

# Cheltenham Borough Council Planning Committee

**Meeting date:** 15 December 2022

**Meeting time:** 6.00 pm

**Meeting venue:** Council Chamber - Municipal Offices

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## Membership:

Councillors Paul Baker (Chair), Garth Barnes (Vice-Chair), Glenn Andrews, Adrian Bamford, Bernard Fisher, Paul McCloskey, Emma Nelson, Tony Oliver, r John Payne, Diggory Seacome and Simon Wheeler

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# Agenda

**1. Apologies**

**2. Declarations of Interest**

**3. Declarations of independent site visits**

**4. Minutes of the last meeting**

(Pages 3 - 10)

To approve the minutes of the meeting held on 17 November 2022.

**5. Planning Applications**

**5a. 22/01855/LBC Cheltenham Town Hall, Imperial Square**

(Pages 11 - 18)

[Planning Application Documents](#)

**5b. 22/00778/FUL Cambray Court, Cambray Place**

(Pages 19 - 52)

[Planning Application Documents](#)

**5c. 22/01990/FUL 20 Southfield Rise**

(Pages 53 - 62)

[Planning Application Documents](#)

**6. Appeals Update**

(Pages 63 - 84)

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

**Planning Committee****Thursday, 17th November, 2022****15.00 – 18.24****Attendees**

**Councillors:** Councillor Paul Baker (Chair), Councillor Garth Barnes (Vice-Chair), Councillor Glenn Andrews, Councillor Adrian Bamford, Councillor Bernard Fisher, Councillor Paul McCloskey, Councillor Emma Nelson, Councillor John Payne, Councillor Diggory Seacome, Councillor Simon Wheeler and Councillor Barbara Clark (Reserve)

**Officers in Attendance:** Cheryl Lester (OneLegal) Emma Pickernell (Principal Planning Officer), Liam Jones (Head of Planning), Ben Warren (Senior Planning Officer), Lucy White (Senior Planning Officer) and Nikita Hooper (Conservation Officer)

**1. Apologies**

Apologies were received from Cllr Oliver and Cllr Clark attended as a substitute.

**2. Declarations of Interest**

There were none. Cllr Clark would be speaking on item 5a and would not thereafter be present for that item.

**3. Declarations of independent site visits**

Cllr Nelson had visited the sites in respect of 5a, 5b, 5c and 5d

Cllr Andrews had visited the site in respect of 5c

Cllr Clark had visited the site in respect of 5b

Cllr Fisher had visited the sited at 5b and 5c

**4. Minutes of the last meeting**

The minutes were approved with an amendment to the previously published minutes to be made on the vote on minute 8 (22/01439/FUL Pittville Pump Rooms) which had set out the result incorrectly as 4 for and 5 against, whereas the result had been 5 for and 4 against.

**5. Planning Applications****6. 22/00728/LBC The Vineyard, Berkeley Street, Cheltenham GL52 2SX**

The conservation officer introduced the report as published.

There were two speakers, one the agent on behalf of the applicant and the other a Ward Councillor.

The agent made the following points in support:

- The applicant has owned and maintained the property for over thirty years.
- The works that are being referred to were carried out in 2020 as the asphalt was peeling away. The works were carried out quickly to prevent damage to the property.
- The lead replacement was recommended to the applicant by a stone mason as the only viable option.
- Since the work has been carried out the internal of the building has remained dry and well maintained.
- The same materials have been used for other listed buildings in the town.
- It has been over-looked in the officer report that the same parapet repairs have been carried out on the Municipal Offices, The Queens Hotel, 131 The Promenade, houses in Royal Crescent and in Berkeley Place.
- Since 1991 the owner has been proud of the renovation works they have carried out on the property, it is the best preserved property on the street.

- The applicant runs a successful business from the property with 12 employees, this significantly aids the upkeep of the building in the long term.
- This is a traditional parapet repair which is in line with the NPPF and the development plan.

Cllr Clark who spoke as Ward Councillor made the following points:

- The Conservation Officer has made very sound arguments about why this should not be permitted and the applicant should have applied for planning permission before carrying out the work, however she believed that the application should be permitted.
- There were mitigating circumstances with this application and a precedent for this kind of cladding has already been set.
- Without the investment of private owners, the council would not be able to maintain the upkeep of heritage buildings and this building is in excellent repair both inside and out.
- There is a danger that if this application is refused it will discourage private ownership of Grade 2 listed buildings. People should be supported who keep buildings such as this in good repair.
- The new roof has been put on the property as water was damaging the fabric of the building, and has insulated the building in a much better way than it was previously.
- It will have to be accepted that there will be retro fitting of heritage properties to meet the challenges of climate change.
- There has been exactly this type of repair to many other buildings in the town with the same style of cladding including the Municipal Offices.

The responses to Member questions were as follows:

- It is difficult to tell if the repairs have been detrimental, water ingress could be a problem, sometimes damage does not get found until years later.
- The officer is not aware that the physical integrity of the building has suffered.
- There was no consultation prior to the work being carried out, Section 9 of the act does mean that you can carry work out in an emergency although you do need to seek consultation
- With the existing properties that have had the same work done there has been no enforcement action taken to remove the lead, however there are currently eight cases that are pending action, although it might not be prudent to pursue all of them.
- The work that has been done does have a detrimental view to the street scene, the lead could be painted, but it will still be lead covering stone which needs to breathe naturally.
- There was also clarification that Members have to deal with the application in front of them.
- It could not be confirmed that the lead was visual from the outside of the Municipal Offices.
- There was clarification that lead is not traditionally used for covering stone.
- The reverse of the parapet can be partially lined and cut into the stone.
- There was an application for a similar property that was refused and upheld on appeal.

The matter then went to Member debate where the following points were made:

- Many properties have lead flashing; the sensible thing would be to permit as it will secure the future of the building.
- The building does not look awful and out of place. If it is causing a problem with the building that is a concern. Do not want to see a property failing just because it looks a bit strange.
- From the owners perspective they identified a problem, took advice and followed it, and although they did not seek permission they did solve the problem. If the application is refused then it will send a message that this type of work is not acceptable. If you have a solution to a problem the Council might not approve.

- Hopefully this issue should be able to be resolved without taking any drastic action. With a listed building the planning authority should be consulted.
- If there had been nothing done to the property there would have been considerable damage caused. As there is no way to condition the application it makes for a difficult decision.
- As the applicant has owned the property for thirty years there have obviously been conversations with the planning department on previous matters and it is therefore unfortunate that the process wasn't followed on this matter. The onus is on the owner to keep the property in a reasonable state of repair. As other properties in the borough have had a similar repair made is it fair to single this application out?
- People need to be supported who own listed buildings.

At this point in the meeting, the Chair, having stated in the debate that he lived in close proximity to the application site and then taken advice from the legal advisor, declared an interest in the application and left the chamber for the rest of the item. The Vice- Chair took over the Chair for the rest of the item.

The matter went to the vote on the officer recommendation to refuse:

For: 4

Against: 4

Abstention: 1

The casting vote was then made by the Vice-Chair in the Chair who voted for the recommendation to refuse.

## **REFUSED.**

### **7. 22/00112/OUT Land Adjacent to Oakhurst Rise**

The planning officer introduced the report as published.

There were three speakers on the item, an objector, the agent on behalf of the applicant and a Ward Councillor.

The objector made the following points:

- The objector started by requesting a deferral as the ecology report was only uploaded the night before and there had not been an opportunity to review them.
- The reports will give you to believe that all the issues have been resolved but they have not.
- Primary school children have found more species of moth and grasses than the ecologists.
- Natural England advice has been tightened up to avoid destroying nature. This application will destroy a badger sett.
- There have been over 120 species of moth identified on the site.
- There is a claim that this should not be allocated as a local wildlife site, however it clearly is. There is no mention of the hay cuts that are carried out.
- Due to Severn Trent there are 64 years' worth of sewerage and the last time that there was a problem Charlton Court Road bore the brunt of the overflow of waste matter.
- Historic England still object as do the Woodland Trust.

The agent on behalf of the applicant made the following points:

- The site has been allocated for a minimum of 25 homes to contribute to the housing needs of the whole community in Cheltenham.
- There has been no objection from the Highway Authority, there has never been refusal on grounds of accessibility or highways.

- Neither Planning Inspector has refused planning permission for larger housing schemes on grounds of adverse impact on the AONB.
- Neither Natural England or the Gloucestershire Wildlife Trust has raised objections to the scheme.
- The management of the open space provides maximum mitigation and enhancement to the badgers in the short, medium and long term.
- There has been no objection from Severn Trent and the LLFA confirm that the drainage is acceptable.
- There has been no harm identified to residential amenity.
- There have been no objections from Sport England.
- The Council's specialist heritage officer has stated that the application has been significantly amended and should not be objected to in heritage terms.
- The Council's Tree Officer does not object subject to the 5 conditions that specifically relate to the protection of trees.
- Officers have concluded that there has been a good response to the Climate Change SPD by these proposals.

Councillor Matt Babbage then spoke as the Ward Councillor and made the following points:

- With regard to the three previous applications the decisions have been upheld.
- Some of the same objections still remain, road access is still an issue.
- A recent inspection raised possible harm to heritage assets and habitats.
- There is conflict with HD4, SD8 and SD9
- There was a request made for a deferral as the 70 pages of ecological report had been published less than 24 hours before the committee.
- It was stated that the new plans did not differ that much from the new plans with regard to wildlife etc.

The responses to Member questions were as follows:

- The main part of the road will be adopted.
- Anything that has planning permission will be included in the five year plan housing land supply if considered to be deliverable – outline permission is the first step.
- The report that was released late was a report that was received in the Summer and it was belatedly realised that it was not in the correct format to go on the website. The report outlines net 10% diversity gain, which meant that officers felt it was not necessary to defer as there is no policy for net 10% diversity gain.
- Badgers and their setts are protected under the Badgers Act, the main sett will not be destroyed.
- There have been no changes in legislation. The climate change SPD that was adopted recently has a provision for a management plan.
- The clauses within S106 will be transferred to the future owner(s).
- The provision 106 with regard to the management company has to be agreed with the Council.
- The site makes provision for pathways that will link up with Oakhurst Rise.
- There is a provision in 106 with regard to hedge maintenance and the frequency that these tasks will be carried out. Officers are confident that this will be adhered to, however there is a potential to transfer these tasks to the Council going forward.
- The badgers setts will be addressed in such a way that the entrances will be replaced with one way door which will mean that they cannot return to the same set but will naturally move to the new manmade set.
- The Historic England comments have not been addressed by this application. Their concerns were mostly regarding Ashley Manor and Charlton Manor and their views being affected by development.
- The highways authority expected that there would be street lights
- The biodiversity net gain provisions of the legislation enacted last year were not yet in force.

The matter then went to Member debate where the following points were made:

- Even though the amount of houses has been reduced in the current application with reference to drainage there would still be the same run off. Have been informed that there is a flooding issue in the area.
- There are no financial benefits to the school or any other charitable order.
- Street lights will not help the badgers as they are nocturnal animals.
- It is not known how soon these properties will be built.
- Nothing in the report states that the buildings will look like the outline in the presentation, the hearing was just to agree the principal development, this application is for outline permission.
- The open aspect of the area needs to be preserved.
- The committee has been advised on three occasions to permit and each time a refusal has been upheld.
- There should be a move to refuse based on the same reasons as before.
- The number of houses seem an appropriate number for the site.
- The developer has taken into account residents' concerns re bio-diversity and environmental issues.
- The listed properties are impacted by the proposed development and that is a concern.
- There is no real gain of building ten social housing properties as there are thousands waiting for housing.
- Homes are desperately needed in Cheltenham, but it is the right site? There are plenty of brown field sites that could be built on in the Borough, but the green field sites need to be protected.
- Whatever is built on the site will ruin this special area for wildlife.
- The application was previously refused due to the aspect to the Grade 2 and Grade 2\* listed buildings.
- The site is one of the most precious bio-diverse sites in the town and if the houses are built badger setts will be lost.
- It was acknowledged that the applicant has been persistent, but the committee recognise the importance of the site.

The matter then went to the vote on the officers recommendation to permit subject to completion of the s106 agreement:

For: 2

Against: 9

### **NOT CARRIED**

A motion for refusal was then made on the basis that the application is contrary to policies SD8, SD9 and HD4 in respect of heritage and bio-diversity.

Members stated that they wished it noted that officers had put in a large amount of effort on this application. It was asked by the Chair if one of the reasons for refusal could be given as an impact on flora and fauna, with impact on badgers Officers confirmed that heritage and the bio-diversity of the site would be used for the refusal notice. The Legal Advisor warned that unless there were matters beyond those the previous appeal Inspector had found to be satisfactorily dealt with by virtue of s106 provisions, there could be a risk of an award of costs as regards an ecology refusal ground.

The matter went to the vote on the motion to refuse:

For: 9

Against: 0

Abstentions: 2

Cllr Barnes and Cllr Clark then left the meeting.

**8. 22/01441/FUL 10 Selkirk Street, Cheltenham GL52 2HH**

This item was withdrawn from the agenda.

**9. 22/00072/FUL 2 Charlton Court Road, Cheltenham GL52 6JB**

The planning officer introduced the report as published.

There was only one speaker on the application who was the applicant and he made the following points:

- They were tenants in the property for four years before they purchased the property and were aware of the cost and time involved in maintaining the lower garden.
- They have bought in a very experienced team to advise and assist them.
- Before the application was put in, the base line application went to Severn Trent who approved the plans; they will do everything they can to comply with any advice they are given.

The responses to Member questions were as follows:

- Any concerns with regard to flooding will be dealt with by infiltration trenches in the back garden.
- The flooding engineer was happy with the proposal, subject to the condition which covered management as well as retention.

There was no Member debate and the matter went to the vote on the officer recommendation to permit.

For: 9

**UNANIMOUS - PERMIT**

**10. 22/01656/FUL 82 East End Road, Charlton Kings, Cheltenham GL53 8QL**

The planning officer introduced the report as published.

There was only one speaker who spoke in objection to the application and he made the following points:

- If the permission is granted there will be a problem with lack of daylight into the kitchen window which will impact the enjoyment of the home.
- On the longest day of the year there will be a loss of approximately six hours sunlight.
- The clear glazed door will effect light to the doorway.
- The light survey that was carried out shows that it will fail the light test.
- The only benefit of the extension is to the applicant.
- The design is over bearing and over shadowing.

The responses to Member questions were as follows:

- A light test had been carried out and the side facing window had failed that, but officers were happy that there was an alternative light source to the room, that this was a source that counted, and officers had not asked for any further testing to be done.



The matter went to debate where the following points were raised:

- The backs of the houses face due south apart from the kitchen window, there should be no loss of light, believed that there would be minimal harm other than to the kitchen.
- The concerns from the neighbour seem valid as the light will be blocked from the kitchen. The view from the kitchen window will be a wall which could be depressing. The lack of light will adversely affect the amenity.
- The reasons not to support by one Member were: SL1, SD14 and SD4.

The matter went to the vote on the officers recommendation to permit:

For: 2

Against: 6

Abstentions: 1

A motion for refusal was then made on the basis that the application was contrary to SL1, SD14 and SD4. The matter then went to the vote to refuse:

For: 6

Against: 2

Abstentions: 1

**REFUSED**

### **11. Appeal Update**

The details of the appeals were noted. Members were advised that as regards the Oakley Farm decision issued last month a copy of which had been circulated previously, the main concern of the Inspector has been the council's lack of five year housing land supply. A Member noted that existing development on three sides had been brought about by a previous planning permission granted by the council.

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

None.

