

# Cheltenham Borough Council Planning Committee

**Meeting date:** 20 July 2023

**Meeting time:** 6.00 pm

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

---

## **Membership:**

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 Tony Oliver, Councillor Diggory Seacome, Councillor Simon Wheeler, Vacancy and Councillor Barbara Clark (Reserve)

---

## **Important notice – filming, recording and broadcasting of Council meetings**

This meeting will be recorded by the council for live broadcast online at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk) and <https://www.youtube.com/@cheltenhambc/streams>  
The Chair will confirm this at the start of the meeting.

If you participate in the meeting, you consent to being filmed and to the possible use of those images and sound recordings for broadcasting and/or training purposes.

If you have any questions on the issue of filming/recording of meetings, please contact Democratic Services.

---

## **Speaking at Planning Committee**

To find out more about Planning Committee or to register to speak, please click [here](#).

**Please note:** the deadline to register to speak is 10.00am on the Wednesday before the meeting.

---

**Contact:** [democraticservices@cheltenham.gov.uk](mailto:democraticservices@cheltenham.gov.uk)

**Phone:** 01242 264 246

# Agenda

## **1 Apologies**

## **2 Declarations of Interest**

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

## **4 Minutes of the last meeting (Pages 5 - 12)**

To approve the minutes of the meeting held on 15<sup>th</sup> June 2023..

## **5 Public Questions**

## **6 Planning Applications**

### **6a 23/00775/FUL 3, Trelawn Court, Rodney Road, Cheltenham, GL50 1JJ (Pages 13 - 20)**

[Planning application documents](#)

### **6b 23/00860/FUL 14 Lincoln Avenue, Cheltenham, Glos GL51 (Pages 21 - 28)**

[Planning application documents](#)

## **7 Appeal Update (Pages 29 - 60)**

For information.

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

This page is intentionally left blank



# Cheltenham Borough Council Planning Committee Minutes

**Meeting date:** 15 June 2023

**Meeting time:** 6.00 pm - 7.30 pm

---

## **In attendance:**

### **Councillors:**

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

### **Also in attendance:**

Ben Warren (Planning Officer), Michael Ronan, Mike Holmes and Chris Morris (Senior Heritage and Conservation Officer)

---

## **1 Apologies**

Apologies were received from Councillor Payne.

## **2 Declarations of Interest**

Councillor Baker declared an interest in Agenda Item 5d, 23/00382/LBC Sandford Park Lido. As a trustee of the Lido, he will leave the Chamber during this item.

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

Councillor Andrews independently visited the Lido and the Pump Rooms.

## **4 Minutes of the last meeting**

The minutes of the meeting held on 18 May 2023 were approved as a true record and signed accordingly.

## **5 Planning Applications**

### **6 23/00414/FUL 61 Moorend Park Road, Cheltenham GL53 0LG**

The case officer introduced the report, highlighting the main objections as loss of light and privacy, and the proximity of the proposed extension to the boundary. The Parish Council has objected, and the application was at Planning Committee at the request of Councillor Horwood.

#### **Public Speaking**

##### **Neighbour, in objection**

The neighbour thanked members for considering his concerns, saying that the proposed extension would significantly alter key aspects of his home life and impact his most-used social spaces. It would be visually overbearing, obstructing both sunlight and view, thus diminishing the quality of his family life. The previously-approved application began by requesting a 4m extension which was amended to 3m, with the report highlighting the concerns about scale and impact on neighbouring amenity. It was surprising, therefore, that this scheme has now been resubmitted, with no alterations. It feels that the neighbour's concerns have been overlooked by this reversal and the recommendation to permit, and an unfair way of the architect and applicant to get what they want. While appreciating the applicant's right to expand, he had hoped for a compromise solution that would not have such an impact on his home and garden.

##### **Councillor Horwood, in objection**

Councillor Horwood began by saying that although this may seem like a small issue on the face of it, by incremental changes this proposed extension was being allowed to grow, thus undermining the credibility of the decision-making process and contradicting the idea of applicants sticking with the decisions taken. Concerns were originally raised over loss of light, overshadowing, and the overbearing nature of the extension on the neighbouring property, and the Parish Council also objected; the plans were revised accordingly, reduced in depth and width, resulting in an extension which was considered to fit comfortably in the plot. It was therefore difficult to understand how, whilst acknowledging the proper concerns of the neighbours, the recommendation on this revised scheme appeared to reverse the previous comments with a recommendation to permit. This method of applicants submitting repeated applications, chipping away at the planning system to get what they originally wanted is increasing across Cheltenham. Once a decision has been made for a suitably-sized extension, there is a strong case for sticking with that decision and not allowing incremental changes.

#### **Member questions**

The Chair reminded Members that they must consider the scheme before them.

In response to Member questions, the case officer confirmed that:

- the revisions to the previous proposal for a 4m extension were made following objections from the neighbour and the Parish Council; the officer did not say anywhere in his report that he considered it unacceptable and that the original application would not have been supported. The applicant and agent chose to revise their previous application, but were within their rights to submit a follow-up application;
- a 45-degree light test was carried out to measure the impact of the extension on the neighbour's kitchen-diner French doors and window; both passed, with the French doors alone passing without taking into account an additional kitchen window;
- officers have considered whether the proposal will be overbearing or overshadow the neighbouring property, and conclude that whilst it will have an impact, this will not be unacceptable;
- the rear elevation faces south-west;
- other than a nominal (less than one brick) reduction in the width, the current proposal is the same as the original application.

### **Member debate**

One Member said he fully understood the neighbour's concerns and agreed with Councillor Horwood that this proposal for an extra metre was a step too far. He thought the first floor extension made the extension overbearing.

### **Vote on officer recommendation to permit**

6 in support

4 in objection

**PERMIT**

### **7 23/00430/FUL 82 East End Road, Cheltenham, GL53 8QL**

The case officer introduced the application, a revised scheme following a previous Committee refusal on the grounds of loss of light and outlook for the neighbouring property. The current application, supported by a light assessment, reduced the width, eaves height and ridge height, and while accepting it would have an impact on neighbouring amenity, this was not considered unacceptable. The recommendation was to permit, including a condition requiring obscure glazing

### **Public speaking**

#### **Neighbour, in objection**

The neighbour began by saying there was nothing in the revised application to alter the refusal reasons on the previous one, with the small reductions making no difference and still resulting in the loss of six hours of daylight to his property. The report acknowledges that the proposal fails the 25 degree light test to the kitchen window, but was factually inaccurate, stating that the doors to his kitchen are the main source of light – this is not the case. As this harm has been identified and will have a serious impact, the application should be refused. He considered the house to be big enough for a family of four, and that there was no reason other than profiteering to extend it further. If approved, the extension would be oppressive and

overbearing, and he was depending on the Committee to restore his faith in the planning process.

### **Applicant, in support**

Although disappointed by the original planning refusal, the applicant said he had chosen to submit a modified scheme which met guidance for daylight and sunlight rather than appeal. Overwhelming expert evidence showed it met all guidance, yet the neighbour has chosen to reduce the light to his own kitchen by introducing solid panels to the French doors; these were easily reversible, but were an attempt to thwart the plans. In so doing, the neighbour has reduced the light to his kitchen and his outlook - his two main grounds for objecting to the proposal – and his new outlook, towards the applicant's boundary fence and garden, compromises their privacy. In addition, the neighbour is now claiming loss of views of trees from the non-habitable landing window as a reason to refuse the proposal. The applicant said his family is happy in Charlton Kings, but will clearly never satisfy the neighbours. He hoped his willingness to change his plans and engage professional advice would demonstrate the acceptability of his proposals.

### **Member questions**

In response to Members' questions, the officer confirmed that:

- he did not suggest that the neighbour block their French doors. He had previously explained how light test worked, taking into consideration the impact on the main and secondary light sources, and that if the French doors weren't there, the impact on the side window as the only source of light would be taken into account, resulting in a recommendation to refuse;
- no light test was submitted with the previous application. The applicant had engaged a light assessment professional for the revised scheme.

### **Debate**

In debate, Members made the following points:

- the previous proposal was a bit uneven but only as deep as the extension on No. 84;
- the outlook from the neighbour's kitchen window was very much compromised, either its view or loss of sunlight, being north-west facing;
- on Planning View, Members saw a small kitchen window and solid French doors at the neighbouring property. This would fail the light test, which assumed glazed French doors, and presents a quandary in deciding whether to support the proposal;
- Members cannot solve neighbour disputes – they are here to make judgements on planning matters. If someone appears to contrive to change an outcome by blocking doors, they can do so, but the doors were clear when the application was made and the light test undertaken;
- the difference between this and the previous application is the substantive information on the light test. There is no doubt that the applicant has done as much as possible to satisfy planning requirements and address the neighbour's concerns;
- if the door had been obscured before the original application, we would be looking at one window as the only source of light, and it is difficult to adjust



thinking that it became obscure part-way through the application process. The neighbour says the door was blocked for more insulation and to keep the kitchen cooler, but this is not a planning matter.

### **Vote on officer recommendation to permit**

7 in support

1 in objection

2 abstentions

**PERMIT**

### **8 23/00372/FUL Pittville Pump Room, East Approach Drive, Cheltenham, GL52 3JE**

The case officer introduced the application which, following refusal of an earlier proposal, was now seeking a 20-month extension for the temporary structure from the date of submission, together with changes to the roof, and more detailed information regarding the use, public benefit, and action plan. Concerns remain, but officers consider the public benefits outweigh the less than substantial harm caused by the structure.

### **Public speaking**

#### **Neighbour, in objection**

The neighbour said the structure was put up in secret, is noisy and intrusive, and gives a clear view to his house. The excuse was that it was temporary, although it was unsuitable for use in a pandemic, being crowded and poorly ventilated, and is now infested with rats. In a published statement in 2021, the CEO indicated that the structure was to be a permanent offering, and applied for planning permission. The temporary permission was extended until 2022, when an application to extend the time period further was submitted and refused but not enforced. This application talks about three options, but only Option 1 is viable. Changes to the roof from white to clear glass will make no difference to the visual damage and be an environmental disaster, too hot in current weather conditions and freezing in winter. The first view of the Pump Room from West Approach Drive aspect is now a greenhouse, rubbish bins and catering trollies. Planning regulations in conservation areas are strict – he was not allowed to change a window in his own GII-listed house - yet the Trust is allowed to install this giant greenhouse on a GI-listed building.

