that this application complies with the relevant Local Plan policies, JCS policies, NPPF and any supplementary guidance.
- 7.4** Officer recommendation therefore is to permit this application subject to the conditions set out below;

### 8. CONDITIONS

- 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.

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## Page 28

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APPLICATION NO: 21/01518/FUL		OFFICER: Mr Daniel O Neill
DATE REGISTERED: 30th June 2021		DATE OF EXPIRY : 25th August 2021
WARD: Park		PARISH:
APPLICANT:	Mr And Mrs Jand F Slimmings	
LOCATION:	21 Merestones Drive, Cheltenham, Gloucestershire	
PROPOSAL:	Change of use of land to residential garden to rear of property and erection of fence at upto 8 ft high, on land to the rear of 21 Merestones Drive	

## REPRESENTATIONS

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Number of objections	2
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Cheltenham  
Gloucestershire  
GL50 2ST

### Comments: 13th July 2021

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3 Taylors End  
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Gloucestershire  
GL50 2QA

**Comments:** 14th July 2021

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And in the case of [b], apart from the point made above, I believe a condition of any grant of planning permission should specify that free access along the footpath should be retained at all times and that any construction work should be carried out from within the garden.

17 Beeches Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NG

**Comments:** 21st July 2021

When this estate was laid out the developers provided 2 pedestrian paths alongside the bounding streams as an alternative to using the footways that run along the road. These pedestrian paths are narrow. This is normally acceptable for when the path user meets somebody coming from the opposite direction they can ensure that anything they are carrying is over the neighbouring land.

The applicant wishes to build up to the pedestrian path. This reduces the ease of meeting other path users.

Plants such as ivy could grow up the proposed new fence and over the pedestrian path reducing the available width.



CHEL TENHAM  
BOROUGH COUNCIL

2014 letter to  
residents from  
Cllr Garnham

Councillor Rob Garnham

Dear Resident,

13<sup>th</sup> March 2014

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I am still at a loss as to why anyone would want to buy the land. With many years of experience as a member of Cheltenham Borough Council's planning committee I cannot foresee a situation where any of these plots of land would ever be granted planning permission. I would certainly fight on your behalf to prevent this should such an application come forward, although one seems very unlikely to me.

In addition, if the new owners wanted to stop a public right of way they would have to apply for a "Stopping Up Order". Again I would oppose this on your behalf and it would be very unlikely to be granted.

There is a public meeting called by Merestones Resident's Association tomorrow evening, Friday 14<sup>th</sup> March, at Church House, Painswick Road, at 7pm. Due to the short notice, which is understandable in these circumstances, I can't attend - my apologies. If I have more information by then I will ensure the organisers have it in time for the meeting.

Please do not hesitate to contact me if you have any questions.

Best wishes.

@cheltenham.gov.uk

mobile

Details of the sale, including a map of the sites, can be found on the auctioneers web site at:

<http://www.auction.co.uk/residential/LotDetails.asp?A=876&MP=24&ID=876000158&S=L&O=A>

Once on this web site select the online catalogue for March 27<sup>th</sup> and look for lot 156.

**Description of Sale:**

Twelve Freehold Sites extending to Approximately 0.6 Hectares (1.49 Acres) in total. Possible Potential for Development in Part subject to obtaining all necessary consents. To be offered as One Lot.

**Tenure**

Freehold.

**Location**

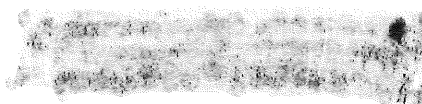
The sites are located to the north of Shurdington Road and to the south of 'The Park' and to the east of Hatherley Brook. Cheltenham town centre is within easy reach to the north. The sites are ideally situated being within the A40 to the north providing links to Cheltenham and Gloucester. Cheltenham Spa Rail Station is within easy reach.

**Description**

The property comprises twelve irregular shaped sites extending to approximately 0.6 hectares (1.49 acres) in total. The sites will be offered collectively as one lot. ***We are informed that these sites are adopted highway.***

**Accommodation**

Total Site Area Approximately 0.6 Hectares (1.49 Acres)





<b>APPLICATION NO:</b> 21/01529/FUL	<b>OFFICER:</b> Miss Claire Donnelly
<b>DATE REGISTERED:</b> 30th June 2021	<b>DATE OF EXPIRY:</b> 25th August 2021; extension of time agreed to 17th September 2021
<b>DATE VALIDATED:</b> 30th June 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> All Saints	<b>PARISH:</b> n/a
<b>APPLICANT:</b>	Mr Colin Smith
<b>AGENT:</b>	Paul Rogers
<b>LOCATION:</b>	Priory Cottage, 18 Priory Street, Cheltenham
<b>PROPOSAL:</b>	Addition of an air source heat pump to an existing wall