Chair

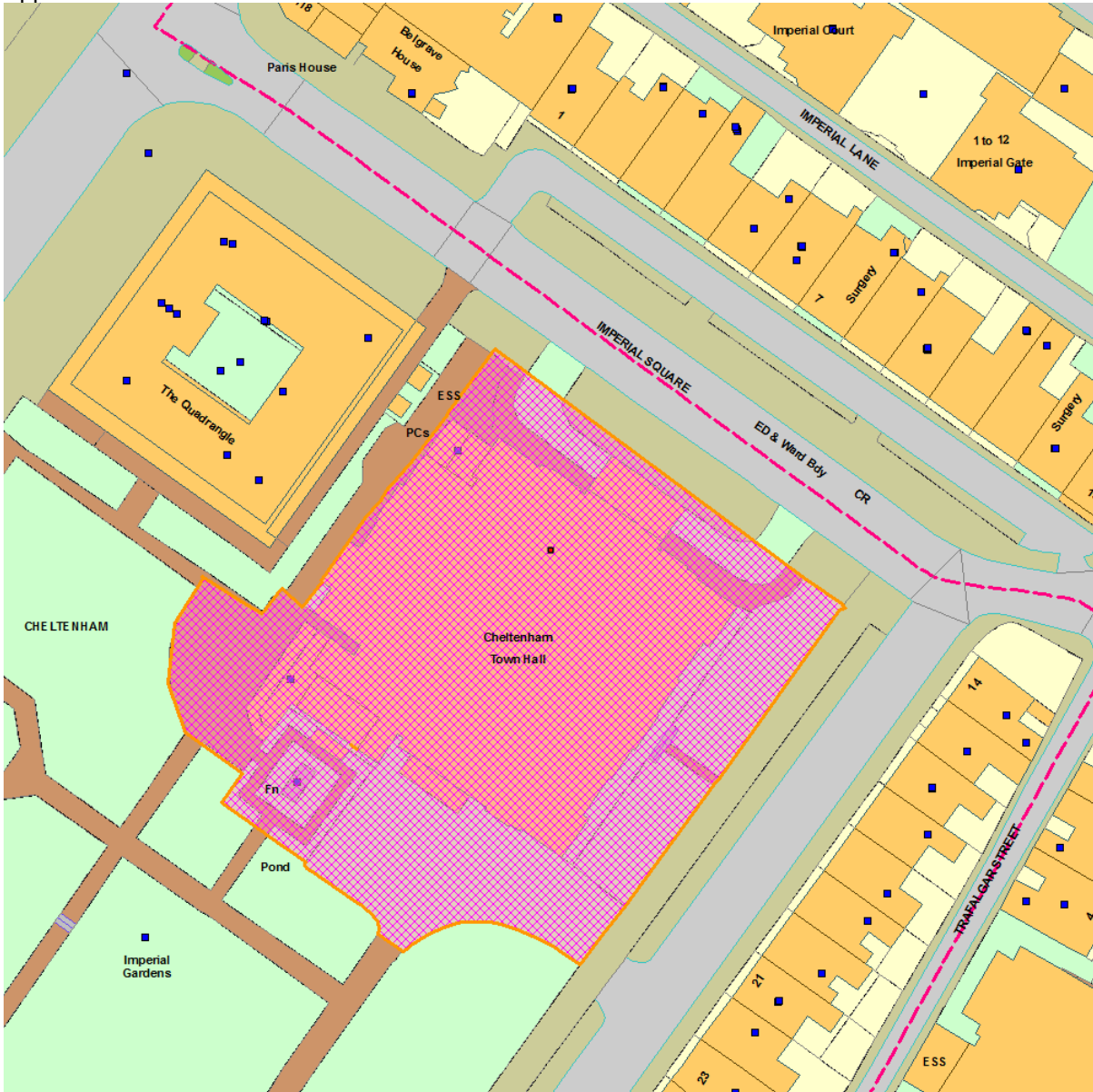
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### Officer Report

<b>APPLICATION NO:</b> 22/01855/LBC		<b>OFFICER:</b> Mr Nikita Hooper
<b>DATE REGISTERED:</b> 16th November 2022		<b>DATE OF EXPIRY:</b> 11th January 2023
<b>DATE VALIDATED:</b> 16th November 2022		<b>DATE OF SITE VISIT:</b> N/A
<b>WARD:</b> Lansdown		<b>PARISH:</b>
<b>APPLICANT:</b>	Cheltenham Borough Council	
<b>AGENT:</b>	Agent	
<b>LOCATION:</b>	Cheltenham Town Hall Imperial Square Cheltenham	
<b>PROPOSAL:</b>	Installation of four round skirting boards around the four columns, located in the main hall of the Town Hall. To be fixed to the stage floor and skirting, material, height and shape to match existing. Localised in-situ repairs replacing losses to 16 scagliola columns, with ruled in and painted plaster. Paint work to match existing	

**RECOMMENDATION:**

Approve



## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Cheltenham Town Hall (the town hall) is located to the north-east of Imperial Gardens in Imperial Square.
- 1.2 The description of the proposal reads: Installation of four round skirting boards around the four columns, located in the main hall of the Town Hall. To be fixed to the stage floor and skirting, material, height and shape to match existing. Localised in-situ repairs replacing losses to 16 scagliola columns, with ruled in and painted plaster. Paint work to match existing.
- 1.3 The application is before the committee as Cheltenham Borough Council owns the town hall.
- 1.4 It should be noted that the consultation period closes at the end of 15 December 2022, the day that the Planning Committee sits. If any representations are received between the time of writing this report and midnight on 15 December 2022, then any material comments will need to be considered and appropriate steps taken to determine the application.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Business Improvement District  
Conservation Area  
Core Commercial Area  
Principal Urban Area  
Smoke Control Order

### Relevant Planning History:

**13/00291/PREAPP 10th April 2015 CLO**

Installation of 4 no. lighting bars onto the Piller Room ceiling supported by threaded rod anchored above in roof void

**13/00802/PREAPP 17th May 2013 CLO**

Install 4 no. signage panels to area below bar shutters and 1 no. sign at roof level as per illustration

**00/01035/LBC 7th December 2000 NOOBJ**

Installation of lifting points in roofspace for lighting rigs and removal of 2 no. decorative bosses in ceiling of ballroom

**84/00145/PF 22nd June 1984 PER**

Extension Of Existing Bar, Refreshment And Cellar Facilities, Provision Of Dressing Rooms

**84/00146/LA 22nd June 1984 PER**

Alterations And Extensions To Enlarge Existing Bar And Refreshment Facilities Provision Of Dressing Room

**85/00150/PF 21st March 1985 PER**

Alterations To Install A Mezzanine Floor and Provide New Toilets, Rest Room, Cloakroom And Offices And Enclose Porte Cochere

**85/00154/LA 21st March 1985 PER**

Alterations To Install A Mezzanine Floor and Provide New Toilets, Rest Room, Cloakroom, Offices And Enclose Porte Cochere

**86/00213/PF 24th April 1986 PER**

Erection Of Temporary Offices And Public Conveniences For A Period Of 24 Weeks While Alterations To The Town Hall Are Being Carried Out

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**86/00219/LS 24th April 1986 PER**

Erection Of Temporary Offices And Public Conveniences For A Period Of 24 Weeks While Alterations To The Town Hall Are Being Carried Out

**86/01292/PC 18th December 1986 PER**

Rear Of Town Hall Imperial Square Cheltenham Gloucestershire - Layout Of Area For Car Parking At The Rear Of The Town Hall

**90/00028/LA 6th March 1990 WDN**

Alterations And Installation Of New Phone Booths

**91/00073/PF 21st March 1991 PER**

Demolition And Reconstruction Of Skillicorne Garden Wall To Match The Existing (As Amended By Letter Dated 5.3.91)

**91/00088/LA 21st March 1991 PER**

Demolition And Reconstruction Of Skillicorne Garden Wall, Removal Of Cornice North Face Of Rest Room And Decoration Of Rendered Elevations(As Amended By Letter Dated 5.3.91)

**91/00272/PF 25th April 1991 REF**

Alterations To Front And Rear Entrances, Public W.Cs, Relocation Of One Office To Provide Improved Access For Disabled

**91/00281/LA 25th April 1991 REF**

Alterations To Front And Rear Entrances, Public W.Cs And Relocation Of One Office To Provide Improved Access For The Disabled

**91/00547/RZ 27th June 1991 PER**

Alterations To Front Entrance To Provide Improved Access By People With Disabilities (In Accordance With Revised Plans)

**91/00551/LA 27th June 1991 PER**

Alterations To Front And Rear Entrances To Provide Improved Access To The Building By People With Disabilities (In Accordance With Revised Plans)

**93/00325/PF 27th May 1993 WDN**

Erection Of Peace Pole

**97/00853/LA 19th February 1998 PER**

Alterations To Existing Box Office Foyer (Revised Plans)

**98/00955/AN 12th November 1998 PER**

Painted Boards And Suspended Fabric Covered Banners Fixed To Both Sides Of 8 Metre High Standards.  
(Revised Scheme)

**99/00165/LA 22nd April 1999 PER**

Minor Internal Works To Cloakroom

**06/00344/LBC 2nd August 2006 GRANT**

Re-decoration of main hall only

**07/01437/ADV 18th January 2008 GRANT**

Two poster display cases to promote whats on at Town Hall

**10/00101/LBC 19th April 2010 GRANT**

Installation of bird guarding system to the front elevation

**15/01641/LBC 21st December 2015 GRANT**

Alterations to rear flat roof to include removal of chippings, installation of new waterproof membrane, rebed of coping stones, removal of redundant plant and renew 2.no skylights.

**15/02048/LBC 22nd February 2016 GRANT**

Repairs to lampstand pillars and balustrading

**17/00291/LBC 21st April 2017 GRANT**

Roof repairs

**17/00459/CLBW 27th April 2017 CERTPU**

To remove approx 30m2 of the existing Festiniog slate and set aside for reuse. Renew all battens and replace original slate complete with mechanical fixings (nails). Any damaged original slates are to be replaced with a Riverstone slate.

**20/01463/FUL 1st March 2021 DISPOS**

Permanent retention of marquee

**21/02620/FUL 3rd December 2021 WDN**

Proposal to retain the current temporary Orangery structure on a permanent basis

**21/02620/LBC 25th November 2021 NOTREQ**

The proposal seeks to retain the current temporary structure and confirms the layout and arrangement within the application for further detail.

**22/01274/LBC 19th August 2022 GRANT**

Removal of five redundant skylights

**22/01438/FUL 21st October 2022 PER**

Temporary change of use of land for up to two years for the siting of an orangery structure to be used as a cafe

### 3. POLICIES AND GUIDANCE

#### National Planning Policy Framework

Section 16 Conserving and enhancing the historic environment

#### Saved Local Plan Policies

#### Adopted Cheltenham Plan Policies

#### Adopted Joint Core Strategy Policies

SD8 Historic Environment

#### Supplementary Planning Guidance/Documents

#### Other

### 4. CONSULTATIONS

#### **Building Control**

17th November 2022 - No comment

### 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	<b>N/A (site notice only)</b>
Total comments received	<b>0</b>
Number of objections	<b>0</b>
Number of supporting	<b>0</b>
General comment	<b>0</b>

5.1 A site notice was displayed and the application listed in the Gloucestershire Echo.

### 6. OFFICER COMMENTS

- 6.1 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.”
- 6.2 Paragraph 189 of the National Planning Policy Framework (MHCLG: 2021) (the framework) states that “Heritage assets...are an irreplaceable resource, and should be conserved in a manner appropriate to their significance”.
- 6.3 Paragraph 197 of the framework states that “In determining applications, local planning authorities should take account of...the desirability of sustaining and enhancing the significance of heritage assets”.
- 6.4 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.”
- 6.5 The town hall is included on the National Heritage List for England at Grade II. First listed on 5 May 1972. List entry number: 1104376.
- 6.6 The significance of the town hall lies principally, though not entirely, in its architectural value as an example of civic architecture from the early twentieth century.
- 6.7 The text of the list entry refers to the central hall and its “engaged marble Corinthian columns”, whereas they are finished in scagliola (painted plaster decorated to imitate marble).
- 6.8 The lower sections of the 4no. columns on the stage often get damaged during the moving of items of equipment etc. The scheme proposes to surround each column with a skirting, though this will not be attached to the respective columns but fixed to the floor of the stage.
- 6.9 The 4no. columns on the stage have lost their classical proportions as a result of the stage. The installation of the skirting will provide protection from wheeled equipment being run into them and will allow the grandeur of the columns to remain apparent. The architectural value of the building will therefore be maintained.
- 6.10 The repair work to the columns will suitably restore their appearance.

### 7. Public Sector Equalities Duty (PSED)

- 7.1 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.

7.2 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 application the planning authority has taken into consideration the requirements of the PSED.

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

## 8. CONCLUSION AND RECOMMENDATION

8.1 The scheme will not detract from the architectural value of the listed building and therefore there will be no harm to its significance. Given this, it is recommended that listed building consent is granted.

## 9. 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 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 Surfaces (skirting and columns) to be painted to match existing in terms of colour(s) and finishes.

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

- 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



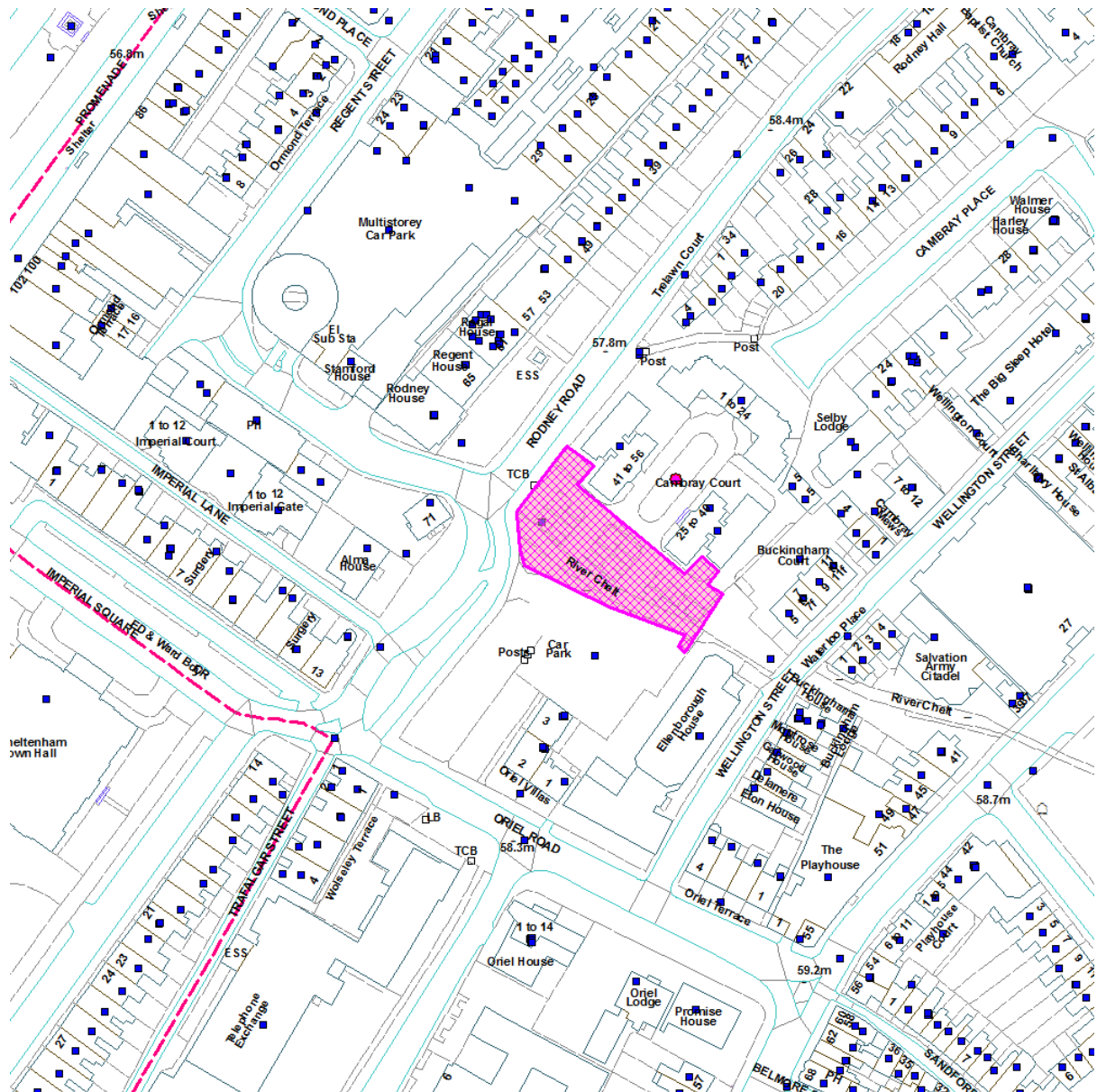
and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

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> 22/00778/FUL	<b>OFFICER:</b> Miss Claire Donnelly
<b>DATE REGISTERED:</b> 6th May 2022	<b>DATE OF EXPIRY:</b> 1st July 2022; extension of time agreed until 16th December 2022
<b>DATE VALIDATED:</b> 6th May 2022	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> College	<b>PARISH:</b> n/a
<b>APPLICANT:</b>	Cheltenham Civic Society
<b>AGENT:</b>	n/a
<b>LOCATION:</b>	Cambray Court Cambray Place Cheltenham
<b>PROPOSAL:</b>	Proposed improvement works to the setting of the River Chelt to include removal of 23 garages associated with Cambray Court and parking spaces in Rodney Road car park, and replace with 16 garages and 9 parking spaces in Cambray Court, and associated landscaping on both sides of river.