#### **Agent, in support**

The agent began by reminding Members that this is a temporary application; the intention being to develop a permanent solution whilst securing an income to help maintain the Pump Room. Following the previous refusal, the Trust has engaged with planning and conservation officers, the Civic Society and Historic England to explore changes that will reduce or mitigate the recognised less than substantial harm to the setting of the Pump Room. Clarification of the Trust's short- and long-term future plans have been provided, focussing on the café, and a timeline for delivery of a permanent solution provided. Different options re. siting and configuration have been considered, but this is the most appropriate, resulting in a

low level of localised harm to the conservation area, Pump Room and Park outweighed by the public benefits. Accommodating a café within the Pump Room would result in the loss of half its available floor space for events, and a significant income stream. The café enjoys great public support, demonstrated by the letters and petitions, and was at the centre of the King's Coronation community event, attended by 13,000 people. The Trust is committed to helping CBC develop its heritage strategy, and the café helps promote this asset, achieving all the objectives of Key Priority 4 of the council's Corporate Plan.

### **Member questions**

In response to a Member's question, the legal officer confirmed that the structure was permitted at a time when the government relaxed enforcement legislation in relation to outdoor development, to assist businesses during the pandemic. Although that legislation is no longer applies, and the subsequent application to extend the time period was refused, enforcement is discretionary, and it isn't unusual to put it on hold while an applicant works on an application to remedy a situation. There is nothing out of the ordinary with this application, and process has been followed.

The case officer added that there was a lot of information in the supporting planning statement to explain why the café was needed; ultimately, income from the café is used to sustain the Pump Room and other buildings of the Trust, as well as all the events it puts on for visitors, tourist and locals.

The Chair confirmed that, although there was no photograph showing the view of the Pump Room from the front, Members on Planning View stood by the lake and looked towards the building – they could not see the café, as it was obscured by the bandstand and trees.

### **Member debate**

In debate, Members made the following points:

- the view from West Approach Drive is the most affected, but unfortunately there is nowhere else for the café to go. Most people approach the Pump Room on foot from the south side, and there is no great harm to the full magnificence of that aspect, with the bandstand and yew tree obscuring the café;
- before the café, the council regularly bailed out the Trust because it was unable to produce the funds it needed; this was unsustainable, and unreasonable that tax payers should need to support it. With problems at the Town Hall as well as the Pump Room, to cut off this income stream could be disastrous for Cheltenham;
- all decisions must balance both sides of the argument, and whilst appreciating the heritage arguments, the greater public good and overall benefits must be taken into account;
- the 20 months will pass quickly with no great harm done, but this must be the very last temporary permission, while a permanent solution is found. The Trust must get its finances in order to secure the Pump Room's economic future and carry out the job the council has asked it to do;

- not much has changed from the previous application: the toilets, bins, and storage container should not be on view next to a Grade I listed building. A café inside the Pump Room isn't suitable, but to allow the Trust to keep this temporary structure when other businesses in Cheltenham have been told to remove theirs is the height of hypocrisy. There is an appeal pending on temporary structures at a Grade II listed building in town, but we need to say enough is enough. There are three places in Pittville Park to buy refreshments.
- while there are other places to get coffee in Pittville Park, these don't generate income for the Trust;
- the difference between this and the GII-listed building in town is that there is it has alternative accommodation inside and is a profitable business without the tents;
- life has moved on since Covid, and it's great to encourage people to use Cheltenham's wonderful parks and enjoy the magnificence of the Pump Room. If this enables the Pump Room to be used for other things, it has to be good;
- there are many conflicting issues, but the Pump Room has some of the best acoustics in the country for classical music, and it is patently obvious that it cannot be a dual or triple purpose room, with it already being used for conferences, music and weddings;
- it is scaremongering to suggest that the council may have to sell the Pump Room. The Trust won't collapse without the café, and there is room elsewhere in the park for a catering unit. The planning authority must think carefully, as people may judge that the rules that apply to everyone else don't apply to us;
- there is a lot of support to keep the café, and the Pump Room is an expensive building to maintain. Very few such buildings could be funded by cash-strapped councils without a similar facility or coffee shop. This proposal is not unreasonable;
- this is an important application, and different from the previous one, which did not include enough information, any explanation of why the café could not be inside the building, or evidence of engagement with Historic England. This application demonstrates significant engagement with all parties, and it is interesting to note that Historic England's comments are positive about a lot of what the Trust is doing to the building. There are clear reasons why a café cannot be relocated inside the building, and the Trust seems to be dedicated to finding a long-term solution within 20 months;
- the proposed glass roof will not make a difference to the appearance of the building and make it unbearable in hot, sunny weather. This condition should be dropped.

**Vote on Councillor Baker's proposal to drop the condition regarding a glass roof, seconded by Councillor Wheeler – CARRIED**

**Vote on officer recommendation to permit, excluding the condition regarding the glass roof**

9 in support

1 in objection

**PERMIT**

**9 23/00382/LBC Sandford Park Lido, Keynsham Road, Cheltenham, GL53 7PU**

Having declared an interest in this item, Councillor Baker left the Chamber. The chair was taken by Councillor Barnes.

The Senior Conservation and Heritage officer presented the report as set out in the papers.

There were no questions and no debate on this item.

**Vote on officer recommendation to grant**

9 in support – unanimous

**GRANT**

**10 Appeal Update**

An update on recent appeals lodged and decided had been circulated for information.

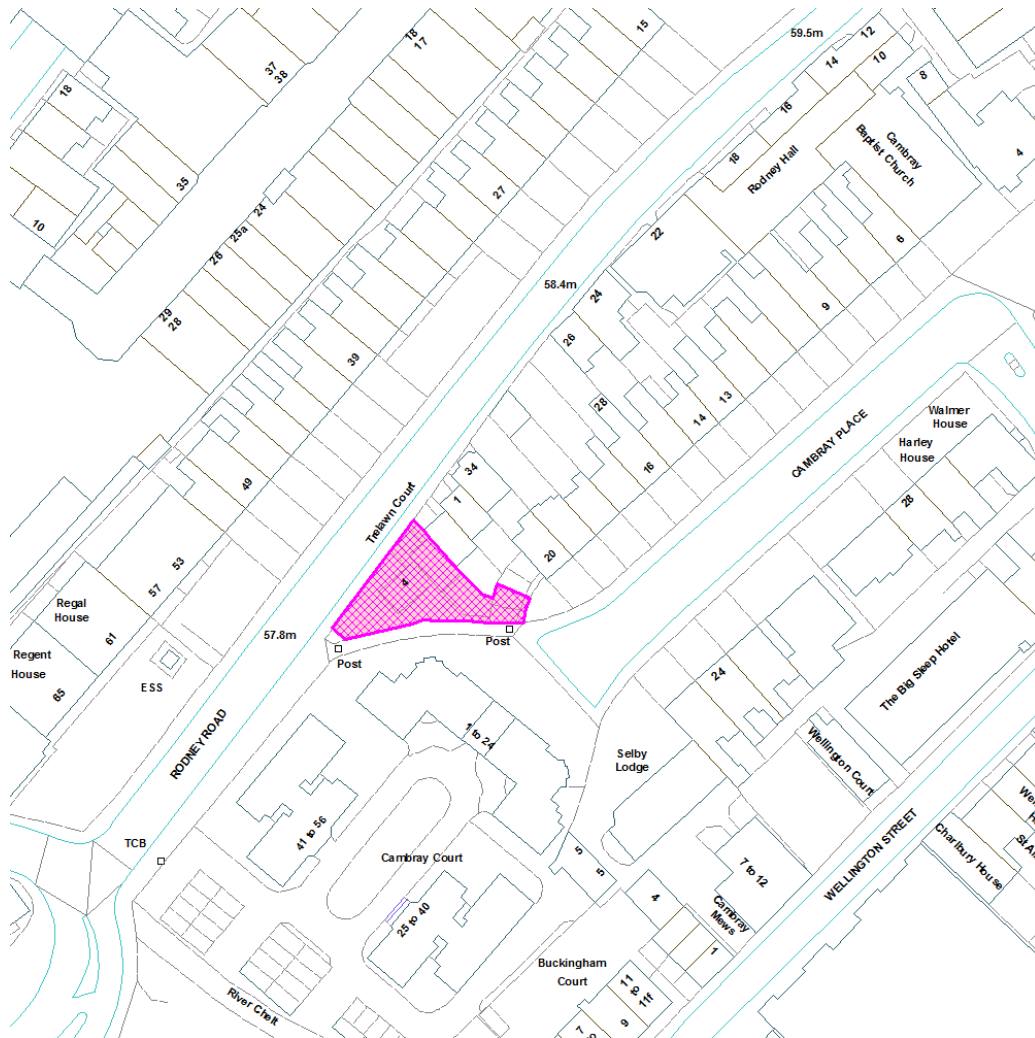
A Member suggested that training on how to present an appeal would be helpful.

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

There was none.

<b>APPLICATION NO:</b> 23/00775/FUL	<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 19th May 2023	<b>DATE OF EXPIRY:</b> 14th July 2023 (extension of time agreed until 21st July 2023)
<b>DATE VALIDATED:</b> 19th May 2023	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> College	<b>PARISH:</b>
<b>APPLICANT:</b>	Oliver Parker Premium Properties LTD
<b>AGENT:</b>	Coombes Everitt Architects Limited
<b>LOCATION:</b>	3 Trelawn Court Rodney Road Cheltenham
<b>PROPOSAL:</b>	Single storey extension to the rear of both 3 and 4 Trelawn Court

**RECOMMENDATION:** Permit



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

## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located on the south-eastern side of Rodney Road within the Montpellier character area of the Central conservation area, and comprises two modern, terraced townhouses (nos. 3 & 4 Trelawn Court). Nos.1-3 within the terrace are stepped, with no.4 set at a 90° angle.
- 1.2 The site is located in close proximity to a number of Grade II listed properties and adjacent to Cambray Court. A row of garages sits to the rear of the terrace, accessed from Cambray Place. A public footpath runs alongside the boundary to no.4. Part of the site is located within Flood Zones 2 and 3.
- 1.3 The applicant is seeking planning permission for the provision of a single storey extension to the rear of both properties; the properties are within the same ownership.
- 1.4 The application is before the planning committee at the request of Cllr Dobie due to concerns in relation to privacy and overlooking.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

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

### Relevant Planning History:

<b>CB10638/01</b> Erection of 4 terrace houses	<b>PERMIT</b>	<b>9th August 1978</b>
<b>CB10638/02</b> Amendments to erection of 4 terrace houses	<b>PERMIT</b>	<b>7th March 1980</b>
<b>14/00491/FUL</b> Alterations to elevations to block of four dwellings to remove projecting bay windows and replace with French doors and glazed balustrading along with replacement glazing	<b>PERMIT</b>	<b>28th April 2014</b>
<b>15/02266/FUL</b> (4A) Proposed development of a new dwelling above nos. 3 and 4 Trelawn Court	<b>PERMIT</b>	<b>11th February 2016</b>
<b>18/01333/FUL</b> Conversion and extension of existing garages to the rear of 3 & 4 Trelawn Court to form a new dwelling	<b>REFUSE</b>	<b>23rd August 2018</b>

## 3. POLICIES AND GUIDANCE

### National Planning Policy Framework 2021 (NPPF)

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 12 Achieving well-designed places  
Section 14 Meeting the challenge of climate change, flooding and coastal change  
Section 16 Conserving and enhancing the historic environment

**Adopted Cheltenham Plan 2020 (CP) Policies**

D1 Design

SL1 Safe and Sustainable Living

**Adopted Joint Core Strategy 2017 (JCS) Policies**

SD4 Design Requirements

SD8 Historic Environment

SD9 Biodiversity and Geodiversity

SD14 Health and Environmental Quality

INF2 Flood Risk Management

**Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

Montpellier Character Area Appraisal and Management Plan (2007)

Cheltenham Climate Change SPD (2022)

## **4. CONSULTATION RESPONSES**

**Gloucestershire Centre for Environmental Records**

*22nd May 2023*

Report available to view in documents tab.