### RECOMMENDATION: Refuse



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to 18 Priory Street, also known as Priory Cottage; a detached, recently extended, residential bungalow set back from Priory Street. The application property is sited on the south western and north western boundaries of the site, with the private amenity space located to the front of the property. The site is located within the Sydenham Character Area of Cheltenham's Central Conservation Area.
- 1.2 The applicant is seeking planning permission for the installation of an Air Source Heat Pump (ASHP) to be located on the south western boundary wall in an elevated position.
- 1.3 A previous application seeking permission for the same proposal was refused by officers in May 2021, application ref. 21/00223/FUL.
- 1.4 The application is at Planning Committee at the request of Councillor Wilkinson.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Conservation Area  
Principal Urban Area

### **Relevant Planning History:**

**90/00245/PF 29th March 1990 PER**  
Replacement Of Existing Extension With New Enlarged Extension

**90/00247/CD 29th March 1990 PER**  
Demolition Of Existing Extension And Frontage Carport

**20/01132/FUL 21st August 2020 PER**  
Proposed Internal and external alterations, new dormer and oriel window, new shed, and garden wall

**21/00223/FUL 6th May 2021 REF**  
Addition off an air source heat pump to an existing wall

## 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 14 Meeting the challenge of climate change, flooding and coastal change

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

SD4 Design Requirements  
SD3 Sustainable Design and Construction  
SD14 Health and Environmental Quality  
INF5 Renewable Energy/Low Carbon Energy Development

### **Cheltenham Plan Policies**

D1 Design  
SL1 Safe and Sustainable Living

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

## 4. CONSULTATIONS

### Environmental Health

10th August 2021

This application is similar to that made under planning ref 21/00223/FUL earlier in the year, where this department made a recommendation to refuse, on the grounds of loss of amenity due to noise from the equipment proposed affecting other residential property.

This application similarly seeks to install an Air Source Heat Pump on the south west corner of the existing building, at first floor level. The applicant has provided information that suggests that such equipment should not require planning consent where installed a minimum of 1m from the property boundary. However, this plan seeks to install the equipment both on the boundary (rather than 1 m within it), and above any dividing wall that would have a mitigating effect. Therefore any noise from the system will have an adverse effect and cause a loss of amenity to the users of the gardens to the rear of 15 & 16 Hewlett Place. I suggest that the effect on indoor areas of those properties would be minimal. In conclusion I must recommend refusal of this application in its current form.

The applicant's property appears to have ample space for the heat pump unit to be installed within the site, thus removing any potential impact on neighbouring property. If the applicant would like to submit a revised plan to this effect I will happily remove this objection.

Alternatively the applicant may prefer to submit an acoustic report to demonstrate the levels of noise that will arise at the neighbouring premises for further consideration.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	9
Total comments received	0
Number of objections	0
Number of supporting	0
General comment	0

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

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

- 6.2 The application proposes the installation of an ASHP to Priory Cottage which would be sited on a boundary wall, at first floor level on the South Western elevation of the property; the site is within the conservation area and therefore the key considerations are the design, impact on the conservation area and the impact on neighbouring amenity.

### 6.3 Design and impact on the Conservation Area

- 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 proposed ASHP would be 1.02 metres in height, 1.02 metres in width and 0.48 metres in depth; and would be traditional in its design. The ASHP would be located on the South West elevation of Priory Cottage, 2.6 metres above ground level; located above the existing boundary wall. This elevation of the property faces onto a private car parking area located on the corner of Hewlett Place and Priory Mews; the site is wholly within the Conservation Area. Given the open nature of the site, the ASHP would be visible by the public realm within the Conservation Area. Officers acknowledge that the South West elevation of the property is currently screened by small trees/shrubbery, however this vegetation is located within the car park and therefore out of the control of the applicant. As such, whilst the ASHP may initially be partially screened, if the vegetation was removed, the ASHP would be clearly visible from the public realm within the Conservation Area therefore harming the existing character of the area. It is, however, appreciated by officers that Hewlett Place is somewhat tucked away and along with Priory Mews, are relatively quiet roads that mainly serve access to residential properties, however that said, the ASHP is still considered to be inappropriately located and would result in harm to the Conservation Area.
- 6.7 With the above in mind, on balance, it is considered that the scale of the proposed ASHP as well as its prominent location within the Conservation Area would be detrimental to the existing character of the area and therefore could not be supported. The proposal would be contrary to JCS policies SD4 and SD8, Cheltenham Plan policy D1 and the guidance within section 12 and 16 of the NPPF.
- 6.8 **Impact on neighbouring property**
- 6.9 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.
- 6.10 Following the public consultation period of this application, there have been no public representations received.
- 6.11 Due to the nature of the proposal, the Environmental Health Officer (EHO) has been consulted on the scheme; full comments can be read above in section 4 of this report. The EHO has objected to the scheme given the lack of information to support the proposal. The EHO's concerns relate to the proximity of the ASHP to neighbouring private residential amenity spaces; the concern relates to the impact when residents are outside, there are no concerns that the ASHP would impact residents when inside their properties. The ASHP would be located 1.7 metres from the boundary of 15 Hewlett Place, 5.5 metres from the boundary of 16 Hewlett Place and 2 metres from the boundary of 1 Priory Mews. The EHO requested the submission of an acoustic report to demonstrate noise levels at neighbouring properties, however this information has not been forthcoming. It is therefore considered that due to the lack of information, there would be a harmful impact on private amenity spaces of neighbouring residential properties.
- 6.12 The proposal would therefore be contrary to policy SD14 of the JCS and policy SL1 of the Cheltenham Plan in terms of protecting the amenity of the adjoining land users.
- 6.13 **Other considerations**
- 6.14 Environmental benefits
- 6.15 Officers acknowledge that the ASHP would replace the existing gas boiler; thus having a positive impact on the environment. It is also acknowledged that decisions should be made

to support renewable energy and low carbon development to make a contribution to tackling climate change. Whilst the council do not have any policies that specifically relate to this type of development, Policy INF5 of the JCS states:

*“Proposals for the generation of energy from renewable resources, or low carbon energy development (with the exception of wind turbines), will be supported, provided the wider environmental, social or economic benefits of the installation would not be outweighed by a significant adverse impact on the local environment taking into account any unacceptable adverse impacts on uses and residents of the local area including emissions, noise, odour and visual amenity.”*

As such, whilst the ASHP has its environmental benefits, as per policy INF1, officers must take into consideration the noise and visual amenity as a result of the low carbon energy development. As such, given the objection received from the EHO in regards to a lack of information to address the impact on neighbouring amenity, and the concerns over the location and visual impact of the ASHP, the proposal would be contrary to JCS Policy INF1 and therefore the harm outweighs the environmental benefit in this instance.

### 6.16 Permitted Development Rights

It is worth noting that an ASHP can be installed without the need for planning permission. Schedule 2, Part 14, Class G allows for the installation of ASHP on domestic properties subject to conditions. This ASHP could be considered as Permitted Development if the ASHP was located 1 metre from the boundary of the site. As such, if the proposed ASHP was relocated to be wholly within the application site, and 1 metre from the boundary, then an ASHP could be installed at the property without the need for planning permission.

### 6.17 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 Taking all of the above into consideration, whilst the environmental benefits of the installation of an air source heat pump have been duly noted, given the concerns relating to its siting and harm to the Conservation Area, and the potential harm to neighbouring amenity due to noise and disturbance; the installation of an air source heat pump in the proposed location is unacceptable.
- 7.2 The installation of the proposed air source heat pump would be contrary to relevant planning policies in terms of design, impact on the conservation area and impact on neighbouring amenity.

7.3 The recommendation is to therefore refuse this application for the reasons set out below.

### 8. REFUSAL REASONS & INFORMATIVES

- 1 The application site is located within the Central Conservation Area. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority when considering whether to grant planning permission with respect to any building or land in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The proposed siting of an Air Source Heat Pump at first floor level, above the boundary wall, and on a side facing elevation would result in unacceptable harm to the Conservation Area due to its prominent location.

The proposed installation of an Air Source Heat Pump is therefore detrimental to the character and appearance of the Conservation Area resulting in harm to its significance and contrary to Policy D1 of the Cheltenham Plan (Adopted 2020), Policies SD4 and SD8 of the Joint Core Strategy (Adopted 2017), and paragraphs 197, 199 and 202 of the NPPF.

- 2 The application proposes the installation of an Air Source Heat Pump to the property; due to the siting of the air source heat pump on the boundary wall and above any dividing wall which would have a mitigating effect. Furthermore, the application lacks the submission of an acoustic report to demonstrate the levels of noise that will arise at the neighbouring premises. Due to these reasons, the installation of an Air Source Heat Pump in the proposed location would have an adverse effect and cause a loss of amenity to the private amenity spaces of adjoining residential properties.

The proposed Air Source Heat Pump would therefore result in noise and disturbance to neighbouring properties and therefore unacceptable harm the existing amenity of neighbouring residential properties contrary to Policy SL1 of the Cheltenham Plan (Adopted 2020), policy SD14 and INF5 of the Joint Core strategy (Adopted 2017) and section 12 of the NPPF.

### 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 authority cannot provide a solution that will overcome the concerns set out within this report.

As a consequence, the proposal cannot be considered to be sustainable development and therefore the authority had no option but to refuse planning permission.

<b>APPLICATION NO:</b> 21/01596/LBC	<b>OFFICER:</b> Mr Chris Morris
<b>DATE REGISTERED:</b> 10th July 2021	<b>DATE OF EXPIRY:</b> 4th September 2021
<b>DATE VALIDATED:</b> 10th July 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Lansdown	<b>PARISH:</b>
<b>APPLICANT:</b>	Cheltenham Borough Council
<b>AGENT:</b>	Cheltenham Borough Council
<b>LOCATION:</b>	The Wilson Cheltenham Art Gallery And Museum, Clarence Street, Cheltenham
<b>PROPOSAL:</b>	Replace the worn parapet gutters, replace zinc sections of zinc courtyard roof