**RECOMMENDATION:** Approve



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 The application relates to the River Chelt, specifically the section to the south of Cambray Court, and to the north of Rodney Road Car Park. The application site includes the River Chelt, a section of Rodney Road Car Park and 23no. garages associated with the flats of Cambray Court. The site is within the College Ward and the Montpellier Character Area of Cheltenham's Central Conservation Area.
- 1.2 The applicant is seeking improvement works to the River Chelt, to include alterations to the riverside, the demolition of the existing garages associated with the Cambray Court flats and replace with 16no. garages, 9no. parking spaces, and associated landscaping.
- 1.3 This application follows a previously approved application ref. 21/01085/FUL for the demolition and rebuild of the existing garages within Cambray Court and the demolition and rebuild of the retaining wall to the River Chelt.
- 1.4 Revised plans have been submitted to address comments received from the Environment Agency.
- 1.5 The application is at planning committee at the request of Councillor Baker due to the site being in a prominent location, is a significant application and is of significant interest.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Conservation Area  
Core Commercial Area  
Flood Zone 2  
Flood Zone 3  
Principal Urban Area  
Smoke Control Order

### **Relevant Planning History:**

**97/00891/PF 15th January 1998 PER**

Flood Defence Works On The River Chelt From Hayden Road To Coxs Meadow And At Balcarras Farm, London Road

**04/01931/FUL 24th January 2005 REF**

Proposed installation of three additional antennae and one additional equipment cabinet

**11/00049/FUL 2nd March 2011 PER**

(Garage 23) Erection of a replacement garage

**11/00050/CAC 14th January 2011 NOTREQ**

Demolition of existing garage (Garage 23)

**21/01085/FUL 4th August 2021 PER**

Demolition of 3no. existing garage blocks together with northern retaining wall to River Chelt followed by construction of new retaining wall and re-construction of 3no. garage blocks

## 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

## **Adopted Joint Core Strategy Policies**

SD3 Sustainable Design and Construction  
SD4 Design Requirements  
SD14 Health and Environmental Quality  
INF1 Transport Network  
INF2 Flood Risk Management  
INF5 Renewable Energy/Low Carbon Energy Development

## **Cheltenham Plan Policies**

D1 Design  
SL1 Safe and Sustainable Living  
GI3 Trees and Development

## **Supplementary Planning Guidance/Documents**

Central conservation area: Montpellier Character Area and Management Plan (Feb 2007)

## **4. CONSULTATIONS**

### **Tree Officer**

*29th June 2022 –*

The tree protection plan is adequate. As stated before, some landscaping works are proposed within the root protection areas, and so a method statement should be submitted detailing how these works can be achieved without damaging the roots of these trees. This can be submitted as a condition of any permission granted.

### **Property Services**

*22nd June 2022 –*

Further to the above planning application, whilst the council is keen to support improvements to the public realm and make the town centre more attractive and accessible, there are a number of factors that we would like to clarify as landowner.

- 1) The application makes no reference as to any agreement with all of the numerous individual landowners affected by this proposal. Whilst not directly a planning matter, the land take will involve multiple land acquisitions/agreements which will require both freeholders and all individual leaseholders to co-operate and treat accordingly.

Taking into account formal objections from some of the residents at Cambray Court, it appears that this is unlikely, therefore casting doubt on whether the scheme could be implemented and, therefore, creating uncertainty from a town planning perspective.

- 2) The application suggests the loss of 6 car parking spaces from the Rodney Road Car Park. This is one of the council's busiest town centre car parks and, therefore, any loss of spaces may have an adverse impact on the town centre and deter visitors.
- 3) In respect of loss of car parking, notwithstanding any adverse impact on the town centre, the loss would also see a reduction of some £22,000+ per annum in revenue income to the council. This would have an immediate impact upon council services and service delivery which would equate to a substantial capital opportunity cost.

Further, Parking Services are of the opinion that the stated loss of 6 spaces may prove an underestimate, taking into account the revised layout, which would exacerbate both any adverse impact and revenue impact. In addition, it is also likely that disruption during any construction phase will result in a further temporary loss of spaces, which we would wish to avoid.

- 4) We will defer to the Environment Agency in respect of the proposed works and any consequences on flood risk and impacts accruing from them but clearly, any risk of flooding to the car park which risks harm to people or property would be unacceptable. No doubt the Environment Agency will also consider and advise on the impact of climate change in this regard and the need to future proof existing flood defence measures.
- 5) The Planning, Design and Access Statement, dated April 2022 states at page that "While the costs of the new riverside walk on the car park side will fall to the Borough Council, we believe there are sources of funding that can be accessed for this kind of work, and the Civic Society is ready to work with the Council in trying to secure such funding" (our underlining).

Bearing in mind the scale of the proposals and works to infrastructure, retaining walls, groundworks, street furniture, etc. set out in the application, the capital cost of the scheme will be significant.

There is no capital funding budgeted for this and no provision has been made within the council's Medium Term Financial Strategy. Such funding would, therefore, require either:

- a. Diversion of capital funding from other approved projects across the Borough, which would impact on the delivery of such democratically approved projects; or
- b. Borrowing the necessary capital funding, which will have additional revenue impacts for delivery of services.

Either option would require the proper democratic processes to be followed and subsequent prudential financial planning in context to the wider capital, service and strategic priorities and responsibilities of the council. Reliance cannot be made upon unidentified grant funding sources or programmes (which inevitably require match funding from the council), especially as bidding for such is always fierce and over-subscribed, often leading to disappointment.

- 6) There appears to be no reference to future management or maintenance. Taking into account the comments made at 5 above, if it is presumed that the council will take on these further responsibilities, this will have further revenue implications for the council, which again, will impact on Borough-wide services and service delivery. Again, this is a matter that Members would need to consider through the proper democratic processes.

In summary, whilst the proposals appear well intended and aspirations for public realm shared, there are a number of very real and fundamental legal, technical and financial concerns that cast doubt on the ability for this scheme to be delivered. These all require the proper democratic processes to be followed and for all decisions taken to be within the entire context of the Borough and the council's wider priorities. We, therefore, believe that this application is premature.

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

*17th June 2022 –*

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.

## Page 23

The proposal is perceived to result in little material changes in respect of car parking calculations, as in accordance with the guidance set out in Manual for Gloucestershire Streets, garages are excluded from car parking calculations due to their usage for personal storage rather than that of a vehicle.

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.

### **Environmental Health**

*15th June 2022 –*

In relation to application 22/00778/FUL for Cambray Court, Cambray Place, Cheltenham, Gloucestershire, please can I add the following conditions and advisory comment from the Environmental Protection team:

#### Condition:

This proposal includes an amount of demolition of existing buildings, this will inevitably lead to some emissions of noise and dust which have a potential to affect nearby properties, including residential property. I must therefore recommend that if permission is granted a condition is attached along the following lines:

"The developer shall provide a plan for the control of noise and dust from works of construction and demolition at the site. The plan should also include controls on these nuisances from vehicles operating at and accessing the site from the highway. Such a plan is to be submitted to and approved by the Local Planning Authority before work commences on site."

#### Condition:

For the construction phase to be kept within the times of work as follows: 7:30am - 6:00pm Monday - Friday and 8:00am - 1:00pm Saturdays with no noisy work on a Sunday or Bank Holiday and to be mindful of noise when deliveries arrive at the site.

#### Query:

Should a survey of the existing building (prior to any work beginning) indicate the presence of any asbestos containing materials, the demolition of the building will need to be undertaken in accordance with the legislation surrounding asbestos removal and the demolition of buildings containing asbestos and the waste disposed of in a legally compliant manner.

### **Tree Officer**

*24th May 2022 –*

The proposed development would add numerous trees to the town centre. This would be welcomed by the Trees Section. A detailed landscape plan should be submitted as a condition of any permission granted. In principle though, the outlined species selection would be successful in this location.

As some landscaping works are proposed within the root protection areas of two mature trees (a plane managed by CBC and a lime managed by Highways Gloucestershire), a method statement should be submitted detailing how these works can be achieved without damaging the roots of these trees. To accurately plot the trees and their RPAs, a tree survey should also be submitted.

A tree protection plan should also be submitted.

These documents should conform to BS:5837 (2012).

Reason: to protect the amenity value of trees in the Borough as per Policies GI2 and GI3 of the Cheltenham Plan.

### **Environment Agency**

*21st June 2022 –*

Comment available to view in documents tab.

*5th September 2022 –*

We write further to our letter dated 17 June 2022, our reference SV/2022/111307/01-L01. (For context, please read this letter in conjunction with our 17 June letter). Since then the applicant has submitted revised information. I apologise for the delay in providing our formal written response to this information, and understand our comments, as set out below, are still required and will be taken into consideration:

Firstly, we would reiterate our previous comments that in principle the Environment Agency has no objections to the proposed development, and we welcome the scheme for enhancement works here.

We have reviewed the additional response provided by Cheltenham Civic Society. We have the following comments with reference to our 17 June letter (and specifically the following paragraphs shown in italics below):

Whilst this has been achieved along most of the length of the Cambray Court bank, alterations will need to be made from section G through to section K lifting the current design retaining wall level from 57.65 to that of the original river wall. This will also need to occur along the whole length of the opposite bank Rodney Road car park side, even though this bank is currently higher. That is increasing the height of the parking edge from 58.05 as currently shown to 58.70. At present on the right hand bank (northern Cambray Court side) the current riverbank top level varies between 57.73 to 57.91m AOD(N) as shown on drawings LP255/02 Rev C, LP255/05 and LP255/06 the current modelled 1%AEP level at this location including the 20% climate change is 57.70m AOD(N). This would be above the proposed wall height of 57.65m AOD(N) as shown on the aforementioned drawings and LP255/08. On the left hand bank (car park side) the current riverside wall height varies between 58.71 - 58.75m AOD(N), the new proposed set back wall height is set at 58.02m AOD(N) as set out on drawing LP255/02 RevC.

The Environment Agency do not have peak river level figures for the current recommended climate change uplift of 37%. Hence at present there could be the potential for exacerbating flood risk on both sides of the watercourse in future, which is not appropriate under common law should such actions impact upon third parties. Hence for the applicant to avoid further expensive hydraulic modelling the proposed design would have to maintain the existing wall levels on the new set back alignments so that they are identical to the existing situation. Clearly changes to the level of land between the new wall alignments and the river on both banks are likely to have some benefits, but again without appropriate modelling this cannot be quantified.

The above alterations cannot be covered by condition as the planning application is for detailed permission, hence the drawings currently submitted should be revised to reflect the above requirements and be resubmitted as part of the supporting design evidence.

I trust the above will assist at this stage. Please do not hesitate to contact me if you have any queries.



11th November 2022 –

We write further to our previous letters on this application. The applicant has submitted additional plans, upon which you consulted us on 21 October 2022. Our comments are set out below.

Further to the additional details submitted with regards proposals at the above site to create a more visually appealing channel.

There appears to have been a mis-understanding of the Environment Agency's requirements.

The Rodney Parade Car Park wall is now deemed acceptable as its top level of 58.70m AOD(N) is the same as the current wall the runs the entire length of the car park.

On the Cambray Court side the central and downstream gaps have also been raised to 58.70m AOD(N), though we have never requested this was done.

As previously highlighted provided the bank top height is maintained within the new design with exiting levels along the bank top then this would be deemed acceptable.

The only section which we previously required to be altered was between the midway steps and the upstream boundary of the site which needed to vary between 57.73 - 57.91m AOD(N).

However with the current garage arrangement now providing a continuous barrier this would be less of an issue.

In conclusion we have no objection to the proposals submitted but question the interpretation of the advice we have provided.

I trust the above will assist in your determination of the application. Please do not hesitate to contact me if you have any queries. A copy of the subsequent decision notice would be appreciated.

**Building Control**

16th May 2022 –

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

**Gloucestershire Centre For Environmental Records**

23rd May 2022 –

Biodiversity report available to view in documents tab.

**5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	80
Total comments received	33
Number of objections	8
Number of supporting	24
General comment	1

- 5.1 Letters have been sent to eighty properties, a site notice has been displayed and an advert placed in the Gloucestershire Echo; thirty three responses have been received. Of the responses received, eight have been in objection, twenty four have been in support and one a general comment.

5.2 Below is a summary of the comments received throughout the application process;

### Support

- Greening of the riverside would be an improvement,
- Improvement of surrounding amenity,
- Enhance biodiversity,
- Inclusion of EV charging.

### Objections

- Parking an issue at Cambray Court,
- Storing of bins an issue,
- Concern over anti-social behaviour,
- Privacy and security concerns,
- Concern over demolition of garages and ownership,
- Future maintenance,
- Works result in reduction in space of Cambray Court residents,
- Security,
- Size of proposed garages not adequate,
- Car ports are unsightly,
- Access,
- Safety concerns,
- Flooding risk,
- Impact on the conservation area and Cheltenham's heritage,
- Alteration to the design/location of the garages would change the appearance and historic character of Cambray Court.

### General comment

- Scale of garages,
- Turning space,
- Replacement garages do not replace all existing garages/parking spaces,
- Financial/funding,
- Existing leases and how these will be changed/paid for.

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

6.2 The application proposes the removal of 23 existing garages associated with Cambray Court, and replace with 18 garages, 2 car port spaces, and 5 parking spaces, along with associated landscaping works to Cambray Court and Rodney Road. The key considerations for this application are the design, impact on the conservation area, impact on neighbouring amenity, sustainable development, highway safety and flood risk.

### 6.3 The site and its context

6.4 An application for the demolition of the existing 3no. garage blocks and retaining wall to the River Chelt, and rebuild a new retaining wall and re-construction of the garage blocks was granted permission in 2021 (application ref. 21/01085/FUL). The reason for this application was to repair the failing northern retaining wall this section of the River Chelt. The reasons for the demolition of the garages was to gain the access required to repair the retaining wall. The garages were to be re-built exactly the same as existing.

6.5 This application, is a revised scheme to the previous application insofar as to address the works required to the River Chelt, however the applicants have identified an opportunity at this site for an alternative scheme. The application has been submitted by the Civic Society as an alternative scheme to the previously approved application. The reasons, as set out in the submitted Design and Access Statement, for this scheme are as follows:

- Improve environment,
- To enhance biodiversity, reduce carbon emissions and encourage walking,
- To support the regeneration of the town centre,
- Enhance the setting of Cambray Court and improve facilities to its residents,
- To meet the needs of Cambray Court residents in regards to car parking and storage,
- To provide access to the river to the public.

### 6.6 Design and layout

6.7 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.

6.8 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.

6.9 The application proposes to excavate land to either side of the river Chelt, to create a landscaped area which slopes down to the riverside, creating a destination. As a result of the works, the parking configuration within Rodney Road car park would be amended and the garage blocks associated with the Cambray Court flats would be demolished and the site layout reconfigured.

6.10 As a result of the works, the parking bays within Rodney Road car park adjacent to the river would be pushed further into the car park and the associated reconfiguration would result in a loss of 6no. spaces. New landscaping and a stepped access to the new area would be created on the Southern, Rodney Road side.

6.11 To the North within Cambray Court, the existing 3no. blocks of flat roof garages would be demolished and rebuilt with new garages, however less and in a different layout on site. The garages would be lined along the edge of the new riverside landscaping. There would be 16no. garages, 7no. parking spaces and 2no. carport parking spaces provided as a result of the works. The garages and parking spaces would be split into two blocks either side of the central access steps to the newly created landscaped area. The garage blocks would have flat roofs which would include solar PV, and timber, outward opening doors.

6.12 The design of the garages and site layout proposals are considered to be acceptable in terms of design and impact on the conservation area and therefore would comply with the relevant planning policies and guidance.

### 6.13 **Impact on neighbouring property**

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

6.15 Given the nature of the works, there would be no harm to the amenity of adjoining land users in regards to a loss of light or loss of privacy. However, given the nature of the works; demolition, excavating etc. the Environmental Health Officer (EHO) has commented on the scheme. Conditions for a construction method statement for the control of noise, dust and construction vehicles; and working hours were suggested by the EHO due to the proximity to residential units, officers consider these to be necessary and therefore have been added to the suggested conditions.

6.16 The proposal is considered to be acceptable in regards to impact on amenity, subject to conditions, and therefore is compliant with the relevant planning policies.