**Building Control**

*26th May 2023*

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 Letters of notification were sent to two neighbouring properties. In addition, a site notice was posted and an advert published in the Gloucestershire Echo. In response to the publicity, objection has been raised by the neighbour at no.2 Trelawn Court; the comments have been circulated in full to members but, in summary, the concerns relate to:

- Visual impact / view from kitchen and garden
- Impact on light the garden receives
- Privacy / overlooking of garden

## **6. OFFICER COMMENTS**

6.1 Determining issues

6.1.1 The main considerations when determining this application relate to design and any potential impact on the historic environment; and neighbouring amenity.

6.2 Design and impact on historic environment

6.2.1 Adopted CP policy D1 requires alterations and extensions to existing buildings to avoid causing harm to the architectural integrity of the building; and the unacceptable erosion of open space around the existing building. The policy is generally consistent with adopted JCS policy SD4 and advice set out within Section 12 of the NPPF. Further guidance in relation to domestic extensions is set out in the Council's adopted 'Residential alterations and extensions' SPD.

6.2.2 In addition, section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires new developments to seek to preserve or enhance the character or

appearance of a conservation area. JCS policy SD8 also requires development to make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment.

6.2.3 The proposed extension would extend 4 metres from the rear elevation of no.3, and a maximum of 4.3 metres from the rear of no.4; to an overall height of 3 metres. The extension would have a flat roof with white rendered elevations to reflect the contemporary design of the existing dwellings; and such a design approach is considered to be most appropriate. All windows and doors, and detailing, would also match existing; with additional natural light being provided by large flat roof lanterns. Whilst the extension would adopt a fairly large footprint, it is single storey, can be easily accommodated within the site, and would clearly read as a subservient, later addition to the properties.

6.2.4 Furthermore, views of the extension from public vantage points would be limited due to the height of the existing brick boundary wall adjacent to the footpath, and the garage block to the rear. As such, the general character and appearance of the conservation area would be preserved.

6.2.5 Overall, the proposals are therefore considered to be wholly acceptable from a design perspective.

### 6.3 Neighbouring amenity

6.3.1 Adopted CP policy SL1 advises that development will only be permitted where it will not cause unacceptable harm to the amenity of adjoining land owners or the locality; these requirements are reiterated in adopted JCS policy SD14. In addition, NPPF paragraph 127 highlights the need to secure a high standard of amenity for existing and future users.

6.3.2 In this case, officers are satisfied that there are no significant amenity concerns arising from the proposed development in terms of privacy, outlook or daylight.

6.3.3 The property that has the most potential to be affected by the proposed extension is no. 2 Trelawn Court; however, although the extension would sit adjacent to the boundary with this neighbour, the extension passes the 45° daylight test used to assess the impact of a development on adjacent windows. Moreover, the extension would not extend the full length of the garden, and given its single storey height would not cause unacceptable overshadowing of the neighbour's garden, nor result in any unacceptable impact in terms of outlook. As such, whilst the extension would undoubtedly have some impact on this neighbouring property, it would not be to such an extent that planning permission could be reasonably withheld on amenity grounds; particularly in such a densely populated location within the town centre.

6.3.4 The concerns raised by the neighbour in relation to overlooking are duly noted but there are no windows in the side elevation facing this neighbouring property; and no terrace is proposed at first floor. All openings are proposed in the rear facing elevation.

### 6.4 Other considerations

#### *Climate change*

6.4.1 The adopted Cheltenham Climate Change SPD (2022) provides guidance on how applicants can successfully integrate a best-practice approach towards climate change and biodiversity in all new development proposals. Whilst in this case no specific low carbon technologies are proposed, given the limited scale of development proposed, this is considered to be acceptable on this occasion.



## *Flooding*

6.4.2 Part of the application site is in Flood Zones 2 and 3 and, as such, in accordance with the Environment Agency's standing advice, the application has been accompanied by a Flood Risk Assessment (FRA) proportionate to the scale of development proposed. The FRA confirms that the proposed floor levels will not be set lower than existing floor levels; and that flood resistant materials will be used in the construction of the extensions at least 300mm above the estimated flood level. Officers are therefore satisfied that flood risk issues have been suitably addressed.

## *Protected species*

6.4.3 Whilst records show that important species or habitats have been sighted on or near the application site in the past, notably a bat in 2017, given the scale and nature of the proposal, it is not considered that the development will have any harmful impact on these species.

## *Public Sector Equalities Duty (PSED)*

6.4.4 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.

6.4.5 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.

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

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 Officers are satisfied that the proposed development accords with all relevant national and local planning policy; and the recommendation is to grant planning permission subject to the following conditions:

## **8. SUGGESTED CONDITIONS**

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

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

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

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

**INFORMATIVES**

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

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

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

- 2 The applicant is advised that the proposed development may require agreement under The Party Wall etc. Act 1996; the granting of planning permission does not remove the need to comply with the Party Wall etc. Act 1996 where it is applicable.

<b>APPLICATION NO:</b> 23/00775/FUL	<b>OFFICER:</b> Miss Michelle Payne
<b>DATE REGISTERED:</b> 19th May 2023	<b>DATE OF EXPIRY :</b> 14th July 2023
<b>WARD:</b> College	<b>PARISH:</b>
<b>APPLICANT:</b>	Oliver Parker Premium Properties LTD
<b>LOCATION:</b>	3 Trelawn Court Rodney Road Cheltenham
<b>PROPOSAL:</b>	Single storey extension to the rear of both 3 and 4 Trelawn Court

## 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>

2 Trelawn Court  
 Rodney Road  
 Cheltenham  
 Gloucestershire  
 GL50 1JJ

### Comments: 1st June 2023

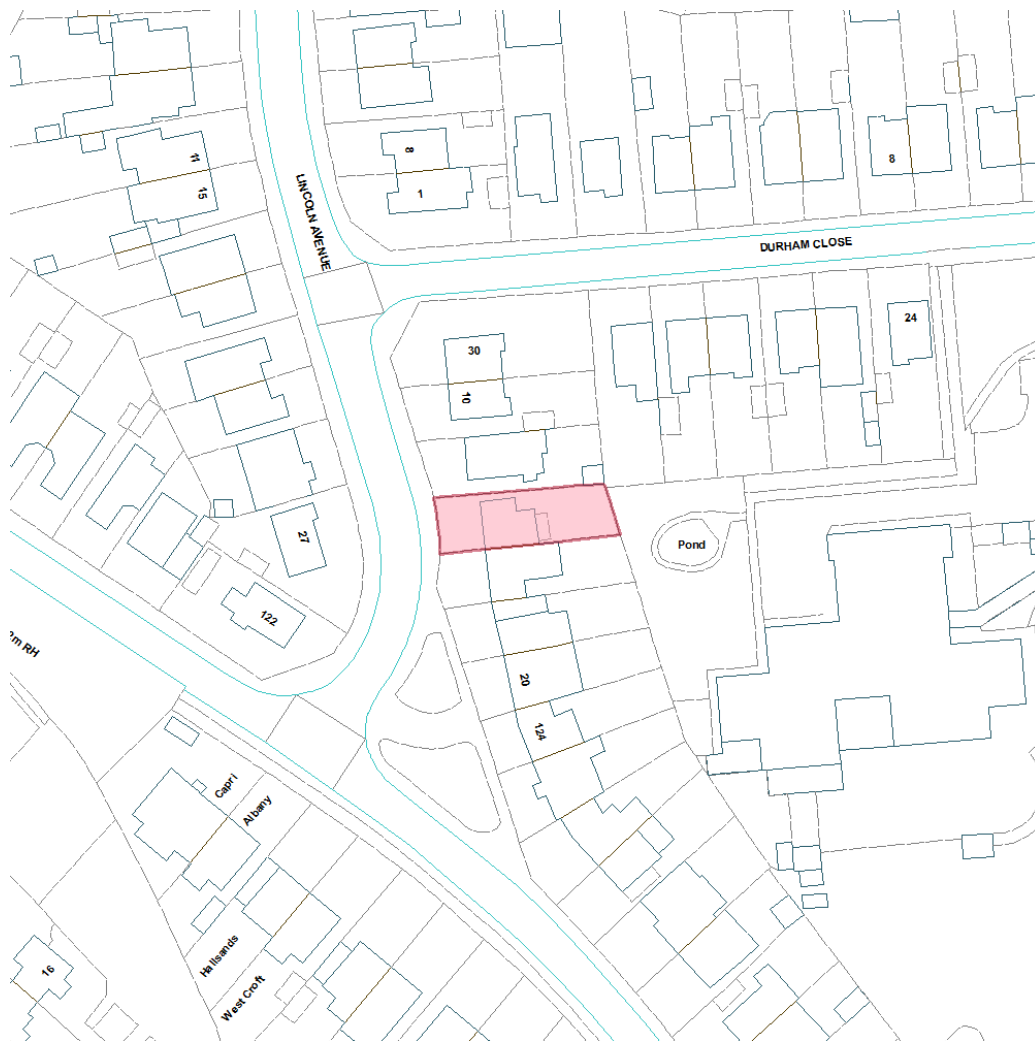
Visual: the extension will obscure the view from our kitchen and garden an affect the light our garden receives