**RECOMMENDATION:** Grant



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The site is The Wilson Cheltenham Art Gallery and Museum Clarence Street, Cheltenham. It is a grade II listed building located within the Central conservation Area.
- 1.2 The proposed works are for the replacement of the life expired parapet gutters on the roof and gutters around the lantern light within the courtyard. The gutters on the roof are proposed to be replaced like for like in lead, the zinc courtyard gutters are proposed to be replaced with the historically used lead.
- 1.3 The application is at Planning Committee due to the agreed decision-making process, requiring all applications relating to Cheltenham Borough Council-owned property to be considered and determined by Planning Committee.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Airport Safeguarding over 45m  
Business Improvement District  
Conservation Area  
Core Commercial Area  
Principal Urban Area  
Residents Associations  
Smoke Control Order

### Relevant Planning History:

**01/00863/LBC 12th September 2001 GRANT**  
Second floor toilet refurbishment

**02/00742/LBC 11th September 2002 GRANT**

Internal alterations consisting of various upgraded fire precaution works to the basement, common staircase, lending library and offices and installation of mobile racking to basement

**02/00919/FUL 18th December 2002 REF**

New extension on basement, ground, first and second floors and remodelling of existing (1989) building on ground, first, second and third floors and alterations to listed (1889) building and plant at roof level

**02/00920/LBC 18th December 2002 REF**

Demolition of 51 Clarence Street and alterations to existing (1887) library/museum including: alterations to roof top plant areas, refurbishment and remodelling of second floor galleries, removal of stair and new internal opening

**02/00921/CAC 18th December 2002 REF**

Demolition of all unlisted structures, walls and substructures within the site bounded by 53 and 55 Clarence Street and 3-5 Chester Walk

**85/01056/LS 21st November 1985 PER**

Art Gallery Cheltenham Gloucestershire - Erection Of Display Cases

**85/01079/PF 21st November 1985 PER**

Cheltenham Art Gallery and Museum Cheltenham Gloucestershire - Erection Of Three Enclosed Notice Boards On The Facade Of The Art Gallery

**86/01207/PF 18th December 1986 PER**



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Museum And Art Gallery Cheltenham Gloucestershire - Extension To The Museum And Art Gallery - Phase 1

**86/01208/PF 18th December 1986 PER**

Museum And Art Gallery Cheltenham Gloucestershire - Extension To The Museum And Art Gallery - Phase 2

**86/01214/LA 18th December 1986 PER**

The Art Gallery And Museum Clarence Street Cheltenham Gloucestershire - Demolition Of Part Of The Building And Extension To Building, Erection Of 4-Storey Extension To The Museum Providing New Entry, Galleries And Offices (Phase 1)

**86/01215/LA 18th December 1986 PER**

The Art Gallery And Museum Clarence Street Cheltenham Gloucestershire - Demolition Of Part Of Building And Extension To Building And Erection Of A 4-Storey Building To The Museum To Provide New Entry Galleries And Offices (Phase 2)

**89/00909/AI 24th August 1989 PER**

Erection Of Illuminated Neon Signs

**89/00957/AN 24th August 1989 PER**

Display Of Non Illuminated Advertisements

**89/00960/LA 24th August 1989 PER**

Erection Of Signs To Front And Rear Of New Extension

**90/00047/LA 22nd February 1990 PER**

Alterations To Form New Shop And Installation Of An Additional Handrail To The Main Staircase

**90/00400/LA 24th May 1990 PER**

Demolition Of Wall To Provide A Service Counter To Coffee Shop

**96/00125/AN 21st March 1996 PER**

Display Of Two Fabric Banners Suspended Between Two Metal Brackets At Top And Bottom On The Clarence Street Façade (Revised Scheme)

**96/00126/LA 21st March 1996 PER**

Erection Of Banners On The Clarence Street Facade (Revised Scheme)

**97/00448/AN 31st July 1997 PER**

Application To Display Banners For 365 Days Per Year

**07/01386/LBC 17th December 2007 GRANT**

Installation of bird guarding systems to elevations (external)

**08/00551/LBC 25th July 2008 GRANT**

Internal alterations to kitchen and servery on first floor

**09/00215/FUL & 09/00216/LBC 8th April 2009 WDN**

Erection of new 4 storey public Art Gallery building with associated archiving and artefact storage linking to existing 1989 Museum and Gallery building, together with works to number 51 Clarence Street including the formation of a new shop front and replacement of the existing ground to first staircase, following demolition of properties at numbers 53 and 55 Clarence Street and two derelict cottages on Chester Walk.

**09/00217/CAC 8th April 2009 WDN**

Demolition of properties at numbers 53 and 55 Clarence Street and two derelict cottages on Chester Walk. Demolition of garden wall structure bounding Chester Walk and extensions to the rear of number 51 Clarence Street in connection with proposed erection of new 4 storey public Art Gallery building with associated archiving and artefact storage linking to existing 1989 Museum and Gallery building

**09/00785/FUL 23rd July 2009 PER**

Erection of new 4 storey public Art Gallery building with associated archiving and artefact storage linking to existing 1989 Museum and Gallery building, together with works to number 51 Clarence Street including the formation of a new shop front and replacement of the existing ground to first staircase, following demolition of properties at numbers 53 and 55 Clarence Street and two derelict cottages on Chester Walk.