### 6.17 **Trees**

6.18 The Tree Officer has been consulted on this application; full comments can be read above. As mentioned, the scheme proposes the inclusion of landscaping works which would see tree planting, shrub planting, and introduction of grass and wildflower meadows. As per the Tree Officers comments, a condition has been added for the submission of a detailed landscaping plan to set out the exact planning types and locations for comment. Furthermore, a condition for the submission of a tree protection plan has been submitted to ensure existing/retained trees are not damaged throughout the construction works.

### 6.19 **Access and highway issues**

6.20 The County Council Highway Officer has commented on the scheme; full comments can be read above. No objection has been raised in regards to highway safety concerns as a result of the proposed works. As such, the proposal would not result in any highway safety concerns and would comply with policy INF1 of the JCS.

### 6.21 **Flood Risk**

6.22 Due to the proposed works, the Environment Agency (EA) has provided comment on the scheme; full comments can be read above. The initial scheme raised concern with the EA due to flood risk, following the submission of revisions and further comments, the EA now support the scheme and consider that the scheme would mitigate the risk of flooding.

### 6.23 **Sustainability**

- 6.24 Policy SD3 of the JCS requires development to demonstrate how they will contribute to the aims of sustainability and be expected to be adaptable to climate change in respect of design, layout, siting, orientation and function. The Cheltenham Climate Change SPD (adopted June 2022), sets out a strategy for decarbonising homes over the next decade. The SPD sets out how new development could contribute to achieving Cheltenham's ambitions to respond to climate change and biodiversity crisis.
- 6.25 The applicant has submitted a sustainability statement to accompany the application. The statement sets out that the development would include the following:
- Solar PV to the roofs of the garages,
  - Reduction in hardstanding and increase in permeable surfaces,
  - Reduced flood risk,
  - Introduction of new vegetation; trees, shrubs, plants,
  - Reduction in embodied carbon.
- 6.26 It is considered that the proposal has addressed the SPD where it can, based on the nature of development. As such the proposal is considered to comply with the aforementioned sustainability policies and guidance.

### 6.27 **Other considerations**

### 6.28 Neighbour comments

Comments have been received by neighbouring residents in regards to future maintenance of the site, how the project would be funded and leaseholds on garages. Whilst these comments have been noted and raised with the applicants, these matters are civil matters in which the application cannot consider. The excavation works, works to the retaining wall and the demolition and re-building of the garages trigger the need for planning permission, as such the impacts arising from the overall works as discussed above are the key considerations for the application.

Comments in regards to security of the residents of Cambray Court have been raised; the existing access to Cambray Court is relatively open. Whilst these concerns have been noted, it is considered that the scheme results in a betterment of the area by introducing soft landscaping. Security improvements can be made in the future by land owners.

### 6.29 Land ownership

The Council's property team has provided comment on the scheme; full comments can be read above. As a result of the scheme, there would be alterations to the Council owned Rodney Road car park. The layout of the car park would be slightly amended, and would result in the loss of 6no. parking spaces to make way for the riverside alterations and inclusion of more green space. The property team highlight the loss of revenue as a result of this loss, however this is not a material planning consideration.

It is worth noting that the applicant of an application does not need to be the owner of the land in which the application relates, however if permission is granted, consent from the land owner/s is required to be sought by the applicants in order to carry out the works.

### 6.30 Public Sector Equalities Duty (PSED)

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

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

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

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

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

- 7.1 For the reasons set out within this report, the proposed alterations to the river Chelt and associated works are considered to be acceptable in terms of design, protecting neighbouring amenity, highway safety, trees and sustainable development. Whilst neighbouring concerns have been noted, it is considered that the proposal is compliant with the relevant planning policies and guidance.
- 7.2 The recommendation is to therefore permit this application subject to the suggested conditions set out below.

### **8. SUGGESTED CONDITIONS & INFORMATIVES**

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

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

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

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

- 3 No external facing or roofing materials of the new garage blocks shall be applied unless in accordance with:

- a) a written specification of the materials; and/or
- b) physical sample(s) of the materials.

The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

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

- 4 Prior to the commencement of development (including demolition and site clearance), a Tree Protection Plan (TPP) to BS5837:2012 (or any standard that reproduces or replaces this standard) shall be submitted to and approved in writing by the Local Planning Authority. The TPP shall include the methods of tree and /or hedge protection, the position and specifications for the erection of tree protective fencing, and a programme for its implementation. The works shall not be carried out unless in accordance with the

approved details, and the protective measures specified within the TPP shall remain in place until the completion of the construction process.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020). Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 5 Prior to the implementation of any landscaping, full details of a hard and/or soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify all walls, fences, trees, hedgerows and other planting which are to be retained, and provide details of all new walls, fences, or other boundary treatments; finished ground levels; new hard surfacing of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to include [species, size, position and method of planting of all new trees and shrubs]; and a programme of implementation.

All hard and/or soft landscaping works shall be carried out in accordance with the approved details prior to first occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details [delete if not appropriate].

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017). Approval is required upfront because the landscaping is an integral part of the development and its acceptability.

- 6 Prior to the commencement of development, a demolition and construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The demolition and construction plan shall include measures to control noise, dust, vibration and other nuisance (from vehicles operating at and accessing the site from the highway) during the demolition and construction phase. No demolition or construction shall be carried out unless in accordance with the approved details.

Reason: To safeguard the amenity of adjacent properties and the general locality, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the use could have an unacceptable environmental impact on the area.

- 7 No solar panels and associated works shall be implemented unless carried out in accordance with details, which shall have first been submitted to and approved in writing by the Local Planning Authority.

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

- 8 No demolition or construction works shall be carried out outside the following hours:

Monday to Friday - 07:30 to 18:00 hours  
Saturday - 08:00 to 13:00 hours

No such works shall be carried out on Sundays, Public or Bank Holidays.

Reason: To safeguard the amenity of adjacent properties and the general locality, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

### **INFORMATIVES**

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

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

In this instance, the authority sought revisions to the scheme in response to consultee comments, specifically those relating to flood risk.

Following these negotiations, the application now constitutes sustainable development and has therefore been approved in a timely manner.



<b>APPLICATION NO:</b> 22/00778/FUL	<b>OFFICER:</b> Miss Claire Donnelly
<b>DATE REGISTERED:</b> 6th May 2022	<b>DATE OF EXPIRY :</b> 1st July 2022
<b>WARD:</b> College	<b>PARISH:</b>
<b>APPLICANT:</b>	Cheltenham Civic Society
<b>LOCATION:</b>	Cambray Court Cambray Place Cheltenham
<b>PROPOSAL:</b>	Proposed improvement works to the setting of the River Chelt to include removal of 23 garages associated with Cambray Court and parking spaces in Rodney Road car park, and replace with 18 garages and 7 parking spaces in Cambray Court, and associated landscaping on both sides of river.

## REPRESENTATIONS

Number of contributors	<b>33</b>
Number of objections	<b>8</b>
Number of representations	<b>1</b>
Number of supporting	<b>24</b>

26 Highland Road  
Cheltenham  
Gloucestershire  
GL53 9LT

**Comments:** 13th June 2022

I have lived in Cheltenham since 1976 though with a few years gap. I have always thought that the Chelt where it flows beside Cambray House is a complete failure to use the river. It is in effect culverted at this point, with messy walls on either side.

30 Painswick Road  
Cheltenham  
Gloucestershire  
GL50 2HA

**Comments:** 31st May 2022

Cheltenham Civic Society's proposal for "greening" at least a small stretch of Cheltenham's largely hidden river would make a really important improvement in the town centre, at no great expense. It would be greatly appreciated by passers-by and by visitors to Cheltenham, as well as improving the surroundings for Cambray Court residents. I strongly support the proposal.

97 Denman Avenue  
Cheltenham  
Gloucestershire  
GL50 4GF

**Comments:** 10th June 2022

What a great idea! It would be so welcome to have our town's titular river more visible in the town-centre and not just visible but so attractive too.

10 Cambray Court  
Cambray Place  
Cheltenham  
Gloucestershire  
GL50 1JU

**Comments:** 10th May 2022

Letter attached.

7 Cambray Court  
Cambray Place  
Cheltenham  
Gloucestershire  
GL50 1JU

**Comments:** 30th June 2022

Letter attached.

23 Cambray Court  
Cambray Place  
Cheltenham  
Gloucestershire  
GL50 1JU

**Comments:** 18th May 2022

At Cambray Court already there is an issue for space for parking and for bins. If anything there needs to be more allocated recycling bins and with these plans I can't see how that can be achieved ( I can't actually work out where these can go in this plan/documents)

Further to this the space already on the site is very tight for parking so including the garages there are also the spaces around the garages, 5 marked as well as the unmarked ones that are also used. I cant see how these spaces will be replicated. Therefore even if the number of garages stayed the same the overall space for cars will decrease.

Finally although it may be pleasing to have a more open area Cambray Court doesn't generally get that much anti social behavior in my experience. But opening the area up, especially with sight to the road, can only increase the likelihood of this happening.

16 Cambray Court  
Cambray Place  
Cheltenham  
Gloucestershire  
GL50 1JU

**Comments:** 18th May 2022

Letter attached.

17 Wellington Place  
Priory Street  
Cheltenham  
Gloucestershire  
GL52 6DG

**Comments:** 4th June 2022

Opening up the river bank on both sides will be detrimental to the privacy and security of the residents of Cambray Court whom already suffer from damage to vehicles and regular anti social behaviour as the development is not securely gated.

1 Lansdown Parade  
Cheltenham  
Gloucestershire  
GL50 2LH

**Comments:** 30th May 2022

Letter attached.

Green acres, Crippetts Lane  
Leckhampton  
CHELTENHAM  
GL51 4XT

**Comments:** 16th May 2022

This is an excellent idea. There are very few places in Cheltenham that the existence of the river Chelt running through it can be appreciated - or even be aware of it!

A small park like this in this rather urbanised area would be very welcome! - and in line with Cheltenham's green ambitions as well.

Please approve it!

16 Monica Drive  
Cheltenham  
Gloucestershire  
GL50 4NQ

**Comments:** 14th June 2022

I wholeheartedly support the Civic Society's stance in this matter. It will be a superb improvement to a generally uncelebrated part of town. Our marvellous Civic Society might thereby be encouraged to plan or propose other small projects elsewhere

6 The Old Surgery  
Prestbury Road  
Cheltenham  
Gloucestershire  
GL52 3DD

**Comments:** 16th June 2022

I support this imaginative proposal to provide an improved amenity in this area of the town centre

121 Bath Road  
Cheltenham  
Gloucestershire  
GL53 7LS

**Comments:** 19th May 2022

A great scheme to create an urban "green lung" in an area with almost no other green spaces.

Silverdale  
St Annes Road  
Cheltenham  
Gloucestershire  
GL52 2ST

**Comments:** 8th June 2022

This is an imaginative scheme that, if implemented, will provide the only public access to the River Chelt between Sandford Park and the other side of Waitrose. It will create an attractive pocket park - a small green (and blue) oasis in a sea of concrete and tarmac. Other towns celebrate their rivers while Cheltenham hides its river. That's one of the few shameful facts about our town and I urge councillors to put their support behind this scheme and then follow that up by making a commitment to begin to right that wrong by delivering the half of the development that's on the CBC-owned Rodney Road car park.

23 Withyholt Park  
Cheltenham  
Gloucestershire  
GL53 9BP

**Comments:** 30th May 2022

I am a Blue Badge Tourist guide and regularly lead visitors and residents on walks around Cheltenham. My walk from Cox's Meadow to Waitrose follows the path of the River Chelt through Cheltenham. Walkers are often dismayed to see that the river is ignored rather than celebrated as it passes through the town. This proposal would highlight our river and create a welcome green space in an otherwise dull and uninteresting location. Furthermore, the proposal chimes with a current National Trust project to create accessible green corridors linking city centres to their neighbouring countryside. The aim is to help people in urban areas to access green spaces and rural areas more easily. "Research has shown that those able to spend time in nature are likely to do more to protect it", Hilary McGrady, NT DG. Some judicious signposting would encourage people to explore the route of the river in both directions. I think this is a brilliant proposal and could lead to health and well-being benefits for local residents as well as possible economic benefit to the town, as anything that enhances the public realm is likely to lead to positive reviews from visitors and thus encourage more visitors. I hope this will be the first step in opening up and enhancing the route of the River Chelt as it passes through the town.

38 Cambray Court  
Cambray Place  
Cheltenham  
Gloucestershire  
GL50 1JX

**Comments:** 2nd June 2022

The garages form part of an owners property and its value. A garage cannot simply be removed and not replaced without it affecting the value of the property to which it belongs. Furthermore, the value of properties at Cambray Court have stagnated due to the rebuilding of the river wall.

The area already attract antisocial behaviour with people urinating and vomiting in the immediate vicinity. The installation of benches and seating areas will attract drinkers and smokers whom will litter the area similar to that on the corner of Rodney Road and Albion Street.

The maintenance of the solar roof, garden and security will fall to that of the residents of Cambray Court - an expense that is not wanted.

There is no attractive view of the river that requires enhancing. There are many parks and open areas in the immediate vicinity suited to sitting and resting and great use could be made of these.

31 Cambray Court  
Cambray Place  
Cheltenham  
Gloucestershire  
GL50 1JX

**Comments:** 2nd June 2022

As an owner of a flat and as pointed out by other residents in Cambray court, parking is already an issue and the loss of garage space isn't feasible but then by suggesting compensating it with the removal of the residents open grass space is a contradiction in terms of both greening up the area and significantly reducing the outside space that provides well being and social space for the Cambray court Residents. Random people walking into the Cambray court estate already happens late at night with people moving from the bars near Sainsbury down to the night clubs. This area would only encourage more people to enter what is private property. If the council wishes to improve river why do they not give up the car parking area they own adjacent to Cambray court and create a much bigger green vista with access to the river ? Cambray court is a residential estate with clear boundaries and signage stating that it is private property and not for anyone to wander in and out of. This plan just completely negates that privacy right

**Comments:** 2nd June 2022

Parking space is at a premium within Cambray court and it counter productive to trying to make the area greener when the proposal is to remove open grass space to substitute parking lost by the proposed design. These grass areas within Cambray court are community open spaces for the benefit and well being of the residents within an estate that is within boundaries stated as being private property. To create a genuine greener vista why not use the public car park adjacent to the river chelt (owned by the council) and create a new green area out of that space with access to the River

51 Cambray Court  
Cambray Place  
Cheltenham  
Gloucestershire  
GL50 1JX

**Comments:** 23rd May 2022

Letter attached.

9 Lypiatt Terrace  
Cheltenham  
Gloucestershire  
GL50 2SX

**Comments:** 16th June 2022

I am writing in support of the above planning application: Cambray Riverside, a scheme that has been developed by the Cheltenham Civic Society.

The River Chelt is either hidden in a tunnel or concealed in deep trenches throughout most of the town centre. But the opportunity has now arisen to reveal it to public view -

and to give Cheltenham what it has lacked for two hundred years: a riverside walk in the centre of town.

The plans that were approved last year by the council for this same area would have locked the river out of view for another hundred years, with ugly concrete and tarmac structures. The Civic Society's scheme promises a vastly better outcome in terms of public amenity, the treatment of our river and respect for the natural environment.

Indeed, a well-designed scheme here will enhance biodiversity through tree planting and waterside and aquatic planting. It will help meet Cheltenham's net zero ambition by incorporating e-vehicle charging points. It responds to the council's own planning policies to "conserve existing areas of value within river corridors; assist in the restoration and enhancement of watercourses for the purposes of conservation and amenity; and encourage developers to fully integrate watercourses into their developments".

Cheltenham has many fine features, but its treatment of the river in the town centre is a disgrace. The Civic Society's Cambray Riverside scheme gives us the chance to recover this environmental asset for the benefit of the residents living nearby, for everyone who lives in our town, and for those who visit it. It's a scheme fit for a more sustainable future for Cheltenham.

So, I would ask that the Council:

- approve the planning application;
- declare its support for it;
- and then, by bring the various interests together, to make it happen.

100 Painswick Road  
Cheltenham  
Gloucestershire  
GL50 2EY

### **Comments:** 14th June 2022

We were delighted to see Cheltenham Civic Society's proposed plans for the current boring area by Cambray Court and Rodney Road carpark. To have such a vision to delight the eye and to improve the area is to be applauded.

Our town deserves this class of inspiration to upkeep its reputation for gracious 'green' landscapes, and quality of buildings.

Not everyone has the talent for creating the beautiful and the good but by it being seen, it might encourage those people to think, to do more and protect our valued heritage.