Privacy: the extension to No.3 will overlook our garden

This page is intentionally left blank

<b>APPLICATION NO:</b> 23/00860/FUL		<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 24th May 2023		<b>DATE OF EXPIRY:</b> 19th July 2023 (extension of time agreed until 21st July 2023)
<b>DATE VALIDATED:</b> 24th May 2023		<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Warden Hill		<b>PARISH:</b> Leckhampton With Warden Hill
<b>APPLICANT:</b>	Mr Peter Ballinger	
<b>AGENT:</b>	Space Genie Design	
<b>LOCATION:</b>	14 Lincoln Avenue Cheltenham Gloucestershire	
<b>PROPOSAL:</b>	Two storey side and single storey rear extension	

**RECOMMENDATION:** Permit



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

## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located on the eastern side of Lincoln Avenue within Leckhampton with Warden Hill parish, and comprises a semi-detached, two storey dwelling with an attached garage to the side. The property is largely faced in brick, with sections of render and hanging tile at first floor, and has a pitched tiled roof and white uPVC windows and doors.
- 1.2 The neighbouring property to the north is a bungalow and sits at a lower level, approximately 300mm lower than the application property.
- 1.3 The applicant is seeking planning permission for the erection of a two storey side extension and a single storey rear extension, following the removal of the existing attached garage and rear conservatory.
- 1.4 The application is before the planning committee at the request of Cllr Beale due to concerns relating to a reduction in daylight and the potential impact on the quality of life for the neighbours in the bungalow. An objection has also been received from the Parish Council as they consider the proposals to be an overdevelopment of the site that would result in a loss of light.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport safeguarding over 15m  
Principal Urban Area

### **Relevant Planning History:**

None

## 3. POLICIES AND GUIDANCE

### **National Planning Policy Framework 2021 (NPPF)**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 12 Achieving well-designed places

### **Adopted Cheltenham Plan 2021 (CP) Policies**

D1 Design  
SL1 Safe and Sustainable Living

### **Adopted Joint Core Strategy 2017 (JCS) Policies**

SD4 Design Requirements  
SD9 Biodiversity and Geodiversity  
SD14 Health and Environmental Quality

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

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

## 4. CONSULTATION RESPONSES

### **Gloucestershire Centre for Environmental Records**

30th May 2023

Report available to view in documents tab.

**Building Control**

*26th May 2023*

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

**Ward Councillor**

*5th June 2023*

Councillor Graham Beale

I am writing with regards to the planning application at 14 Lincoln Avenue, reference 23/00860/FUL.

I have just returned from a site visit at the neighbour's property (12 Lincoln Avenue) to review the impact of this application. I hold concerns about this proposal – specifically the likely reduction of daylight plus the potential impact on quality of life for the neighbours.

The plans include an additional floor to an adjacent garage which will increase the buildings height to two stories. However, next-door (number 12) is a one-story bungalow and will almost certainly be in perpetual shadows throughout most of the day. I can well understand the concerns raised at number 12 Lincoln Avenue.

If you are minded to approve this application, I request that you call in this application to the planning committee for further scrutiny.

**Parish Council**

*15th June 2023*

The Parish Council objects to this application due to loss of light caused by the overdevelopment of the site

**5. PUBLICITY AND REPRESENTATIONS**

5.1 Letters of notification were sent to five neighbouring properties. In response to the publicity, two representations have been received in objection to the development; the comments have been circulated in full to members but, in summary, the concerns relate to:

- Loss of light
- Loss of outlook
- Drainage/sewerage

**6. OFFICER COMMENTS**

6.1 Determining issues

6.1.1 The main considerations when determining this application relate to design; and neighbouring amenity.

6.2 Design

6.2.1 Adopted CP policy D1 requires alterations and extensions to existing buildings to avoid causing harm to the architectural integrity of the building; and the unacceptable erosion of open space around the existing building. The policy is generally consistent with adopted JCS policy SD4 and advice set out within Section 12 of the NPPF. Further guidance in relation to domestic extensions is set out in the Council's adopted 'Residential alterations and extensions' SPD.

6.2.2 As a whole, the proposed extensions are considered to be acceptable. The two storey side extension would be set back from the principal elevation, with a reduced ridge height, to ensure a suitably subservient addition to the existing building. All materials used in the

external construction of the extension would match existing to ensure that the overall character of the property within the street scene is maintained; and a revised plan, to include a brick pier detail to the front elevation, has been secured during the course of the application.

6.2.3 To the rear, a slightly more contemporary design approach is proposed, with bi-folding doors to the rear, and a flat roof with roof lantern. This single storey addition would extend the full width of the dwelling, to include the new side extension, but would again read as a subservient later addition; extending to a depth of 3.5 metres. The use of a flat roof to the rear of the property is considered to be acceptable, where only limited views are available from the public realm.

6.2.4 Overall, the proposals are therefore considered to be wholly acceptable from a design perspective.

### 6.3 Neighbouring amenity

6.3.1 Adopted CP policy SL1 advises that development would only be permitted where it would not cause unacceptable harm to the amenity of adjoining land owners or the locality; these requirements are reiterated in adopted JCS policy SD14. In addition, NPPF paragraph 127 highlights the need to secure a high standard of amenity for existing and future users.

6.3.2 The property that has the most potential to be affected by the proposed extension is the neighbouring bungalow, no. 12 Lincoln Avenue; and their concerns have been duly noted. Their main concerns relate to a loss of light to windows in their side elevation which serve the hallway, bathroom and kitchen; however, the kitchen appears to be served by an additional window in the rear elevation which would be unaffected by the development. Moreover, by virtue of the side kitchen window being a projecting bay window, it would still receive light from its rear aspect. Windows serving hallways and bathrooms are not generally afforded any protection. Outlook from the rear of the property would not be affected.

6.3.3 As such, whilst the proposed extensions would undoubtedly have some impact on this neighbouring property, officers are satisfied that there are no significant amenity concerns arising from the proposed development in terms of privacy, outlook or daylight and certainly not to such an extent that planning permission could be reasonably withheld on amenity grounds.

### 6.4 Other considerations

#### *Climate change*

6.4.1 The adopted Cheltenham Climate Change SPD (2022) provides guidance on how applicants can successfully integrate a best-practice approach towards climate change and biodiversity in all new development proposals. In this regard, the application is supported by a brief Sustainability Statement which outlines the sustainability measures proposed; the statement confirms that “*Whilst not incorporating all measures recommended in the CBC Chelt Zero SPD, the extensions would be extremely well insulated and all sources and appliances would be significantly more efficient, so minimising the CO2 output of the buildings.*” The measures include new low-E coated, inert gas filled, double-glazed windows in the extensions, new efficient electric appliances in the kitchen, and water efficient fittings; and are considered to be proportionate to the scale of development proposed.

#### *Drainage / sewerage*



6.4.2 Concern has been raised by the neighbours in relation to drainage and existing problems with the main sewer; however, sewerage proposals are not relevant to the consideration of this application but rather a matter for Building Regulations. Severn Trent have been consulted on the application but have not provided a response. Any building over or close to (within 3 metres) of a public sewer would require permission from Severn Trent.

### *Protected species*

6.4.3 Whilst records show that important species or habitats have been sighted on or near the application site in the past, notably a bat in 2017, given the scale and nature of the proposals, it is not considered that the development would have any harmful impact on these species.

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

6.4.4 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.

6.4.5 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.

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

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 Officers are satisfied that the proposed development accords with all relevant national and local planning policy; and the recommendation is to grant planning permission subject to the following conditions:

## **8. SUGGESTED CONDITIONS**

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

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

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

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

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

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

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

<b>APPLICATION NO: 23/00860/FUL</b>		<b>OFFICER: Miss Michelle Payne</b>	
<b>DATE REGISTERED: 24th May 2023</b>		<b>DATE OF EXPIRY : 19th July 2023</b>	
<b>WARD: Warden Hill</b>		<b>PARISH: LECKH</b>	
<b>APPLICANT:</b>	Mr Peter Ballinger		
<b>LOCATION:</b>	14 Lincoln Avenue Cheltenham Gloucestershire		
<b>PROPOSAL:</b>	Two storey side and single storey rear extension		

**REPRESENTATIONS**

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

12 Lincoln Avenue  
 Cheltenham  
 Gloucestershire  
 GL51 3DE

**Comments: 6th June 2023**

We wish to object to the above planning application at 14 Lincoln Avenue, Cheltenham.

We live next door at number 12, a bungalow, and are concerned that the double storey side extension will block light along the side of our bungalow, impacting on the hallway, bathroom and kitchen . The two dwellings are quite close together and our bungalow is approx 300mil below their ground level and the erection of a double storey will impact on our outlook considerably.

There is also concern about the drainage because as stated above we are approx 300mil below their ground level. We have experienced sewage flood from their manhole into our garden in the past when the previous owner lived there.

There has always been problems with the main sewer in this area especially when there has been heavy rainfall and flooding.

The drainage configuration needs looking into as it is not included in the plans. Also the plan for the proposed single storey back extension is out to the end of the proposed double storey extension which would cover the manhole in their garden.

16 Lincoln Avenue  
Cheltenham  
Gloucestershire  
GL51 3DE

**Comments:** 5th June 2023

We live next door at number 16 to the planning application at 14, Lincoln Avenue, Cheltenham.

We have no objections to the proposed structure as it won't affect our light or eyeline, although the bungalow to the other side, number 12, may have a different view as it will block their light.

Our concern is the additional strain on what is a poorly thought out sewerage system. In the years we have been located at this address we have experienced sewage flood, due to our garden being the lowest point after a sealed cover was fitted in number 14, causing effluent to pour from our garden through our garage, and neighbour's gardens, namely numbers 12 and 14, on to the main public thoroughfare at Lincoln Avenue.

This isn't a frequent occurrence, thankfully, and usually occurs after heavy rainfall and flooding.

We believe the sewer has now been adopted by Severn Trent and needs examining further as it doesn't appear to have been included in the plans. The current flow is very slight, even though the houses were built on a raised bed, approximately 12 inches, above the site of number 12 to facilitate it.

Finally, if the plan gets approved they will be building over the current manhole cover towards the back of the property which could cause additional problems.