**09/00786/LBC 25th August 2009 GRANT**

Erection of new 4 storey public Art Gallery building with associated archiving and artefact storage linking to existing 1989 Museum and Gallery building, together with works to number 51 Clarence Street including the formation of a new shop front and replacement of the existing ground to first staircase, and demolition of properties at numbers 53 and 55 Clarence Street and two derelict cottages on Chester Walk.

**09/00787/CAC 25th August 2009 GRANT**

Demolition of properties at numbers 53 and 55 Clarence Street and two derelict cottages on Chester Walk. Demolition of garden wall structure bounding Chester Walk and extensions to the rear of number 51 Clarence Street in connection with proposed erection of new 4 storey public Art Gallery building with associated archiving and artefact storage linking to existing 1989 Museum and Gallery building

**83/00788/LA 24th March 1983 GRANT**

Internal alterations to provide disabled persons ramp/lift and alteration to entrance

**18/00039/ADV 20th April 2018 GRANT**

Installation of two banner signs and one hanging sign

**09/00785/FUL 2\_ACTV**

Erection of new 4 storey public Art Gallery building with associated archiving and artefact storage linking to existing 1989 Museum and Gallery building, together with works to number 51 Clarence Street including the formation of a new shop front and replacement of the existing ground to first staircase, following demolition of properties at numbers 53 and 55 Clarence Street and two derelict cottages on Chester Walk.

**C11/00018/DEMO 26th July 2011 CLOSED**

Demolition of Art Gallery and Museum

### **3. POLICIES AND GUIDANCE**

#### **National Planning Policy Framework**

Section 16 Conserving and enhancing the historic environment

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

SD8 Historic Environment

### **4. CONSULTATIONS**

None received.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	21
Total comments received	0
Number of objections	0
Number of supporting	0
General comment	0

5.1 An advertisement was put in the Gloucestershire Echo and a site notice was placed near the site.

5.2 No comments were received.

## 6. OFFICER COMMENTS

6.1 The listed building consent application for the proposed works to replace the worn parapet gutters, replace zinc sections of zinc courtyard roof needs to be determined by Planning Committee because it falls outside the agreed delegated decision making process, it being in the ownership of Cheltenham Borough Council.

6.2 It is important to consider the policy context in which the proposal needs to be determined. The cornerstone of heritage legislation is the Planning (Listed buildings and Conservation Area) Act 1990, Section 16(2), which requires local planning authorities to have special regard to the desirability of preserving the special architectural or historic interest of listed buildings and their setting. A core principle of the National Planning Policy Framework 2019 (NPPF) is set out in Chapter 16, this includes heritage assets be conserved in a manner appropriate to their significance, great weight be given to the asset's conservation and the significance of heritage assets to be sustained and enhanced. This assessment takes account of the relevant considerations in these paragraphs.

6.3 The proposed works are considered necessary for the good maintenance of the listed building and will be undertaken using historically appropriate materials and detailing. No objection is raised to the works in heritage terms.

6.4 The proposed works sustain the designated heritage asset and comply with Section 16 of the Planning (Listed Building and Conservation Area) Act 1990, Chapter 16 of the National Planning Policy Framework and Policy SD8 of the Joint Core Strategy 2017.

## 7. CONCLUSION AND RECOMMENDATION

7.1 It is recommended the application be granted with conditions.

## 8. CONDITIONS / INFORMATIVES

- 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     Roofing materials

No external facing or roofing materials shall be applied unless in accordance with a written specification of the materials and detailing, details of which shall have been submitted to and approved in writing by the Local Planning Authority. The works shall not be carried out unless in accordance with the details so approved.