We whole heartedly support the Society's plan,

Flowerdale House  
The Reddings  
Cheltenham  
Gloucestershire  
GL51 6RL

### **Comments:** 8th June 2022

We are the Directors of Flowerdale Property Management Limited, who own Flat 23 and Garage 23 Cambray Court. We see that our tenants have made their own comments from the perspective of living at Cambray Court.

We are broadly neutral on this application.

We feel the scheme in principal is excellent and worthy of approval. However, we have several reservations about the scheme as highlighted by the other comments from people who live at Cambray Court, namely:

1. How realistic are the sizes of the replacement garages? Modern cars are so much bigger than before
2. Is there sufficient turning space for larger vehicles?
3. How are the cars currently parked in garages, that no longer exist, going to be accommodated?
4. The security at Cambray Court is a vital consideration - will the iron railings around the original building (presumably removed during World War II) be replaced and will security gates be installed?
5. The opening up of this area could lead to additional anti-social behaviour especially after the local pubs and clubs shut - what is to stop it becoming an area for drug and alcohol consumption? And what measures are in place to stop revellers, etc trying to pass through the culverts towards Wellington Street and Bath Road?

Secondly, we feel that there are certain factors which will mean that this scheme will never go ahead:

- a. How is the reduction of the number of garages to be handled? Who will pay for the loss of a garage amenity to a leaseholder?
- b. Who is going to finance the new leases that are going to be required?
- c. What happens when the replacement garage proposed is smaller than the existing garage, as is the case with Garage 23?
- d. Who is funding this scheme? - we don't believe the Freeholder will be of assistance as no contribution is being made towards the River Wall replacement under the current scheme.



## Page 41

e. We believe that under the terms of the lease that 100% of the leaseholders need to agree to the changes proposed - we can't even get 100% membership of the Tenants Association for the princely sum of £5 a year!

So, overall, we are neutral about this scheme - a good idea, but fraught with practical issues which we don't think will ever allow for the scheme to be built out from the Cambray Court side unless an enormous amount of funding is available.

61 Gratton Road  
Cheltenham  
Gloucestershire  
GL50 2BZ

**Comments:** 16th May 2022

This is a first rate suggestion to improve the look and amenity of a rather grey and untidy corner of Cheltenham. The river has the potential to be one of the features and attractions of the town, whereas at the moment it is mostly hidden and unloved.

10 Ashford Road  
Cheltenham  
Gloucestershire  
GL50 2EN

**Comments:** 13th June 2022

This is a great, simple, cost-effective scheme that beautifies the area, instead of an ugly like-for-like dull patchup or worse, an application for 30 flats (which exists see : that would ruin the immediate area.

28 Cleaveland Street  
Cheltenham  
Gloucestershire  
GL51 9HN

**Comments:** 13th June 2022

Brilliant idea

Andante  
18 Queens Road  
Cheltenham  
Gloucestershire  
GL50 2LS

**Comments:** 13th June 2022

On balance I support this proposal which will considerably improve an otherwise dreary area of the town and also highlight the River Chelt which most people probably don't realise runs through the town! The concerns of the residents of Cambray Court need addressing to ensure that they too fully benefit from the proposal. Assuming this can be done, I fully support the plans.

148 Old Bath Road  
Cheltenham  
Gloucestershire  
GL53 7DP

**Comments:** 13th June 2022

This seems to be an attractive and practical plan for the use of this currently marginal land.

8 Oakfield Street  
Cheltenham  
Gloucestershire  
GL50 2UJ

**Comments:** 14th June 2022

I support the proposal for Cambray Court Cambray Place. This is a great idea of creating a genuine local amenity with a mini park. We need more green spaces to encourage wildlife and improve everyones mental health. I love this upgrading of my environment.

Dunlukin  
12 Suffolk Street  
Cheltenham  
Gloucestershire  
GL50 2DQ

**Comments:** 31st May 2022

I think the town would benefit from showcasing its river, however small, as it would bring an added attraction close to the centre of the town. I understand a similar concept has been completed in Sheffield adding to the quality to the public space there. It would provide a quiet haven on the public access side and more of an attractive river side space for Cambray Court residents. I appreciate that there will be a loss of some of the garages but it would be interesting how many use them for car parking and a lot of the residents do not own a garage. The environmental benefit though would outweigh the loss of the garages for a greater number of people.

11 Century Court  
Montpellier Grove  
Cheltenham  
Gloucestershire  
GL50 2XR

**Comments:** 24th May 2022

I strongly support this proposal which will significantly improve a rather ugly area of our town

Oakland End  
41 Oakland Avenue  
Cheltenham  
Gloucestershire  
GL52 3EP

**Comments:** 13th June 2022

I really appreciate the idea of creating a genuine local amenity with a mini park along a part of the 'hidden' Chelt River. We need more green spaces to encourage wildlife and improve mental health of walkers around town.  
If I lived at Cambray Court I would love this upgrading of my environment.

2 The Spindles  
Cheltenham  
Gloucestershire  
GL53 0QD

**Comments:** 16th June 2022

Letter attached.

19 Kings Road  
Cheltenham  
Gloucestershire  
GL52 6BH

**Comments:** 18th May 2022

This is an imaginative and well thought-out proposal to turn an ugly hidden stretch of the River Chelt into an attractive little riverside area which will enhance the centre of Cheltenham and will provide a pleasing amenity for the residents of Cambray Court. It will be good to see that there is actually a river flowing through the centre of town. If one compares the present dilapidated state of the area with this new proposal there can surely be no question as to which is preferable - by a long way. I strongly support this application.

2 Arle Drive  
Cheltenham  
Gloucestershire  
GL51 8HT

**Comments:** 2nd June 2022

I am very supportive of the proposals outlined in this planning application,

I am relatively new to Cheltenham and very much enjoy the riverside walks from Waitrose into town and from Arle Road through the wildlife area and park out to Princess Elizabeth Way.

I was therefore really pleased to read news reports of the imaginative plans from Cheltenham Civic Society for developing the riverside between the Rodney Road car park and Cambray Court, together with their wider vision of extending the proposed new footpath eastward across Wellington Street to the Bath Road and so to link up with Sandford Park.

Such a connection would form a wildlife corridor and an attractive walking and cycling route from the town centre all the way to Cox's Meadow and beyond, as far as Charlton Kings.

I would love to see the Borough Council actively embracing schemes like this for the river as a whole, in order to meet their environmental policies, to enhance the health and wellbeing of Cheltenham residents and to make the town centre a more attractive destination for visitors.

From: - [REDACTED]

Page 45

Cheltenham Borough Council  
Planning & Development Committee  
Promenade  
Cheltenham  
GL50 9SA

10 Cambray Court  
Rodney Road  
Cheltenham  
GL50 1JU

08 May 2022

Jean Liu/Madam  
CAMBRAY COURT/RIVER CHELT - CHELTENHAM CIVIC SOCIETY PLANNING APPLICATION

Please find attached my comments on the subject headed proposals as I do not have a computer.

Like many of my neighbours I am a long term lessee of both an apartment and a garage at Cambray Court and would be adversely affected by these proposals. It was the proximity to the town centre, availability of a garage, size of the accommodation and facilities that motivated my purchase and not its investment potential.

Yours sincerely  
[REDACTED]

Copy to: -  
[REDACTED]

## GARAGES

- a) A reduction in the number/size would be unacceptable
- b) Who would decide which garages were to be lost and recompense the owner for its full cost.
- c) Possession of a garage is a major selling point
- d) Garage size is important as cars get wider & higher
- e) Keeping a car in a garage has an impact on motor insurance

## 2 CAR PORTS

- a) Unsightly and less secure
- b) Become filled with leaves/debris

## 3 ACCESS

- a) Road space is already limited
- b) Opening garage doors and exiting into limited road space dangerous
- c) Impact on large vehicles - fire/ambulance/ambulats/deliveries and blocking of access to garages
- d) Setting of car port or provision of parking spaces adjacent to Blocks 2 & 3 would make erection of scaffolding for maintenance/renovational work almost impossible.

## 4 GENERAL

- a) Rubbish bins adjacent to property entrance unsightly and an open invitation to non residents to make use of them.
- b) Access would be difficult for rubbish collection vehicles particularly if railings and a gate were erected.
- c) Proximity to several night clubs would increase the litter/abuse of the proposed riverside area.

## 5 COST

- a) Keeping riverside area clean/clear, increased depreciation from foxes, gulls etc
- b) Upkeep of riverside if it were not to become an eyesore.
- c) Railings/gate etc - installation and upkeep
- d) Maintenance/cleaning of solar roofs.

Head of Planning  
Planning Department,  
Cheltenham Borough Council,  
Dear Sir/Madam,


Re: planning Application reference number **22/00778/FUL**,

Although the fact that the project involves a Leasehold site is not a subject the Committee needs to comment on, but for any improvement or change to be undertaken it will involve a change of the conditions of the lease and will require a legal change and consent for it, by **all leaseholders** i.e. 100% positive agreement and the Landlord, to go forward. Cost and compensation would be required and I as a leaseholder would not be willing to be part of this. The Cheltenham Civic Society are fully aware of this as they have met with the Leaseholders and are aware that this requirement cannot be met and yet they persist in causing an increase in the tension already felt by Leaseholders due to the costs attached to the replacement of the River Chelt boundary wall, not to mention the work required by the Planning department.

I wish to register my objection to this planning request for the following reasons: -

- We have been told by the applicant that the Environment Agency had no objection to the project as the key **river bank levels would be maintained**. The proposal does envisage a lowering in the height of the river bank on both sides of the river so that the river can be more easily appreciated by passers-by. In previous conversations we have had with the agency they explained that the river along our boundary would allow for water escape and flow from the river and so reduce the flow of water downstream and under the bridge across Rodney Road. Lowering the river wall must increase the likelihood of this occurring as the wall will have been lowered and provide reduced projection. As a River Warden, in the past, we have noted the height of the river has increased to at least half the height of the existing wall in times of heavy rainfall and not even during flooding conditions. As we have Riparian Responsibilities for this part of the river bank the likelihood of damage due to flooding of the garden and subsequent damage up or down stream would be increased, repair for which we will be responsible.
- Trespass and antisocial behaviour will be increase regardless of whether the garden area is fenced off or not as passers-by will be more aware of the river and gardens exitance and will encourage further investigation etc of the Estate. This will not be a public amenity on our side of the river but will be on the opposite bank and likely to cause confusion.
- The privacy of Cambray Court will be compromised by the project as it involves and opens up both banks of the river to people. At present our river boundary is closed.

Yours faithfully,

A large black rectangular redaction box covering the signature and name of the sender.

51 Cambray Court  
Rodney Road  
Cheltenham  
Gloucestershire  
GL50 1JX

Miss Claire Donnelly  
Planning Officer  
Cheltenham Borough Council  
P.O Box 12  
Municipal Building  
Promenade  
Cheltenham Glos  
GL50 1PP

Date 21<sup>st</sup> May 2022

Your ref: 22/00778/FUL

Dear Claire Donnelly

**Proposed improvement works to the River Chelt and Cambray Court**

Your letter states replace existing garages and parking with 18 Garages and 7 Parking Spaces. The Cheltenham Civic Society Plans show / state 16 Garages 3 Parking Spaces 2 Storage Their Drawing (written on the grey road area) states 10 Garages 24 Parking Spaces. This may be including the lawns providing additional parking. Please advise What is their proposal ?

Existing 23 Garages and 5 Parking Spaces .

**Comments**

- Removing 120 sq.metres + of lawns to be used as hard standing for 4 vehicles ( not a green credential) Privacy, Noise, Light, and Vision lost by high sided vehicles.
- Garage lengths and widths are important as I note planning have approved garages 'not fit for purpose' Too Narrow maybe able to drive car into garage however unable to open doors to get out. Please can confirm internal measurements of garages?.
- At present Larger vehicles such removal, delivery, refuse collection service lorries are able to turn around, however under this proposal it will appear almost impossible perhaps the fire service should be consulted prior to approval
- Security of the grounds of Cambray Court will be compromised even more we have had young men climbing up rain water down pipe to get access to the roof, arson burning down mature trees and garages break-ins.
- Under our present Lease Agreement any additional costs for the maintenance to the garden area on the Cambray Court side of the River Chelt will not met from the Service Charge and therefore left to grow wild or be taken over by the Borough Council !!!!
- Alterations to Lease Agreements would be costly.
- **Safety** as the River Chelt will now be more accessible I fear that the culvert will be an adventure not to be missed by some of the revellers maybe walking barefoot through the culvert ,a danger to themselves and the emergency services.

Kind regards





Cheltenham Borough Council

Municipal Offices  
Promenade  
Cheltenham  
GL50 75A

May 25 2022

Application no. 22/00778/FUL  
Alternative PP 11100659  
Validated Friday 06 May 2022

Dear Sirs

We wish to strongly support the Civic Society's application to create a town centre park base around Cambray Court. We think this is a brilliant idea and should greatly benefit the town.

Yours sincerely



1 Lansdown Parade  
Cheltenham  
GL50 2LH





2 The Spindles  
Leckhampton  
Cheltenham  
GL53 0QD

13<sup>th</sup> June 2022

The Planning Department  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham GL50 9SA

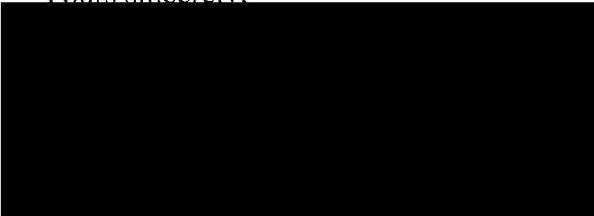
Dears Sirs,

**Planning Application 22/00778/FUL - Improvement works to the River Chelt**

I wish to register my support the above planning application. The matter has been well thought through and will both add to the view of the river and replace the present appearance of a central part of Cheltenham.

I am a regular user of the adjacent car park but am content to accept the loss of some spaces for the greater benefit of the public.

Yours sincerely,



*[Faint, illegible text, likely bleed-through from the reverse side of the page]*

7 Cambray Court  
Cheltenham  
GL50 1JU

Miss Claire Donnelly  
Cheltenham Borough Council  
PO Box 12  
Municipal Offices  
Promenade  
Cheltenham  
Glos  
GL50 9SA

28<sup>th</sup> June 2022

Dear Miss Donnelly

Ref: 22/00778/FUL

The garages at Cambray Court were not "constructed more recently" as stated in this proposal.

The siting of the current garages was part of the original plans, submitted to Cheltenham Borough Council in 1937 by Messrs. John David Estates and the garages were built in time to be advertised for rent alongside the flats in 1938. The garages are included in the facilities offered in the advertisements for the flats in the Gloucestershire Echo, dated 29<sup>th</sup> May and 3<sup>rd</sup> June 1938, among others, and mentioned in an article dated October 10 1938 as "garages are also available". The garages have the same historic value as the flats and should be rebuilt in the original position as show in the 1937 plans.

The motorcar was a consideration in the planning of Cambray Court.

Even before a final decision was made, on the position of Flats Blocks 2 and 3, the garages were shown (as now, in their present position) on the original plan of Messrs. John David Estates dated 30th July 1937 ( reference Gloucestershire Archives Ref: CBR/C5/6/3/6). The present position of Flats Blocks 2 and 3, and the garages, are shown on plans dated 20<sup>th</sup> Sept. 1937. So historically the garages were part of the original plan. On the same 1937 plans, incorporated in Flat Block1, is shown provision for pedestrian walkways leading onto the paths, for safety, either side of the opening at the Cambray Place entrance. Originally, only vehicles would have used the opening until it was fenced off. Illustrations in advertisements in the local Gloucestershire Echo, in 1938, show the opening being used by cars and also the position of the walkways. The walkways have been enclosed and are now used as storage facilities.

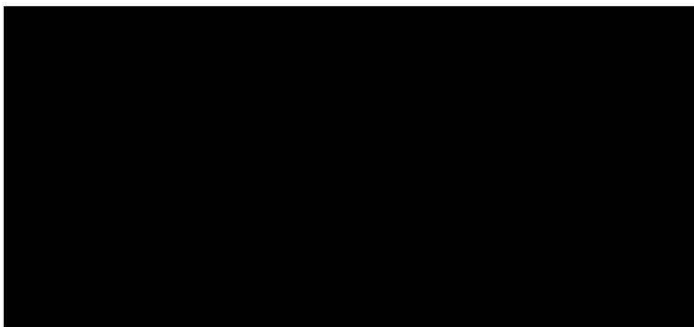
Garage 23 was added in 2011, replacing a corrugated tin shed and filling the space between Garage 22 and the boundary, making no appreciable difference to the original plan. The steps on the side of the middle garage, as shown on the original 1937 plans, were not built. They were for access to a, proposed and never built, squash court ( foundations subject to borough engineers report) over the garage block.