Application No.	Appeal Ref	Site Address	Appeal Type	Start Date	Questionnaire	Statement	Final Comments	Decision	Date of Decision	Costs Deci	Hearing Date	Costs awarded
21/02755/FUL	23/00001/PP1	Land at Brecon House	Hearing	10.01.2023	17.01.2023	14.02.2023	14.02.2023	Dismissed	27.04.2023	n/a	22.03.2023	
22/00839/FUL	23/00002/PP1	30 St Georges Place	written	16.01.2023	23.01.2023	20.02.2023	20.02.2023	Allowed	18.05.2023			
22/01145/FUL	23/00003/PP1	3 Apple Close	written	24.01.2023	31.01.2023	28.02.2023	28.02.2023	Allowed	19.04.2023			
22/00708/FUL	23/00004/PP1	37 Market Street	written	24.01.2023	31.01.2023	28.02.2023	28.02.2023	Allowed	19.04.2023	Allowed		
20/01788/FUL	23/00005/PP1	Land at Shurdington Road	Hearing	17.04.2023	24.04.2023	22.05.2023	22.05.2023				04.07.2023	
22/01162/FUL	23/00006/PP2	101 Ryeworth Road	written	08.03.2023	15.03.2023	12.04.2023	12.04.2023	Dismissed	08.06.2023	n/a		
22/01373/FUL	23/00007/PP1	129-133 The Promenade	Written	08.03.2023	15.03.2023	12.04.2023	12.04.2023					
22/02064/FUL	23/00008/PP1	St Edmunds, Sandy Lane	written	28.03.2023	04.04.2023	02.05.2023	16.05.2023	Dismissed	19.06.2023	Refused		
22/00334/COU	23/00009/PP3	8 Imperial Square	written	29.03.2023	05.04.2023	03.05.2023	17.05.2023				12.07.2023	
21/02750/FUL	23/00010/PP1	Land Adjoining Leckhampt	Hearing	30.03.2023	06.04.2023	04.05.2023	18.05.2023					
22/01430/FUL	23/00011/PP1	10 Suffolk Road	HAS	31.03.2023	07.04.2023	n/a		Dismissed	19.05.2023			
22/01679/FUL	23/00012/PP1	28 West Down Gardens	HAS	03.04.2023	10.04.2023	N/a						
22/00328/FUL	23/00013/PP1	os 195 High Street	Written	18.04.2023	25.04.2023	23.05.2023	06.06.2023	Dismissed	16.06.2023			
22/00328/ADV	23/00014/ADV1	os 195 High Street	Written	18.04.2023	25.04.2023	23.05.2023	06.06.2023	Dismissed	16.06.2023			
22/00326/FUL	23/00015/PP1	23 Pittville Street	Written	18.04.2023	25.04.2023	23.05.2023	06.06.2023	Dismissed	16.06.2023			
22/00326/ADV	23/00016/ADV1	23 Pittville Street	Written	18.04.2023	25.04.2023	23.05.2023	06.06.2023	Dismissed	16.06.2023			
22/02201/FUL	23/00017/PP1	Phylnor, 53 Alstone Lane	Written	17.05.2023	24.05.2023	21.06.2023	05.07.2023					
22/02190/PRIOR	23/00018/PP1	5G Mast, Glenfall Way	written	18.05.2023	25.05.2023	22.06.2023	06.07.2023					
22/02075/FUL	23/00019/PP1	4 Dymock Walk, Cheltenham	HAS	26.06.2023	03.07.2023	n/a	n/a					

This page is intentionally left blank



## Appeal Decision

Site visit made on 5 May 2023

**by Lewis Condé Msc, Bsc, MRTPI**

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

**Decision date: 08 June 2023**

---

**Appeal Ref: APP/B1605/W/22/3311507**

**101 Ryeworth Road, Charlton Kings, Cheltenham, Gloucestershire  
GL52 6LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Ms Megan Watts against Cheltenham Borough Council.
  - The application Ref 22/01162/FUL, is dated 27 June 2022.
  - The development proposed is described as 'Proposed extension and alterations to property'.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Whilst the Council did not issue a decision on the planning application, it has provided a statement setting out the reasons why it would have refused planning permission. This has informed the main issues of the appeal.

### Main Issues

3. The main issues are the effect of the proposed development on a) the living conditions of neighbouring residents of no. 103 Ryeworth Road; and b) the character and appearance of the area.

### Reasons

#### *Living Conditions*

4. The appeal site is a mid-terrace dwelling, set within a small terrace of properties. The appeal dwelling, alongside the adjoining properties, are each served by narrow gardens of considerable length.
5. An existing single storey outbuilding sits within the rear garden of the appeal site, near the rear elevation of the dwelling. However, the outbuilding is set off the boundary with the adjoining terrace property no. 103 Ryeworth Road (no. 103).
6. The proposed rear extension would involve both single and two storey elements. The proposed single storey element would extend approximately 8m to the rear of the appeal property, which is an overall comparable distance as the existing outbuilding within the garden. The depth of the rear single storey extension would also be in line with an extension that has previously been undertaken to the rear of no. 103. However, whereas the existing outbuilding

and neighbouring property's extension are both set off the shared boundary, the appeal proposal would introduce development along the boundary line with no. 103.

7. I have concerns over the height and depth of the rear extension and its placement on the shared boundary with no. 103. Notably, there is a groundfloor window in the rear elevation of no. 103 that sits adjacent to the shared boundary and at 90 degrees to the proposed extension. This window would be in very close proximity to the highest point of the proposed extension (i.e. alongside the two-storey element). The significant length of the single storey element, alongside the neighbour's existing extension, would also lead to a tunnelling effect to this rear ground floor window.
8. From my observations on site, it appears likely that the neighbour's window referred to above serves a habitable room, while from the evidence before me I am not satisfactorily convinced otherwise. In this instance, I find that the combined depth, height, and proximity of the proposed rear extension to the neighbouring property's rear elevation window would have an adverse impact on the living conditions of its occupants in terms of a loss of outlook and sense of enclosure.
9. I am aware that no. 103 is often unoccupied by the current owners. However, this may not remain the case in perpetuity, while the living conditions of both existing and future residents of the property must be considered.
10. I also note that the rear extension to no.103 contained a door and windows, which the proposed development would be sited very close to. From my site visit, it is unclear as to the use of the neighbouring extension, albeit the use of obscure glazing and the condition of the neighbouring extension suggests that it may not be for habitable rooms.
11. Turning to the front extension, I am satisfied that its overall scale and relationship with the adjoining properties would not lead to any unacceptable impact in respect of loss of light or outlook. However, this does not overcome my concerns with regards to the impacts of the rear extension.
12. Overall, I find that the proposed development would cause harm to the living conditions of the neighbouring residents at no. 103, through overbearing impacts and a loss of outlook. The proposal is therefore contrary to the amenity protection aims established under policies SL1 of the Cheltenham Plan (adopted 2020) (the Local Plan) and SD14 of the Joint Core Strategy (adopted 2017) (the JCS), and the National Planning Policy Framework (the Framework).

#### *Character and Appearance*

13. The appeal property is a two-storey mid terrace dwelling that is relatively small in scale. It is located in an elevated position above, and set back from, the main highway. Both the appeal dwelling, and the wider terrace have a simple architectural character, whilst given their elevated positions are fairly prominent within the street scene.
14. The proposed rear extension would have a sizeable footprint, particularly in the context of the host property. Despite being largely single storey in nature, the rear extension remains of a considerable scale that would result in a dominant addition to the rather small-scale property. This is due to the full width nature of the single and two-storey extension, alongside the substantial depth of the



- single storey element. Its scale would therefore be at odds with the character and appearance of the host dwelling and would not be a subservient addition as sought by the Council's Residential Alterations and Extensions Supplementary Planning Document (adopted 2008) (SPD).
15. The proposed full width front extension, although intending to also extend the existing living room, would primarily read as a porch extension from public views. The full width nature of the extension alongside its overall depth would make it appear as a rather bulky and unsympathetic design at the front of the property, which would be prominent within the streetscene.
  16. In coming to the above views, I recognise that there is a general lack of uniformity in the design of the dwellings along Ryeworth Road, whilst the rear extension would not be particularly appreciable from public vantage points. Nevertheless, it remains that the proposals do not respect the character or appearance of the host property nor the surrounding area.
  17. I also appreciate that other properties within the near vicinity may have been previously extended or obtained planning permission for development of a broadly similar nature as the current proposals. This includes full width front extensions at nos. 86 and 99 Ryeworth Road and sizeable rear extensions to other nearby properties. However, from my observations on site there appeared to be subtle differences in the design of neighbouring extensions whether that be through their overall scale, positioning, use of materials or the scale and design of the host dwelling. I also have only limited details of the circumstances of the neighbouring developments, including their planning histories. Furthermore, the existence of other unsympathetic extensions nearby is not suitable justification to allow for harmful development proposals.
  18. Overall, I find the proposed development would adversely affect the character and appearance of the host dwelling and the area generally. It would therefore conflict with Policies D1 and SL1 of the Cheltenham Plan, as well as policy SD4 of the JCS, which amongst other matters require development proposals to complement and respect the character of the site and its locality.
  19. Additionally, the proposal would also not accord with the design principles established in the Council's SPD or Section 12 of the Framework which together, amongst other matters, seek to ensure development is sympathetic to local character.

### **Other Matters**

20. It is suggested that a proposal of a similar nature could be advanced under permitted development rights (PDR). However, no specific details of an alternative fallback scheme utilising PDR has been presented to me. I am therefore unable to make appropriate comparisons as to whether the fallback position would be significantly more or less harmful than the scheme before me. As such, I give limited weight to this line of argument from the appellant.
21. No robust evidence has been provided to corroborate the appellant's statement that the property is not viable for future use without changes or modernisation. Even if this were to be the case, it has not been demonstrated that the proposal before me represents the only suitable option for modernisation.
22. The appellant has highlighted that the Council is unable to demonstrate a 5-year housing land supply and suggest that paragraph 11d of the Framework is

therefore engaged. However, the proposed development does not include the provision of a new dwelling. Additionally, I do not find that the policies of most importance to the proposal to be out of date, namely those safeguarding living conditions and the character and appearance of the area. The presumption in favour of sustainable development as set out by the Framework therefore does not apply.

23. It is suggested that the proposal will improve the thermal/energy efficiency and sustainability of the existing dwelling. The benefits, however, have not been quantified and given that the proposal relates to a single dwelling they are likely to be modest. As such, my decision does not turn on this matter.
24. I note the appellant's frustrations in the way the application was dealt with by the local planning authority. Nevertheless, the appeal has been determined on its own merits. Similarly, I have noted the communication between the appellant and a neighbouring third party, but it remains that the appeal has been determined on the merits of the proposed scheme.