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

**INFORMATIVES**

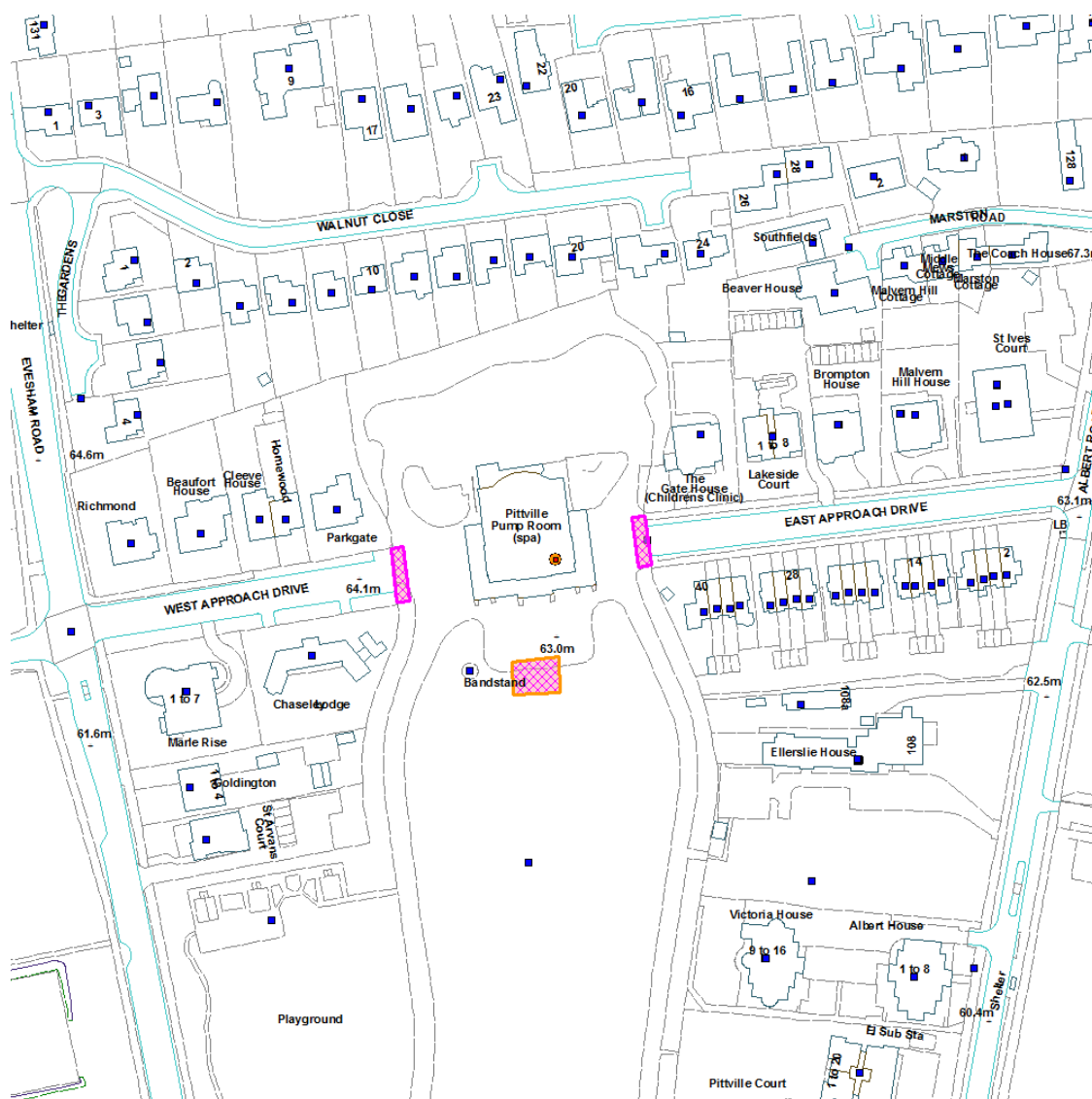
- 1     In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek 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:</b> 21/01687/FUL & 21/01687/LBC	<b>OFFICER:</b> Miss Claire Donnelly
<b>DATE REGISTERED:</b> 11th August 2021	<b>DATE OF EXPIRY:</b> 6th October 2021
<b>DATE VALIDATED:</b> 11th August 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Pittville	<b>PARISH:</b> n/a
<b>APPLICANT:</b>	Cheltenham Borough Council
<b>AGENT:</b>	Illman Young Ltd
<b>LOCATION:</b>	Pittville Pump Room, East Approach Drive, Cheltenham
<b>PROPOSAL:</b>	<b>FUL &amp; LBC:</b> Installation of new gates and railings at East and West Approach Drives and associated alterations, and restoration of c19th steps to the front of the Pump Rooms

**RECOMMENDATION:** Permit & Grant



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application relates to the Pittville Pump Rooms; more specifically, the proposal relates to the gates and railings on East Approach Drive and West Approach Drive and the c19th steps to the front of the building. The Pittville Pump room is a Grade I listed building, and the Pittville Park is a Registered Park and Garden (Grade II); the site is located within the Pittville Character Area of Cheltenham's Central Conservation Area.
- 1.2 The applicant is seeking planning permission and listed building consent for the installation of new gates and railings on East Approach Drive and West Approach Drive, as well as the restoration of c19th steps to the front of the Pump Rooms.
- 1.3 The application is at planning committee as the applicant is Cheltenham Borough Council.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Conservation Area  
Principal Urban Area

### **Relevant Planning History:**

**05/00938/FUL**                      **21st July 2005**                      **WDN**  
New gates and railings at East Approach and West Approach entrances to Pittville Pump Rooms and Park

**05/00939/LBC**                      **18th July 2005**                      **WDN**  
New gates and railings at East Approach and West Approach entrances to Pittville Pump Rooms and Park .

**05/01664/FUL**                      **27th June 2006**                      **WDN**  
New gates and railings at East Approach and West Approach entrances to Pittville Pump Room and Park

**05/01665/LBC**                      **27th June 2006**                      **WDN**  
New gates and railings at East Approach and West Approach entrances to Pittville Pump Rooms and Park.

**07/00361/FUL**                      **25th May 2007**                      **PER**  
New gates and railings at East Approach entrance and West Approach entrance to Pittville Pump Rooms and park

**07/00362/LBC**                      **25th May 2007**                      **GRANT**  
New gates and railings at East Approach entrance and West approach entrance to Pittville Pump Rooms and park

## 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**

Central conservation area: Pittville Character Area and Management Plan (July 2008)

## 4. CONSULTATIONS

**Historic England**

*31st August 2021*

Thank you for your letter of 11 August 2021 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

**Cheltenham Civic Society**

*1st September 2021*

**NEUTRAL**

The Civic Society Planning Forum supports the proposals in principle, but feels that this is not the right scheme, and questions whether this the best use of public money.