Cambray Court is in the Central Conservation Area and part of Cheltenham's heritage. Cambray Court is distinctive, an example of a 1930's purpose built residential estate, not typical in the town and a special feature of Cheltenham.

Historically, the garages are part of the original build. Changing the position of the garages, to be sited along the River Chelt, as in this proposal, would completely change the appearance and historic character of Cambray Court.

Please refuse this proposal in order to preserve the historic continuity and appearance of this important iconic 1930's Art Deco site.

Yours sincerely,



**Officer Report**

<b>APPLICATION NO:</b> 22/01990/FUL		<b>OFFICER:</b> Mr Ben Warren	
<b>DATE REGISTERED:</b> 11th November 2022		<b>DATE OF EXPIRY:</b> 6th January 2023	
<b>DATE VALIDATED:</b> 11th November 2022		<b>DATE OF SITE VISIT:</b>	
<b>WARD:</b> Charlton Park		<b>PARISH:</b>	
<b>APPLICANT:</b>	Ms J Dodds		
<b>AGENT:</b>	Ian Johnstone Associates		
<b>LOCATION:</b>	20 Southfield Rise Cheltenham Gloucestershire		
<b>PROPOSAL:</b>	Erection of a single storey rear extension. An extension to front dormer window and a single storey front extension, including an entrance porch. (Retrospective)		

**RECOMMENDATION:** Approve





## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to a semi-detached chalet style property located within a residential area on Southfield Rise.
- 1.2 Planning permission was granted, ref: 20/01599/FUL, for the erection of a single storey and two storey rear extension, extension to front dormer window and a single storey front extension with porch. This application was approved following planning committee resolution in November 2020.
- 1.3 In the applicant's covering letter, it explains that due to financial constraints the applicant was no longer in a position to construct the first floor part of the rear extension. As such, a wholly single storey flat roof extension with parapet has been constructed. The works have progressed quite significantly on site, in the main, the structures are complete, and this application therefore seeks retrospective planning permission.
- 1.4 For clarity, the applicant has submitted a revised application that includes all of the works undertaken, this includes the single storey rear extension, an extension to the front former window and a single storey front extension with porch. Other than the wholly single storey rear extension to the rear, all other parts of the development are as already approved in the previous application, therefore officer comments in this report only relate to the acceptability of the single storey rear extension.
- 1.5 The application is at planning committee at the request of Councillor Baker who wishes members to have the opportunity to consider the impact of the development on neighbouring amenity.
- 1.6 During the course of the application it was suggested by the adjoining land owner at 18 Southfield Rise that the plans within this application do not reflect that of the 'as-built' single storey rear extension, it was suggested that the extension was higher than that on the plans. With this being the case, the council's enforcement officer has been out to site and has provided confirmation of the extension height 'as built'. The plans show an overall height of the single storey rear extension at 3.25 metres, the measurement provided by the council's enforcement officer is 3.3 metres, therefore a difference of 0.05 metres has been identified. Whilst officers acknowledge that there is a very minor discrepancy in the measurements, at the scale the plans are drawn, the difference could be the thickness of a line on the drawing or could be due to the fact the restorative ground works in the garden have not yet been completed. Officers are content that within reason, the plans do accurately reflect the scale of the extension as built.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Principal Urban Area  
Smoke Control Order

### **Relevant Planning History:**

**20/00798/FUL 20th July 2020 REF**

Erection of an entrance porch, two storey rear extension and the formation of an underground room in rear garden

**20/01599/FUL 20th November 2020 PER**

Erection of a single storey and two storey rear extension. Extension to front dormer window and single storey front extension including porch (Revised submission to 20/00798/FUL)

### 3. POLICIES AND GUIDANCE

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

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

#### **Adopted Cheltenham Plan Policies**

D1 Design  
SL1 Safe and sustainable living

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

SD4 Design Requirements  
SD14 Health and Environmental Quality

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

Residential Alterations and Extensions (2008)  
Climate Change (2022)

### 4. CONSULTATIONS

#### **Gloucestershire Centre For Environmental Records - 18th November 2022**

Letter available to view in documents tab.

#### **Building Control - 14th November 2022**

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

### 5. PUBLICITY AND REPRESENTATIONS

- 5.1 6 letters were sent to neighbouring properties, one letter of objection from the adjoining land user at number 18 Southfield Rise has been received in response to this neighbour notification process. The concerns raised have been summarised but are not limited to the following:
- Loss of light
  - Overbearing impact

### 6. OFFICER COMMENTS

#### 6.1 **Determining Issues**

- 6.2 As noted in the introduction, elements included within this application have already been considered and approved in the previous application (20/01599/FUL), this includes the single storey front extension, porch and works to the dormer window, therefore the considerations of this application relate solely to the changes proposed to the rear of the building, this being, the change from a part single and part two storey rear extension to a wholly single storey rear extension. The considerations in relation to this application are the design and the impact of the proposal on neighbouring amenity.



### 6.3 Design

- 6.4 Policy SD4 of the JCS notes how development should “respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality”. Furthermore, development “should be of a scale, type, density and materials appropriate to the site and its surroundings”. This is supported through adopted Cheltenham Plan Policy D1 which requires development to ‘complement and respect neighbouring development and the character of the locality.’
- 6.5 The rear extension is a single storey full width, flat roof extension with parapet. The extension measures approximately 3 metres deep and has a height of approximately 3 metres to the top of the coping stones. In terms of footprint, the extension is considered to be a modest addition to the property, sits comfortably within the plot and reads clearly as a subservient addition.
- 6.6 The design of the extension is considered to be acceptable and appropriate for a modern flat roof addition to the rear of the property. The extension is finished in brickwork to match that of the existing building which is wholly appropriate and acceptable.
- 6.7 In terms of design, the proposal is considered to be compliant with the requirements of the Adopted Cheltenham Plan (2020) policy D1, adopted JCS policy SD4 and the Supplementary Planning Document – Residential Alterations and Extensions (adopted 2008).

### 6.8 Impact on neighbouring property

- 6.9 It is necessary to consider the impact of development on neighbouring amenity. JCS Policy SD14 and Cheltenham Plan Policy SL1 state how development should not cause unacceptable harm to the amenity of neighbouring properties. Matters such as a potential loss of light, loss of privacy, loss of outlook, noise disturbances and overbearing impact will therefore be considered.
- 6.10 Concerns raised in the adjoining neighbour’s letter of objection relate to a loss of light and an overbearing impact. The neighbour makes reference to the impact of this single storey rear extension on light to their living and dining room. Concerns have also been raised by this neighbour regarding an overbearing impact.
- 6.11 The following paragraph is copied from the previous officer report and is still relevant:

*‘18 Southfield Rise has previously been extended with a single storey rear addition; this addition has created a large open plan ‘L’ shaped room across the rear of the property. The openings that provide light to this room include an original ground floor window in the rear elevation of the existing property, a ground floor window located within the side elevation of the extension, as well as a set of French doors located in the rear elevation of this extension.’*

- 6.12 Light tests have been undertaken, this includes the 45 degree light test to the rear facing window closest to the extension, the proposal passes this test in both plan and elevation, therefore no unacceptable loss of light occurs. The 25 degree light test has also been undertaken for the side facing window located within the neighbour’s existing extension, the extension marginally passes this light test. Officers acknowledge that light may be impacted to this opening, however, it still passes the test. In addition, this space is also served by the patio doors located in the rear elevation of the extension, any loss of light is therefore not of an unacceptable level. It is also important to note that these three openings all serve one open plan living area. Officers do not consider the development to result in any unacceptable loss of light.

- 6.13 With regards to any potential for an overbearing impact and loss of outlook, whilst officers duly note that the extension will be visible from the rear and side windows of the neighbours property, the addition is a single storey extension, with a modest depth of 3 metres. Officers therefore do not consider that the extension results in an unacceptable overbearing impact, and due to its scale, any loss of outlook is not considered to be of an unacceptable level.
- 6.14 It is important to note that the previous consent which includes a two storey element to the rear is extant as the other parts of the scheme have been implemented. Therefore this is a realistic fall-back position for which this application should be assessed against. It is clear that the impact of a wholly single storey rear extension, albeit slightly higher than that of the single storey element previously approved, would still have a much lesser impact on this neighbour than the two storey element previously approved.
- 6.15 With all of the above in mind, whilst duly noting the concerns of the neighbour, the proposal is considered to be compliant with Adopted Cheltenham Plan (2020) policy SL1 and adopted JCS policy SD14 which requires development to protect the existing amenity of neighbouring land users and the locality.

### 6.16 **Other considerations**

#### *Climate change*

The Cheltenham Climate Change SPD (adopted June 2022), sets out a strategy for decarbonising homes over the next decade. For residential alterations and extensions there is an opportunity to improve the environmental performance of a home through the inclusion of technologies and features such as photovoltaics, replacement windows, heat recovery, permeable (or minimal) hard surfaces, works to chimneys, insulation, replacement heating systems (heat pump) and thoughtful kitchen design.

In this instance, the original application and permitted scheme was considered at a time before Cheltenham's Climate Change SPD was adopted, given that the works in this retrospective application are of a similar scale and nature of those works, officers do not consider it necessary or reasonable to require the submission of a Sustainability Statement or the provision of any specific low carbon technologies. However, it is noted that the works will be completed in accordance with current building regulations which is considered appropriate for this level of works.

#### *Environmental Impact*

Whilst records show that important species or habitats have been sighted on or near the application site in the past, it is not considered that the proposed small scale development will have any impact on these species.

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

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

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

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

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

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

- 7.1 Having considered all of the above, the proposal is considered to be acceptable in terms of design and impact on neighbouring amenity, therefore officer recommendation is to permit the retrospective application.

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

- 1 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.

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<b>APPLICATION NO: 22/01990/FUL</b>		<b>OFFICER: Mr Ben Warren</b>	
<b>DATE REGISTERED: 11th November 2022</b>		<b>DATE OF EXPIRY : 6th January 2023</b>	
<b>WARD: Charlton Park</b>		<b>PARISH:</b>	
<b>APPLICANT:</b>	Ms J Dodds		
<b>LOCATION:</b>	20 Southfield Rise Cheltenham Gloucestershire		
<b>PROPOSAL:</b>	Erection of a single storey rear extension. An extension to front dormer window and a single storey front extension, including an entrance porch.		

## REPRESENTATIONS

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

18 Southfield Rise  
Cheltenham  
Gloucestershire  
GL53 9LJ

### Comments: 29th November 2022

We are objecting to the planning application on the grounds of loss of light and its overbearing impact on the back of our property at the ground level. There is a significant loss of amenity to us in both our living and dining rooms.

Our property is semi-detached to no 20 and the wall of their new rear extension is next to the wooden boundary fence (which we maintain) between the properties.

We have a single storey dining room extension at the rear with a large window directly facing towards no 20 (not shown on the plans) and set of patio doors to our garden facing east (shown). We also have a window from our living room looking east (shown).

The plans submitted aren't correct. As this is a retrospective application we don't see any reason for this. All the exterior building was complete before CBC planning enforcement asked for this application. They can confirm this. We expect the plans to represent what has actually been built.

On the plans the height of the rear extension is 3.1 metres. Its actually 3.34 metres, 8% higher. The plans show an angle between our dining room window (directly facing it) and the extension wall of 25% - its actually over 30%. They also show the angle between our living room window and the wall is 45% - its actually over 50%. We want these errors in the plans recognised and corrected as a first step.

Unlike previous applications for no. 20 from 2020, the impacts of this new application are clear as its already built. It's causing significant impacts to our use and enjoyment of the

## Page 62

rear of our property on the ground floor. We welcome any Council Officers or Members of the Planning Committee to come and visit our property and see for themselves.

We're experiencing a significant loss of light to our living and dining rooms. We need to put lights on more often and earlier in both rooms every day, but especially on darker days and in autumn / winter when the sun is lower. Indirect light is affected, direct light is obscured by the extension wall and the wall's shadow affects both rooms. It has significantly changed, for the worse, the nature of both rooms in terms of their utility and the light they get.

Also, the wall is overbearing. It's a large physical presence that creates a feeling of oppression at the rear of the house in both rooms. From our south facing dining room window the only thing you can see is the wall, just 2.9 metres away. And it also dominates the living room where it adjoins the right hand side of the window.

The quality of workmanship of the wall facing us is poor. It's a large badly built brick wall. Whilst some attempt seems to have been made to point the brickwork for several courses above our boundary fence, no attempt has been made on the top 8 courses, creating what looks like an unfinished wall. We can only assume that this was a deliberate decision as the top 8 courses were added by the same builder using the same method as the lower ones. This only increases its overbearing nature as we have no option than to look out on this poor workmanship every day.

The application includes a note from us on 11th August saying that we didn't want anyone on our property working on the extension. It suggests that this has impacted aspects of the build that haven't complied with previous permission or have changed. In fact by the time we sent the note the applicant had moved out of the property, it was empty and building was underway. The applicant had two years to ask us about access but didn't as the note states. Again we can only conclude that this was a deliberate decision not to do so.

### OVERVIEW

The purpose of this report is to provide Members of the Planning Committee with an overview of all planning appeals that have been received by the Council since the previous meeting of the Planning Committee. It further provides information on appeals that are being processed with the Planning Inspectorate and decisions that have been received.

### RECOMMENDATION

To note the contents of the report.

### Appeals Received - November/December 2022

Address	Proposal	Delegated or Committee Decision	Appeal Type	Anticipated Appeal Determination Date	Reference
3 Apple Close	Replacement of existing conservatory with single storey rear extension. Increase in ridge height to facilitate loft conversion with rear dormer.	Delegated Decision	Householder	n/a	22/01145/FUL
37 Market Street	Proposed side and rear extensions (revised scheme following refusal of application ref. 21/02361/FUL)	Committee Decision	Written Reps	n/a	22/00708/FUL
Land at Brecon House	Construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House	Committee Decision	Hearing	n/a	21/02755/FUL
Land at Shurdington Road	Full planning application for residential development comprising 350 dwellings, open space, cycle ways,	Committee Decision	Written reps	n/a	20/01788/FUL

Address	Proposal	Delegated or Committee Decision	Type	Anticipated Appeal Determination Date	Reference
	footpaths, landscaping, access roads and other				
23 and 23A Pittville Street	Proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s)	Delegated Decision	Written reps	n/a	22/00326/ADV and FUL
195 High Street	Proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s)	Delegated Decision	Written Reps	n/a	22/00328/ADV and FUL
8 Imperial Square	Proposed change of use from C3 (dwelling house) to mixed use of C1 (hotel) and E (bar and restaurant).	Delegated Decision	Written Reps	n/a	22/00334/COU
30 St Georges Place	Conversion to form 7no. dwellings, together with extensions and construction of new mansard roof	Delegated Decision	Written Reps	n/a	22/00839/FUL
101 Ryeworth Road	Erection of two storey and single storey rear extensions and single storey front extension.	Non determination	Written Reps	n/a	22/01162/FUL
10 Suffolk Road	First floor extension at rear	Delegated Decision	Written Reps	n/a	22/01340/FUL



Address	Proposal	Delegated or Committee Decision	Appeal Type	Anticipated Appeal Determination Date	Reference
	of 10 Suffolk Road on top of existing kitchen roof, comprising of 1 new bedroom and en suite bathroom (revised scheme 22/00966/FUL)				

### Appeals being processed

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
Adey Gloucester Road	Demolition of the existing office building and erection of a 66 bedroom care home for older people (Use Class C2) including associated access, parking and landscaping.	Delegated Decision	Appeal Hearing		Appeal ref: 22/00027/PP1 Planning Ref: 21/02700/FUL
The Hayloft, The Reddings, Cheltenham GL51 6RL	Conversion of the existing dwellinghouse into 9 self-contained apartments, and associated works	Committee Decision	Written Representation		Appeal Ref: 22/00028/PP1 Planning ref: 22/00749/FUL

### Appeals Decided [decisions attached]

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
3 Suffolk Road Cheltenham GL50 2AG	Replacement to sash windows & entrance door on grade 2 listed building	n/a	Written Representation	Appeal Dismissed	Appeal Ref: 22/00008/ENFAPP Enforcement Ref: 21/00022/DCALLB
22A Moorend Park Road Cheltenham GL53 0JY	High hedge complaint between 22a Moorend Park Road and 4 Melbourne Close	n/a	Written Representation	Appeal Dismissed	Appeal ref: 21/00015/PP2 Planning ref: 20/01499/HED

Address	Proposal	Delegated/controlling Decision	Appeal Type	Outcome	Reference
Sew M-Design Sewing Studio 253 Gloucester Road Cheltenham GL51 8NW	Proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s)	Delegated Decision	Written Representation	Appeal A and Appeal B Dismissed	Appeal ref: 22/00023/PP1 and 22/00024/ADV1 Planning ref: 22/00330/ADV and FUL

Authorised by Liam Jones 06.12.22



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## Appeal Decision

Site visit made on 25 October 2022

by **D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons(RICS), IHBC**

an Inspector appointed by the Secretary of State

**Decision date: 9<sup>th</sup> November 2022**

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**Appeal Ref: APP/B1605/F/22/3297327**

**3 Suffolk Road, CHELTENHAM, Gloucestershire, GL50 2AG**

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the LBCA Act).
- The appeal is made by Ms Tracey Lovett against a listed building enforcement notice (LBEN) issued by Cheltenham Borough Council.
- The enforcement notice was issued on 1 April 2022.
- The contravention of listed building control alleged in the notice is:  
Without prior listed building consent the removal of single glazed, timber framed sliding sash windows at first floor level of front & rear elevations and timber entrance door at ground floor level & the installation of Upvc framed, double glazed windows at first floor level of front & rear elevations and a composite entrance door at ground floor level.
- The requirements of the notice are:
  - Remove the Upvc framed, double glazed windows at first floor level of front and rear elevations & composite entrance door at ground floor level; and
  - Install single glazed, 6/6 timber sliding sash windows with horns and 18mm lambs tongue glazing bars to be painted white in colour at first floor level of front and rear elevations and a timber panel & part single glazed timber entrance door at ground floor level.
- The period for compliance with the requirements is 6 months.
- The appeal is made on the grounds set out in section 39(1)(a) and (e) of the LBCA Act.