### **Conclusion**

25. The proposal conflicts with the development plan when taken as a whole and material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with it. Accordingly, the appeal is dismissed, and planning permission is refused.

*Lewis Condé*

INSPECTOR



## Appeal Decision

Site visit made on 30 May 2023

by **Helen Davies MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> June 2023

---

**Appeal Ref: APP/B1605/W/23/3315958**

**St Edmunds, Sandy Lane Road, Cheltenham, Gloucestershire GL53 9DA**

- 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 Sword against the decision of Cheltenham Borough Council.
  - The application Ref 22/02064/FUL, dated 24 November 2022, was refused by notice dated 19 January 2023.
  - The development proposed is conversion and extension of an existing coach house to a single dwelling with new access onto Sandy Lane Road.
- 

### Decision

1. The appeal is dismissed.

### Applications for Costs

2. An application for an award of costs was made by Mr James Sword against Cheltenham Borough Council. This is the subject of a separate decision.

### Main Issues

3. Although numbered as 1, the Council reason for refusal actually covers 2 distinct reasons. The main issues are:
  - The effect of the proposed development on the character and appearance of the site and the surrounding area; and
  - Whether the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of suitable private outside amenity space.

### Reasons

#### *Character and appearance*

4. The site comprises of a large, detached garage, which has residential accommodation at first floor, and an area of land to the front and back of the garage. The site is currently part of the garden of St Edmunds on Sandy Lane Road. Sandy Lane Road is a private road characterised by large, detached dwellings, of various designs and layouts. Most front onto the street, but there are dwellings, including Farleigh and The Chase, set back from the road, and dwellings are oriented and relate to the road in various ways. The vast majority of dwellings are located within generous plots, with clear separation between blocks of built form, and with road frontages featuring mature trees and hedges that provide significant screening of built form. Together this gives the area an attractive spacious and verdant character.

5. St Edmunds is a large, detached dwelling in a generous plot, set back from the road and clearly separated from neighbouring dwellings. The large, detached garage is set forward of, but partially overlapping the front elevation of the dwelling. This is not an uncommon layout for a garage serving a large dwelling. Although it is a more recent addition, the garage is of a design and finish which reflects and complements the dwelling.
6. The garage is significantly screened from view by mature hedging along the road frontage, other than at the existing access. As such, the location, layout and design of the garage reads strongly as an ancillary building in association with St Edmunds. Together they form a coherent residential development, set in a large plot and screened by mature vegetation. Therefore, St Edmunds and its garage currently make a positive contribution to the spacious and verdant character and appearance of the area.
7. The proposal would extend and convert the garage to provide a separate 3 bedroom dwelling within its own curtilage. The extension would utilise matching materials and would not exceed the existing roof height. However, the footprint of the extension would be an irregular shape, resulting in a complex and contrived roof form at odds with the existing garage and the main dwelling. Although the extension is to the rear, it would be set off to one side meaning its incongruous and jarring form would be visible from the road through the new access.
8. The sub-division of the plot would mean that the proposed new dwelling and its associated boundary would be close to and overlapping with a significant proportion of the frontage and one side elevation of the existing dwelling at St Edmunds. Although the area does have dwellings set back from the road at different distances, they are well spaced out and do not overlap at such close quarters. Consequently, the proposal would be at odds with the established pattern of development in the area resulting in both the existing and new dwelling appearing more cramped and confined than is characteristic of the surroundings.
9. The proposal also includes the removal of a section of mature hedging along the road boundary to create a new access and driveway. This loss of screening would mean both the existing and proposed new dwelling would be significantly more visible from the road, increasing the prominence of built form within the streetscene. When combined with the loss of greenery and the introduction of substantial new hardstanding, this would have a negative impact on the verdant and attractive appearance of the area. This impact would not be adequately mitigated by proposed landscaping as planting would take time to establish and would focus on the boundary between dwellings rather than the frontage.
10. The Cheltenham's Supplementary Planning Document, Development on Garden Land and Infill Sites (SPD) dates from 2009, prior to adoption of the current CP and JCS. Hence, policies of the previous local plan, referred to within it, have now been superseded. Despite this, its general guidance remains valid and emphasises the need for development to respond to the character of the neighbourhood.

11. I conclude that the proposed development would cause unacceptable harm to the character and appearance of the site and the surrounding area. Consequently, the development would not comply with Policies D1 of the Cheltenham Plan (adopted July 2020) (CP) and SD4 of the Gloucester, Cheltenham and Tewksbury Joint Core Strategy (adopted December 2017) (JCS) and guidance set out in the SPD. Together, amongst other things, these policies seek to ensure that developments are designed in a way which complements and respects the character of the locality, including layout. In addition, the proposal would not comply with paragraph 130 of the National Planning Policy Framework which seeks to ensure good design, including that development is visually attractive, well laid out and sympathetic to local character.

*Private outside amenity space*

12. The rear garden to serve the proposed dwelling would be directly overlooked, at close range, by several windows in the side elevation of St Edmunds. This would result in a lack of privacy in the outside amenity space. A proposed fence would prevent overlooking from ground floor windows, but not from first floor windows. The appellant states that the windows serve bedrooms 'which are not habitable rooms during daylight hours'. However, when and how habitable rooms at St Edmunds are used, and hence the timing and intensity of direct overlooking, could not be controlled by condition. Any new planting would take years to establish to a height where it could provide screening from overlooking from first floor windows and would result in significant shading. In addition, planting should not be relied upon as a substitute for acceptable levels of privacy secured through suitable design of built form.
13. I conclude that the proposed development would not provide acceptable living conditions for future occupants, with regard to the provision of private outside amenity space. Consequently, the development would not comply with Policies SL1 of the CP, and SD4 and SD14 of the JCS. Together, amongst other things, these policies seek to ensure that development does not cause unacceptable harm to amenity and living conditions and enhances comfort and enjoyment through privacy and external space.

*Other Considerations and the Planning Balance*

14. The dwelling to one side of St Edmunds, known as Farleigh, is a bungalow within a more modest plot of a similar size to the proposal. However, it is set well back from the road, behind a driveway lined with mature vegetation, meaning it is only glimpsed from the road and has no real impact on the streetscene. It has a private garden to the rear and the layout and setback mean that the area to the front of the dwelling is also private. Therefore, its context, presence in the streetscene and provision of private amenity space is significantly different to the proposed dwelling.
15. It is common ground that the Council cannot demonstrate a five year housing land supply. Therefore, in accordance with the provisions of paragraph 11d and footnote 8 of the Framework, permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

16. The harms I have identified above are significant and would be long lasting, so I ascribe them substantial weight. The site is in a sustainable location within a settlement, and would incorporate energy efficiency elements, but these are policy expectations so are neutral in the overall planning balance.
17. In terms of public benefits, the proposal would make a contribution towards the supply of housing, in an area with an ongoing under supply. There would also be social and economic benefits arising from the construction period and future spend of occupants giving support to local services and facilities. Notwithstanding this, any construction benefits would be modest and short term and one dwelling would make little difference to the overall supply of housing across the Council area. I can therefore give these benefits only limited weight.
18. With the above in mind, and when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Consequently, the paragraph 11d presumption in favour of sustainable development does not apply. The appeal scheme would conflict with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan.

### **Other Matters**

19. The appellant has stated that subdivision of plots is common along Sandy Lane Road. No evidence to substantiate this has been provided so I cannot give it weight in my assessment.

### **Conclusion**

20. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

*Helen Davies*

INSPECTOR



---

## Appeal Decisions

Site visit made on 6 June 2023

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 16 June 2023**

---

### **Appeal A Ref: APP/B1605/W/22/3298818**

#### **Pavement o/s House of Tweed, 195 High Street, Cheltenham GL50 1DE**

- 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 BT Telecommunications Plc against the decision of Cheltenham Borough Council.
  - The application Ref 22/00328/FUL, dated 17 February 2022, was refused by notice dated 4 April 2022.
  - The development proposed is 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/W/22/3298818**

#### **Pavement o/s House of Tweed, 195 High Street, Cheltenham GL50 1DE**

- 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 BT Telecommunications Plc against the decision of Cheltenham Borough Council.
  - The application Ref 22/00328/ADV, dated 17 February 2022, was refused by notice dated 4 April 2022.
  - The advertisement proposed is proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s).
- 

### **Decision**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Preliminary Matters**

3. The two appeals relate to the same site. Appeal A relates to the refusal of planning permission for the installation of a 'Street Hub'. Appeal B is against the refusal of advertisement consent. The two appeals are therefore linked and raise similar issues. While I have determined each appeal on its own merits, in the interests of conciseness, I have largely dealt with the appeals together in my reasoning.

### **Main Issues**

4. The main issue for Appeal A is whether the development would preserve or enhance the character or appearance of the Cheltenham Central Conservation Area (CA) or the setting of a nearby listed building.
5. The main issue for Appeal B is the effect of the advertisement on visual amenity, having regard to the CA and nearby listed building.