Ideally there should be an overall plan for the whole of the area around the Pump Room. It is important to get it right rather than going in piecemeal with alterations which could prevent anything better in future.

There is an opportunity to do more with the steps, e.g. create a small amphitheatre by widening the steps with an arc. The steps are more likely to be used as seating than for access, and this should be considered in the design. There should be an area of paving at the base of the steps to prevent this area becoming muddy. And ideally the sea of tarmac in front of the Pump Room should be addressed. A more ambitious plan could attract funding from local societies and interested stakeholders.

It would be nice to have seen historic references for the proposed gates.

As Pittville is Cheltenham's biggest and most popular parks, there is likely to be significant public interest in these plans, and the council should have made more effort to consult on this beyond putting it on the Planning Portal.

**Heritage And Conservation**

*24th August 2021*

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.'

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority when considering whether to grant planning permission with respect to any building or land in a conservation area, to pay special attention 'to the desirability of preserving or enhancing the character or appearance of that area.'

Paragraph 189 of the National Planning Policy Framework (MHCLG: 2021) (NPPF) states that 'Heritage assets' are an irreplaceable resource, and should be conserved in a manner appropriate to their significance'.

Paragraph 197 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.'

The NPPF defines the setting of a heritage asset as 'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral' (Annex 2: Glossary).

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

It is noted that applications (07/00361/FUL and 07/00362/LBC) for - new gates and railings at East Approach entrance and West Approach entrance to Pittville Pump Rooms and park ' were granted permission/consent.

Pittville Pump Room was constructed 1825-1830, with restorations and alterations of 1949-1960 and c.1980. Listed on 12 March 1955 (Grade I). List entry number: 1387559.

Pittville Park is a Registered Park and Garden (Grade II). Laid out 1825-1842. Registered on 28 February 1986.

The proposal site(s) is located in the Central Conservation Area (Pittville Character Area), a designated heritage asset (Cheltenham's Central Conservation Area was designated by Gloucestershire County Council on 28 May 1973 and its boundary was extended by Cheltenham Borough Council on 14 August 1987).

A number of listed building are located on the northern side of West Approach Drive.

The existing subject gates and railings seem to date from the latter half of the twentieth century and have a utilitarian appearance; their significance is nil-negligible. There may be some low level evidential value in demonstrating the development of the park and the setting of the Pump Room in the post WWII period.

H.S Merrett's 1834 plan of Cheltenham does not depict any gates or railings on the site of the existing; however, it is not evident that these types of features are illustrated anywhere on the plan. A plan of 1855 shows nothing to the east of the Pump Room and some features likely to be relatively small piers for gates to the west. The 1st edition Ordnance Survey (OS)



map depicts no gates or railings and they are also absent from the 2nd and 3rd editions respectively.

The design of the proposed gates and railings has drawn from other similar features in the area; see the Heritage Statement (paras. 3.1 and 3.2. pp. 7-8). Historically the subject areas were devoid of railings and gates and therefore this aspect of the proposal could be seen as a speculative approach resulting in pastiche, a dishonest addition. However, the form is suitable for the approaches to a polite building such as the Pump Room and will not detract from how it is experienced; views to and from the Pump Room will not be greatly hindered and the structures are fitting for the environs of such a grand building. These elements will not detract from the character and appearance of the conservation area.

The proposed railings and gates will not be detrimental to the significance of the designated heritage assets and are therefore acceptable.

An historic image of 1890 shows steps to the south of the Pump Room in situ (Figures document, fig. 6). They are also depicted on H.S Merrett's 1834 plan of Cheltenham, a plan of 1855 and the 1st edition OS map. The re-instatement of the steps will not detract from the significance of the registered park, the setting of the Pump Room or the character and appearance of the conservation area and is therefore acceptable.

[Note (re: ownership) that the scheme at the East Approach includes the inclusion of an existing pier (north). The existence of previous gates has been discussed above and the south elevation of the pier does not show signs of any previously attached metalwork (Google maps/street view ' image capture: July 2018). Drawing 21717-IYL-V1-XX-DR-L-1052 (existing elevation gates and railings) shows the ownership boundary line dividing the pier. A Plan of c.1879-1888 shows a pier in situ along with other piers on the boundary of the building to the north (Edgbaston House) (now known as the Gate House)].

In conclusion, the scheme will not detract from the significance designated heritage assets and is therefore acceptable.

Suggested conditions may include (attached to any planning permission (?):

### Design details

[Section 1.2 (p.4) of the Heritage Statement states that 'It is critical that accurate, large scale drawings be provided of the final agreed form for this project, closely following agreed precedents, and refined and necessary' ' it is at the discretion of the Planning Officer/decision maker(s) if the drawings (some which include images) as submitted are sufficient. If it is deemed that more detailed information is required in regard to the gates and railings the following conditions is suggested:

Gates, railings and pier(s) (including finials): to include but not limited to: elevation drawings at a scale of 1:10 and sectional drawings at a scale of 1:2].