**Summary Decision: Subject to corrections, the appeal is dismissed, the LBEN is upheld and listed building consent is refused for the retention of the works.**

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### The Notice

1. On an appeal any defect, error, or misdescription in a listed building enforcement notice may be corrected using the powers available in section 41(1)(a) of the LBCA Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
2. Section 38(2) of the LBCA Act states that: '*A listed building enforcement notice shall specify the alleged contravention and require such steps as may be specified in the notice to be taken within such period as may be so specified- (a) for restoring the building to its former state; or (b) if the authority consider that such restoration would not be reasonably practicable or would be undesirable, for executing such further works specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent;....*'
3. The Notice does not state as to whether it has been issued under section 38(2)(a) or 38(2)(b). Nevertheless, it is clear that the requirements of the notice are intended to restore the building to its former state by removing all the components of the Upvc windows at first floor level, the composite door at

ground floor level and replacing them with timber windows and door of a design to match the pre-existing windows and door. Section 38(2)(b) is only applicable in cases where the Council consider that such restoration would not be reasonably practicable or would be undesirable. There is no indication that the Council took such a view and there is nothing to suggest that restoration to the former state would be impracticable or undesirable.

4. The second requirement of the notice cites the installation of 6/6 sash windows but the evidence before me indicates that the windows on the front elevation of the appeal property were not 6/6 sash windows. Moreover, the description of the alleged breach does not include the wording '6/6'. I therefore consider that the citation of 6/6 is a typographical error given my findings above. Moreover, there is no reference to the pre-existing windows and door. Therefore, I intend to delete the wording '6/6' within the second requirement and insert the wording '*to match the design and appearance of the windows and door that existed immediately prior to the installation of the unauthorised windows and door*' at the end of that requirement to ensure clarity. Both parties were given the chance to comment on these corrections. The corrections of the errors relate to a matter of fact and therefore I consider I can carry out these corrections without injustice to either party.
5. The appellant has stated that when she acquired the property in April 2020, this was at the start of the Covid pandemic, and that she contacted the Council regarding building/planning regulations. She goes on to state that '*she was informed by a lady employee (obviously working from home) that permission was not needed to replace the windows and door*'.
6. However, there is no detail of whether the lady employee was a Planning Officer/Building Control Officer or another employee. Furthermore, there is no indication as to what information that employee was given in relation to the address or listed status of the building. It is more likely than not that the advice given was of a general nature of whether replacing windows and doors may/may not require planning permission or building regulation approval. There is little to indicate that advice was ever given that the specific works that form the alleged breach would not require listed building consent. Nonetheless, even if it was, informal advice from a Council Officer (which the telephone call would seem to have been) cannot later prevent the issue of an enforcement notice if it is found the works do require listed building consent. This is a well-known aspect of planning law and requires no further elucidation here.
7. For the reasons given above, I conclude that the LBEN is valid, the Council are not prevented from issuing it and that no injustice would be caused by correcting the errors in accordance with my powers under section 41(1)(a) of the LBCA Act.

### **Background and relevant policy**

8. The appeal property was listed in Grade II in 1998 as part of a group with 5 and 7 Suffolk Road (Nos 5 and 7). The list description states, amongst other things, '*the 3 houses, now houses and shops. c1840 with later additions and alterations. Stucco over brick with artificial slate roofs and iron brackets. EXTERIOR: 3 storeys, 3 first-floor windows at left, with 2 storeys 2 + 3 first-floor windows. Stepped back at left and right. At left part a first-floor sill band. First floor has 6/6 sashes where original.* It goes on to state '*To right house a*

*plate glass-window and glazed door. At right a C20 garage door.....INTERIOR: not inspected. SUBSIDIARY FEATURES: 2 houses at right have tent-roofed canopies on scrolled brackets. HISTORICAL NOTE: Suffolk Road is shown on Merrett's 1834 Map as Commercial Street. An externally little-altered group which relates to a group of similar buildings.'* It is at the one end of the terrace of these properties and its ground floor is in use as barbers and the upper floor is in residential use. The adjoining property also has a commercial unit at ground floor level. The appeal property is located prominently on a main thoroughfare that traverses to the south of Cheltenham town centre.

9. The evidence before me indicates that nearby buildings on Suffolk Road, Montpellier Grove and Montpellier Villas are also listed in grade II. The use of stucco and the high quality of the architectural detailing within these buildings and the appeal listed building means that together they have evidential and aesthetic value as a group that makes a significant contribution to the character and appearance of the surrounding area. The property lies within the Suffolks Character Area of the Central Conservation Area (CCA) and there is a mix of commercial and residential uses close to the appeal site. Based on the evidence before me and my observations the character, appearance and significance of this part of CCA appears to be derived from the quality and architectural detailing of the historic buildings within it, their limited palette of materials, the historic mix of commercial and residential uses and the relationship of the buildings to each other and the areas between them. The group value cited above makes an important contribution to the character, appearance and significance of CCA.
10. The development plan policy cited within the LBEN is Policy SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS). This policy is consistent with section 16 of the National Planning Policy Framework (the Framework). They are material considerations which I have taken into account in reaching my decision.
11. Section 16(2) of the LBCA Act requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of that Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

### **The ground (a) appeal**

12. The ground of appeal is that the building is not of special architectural or historic interest and implicitly attacks the listing of the building. Effectively, it constitutes an application to the Secretary of State to remove the building from the statutory list by virtue of the power set out in section 41(6)(c) of the LBCA Act. That Act indicates that the time at which this question is to be considered is the time before the allegations set out in the LBEN were carried out, rather than the date when the LBEN was issued. In this case, therefore, it means before the Upvc and composite components were installed.
13. The terrace of 3 properties, despite the installation of the Upvc and composite components, are still distinctly recognisable from their list description. They remain as a perceptible terrace of 19<sup>th</sup> Century stucco, two and three storey houses/shops and most of their original architectural features, including the tent-roofed canopies on scrolled brackets, are still identifiable. The window opening sizes have not changed and overall the scale and proportions of the

property are still typical of a 19<sup>th</sup> Century house/shop in this part of Cheltenham. The architectural and historic interest of the listed building (the terrace of 3 properties) is derived mainly from its high-quality architectural detailing, its materials and design and use as houses/shops. The window and door openings and their architectural detailing are a significant feature of the architectural interest of the terrace. The listed building's form provides architectural and historic interest attributable to its design and historic uses that contribute to the special interest of the terrace.

14. The appellant contends that the appeal property is not of special interest, suggesting it should no longer be considered to be a listed building of special architectural or historic interest. No clear justification is given for the appellant's argument under ground (a) that it is not of special architectural or historic interest. She has stated that at the time she purchased it, in 2020, the property had fallen into disrepair and that a number of works have been carried out to it. Moreover, the garage door cited in the list description had been removed and replaced with a single door by 2020. Nevertheless, the removal of the 20th Century garage door would have had minimal impact on the historic interest of the listed building. Yet it would have had a modest impact on its architectural interest by the alteration to the size of the door opening.
15. However, nothing mentioned by the appellant, including the dilapidated state of the property in 2020, the remedial works carried out by her since then or the replacement/alteration of the garage door justify a conclusion that the building is not of special interest. There is insufficient evidence before me to conclude that the building no longer meets the criteria for listed buildings and, furthermore, I am not aware that there was an application to de-list the building before the LBEN was served. The building is listed alongside other local properties and therefore, it has significant group value, as well as being of individual merit, which weakens any case advanced to de-list it.
16. In summary, therefore, from my inspection of the exterior of the building I consider that the building is still of special architectural or historic interest. On that basis the appeal on ground (a) fails.

### **The ground (e) appeal**

17. This ground is that listed building consent ought to be granted for the works.

#### *Main Issue*

18. Based on my observations and the evidence before me I consider that the main issue is whether the installation of Upvc framed, double glazed windows at first floor level of the front and rear elevations and a composite entrance door at ground floor level preserve the special architectural and historic interest of the listed building, whether they preserve or enhance the character or appearance of CCA and whether the significance of the heritage assets is harmed.

#### *Reasons*

19. Windows and doors are often among the most prominent features and an integral part of the design of a listed building and can be indicators of when the building was built. The design, materials and details of construction of historic windows and doors are all important to the significance of a heritage asset and its special interest.

20. The evidence before me is that the windows on the front elevation of the property were traditional single glazed timber-framed sashes with structural glazing bars. Other features in the design of the sashes included very slim sections to the meeting rails and stiles and the glazing bars/astragals also had very slim sections typical of the architectural style of the 19th Century. These windows were similar in design to those within the remainder of the listed building (Nos 5 and 7) therefore it is reasonable to consider that the windows on the rear elevation were of the same design to those on the front. The removal of the windows erodes the historic interest that they contributed to the significance of the listed building. The door that has been replaced was a modern replacement itself therefore it made no contribution to the building's historic interest. However, given its position on the front elevation its replacement has an impact on the architectural interest of the listed building.
21. Having seen the Upvc windows and composite door, I share the Council's concerns about their effect on the special interest/significance of the listed building and on the character and appearance of the CCA. Two of the windows are on the rear elevation and the first-floor front elevation is set back from the ground floor front elevation of the listed building. Nonetheless, I find that the installed windows and door are not sympathetic to the historic architectural detail and character of the building. Even subtle differences between historic fabric and replacements can have a significantly harmful effect on the integrity and special interest of a listed building.
22. In this regard the double glazed Upvc windows are overtly modern in both materials and design, having wide and heavy looking frames. The method of opening, a top opening casement, further highlights these alien additions to the elevations. Overall, their appearance is starkly at odds with the simpler and finer construction details of the traditional timber units that were removed. The rear elevation windows are not readily visible to the public, but that does not mitigate the harm to the special interest of the building I have identified. As such, the historic and architectural interest of the listed building has been significantly diminished by the removal and replacement of the windows.
23. The unauthorised door by reason of its materials and design contrasts sharply with the historic character and architectural detailing of the listed building. The arrangement of the two vertical glazing panels within the door is in sharp contrast to the glazing design of the half-glazed door within another property that forms part of the listed building. The glazing design of the half-glazed door appears to be similar to that of the door that was replaced. Furthermore, the composite material has a modern production sheen finish. As a result the door has a crude and incongruous appearance and fails to preserve the special architectural interest of the building.
24. I note the appellant's submissions and photographs that the windows and door were in poor condition, letting in water and ill fitting. However, a more appropriate response would have been to make repairs to them, or, if they were beyond repair, to replace them on a like-for-like basis. However, there is no convincing evidence before me that any were beyond repair. Moreover, even if they were beyond repair, the Upvc and composite units now installed are not like-for-like and instead diminish the historic and special architectural interest of the listed building as previously described.

25. Although the reasons for issuing the LBEN do not refer to the effect of the works on the CCA, section 72 of the LBCA Act requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. In my view it follows that if the special interest of a listed building within a conservation area is materially diminished, it follows that the character and appearance of that conservation area as a whole is also similarly incrementally harmed.
26. Furthermore, even though the first floor is set back, the windows and door on the front elevation are evident in the street scene when viewed from the public realm, exacerbating their harmful impact. They individually and cumulatively erode the architectural interest of this prominent historic building and the aesthetic value of the group of buildings in the surrounding area, which make a positive contribution to the significance of CCA. I, therefore, conclude that the works do not preserve or enhance the character or appearance or significance of CCA and they are in conflict with the requirements of the LBCA Act.

*Other matters*

27. I have taken into consideration other Upvc windows that have been installed in nearby buildings within CCA which have been drawn to my attention, and I observed those on my site visit. However, the evidence before me indicates that none of those buildings are listed buildings, therefore the circumstances relating to their installation are not the same as that before me. Moreover, the existence of other Upvc windows which fail to preserve the significance of the CCA does not set a precedent that should be repeated.

*Conclusion - the ground (e) appeal*

28. Drawing all of the above factors together, I consider that the unauthorised works as a whole or in part fail to preserve the special interest of the listed building and the character and appearance of the CCA contrary to the expectations of the LBCA Act. I must attach considerable importance and weight to these considerations when reaching my decision. I conclude that the harm caused to the designated heritage assets, is, in the context of the significance of the assets as a whole and in the language of the Framework, less than substantial. In those circumstances, paragraph 202 of the Framework says that this harm should be weighed against the public benefits of the works including, where appropriate, securing its optimum viable use. Even though I have found that the harm to the designated heritage assets is less than substantial, it is not to be treated as a less than substantial objection.
29. The appellant considers that the use of double glazing is environmentally sound and she wanted to reduce heat loss and increase sound insulation and security for the first floor residential flat. I have no doubt that the continued occupation of the building by the barbers and the residential flat maintains the beneficial use of this listed building and helps to achieve greater economic sustainability within Cheltenham. The use of the first floor flat will have economic and social benefits. Therefore, the continued viable use of this prominent listed building within CCA contributes to the vitality of Cheltenham as a whole which can reasonably be treated as public benefits.
30. However, whilst thermal efficiency, sound insulation and security may have some impact on the use of the building I have been given no indication that its viable use as a commercial unit with flat above was seriously threatened and



the issues raised could not have been addressed by alternative means such as secondary glazing. Against that background there is no substantial evidence before me to demonstrate that the property would not continue to be viable as a shop with flat above without these specific windows and door in place. As such, I attach modest weight to the public benefits.

31. As a result, the weight attributable to the public benefits does not outweigh the considerable importance and great weight to be given to the harm to the significance of the heritage assets. As such, these works do not comply with paragraph 202 of the Framework, and they conflict with the heritage aims of CS Policy SD8.
32. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal on ground (e) fails and listed building consent is refused.

### **Other Matters**

33. In reaching my conclusions on all of the grounds of appeal I have taken into account all of the other matters raised by the appellant, the Council and the interested parties supporting the appeal. However, none of these alters any of my conclusions on the various grounds of appeal and nor is any other factor of such significance so as to change my decision.

### **Overall Conclusion**

34. For the reasons given above, I conclude that the appeal shall not succeed. I shall uphold the LBEN with corrections.

### **Formal Decision**

35. It is directed that the listed building enforcement notice be corrected by deleting the wording '6/6' within the second requirement and insert the wording '*to match the design and appearance of the windows and door that existed immediately prior to the installation of the unauthorised windows and door*' at the end of that requirement. Subject to these corrections, the appeal is dismissed, the listed building enforcement notice is upheld, and listed building consent is refused for the retention of the works carried out in contravention of section 9 the LBCA Act.