**Reasons (Appeal A and B)**

6. The site is within the CA which covers a large part of the town centre. The appeal site is within the area identified by the Council as the 'Old Town' character area, the significance of which lies in its reflection of Cheltenham's historic layout and street pattern. High Street is particularly important in this regard. It also contains a number of notable buildings and a variety of architectural styles, many of which make a positive contribution to the character and appearance of the area.
7. An example of such a building is 2-4 Promenade, which is Grade II listed and sits roughly opposite the appeal site. This is a 19<sup>th</sup> Century three-storey bank that exhibits a high degree of architectural interest and grandeur. It also takes up a prominent position on the corner of High Street and Promenade. Opposite this, and on the same stretch of pavement as the appeal site, is 197-199 High Street. This is considered by the Council as a key unlisted building which is also situated in a prominent corner location and exhibits striking architectural features, including classical columns and a pediment above the ground floor. This building clearly contributes to the significance of the CA. Other buildings in the immediate vicinity of the site differ in age and character, which is not surprising given the town centre location. Nevertheless, these two notable buildings help to frame the view up High Street, particularly from the junction with Clarence Street.
8. This is a busy part of the town centre and is characterised by a mix of commercial properties. As would be expected, there are already examples of existing street furniture in the vicinity, including streetlamps, CCTV columns, bollards, waste bins, seating and signage. However, the area of pavement in the vicinity of the site remains relatively uncluttered and open. Importantly, neither of the kiosks the application suggests would be replaced are in the immediate vicinity of the appeal site and thus the development would not constitute a like-for-like replacement.
9. Albeit relatively slender, the structure would be quite wide and tall, at almost 3m in height, and would feature high-definition illuminated changing advertisements. It would have a bright and monolithic appearance quite unlike any of the street furniture already in place. The nature of the advertisement would also differ to that of the shop signage, which is largely not illuminated and/or static. Any street or shop front lighting would not appear the same as the proposal or have the same effect. The development would therefore be introducing a large, prominent and somewhat discordant feature into a part of the pavement which is currently open, consequently creating additional street clutter in the process.
10. From several perspectives, the development would be seen in context with the two buildings referred to above. Given its size and nature, it would be seen as a jarring feature, strikingly at odds with the character of these buildings. While there are more modern buildings of less architectural merit in the same views, the development would nevertheless serve to distract and detract from the significance of the designated and non-designated heritage assets. There are no conditions that could be imposed that would satisfactorily mitigate these impacts.
11. In terms of Appeal A, the development would result in an incongruous and harmful addition to the street scene that would fail to preserve the character or



appearance of the conservation area. It would also fail to preserve the setting of a Grade II listed building. Accordingly, there would be conflict with policies D1, HE1, HE3 of the Cheltenham Plan (2020) and policies SD4 and SD8 of the Joint Core Strategy (2017). Amongst other things, these policies seek to ensure development makes a positive contribution to local character and distinctiveness and preserves the significance of designated and non-designated heritage assets.

12. The harm identified to the designated heritage assets would be less than substantial. In this context, paragraph 202 of the National Planning Policy Framework (the Framework) requires any harm to be weighed against the public benefits of the proposal. I return to this issue below.
13. In terms of Appeal B, the development would have an unacceptable impact on visual amenity. I have had regard to the policies set out above where they are material to this issue. As I have found harm to visual amenity it follows there would be conflict with these policies.

### **Other Matters and Planning Balance**

14. The appellant has identified several potential public benefits associated with the development. These include access to wi-fi, interactive technology and wayfinding tools, device charging and ability to make emergency calls. There may be some benefits associated with this, but these would be limited in scale and extent. The appellant has also suggested the installation would contribute to various Council transport, technology and economic strategies. While there may be some synergy between elements of these strategies and the purported benefits of the proposal, the scale of any benefits associated with any single 'street hub' must be limited. Notwithstanding the importance the Framework places on high quality communications, these benefits do not carry significant weight in favour of the proposal.
15. As noted above, the development would ostensibly facilitate the removal of two existing telephone kiosks, one of which is relatively close to the site. However, the second is some distance away and has no clear visual or physical relationship with the proposal. Nevertheless, the removal of two somewhat dated kiosks may provide some localised improvements to the character and appearance of the CA which would be of some public benefit. While important, such benefits would be tempered significantly by the harm caused by the development.
16. I am not therefore persuaded that the public benefits would outweigh the harm identified to the significance of the CA as a whole or the setting of the listed building. As such, there would be conflict with paragraph 202 of the Framework.
17. The appellant has drawn my attention to approvals for similar forms development elsewhere in Cheltenham. However, these applications appear relatively dated and do not relate to the same type of installation. On this basis, they have limited relevance to the proposal before me. My attention has also been drawn to a number of appeal decisions which the appellant considers relevant. However, it is inevitable that whether or not such installations are acceptable will be determined by the specific context of any proposal. The appeals referred to are from different locations and there is no clear evidence

they are directly comparable to the proposal before me. Accordingly, these examples add no particular weight in favour of the development.

18. Although I have not found against the advertisement in terms of highway safety, this does not outweigh my concerns over the impacts on amenity.

**Conclusion**

19. Having regard to the above, there are no material considerations that would outweigh the concerns identified. I therefore find that both appeals should be dismissed.

*S J Lee*

INSPECTOR



## Appeal Decisions

Site visit made on 6 June 2023

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

---

### **Appeal A Ref: APP/B1605/W/22/3298821**

#### **Pavement o/s 23 & 23a Pittville Street, Cheltenham GL52 2LN**

- 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 BT Telecommunications Plc against the decision of Cheltenham Borough Council.
  - The application Ref 22/00326/FUL, dated 19 February 2022, was refused by notice dated 4 April 2022.
  - The development proposed is 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/W/22/3298822**

#### **Pavement o/s 23 & 23a Pittville Street, Cheltenham GL52 2LN**

- 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 BT Telecommunications Plc against the decision of Cheltenham Borough Council.
  - The application Ref 22/00326/ADV, dated 17 February 2022, was refused by notice dated 4 April 2022.
  - The advertisement proposed is proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s).
- 

### **Decision**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Preliminary Matters**

3. The two appeals relate to the same site. Appeal A is against the refusal of planning permission for the installation of a 'Street Hub'. Appeal B is against the refusal of advertisement consent. The two appeals are therefore linked and raise similar issues. While I have determined each appeal on its own merits, in the interests of conciseness, I have largely dealt with the appeals together in my reasoning.

### **Main Issues**

4. The main issue for Appeal A is whether the development would preserve or enhance the character or appearance of the Cheltenham Central Conservation Area (CA) or the setting of a nearby listed building.

5. The main issue for Appeal B is the effect of the advertisement on visual amenity, having regard to the CA and nearby listed building.

### **Reasons (Appeals A and B)**

6. The site is within the CA which covers a substantial area. The site itself is in the 'Old Town' character area of the CA, the significance of which lies in its reflection of Cheltenham's historic layout and street pattern. It contains a number of notable buildings and a variety of architectural styles, which collectively make a positive contribution to the character and appearance of the area. It is also a busy retail area with mainly shops and other commercial units on the ground floor. This also clearly forms a key part of the area's character.
7. Pittville Street leads off from High Street and is characterised mainly by three storey commercial buildings, with retail on the ground floor. The buildings on the same side of the street as the appeal site appear generally older and, though mostly not ostentatious in design or detailing, are in-keeping with the overriding character and history of the CA. 17 Pittville Street is a Grade II listed building which provides a good example of this. This is a three-storey 19<sup>th</sup> century building, originally built as a home and later converted to a shop. The building is of interest architecturally but also in terms of illustrating how the town centre has evolved over time.
8. The buildings on the opposite side of the road are modern additions which neither reflect the design or palette of materials found more generally in the CA. Indeed, the Council's 'Old Town Character Area Appraisal' (2007) identifies 20<sup>th</sup> century buildings on Pittville Street as being negative aspects of the area.
9. The commercial development along the street includes mainly non-illuminated and static signage. It also contains a row of bus stops, again on the same side of the road as the proposal, and other elements of street furniture, including streetlamps, waste bins, some signage and street trees. Most of this is located at the edge of the pavement. The proposed 'Street Hub' would directly replace an existing telephone kiosk which sits between a bus stop and tree. Another bus stop sits immediately adjacent to the tree.
10. The existing kiosk now appears somewhat dated and does not complement the overriding 'regency' character of the CA. Nevertheless, it is not completely out of keeping with the other more modern street furniture, including the bus stops. In this context, it does not stand out as an overtly incongruous feature in the street scene.
11. The proposal would directly replace the kiosk and would not add to the amount of 'clutter' on the street, but similarly it would not serve to reduce it. It would be of a distinctly different design and discernibly taller than the existing kiosk and be illuminated on both sides with high-definition displays and changing advertisements. Thus, it would be a far more prominent, overt and intrusive structure than what is currently in place. While there is already advertising on the side the bus stops and kiosk, these are all static. The adverts on the kiosk are also not illuminated. In this respect, the development would not be a like-for-like replacement or be complementary to the existing advertising on the street.
12. Although there is a significant amount of shop signage in the street, these are generally not illuminated and are relatively low-key in appearance. This cannot

- be said of the proposal which, by virtue of its illuminated and monolithic appearance and height would be a visually striking feature.
13. The row of bus stops and trees would provide a degree of screening from some perspectives. Nevertheless, the structure and adverts would still be prominent in many views both up and down the street and by the large number of passers-by. In shorter distance views, it could also be seen in context with 17 Pittville Street. The overtly modern appearance of the development would serve to detract from the quality of this building. While the same could be said of the existing kiosk and other street furniture, the scale, design and illuminated nature of the proposal would be significantly more prominent and harmful than what is currently in place.
  14. While the street might also be well-lit, and both the kiosk and shop windows may well be illuminated themselves at times, the effect of this is considerably different to the nature of the illuminated displays being proposed. This feature of the street does not justify what is being proposed and would not replicate what is being replaced. Moreover, there are no conditions that could be imposed to satisfactorily mitigate the harm that would be caused.
  15. The development would therefore not have a beneficial or even neutral impact on the character of the area. While it would not add to the amount of clutter on the street, it would nevertheless introduce a large, prominent and incongruous feature into the street scene. Notwithstanding the architectural quality of the buildings opposite, this feature would not complement the overarching character of the street or wider CA and would thus detract from the heritage value of the area.
  16. Accordingly, in terms of Appeal A, the development would fail to preserve the character and appearance of the CA or preserve the setting of the listed building. It would therefore conflict with policies D1, HE1, HE3 of the Cheltenham Plan (2020) and policies SD4 and SD8 of the Joint Core Strategy (2017). Amongst other things, these policies seek to ensure development makes a positive contribution to local character and distinctiveness and preserve the significance of designated heritage assets.
  17. The harm identified to the designated heritage assets would be less than substantial. In this context, paragraph 202 of the National Planning Policy Framework (the Framework) requires any harm to be weighed against the public benefits of the proposal. I return to this issue below.
  18. In terms of Appeal B, the advertisement would cause unacceptable harm to visual amenity. I have had regard to the policies set out above where they are material to this issue. As I have found harm in this respect, it follows there would be conflict with these policies.

### **Other Matters and Planning Balance**

19. The appellant has identified several potential public benefits associated with the development. These include access to wi-fi, interactive technology and wayfinding tools, device charging and ability to make emergency calls. There may be some benefits associated with these, but they would be limited in scale and extent. The appellant has also suggested the installation would contribute to various Council transport, technology and economic strategies. While there may be some synergy between elements of these strategies and the purported

benefits of the proposal, the scale of any benefits associated with any single 'street hub' must be limited. Notwithstanding the importance the Framework places on high quality communications, these benefits do not carry significant weight in favour of the proposal.