Stone: to include but not limited to: specific details of type(s) and source(s) (samples may be required).

Paint colour(s): to include but not limited to: specific product details (sample(s) may be required).

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	11
Total comments received	1
Number of objections	0
Number of supporting	1
General comment	0

- 5.1 Letters have been sent to eleven neighbouring properties, two site notices have been displayed, and an advert has been placed in the Gloucestershire Echo; one response has been received.
- 5.2 The one neighbouring resident who has submitted a comment in response to the proposal has raised matters in regards to ownership of a pedestrian gate on West Approach Drive and a lack of correspondence in regards to the proposal from the applicant.

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

- 6.2 The application proposes the installation of replacement railings and gates, and restoration of steps within the grounds of a Listed Building and Registered Park; the key considerations are therefore the design, the impact on the designated heritage assets and any impact on neighbouring amenity.

### 6.3 Design and impact on heritage assets

- 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 130 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 Conservation Officer has provided comments on the scheme in regards to the design and impact on the heritage assets; full comments can be read above. It is considered that the proposed replacement railings in the proposed location are acceptable and would not result in a detrimental impact on the significance of the Listed Building. The re-instatement of the steps to the front of the Pump Rooms will not detract from the significance or setting of the Listed building or the registered park. It is therefore considered that as a result of the installation of the proposed railings and the restoration to the steps would not impact upon the Listed Building, the registered park or the wider Conservation Area.
- 6.7 The comments provided by the Conservation Officer suggest further design details relating to the gates, railings and piers be sought via condition. The principle of the works and the proposed design has been agreed to be acceptable, however it is considered appropriate that further specific details are submitted to ensure the finalised design approach is acceptable.
- 6.8 As such, the proposed railings and gates and restoration of the c19th steps are considered to be appropriate in terms of design and impact on heritage assets; the proposal therefore complies with policy SD4 and SD8 of the JCS and policy D1 of the Cheltenham Plan.
- ### 6.9 Impact on neighbouring property

- 6.10 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.
- 6.11 As a result of the statutory consultation period, one response has been received; these comments have been addressed under paragraph 6.14 below.
- 6.12 It is considered that, due to the nature of the proposed works, there would be no harm to the amenity of adjoining land users in regards to a loss of light, loss of privacy or overbearing impact. As such the proposal is considered to comply with policy SD14 of the JCS and policy SL1 of the Cheltenham Plan.

### 6.13 **Other considerations**

#### 6.14 Neighbour comment

The public representation that has been received related to land ownership and a lack of consultation from the applicant. Given the nature of the comments stray outside the material planning considerations; the applicant has been made aware of the comments made and therefore can be addressed outside of the planning process.

#### 6.15 Civic Society Comments

The comments received from the Civic Society have been duly noted, however officers must determine the application as submitted.

#### 6.16 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 Taking all of the above in mind, the proposed works are considered to be appropriate in terms of overall design, impact on the designated heritage assets and wider area, and impact on neighbouring amenity.
- 7.2 As such, the recommendation is to permit planning permission and grant listed building consent subject to the conditions set out below.

## 8. CONDITIONS / INFORMATIVES

### 21/01687/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.

### 21/01687/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.

- 4 Notwithstanding the submitted details, the following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority:

- i) Gates, railings and pier(s) (including finials): to include but not limited to: elevation drawings at a scale of 1:10 and sectional drawings at a scale of 1:2.
- ii) Stone: to include but not limited to: specific details of type(s) and source(s) (samples may be required).
- iii) Paint colour(s): to include but not limited to: specific product details (sample(s) may be required).

The works shall not be carried out unless in accordance with the details so approved.

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**

21/01687/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> 21/01687/FUL		<b>OFFICER:</b> Miss Claire Donnelly
<b>DATE REGISTERED:</b> 11th August 2021		<b>DATE OF EXPIRY :</b>
<b>WARD:</b> Pittville		<b>PARISH:</b>
<b>APPLICANT:</b>	Cheltenham Borough Council	
<b>LOCATION:</b>	Pittville Pump Room, East Approach Drive, Cheltenham	
<b>PROPOSAL:</b>	Installation of new gates and railings at East and West Approach Drives and associated alterations, and restoration of c19th steps to the front of the Pump Rooms	

### REPRESENTATIONS

Number of contributors	<b>1</b>
Number of objections	<b>0</b>
Number of representations	<b>0</b>
Number of supporting	<b>1</b>

Parkgate House  
West Approach Drive  
Cheltenham  
Gloucestershire  
GL52 3AD

**Comments:** 28th August 2021

The new railings at the pedestrian gate will need modifications to the railings of my property to which it is connected.

In fact my title deeds show that I own the pedestrian gate.

The plans have not been discussed with me and Cheltenham Borough Council should get in touch before proceeding.

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**Appeals Lodged AUG/SEPT 2021**

**'Nothing to report'**

**Appeals Determined**

**'Nothing to report'**

Authorised By: Mike Holmes 06.09.2021

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