*D. Boffin*

INSPECTOR

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# Appeal Decision

Site visit made on 30 August 2022

**by Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 November 2022

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**Appeal Ref: APP/HH/1912**

**22A Moorend Park Road, Cheltenham GL53 0JY**

- The appeal is made under section 71(1) of the Anti-social Behaviour Act 2003.
  - The appeal is made by Jane Rosser Smith, hedge owner, against a Remedial Notice issued by Cheltenham Borough Council.
  - The complaint, un-referenced, is dated 1 September 2020.
  - The Remedial Notice is dated 4 December 2020.
- 

## Decision

1. The appeal is dismissed, and I hereby specify that the operative date of the Remedial Notice (RN) shall be the date of this decision.

## Preliminary Matters

2. A site visit was arranged at which I was to be accompanied by all parties, i.e., the appellant, the complainant and the Council. At the arranged time, the appellant, appellant's agent and complainant met me at the entrance to the property. However, a representative from the Council did not attend. I was satisfied at the time that I was able to undertake the visit and explained to all parties present that I would do so without the Council being present. The site visit proceeded on this basis.
3. The RN relates to part a hedge within the garden of 22A Moorend Road, as outlined red on the plan attached to the RN, not the whole length of the hedge. For the avoidance of doubt, I have considered only that part of the hedge to which the RN refers.

## Main Issues

4. The main issues are whether:
  - Two trees are part of the high hedge (HH),
  - the extent of reduction stipulated in the RN is reasonable and proportionate to the impact that the hedge is having on the complainant's property, No 4 Melbourne Close, and
  - the Council's RN is reasonable and appropriate.

## Reasons

*Are trees part of hedge?*

5. The Anti-social Behaviour Act 2003 (the Act) defines a 'high hedge' as a barrier to light or access which is formed wholly or predominantly by a line of two or more

evergreens and rises to a height of more than two metres above ground level. The Act further states that 'evergreen' means an evergreen tree or shrub or a semi-evergreen tree or shrub.

6. At the appeal site there is a row of cypress trees rising to about 3.3 metres in height, with two further trees positioned to the northern end of the row. These are approximately 18.3 and 10.4 metres in height (at the time of the Council investigation into the complaint). While these two trees are significantly taller than the row of cypress trees, they are viewed as part of the hedge. The branches and foliage of the trees, together with the row of trees, form a single continuous barrier to light. The trees are not positioned apart from the remainder of the hedge and thus form part of it. As such, I find that the trees fall within the defined high hedge in this case.

#### *Extent of reduction*

7. The Council assessed the impact of the hedge using the Action Hedge Height (AHH) calculated according to the methodology formulated by the Building Research Establishment Hedge Height (HH) and Light Loss (LL) published by the Government in October 2005. This publication sets out the formulae for calculating loss of light to habitable room windows and gardens. Loss of daylight and sunlight to a property that is caused by the height of a neighbour's hedge is normally deemed to be unreasonable if the hedge is growing above the AHH.
8. The Council states that the area of the garden of the neighbouring property, 4 Melbourne Close (No 4), is 106.9m<sup>2</sup>, with the effective hedge length being 12.1m. Using these measurements, the overall AHH for the garden is calculated at 2.65m. I note however that the occupier of No 4 indicates that the area of the garden is 126.34m<sup>2</sup>, not the figure used by the Council. At the time of my visit, I also measured the effective length of the hedge, which was the entire length of the rear boundary of No 4, which resulted in a figure of 14.25m. This was agreed with the parties at the time of the visit.
9. However, even if I were to use the complainant's figure for the area of garden and the measured figure for the effective hedge length, the resultant AHH remains 2.65m. The hedge owner refers to their own calculations in respect of the AHH and argues that it should be 3.3m. However, these calculations have not been provided. I therefore agree with the AHH stated by the Council, albeit that I have reached that figure by different means.

#### *Requirements of RN*

10. The RN requires Initial Actions to reduce:
  - The existing trimmed hedge to a height not exceeding 2.65m above ground level,
  - The larger of the two cypress trees to an overall height not exceeding 12m and 4m radial width of the west side of the canopy, and
  - The smaller of the two cypress trees to an overall height not exceeding 5m and 4m radial width on the west side of the canopy.
11. The RN also requires that Preventative Action is undertaken to maintain the trimmed hedge so that it does not exceed 2.8m in height, as well as that the larger and smaller trees do not exceed 14m and 6m in height, respectively, nor that either exceeds 4.5m radially.
12. In respect of the existing trimmed hedge, this action would require a reduction in height of approximately 0.75m. Given the good health of the hedge, I find that this

degree of pruning would not be excessive and that the trees would likely be able to withstand these works. Notwithstanding concern from the hedge owner, a large amount of photosynthetic material would remain, and careful pruning would ensure that this part of the hedge retained an acceptable appearance. Similarly, both of the trees at the northern edge of the hedge appeared healthy and there is nothing before me that would lead me to conclude that they are not capable of coping with the proposed reductions.

13. Accordingly, I consider in the light of the evidence before me that these are reasonable requirements and would be unlikely to result in the death or destruction of the hedge. As such, I find that the RN was not excessive.

#### **Other Matters**

14. The hedge owner refers to the subjective comments in the report produced by the Council. However, these have had no bearing on the calculations in respect of light loss.
15. I note that No 4 has previously been extended which has resulted in part of the dwelling being closer to the boundary than previously. However, I have assessed this case on the basis of the currently existing situation.
16. I consider that the reduced height of the hedge would ensure that an acceptable level of privacy is retained for both the hedge owner and occupiers of No 4. Furthermore, the reduction would not result in any unacceptable increase in noise levels experienced by the parties.
17. Whether or not the complainant knew of the existence of the hedge at the time of purchasing the property is not a relevant consideration for the purposes of this appeal.

#### **Conclusion**

18. I therefore conclude that the trees comprise part of the high hedge, and that the extent of reduction stipulated in the RN is necessary with regard to the impact that the hedge is having on the complainant's property.
19. The appeal is therefore dismissed, and the RN upheld save for varying the date it takes effect.

*Martin Allen*

INSPECTOR

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## Appeal Decisions

Site visit made on 18 October 2022

**by David Jones BSc (Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 November 2022**

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### **Appeal A Ref: APP/B1605/W/22/3299712**

#### **Pavement O/S 253 Gloucester Road, Cheltenham GL51 8NW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr James Browne (BT Telecommunications Plc) against the decision of Cheltenham Borough Council.
  - The application Ref 22/00330/FUL, dated 17 February 2022, was refused by notice dated 14 April 2022.
  - The development proposed is the proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s).
- 

### **Appeal B Ref: APP/B1605/H/22/3299714**

#### **Pavement O/S 253 Gloucester Road, Cheltenham GL51 8NW**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr James Browne (BT Telecommunications Plc) against the decision of Cheltenham Borough Council.
  - The application Ref 22/00330/ADV, dated 17 February 2022, was refused by notice dated 14 April 2022.
  - The advertisement proposed is the proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s).
- 

### **Decisions**

1. Appeal A and Appeal B are both dismissed.

### **Procedural Matters**

2. There are two appeals on this site, one against the refusal of planning permission and the other against the refusal of advertisement consent. They are intrinsically linked and raise similar issues. In order to avoid repetition, while considering each on its merits, I have dealt with the schemes in a single decision letter.
3. The Regulations regarding advertisements stipulate that control may only be exercised in the interests of 'amenity' and 'public safety'. With respect to appeal B, the development plan policies referred to by the Council are not determinative, but I have taken these into account as a material consideration.

### **Main Issues**

4. The main issue in respect of appeal A is the effect of the proposal on the character and appearance of the area, and in respect of appeal B the effect on amenity.

## Reasons

5. The appeal site forms part of the pavement on the north-western side of Gloucester Road immediately adjacent to a row of two storey terrace properties comprising retail and commercial frontages to ground floor. Opposite the site on the south-eastern side of Gloucester Road is the rear entrance to Cheltenham Spa Railway Station.
6. The appeal proposal seeks the erection of a BT Street Hub measuring approximately 2.98 metres in height and 1.2 metres in width. The Street Hub would incorporate 2no digital 75" LCD advert screens which would be visible when approaching from both directions along Gloucester Road. Although the Street Hub would occupy the same location as a former BT payphone kiosk, this kiosk was removed from the site at some point between November 2020 and December 2021 and therefore has not formed part of the street scene for some time. The Street Hub would therefore appear as a new addition to this part of Gloucester Road.
7. The street scene in the immediate area of the appeal site is already cluttered with an array of existing features and street furniture including a post box, bus shelter, road signs, bins, highway railings, a streetlight, bike racks, an E-Scooter parking area, and outdoor seating areas.
8. Despite the presence of these existing features, the proposed Street Hub would be prominently located near to the edge of the kerb and would represent a sizeable and eye-catching addition. Its prominence would be further exacerbated by the long straight nature of Gloucester Road which would afford long distance views, particularly when approaching from the south-west. Consequently, by virtue of its size, siting, and the large digital advertisement screens the Street Hub would only serve to add to an already cluttered street scene along this part of Gloucester Road, causing harm to its character and appearance.
9. The row of terraced properties immediately adjacent to the appeal site comprise a range of commercial and retail uses at ground floor level, and as a result include a range of different advertisement signage on their frontages. These advertisements however are largely non-LED displays that are set within a traditional shopfront resulting in them not being unduly prominent within the wider street scene.
10. Similarly, the small number of modest advertisements on the rear of the adjacent Railway Station are subdued and in keeping with the pleasant and traditional appearance of the area. The proposed Street Hub however would introduce a modern, tall, and reasonably wide structure which would be predominately read as two large illuminated digital advertisements. Given the prevailing character of the advertisements I observed within the vicinity, the introduction of prominently sited digital advertisements would appear overly dominant and alien within the street causing harm to the amenity of the area.
11. During my site visit I also observed large billboards located adjacent to a nearby roundabout and the front entrance to the Railway Station. These advertisements however are not viewed within the same context as the appeal proposals and, in any event, do not represent a similar form of advertisement to that proposed. I also acknowledge that the payphone kiosk which previously existed on the site contained two static adverts, however these were not in



digital format and as a result were far less prominent. Accordingly, the existence of advertisements on the previous kiosk does not provide any justification for the appeal proposal.

12. I therefore conclude that the proposals would cause harm to the visual amenity and character and appearance of the area. The proposals would therefore conflict with Policies SL1, D1 and D2 of the Cheltenham Plan (adopted July 2020), and Policies SD4 and SD14 of the Gloucester, Cheltenham and Tewksbury Joint Core Strategy 2011-2031 (adopted December 2017). These policies, among other matters, seek to ensure that proposals respect the character of the site and its surroundings and do not cause harm to the visual amenity of the immediate neighbourhood.

### **Other Matters**

13. I note that the appellant also intends to remove two further telephone kiosks from other locations in Cheltenham. However, this provides no mitigation for the harm that would arise in this location, and in any event, there is no mechanism before me to secure their removal.
14. The appellant refers to pre-application consultation with the Council during which the proposals were described as being acceptable in principle. Despite this initial advice the applications were still refused. Whilst I can sympathise with the appellant's position, the Council is not bound by advice given at pre-application stage.

### **Conclusion**

15. As set out above, the development would cause harm to the visual amenity and character and appearance of the area and would be contrary to the development plan, the National Planning Policy Framework, and the Regulations to control advertisements in this regard.
16. Set against this, it would provide ultra-fast wi-fi access, free charging for mobile devices, wayfinding, emergency 999 call button and public messaging capabilities. I also recognise the social and economic importance of advanced, high quality and reliable telecommunications.
17. However, in the circumstances of this appeal, I consider that these benefits do not outweigh the harm arising from the proposal. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
18. For the reasons given above, I conclude that the appeals should be dismissed.

*David Jones*

INSPECTOR

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Application No.	Appeal Ref	Site Address	Appeal Type	Start Date	Questionnaire	Statement	Final Comments	Decision	Date of Decision	Costs Decided	Hearing Date	Costs awarded
21/02306/FUL	22/00001/PP1	o/s 156 - 160 High St	written	07.03.2022	14.03.2022	11.04.2022	25.04.2022	dismissed	22.06.2022	n/a		
21/02306/ADV	22/00002/ADV1	o/s 156 - 160 High St	written	07.03.2022	14.03.2022	11.04.2022	25.04.2022	dismissed	22.06.2022	n/a		
21/02304/FUL	22/00003/PP1	o/s 21 Promenade	written	08.03.2022	15.03.2022	12.04.2022	26.04.2022	dismissed	05.07.2022	n/a		
21/02304/ADV	22/00004/ADV1	o/s 21 Promenade	written	08.03.2022	15.03.2022	12.04.2022	26.04.2022	dismissed	05.07.2022	n/a		
21/01723/FUL	22/00005/PP1	18 Wentworth Road	written	24.03.2022	31.03.2022	28.04.2022	12.05.2022	dismissed	23.06.2022	n/a		
21/02505/FUL	22/00006/PP1	The Paddocks Swindon L	written	06.04.2022	13.04.2022	11.04.2022	25.05.2022	dismissed	05.07.2022	n/a		
21/01891/FUL	22/00007/PP1	9 The Bungalow All Saints	written	25.04.2022	02.05.2022	30.05.2022	13.06.2022	dismissed	22.09.2022	n/a		
21/00022/DCUALI	22/00008/ENFAPP	3 Suffolk Road	written	03.05.2022	17.05.2022	14.06.2022	05.07.2022	dismissed	09.11.2022	n/a		
22/00262/FUL	22/00009/PP1	27 Cleeve View Road	written	24.05.2022	31.05.2022	n/a	n/a	dismissed	09.08.2022	n/a		
22/00181/FUL	22/00010/PP1	21 Charlton Close	written	16.06.2022	23.06.2022	n/a	n/a	Allowed	27.09.2022	n/a		
22/00086/FUL	22/00011/PP1	103 Ryeworth Road	written	16.06.2022	12.06.2022	n/a	n/a	dismissed	04.08.2022	n/a		
21/02302/ADV	22/00012/ADV1	214-216 High Street	written	13.07.2022	20.07.2022	17.08.22	31.08.22	dismissed	18.10.2022	n/a		
21/02302/FUL	22/00013/PP1	214-216 High Street	written	13.07.2022	20.07.2022	17.08.2022	31.08.2022	dismissed	18.10.2022	n/a		
21/02308/FUL	22/00014/PP1	103 High Street	written	14.07.2022	21.07.2022	18.08.2022	01.09.2022	dismissed	18.10.2022	n/a		
21/02308/ADV	22/00015/PP1	103 High Street	written	14.07.2022	21.07.2022	18.08.2022	01.09.2022	dismissed	18.10.2022	n/a		
21/02466/FUL	22/00016/PP1	Fairmount, Fairmount Road, Ch	written	02.08.2022	09.08.2022	30/08/2022	13.08.2022	dismissed	22.09.2022	n/a		
	22/00017/PP1	System Error										
22/00324/FUL	22/00018/PP1	OS Soho Coffee, Unit B, The Br	written	05.08.2022	12.08.2022	09.09.2022	23.09.2022	dismissed	07.11.2022	n/a		
22/00324/ADV	22/00019/ADV1	OS Soho Coffee, Unit B, The Br	written	05.08.2022	12.08.2022	09.09.2022	23.09.2022	dismissed	07.11.2022	n/a		
21/02732/CLEUD	22/00020/PP1	Woodlands Park, Swindon	Hearing	17.08.2022	31.08.2022	28.09.2022	19.10.2022	Withdrawn		n/a		
22/00322/FUL	22/00021/PP1	os 159 High Street	written	05.08.2022	12.08.2022	09.09.2022	23.09.2022					
22/00322/ADV	22/00022/ADV1	os 159 High Street	written	05.08.2022	12.08.2022	09.09.2022	23.09.2022					
		os Sew M Design 253										
22/00330/FUL	22/00023/PP1	Gloucester Road.	written	16.08.2022	23.08.2022	20.09.2022	04.10.2022	dismissed	29.11.2022	n/a		
22/00330/ADV	22/00024/ADV1	os Sew M Design 253 Gloucest	written	16.08.2022	23.08.2022	20.09.2022	04.10.2022	dismissed	29.11.2022	n/a		
21/02333/PIP	22/00025/PP1	Cromwell Court , Greenway Lan	written	05.10.2022	12.10.2022	09.11.2022	23.11.2022					
22/00602/FUL	22/00026/PP1	Glenfall Stables, Ham Road, Ch	written	19.10.2022	26.10.2022	23.11.2022	23.11.2022					
22/02700/FUL	22/00027/PP1	Adey Ltd Gloucester Road	Hearing	22.11.2022	29.11.2022	06.01.2023	06.01.2023					
22/00749/FUL	22/00028/PP1	The Hayloft , The Reddings	written	05.12.2022	12.12.2022	09.01.2023	23.01.2023					

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