20. The evidence refers to the replacement of the existing kiosk on Pittville Street. It also refers to the removal of another on Rodney Street, which is some distance from the site and has no direct physical or visual relationship. Any benefits that might be derived from removing the Pittville Street kiosk would not be achieved as it would be replaced by a more harmful structure. The complete removal of the kiosk from Rodney Street may provide some localised public benefits relating to the character of the CA. Nevertheless, these would not outweigh the harm caused by the development.
21. I am not therefore persuaded that the public benefits of the development would outweigh the harm identified to the significance of the CA as a whole or the setting of the listed building. Accordingly, there would also be conflict with paragraph 202 of the Framework.
22. The appellant has drawn my attention to approvals for similar forms of development elsewhere in Cheltenham. However, these applications appear relatively dated and do not relate to the same type of installation. On this basis, they have limited relevance to the proposal before me. My attention has also been drawn to several appeal decisions that the appellant considers relevant. However, it is inevitable that whether or not such installations are acceptable will be determined by the specific context of any proposal. The appeals referred to are from different locations and there is no clear evidence they are directly comparable to the proposal before me. Accordingly, these examples add no particular weight in favour of the development.
23. Although I have not found against the advertisement in terms of highway safety, this does not outweigh my concerns over the impacts on amenity.

### **Conclusion**

24. Having regard to the above, there are no material considerations that would outweigh the conflict with the development plan as a whole or harm caused to visual amenity. I therefore find that both appeals should be dismissed.

*S J Lee*

INSPECTOR

## REPORT OF THE INTERIM HEAD OF PLANNING ON PLANNING APPEALS

### 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

June/July 2023

Address	Proposal	Delegated or Committee Decision	Appeal Type	Anticipated Appeal Determination Date	Reference
Land Adjacent To Oakhurst Rise Cheltenham Gloucestershire	Outline application for residential development of 25 dwellings - access, layout and scale not reserved for subsequent approval	Committee Decision	Written Reps	n/a	22/00112/OUT
201 Gloucester Road	Installation of raised, split level patio area with boundary treatments (Retrospective).	Delegated Decision	Written representation	n/a	22/01964/FUL

4 Red Rower Close	Two storey and single storey extension to the front and loft extension and dormer	Delegated Decision	Written representation (Householder)	n/a	23/00361/FUL
Telecommunications Mast And Cabinet CLM24981 Princess Elizabeth Way	Proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets	Delegated Decision	Written representation	n/a	22/01937/PRIOR
6 Marsh Lane	Change of use from a single dwelling (Class C3) to a four bed House in Multiple Occupation (HMO) (Class C4)	Delegated Decision	Written representation	n/a	22/01864/COU
218 High Street	Change of use of the ground floor from a retail unit (Class E) to an Adult Gaming Centre (Sui Generis) and first floor to associated storage and staff area with external alterations and associated works.	Delegated Decision	Written Representation	n/a	23/00452/COU



## Appeals being processed

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
Land at Shurdington Rd	Full planning application for residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other	Committee Decision	Written Representation ( <b>New procedure Change now a hearing date is 4<sup>th</sup> July 2023</b> )	Not Decided	Planning ref: 20/01788/FUL Appeal ref: 23/00005/PP1

129 – 133 Promenade	Retention of existing temporary marquees at 125, 127, 129, 131 further two year period and 133 Promenade, Cheltenham for a	Committee Decision	Written representation	Not Decided	Planning ref: 22/01373/FUL Appeal Ref: 23/00007/PP1
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 representation	Not Decided	Planning ref: 22/00334/COU Appeal ref: 23/00009/PP3

<p>Land Adjoining Leckhampton Farm Court Farm Lane Leckhampton Cheltenham Gloucestershire</p>	<p>Residential development of 30 no. dwellings (Class C3); vehicular, pedestrian and cycle access from Church Road; pedestrian and cycle access from Farm Lane; highways improvement works; public open space, landscaping, orchard planting and children's play space; surface water attenuation and other associated works</p>	<p>Delegated Decision</p>	<p>Appeal Hearing (Date of hearing 18<sup>th</sup> July 2023 <b>(rescheduled for 12<sup>th</sup> July 2023)</b>)</p>	<p>Not Decided</p>	<p>Planning Ref: 21/02750/FUL Appeal Ref:</p>
---	--	---------------------------	--	--------------------	---

28 Westdown Gardens	Erection of detached garage (revised scheme to ref: 21/01789/FUL)	Delegated Decision	Written Representations Householder Appeal	Not Decided	Planning ref: 22/01679/FUL Appeal ref: 23/00012/PP1
53 Alstone Lane	Erection of a single storey dwelling on land to rear of the existing property	Delegated Decision	Written representations	Not Decided	Planning ref: 22/02201/FUL Appeal ref: 23/00017/PP1
Telecommunications Mast And Cabinet CLM26321 Glenfall Way	Proposed 5G telecoms installation: H3G 16m street pole and additional equipment cabinets	Delegated Decision	Written Representations	Not Decided	Planning ref: 22/02190/PRIOR Appeal Ref: 23/00018/PP1
4 Dymock Walk	Application for prior approval for the construction of one additional storey atop the existing dwelling (increase in height of 2.13 metres)	Delegated Decision	Written representation (householder)	Not decided	Planning ref: 22/01075/FUL Appeal ref: 23/00019/PP1

## Appeals Decided

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
Adey Innovation Ltd 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 (25.01.23)	Appeal Allowed	Planning ref: 21/02700/FUL Appeal Ref: 22/00027/PP1
The Hayloft The Reddings	Conversion of the existing dwellinghouse into 9 self-contained apartments, and associated works	Committee Decision	Written Representation	Appeal Allowed	Planning ref: 22/00749/FUL Appeal Ref: 22/00028/PP1

159 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) on Pavement Of Winchcombe Street Side Of Hays Travel 159 High Street	Delegated Decision	Written Representation	Appeal A and Appeal B Dismissed	Planning ref: 22/00322/ADV and FUL Appeal ref:22/00021/PP1 and 22/00022/ADV1
3 Apple Close, Prestbury	Replacement of existing conservatory with single storey rear extension. Increase in ridge height to facilitate loft conversion with rear dormer.	Delegated Decision	Written Representation	Appeal Allowed	Planning ref: 22/01145/FUL Appeal Ref: 23/00003/PP1
37 Market Street	Proposed side and rear extensions (revised scheme following refusal of application ref. 21/02361/FUL	Committee Decision	Written representations	Appeal Allowed Appeal Costs (Allowed)	Planning Ref: 22/00708/FUL Appeal Ref: 23/00004/PP1

Brecon House Charlton Hill Cheltenham Gloucestershire GL53 9NE	Construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements,	Committee Decision	Appeal Hearing (date 22/03/23)	Appeal Hearing Dismissed	Planning ref: 21/02755/FUL Appeal ref: 23/00001/PP1
30 St Georges Place	Conversion to form 7no. dwellings, together with extensions and construction of new mansard roof	Delegated Decision	Written representations	Appeal Allowed	Planning ref: 22/00839/FUL appeal ref: 23/00002/PP1

10 Suffolk Road	First floor extension at rear of 10 Suffolk Road on top of existing kitchen roof, comprising of 1 new bedroom and ensuite bathroom (revised scheme 22/00966/FUL)	Delegated Decision	Written Representations Householder Appeal	Appeal Dismissed	Planning ref: 22/01340/FUL Appeal ref: 23/00011/PP1
101 Ryeworth Road	Erection of two storey and single storey rear extensions and single storey front extension.	Non-Determination	Written Representation	Appeal Dismissed	Planning ref: 22/01162/FUL Appeal Ref: 23/00006/PP2
o/s 195 High Street Cheltenham	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 Dismissed Appeal B Dismissed	Planning Ref: 22/00328/ADV and FUL Appeal Ref: 23/00013/PP1 23/00014/ADV1
o/s 23 and 23 A Pittville Street	Proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens,	Delegated Decision	Written representation	Appeal A Dismissed Appeal B Dismissed	Planning ref: 22/00326/ADV and FUL Appeal Ref: 23/00015/PP1 23/00016/ADV1



St Edmunds, Sandy Lane Road	Conversion and extension of an existing coach house/garage to a single dwelling with new access off Sandy	Delegated Decision	Written Representation	Appeal Decision Dismissed Cost Decision Dismissed	Planning ref: 22/02064/FUL Appeal Ref: 23/00008/PP1

Authorised By: Mike Holmes 11<sup>th</sup> July 2023

This page is intentionally left blank



---

## Costs Decision

Site visit made on 30 May 2023

by **Helen Davies MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> June 2023

---

**Appeal Ref: APP/B1605/W/23/3315958**

**St Edmunds, Sandy Lane Road, Cheltenham, Gloucestershire GL53 9DA**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr James Sword for a full award of costs against Cheltenham Borough Council.
  - The appeal was against the refusal of planning permission for a development described as 'conversion and extension of an existing coach house to a single dwelling with new access onto Sandy Lane Road'.
- 

### Decision

1. The application for an award of costs is refused.

### Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The PPG states that examples of unreasonable behaviour by the Council include failure to substantiate reasons for refusal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and acting contrary to national or local policy.
3. The applicant states that the appeal was unnecessary as the proposal complies with the development plan. Further they state that any disadvantages of the proposal would not significantly and demonstrably outweigh the benefits so permission should have been granted. Therefore, the applicant believes the Council acted unreasonably in refusing the application.
4. The reasons<sup>1</sup> for refusal set out in the decision notice are sufficiently complete, precise, specific, and relevant to the application. The decision notice also clearly states the policies of the Cheltenham Plan (2020) and Joint Core Strategy (2017) that the proposal would be in conflict with. The reasons were adequately substantiated by the Council in its Officer Report, which considered the context. The report set out how, in the Council's view, the proposal would result in harm to character and appearance as well as not providing suitably private outside amenity space. The officer report also gave appropriate consideration to the National Planning Policy Framework, including the balance required by paragraph 11d, in light of the area lacking a 5 year housing land supply.

---

<sup>1</sup> Although numbered as 1, the Council reason for refusal actually covers 2 distinct reasons.

5. The application decision is one which is a matter of judgement. It can be seen from my appeal decision that I agreed with the Council that there were sufficient grounds for refusing planning permission. I also found that local and national policy had been applied in an appropriate way.
6. Consequently, I am satisfied that the Council has shown that it undertook an appropriate assessment of the matters and was able to substantiate the reasons for refusal, in accordance with policy. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

**Conclusion**

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Helen Davies*

INSPECTOR