

Cheltenham Borough Council Planning Committee

Meeting date: 20 August 2026

Meeting time: 6.00 pm

Meeting venue: Council Chamber - Municipal Offices

Membership:

Councillor Glenn Andrews, Councillor Adrian Bamford, Councillor Garth Barnes (Chair), Councillor Barbara Clark, Councillor Iain Dobie, Councillor Jan Foster, Councillor Richard Lawler, Councillor Tony Oliver (Vice-Chair), Councillor Arthur Snell, Councillor Dr Steve Steinhardt and Councillor Simon Wheeler

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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 - 16)

To approve the minutes of the meeting held on 23rd July 2026.

5 Public Questions

6 Planning Applications

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6b 26/00863/TREEPO - 26 Collum End Rise, Leckhampton, Cheltenham, GL53 0PA (Pages 23 - 30)

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Cheltenham Borough Council Planning Committee Minutes

Meeting date: 23 July 2026

Meeting time: 6.00 pm - 7.45 pm

In attendance:

Councillors:

Glenn Andrews, Adrian Bamford, Garth Barnes (Chair), Barbara Clark, Iain Dobie, Jan Foster, Richard Lawler, Tony Oliver (Vice-Chair), Arthur Snell, Dr Steve Steinhardt and Simon Wheeler

Also in attendance:

Chris Gomm (Head of Planning), Victoria Harris (Planning Officer), Michelle Payne (Development Management Manager), Simon Aley (Locum Senior Planning Solicitor), Peter Ashby (Senior Conservation Officer) and Ebba Carling (Acting Planning Officer), and Mark Sweet (Highway Planning Officer, Gloucestershire County Council)

1 Apologies

There were none.

The Chair offered his thanks to Councillor Suzanne Williams who had done sterling work on the Planning Committee for many years. He also welcomed Councillors Richard Lawler and Arthur Snell to the committee.

2 Declarations of Interest

Councillor Tony Oliver declared that he is a member of the Leckhampton with Warden Hill Parish Council but has not taken part in any conversations relating to the application at 6d.

Councillor Simon Wheeler declared, in relation to item 6b, that he is due to become a trustee of the Cheltenham Trust.

Neither was considered a prejudicial interest, and they were not required to withdraw from the debate.

3 Declarations of independent site visits

The following Councillors attended site 6d during Planning View:

- Councillor Garth Barnes
- Councillor Adrian Bamford
- Councillor Barbara Clark
- Councillor Iain Dobie
- Councillor Jan Foster
- Councillor Richard Lawler
- Councillor Steve Steinhardt
- Councillor Simon Wheeler

Councillor Tony Oliver had visited site 6d.

4 Minutes of the last meeting

The minutes of the meeting held on 23 April 2026 were approved and signed as a correct record.

5 Public Questions

There was one public question, which was taken as read along with the response.

1. Question from Elliot Craddock to Chris Gomm (Head of Planning) and Chair of Planning – Councillor Garth Barnes

What aspect of the new-build flats on St Margaret's Road do you feel really fits in with the existing and famous regency architecture Cheltenham is so famous for?

Response from Chris Gomm (Head of Planning) and Chair of Planning – Councillor Garth Barnes

Thank you for your feedback.

The design approach at North Place was not one of replicating or imitating Cheltenham's Regency architecture; that would have been the wrong approach here. The site's context is eclectic in character with no prevailing style; the site's surroundings are characterised by a mix of Victorian and twentieth century buildings as well as a limited number of Regency-era buildings. The site's frontage to St Margaret's Road is particularly mixed with the substantial Brewery Quarter building, constructed in 2005/2006, situated opposite.

A pastiche design approach would have been inappropriate here, but so too would a highly contemporary approach given the nature of the buildings to the east (rear); the approach that has instead been taken is essentially a compromise between the two with a modern approach being taken to domestic vernacular architecture. The terraced buildings (to North Place) under construction are modern but take their cues from artisan terraces elsewhere in the town both in terms of their scale and simplicity. The apartment block to St Margaret's Road will be bolder but will be subservient to, and will not compete with, the adjacent listed

St Margaret's Terrace; it will infill what is currently a jarring and incongruous gap within the street scene.

Judgement should ultimately be reserved until the scheme is complete, occupied and landscaping/planting has become established; the council is satisfied that granting planning permission was the correct decision.

The questioner was not present to ask a supplementary question.

6 Planning Applications

7 26/00647/FUL - 3 Byron Road, Cheltenham, GL51 7HE

The Planning Officer introduced the report as published.

In response to Members' questions, officers confirmed that:

- It was confirmed that information was not available on whether this application was for all the council owned properties on Byron Road.
- Concern was raised about the importance of a precise join between old and new render. The officer confirmed that this was not a planning consideration but would possibly be dealt with under the Party Wall Act 1996. They also confirmed that the applicant had been made aware of the objector's views and concerns.
- The application does not confirm whether it will be a through-colour render or a painted cement render, but the officer thought it most likely this would be carried out through a through-colour render. The application does confirm that it will be an external wall insulation system with a smooth silicon render.

Councillor Oliver put forwards a motion to accept the officer's recommendation to permit. This was seconded by Councillor Andrews.

The matter then went to the vote on the motion to permit in line with the officer recommendation:

For: 11

Against: 0

Abstain: 0

Voted UNANIMOUSLY for the motion to permit.

8 26/00754/LBC - The Wilson Art Gallery and Museum, Clarence Street, Cheltenham, GL50 3JT

The Senior Conservation Officer introduced the report as published.

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

- It was noted that this was a positive development.

Councillor Wheeler put forwards a motion to accept the officer's recommendation to grant. This was seconded by Councillor Andrews.

The matter then went to the vote on the motion to grant in line with the officer recommendation:

For: 11

Against: 0

Abstain: 0

Voted UNANIMOUSLY for the motion to permit.

9 26/00763/FUL - 24 Alstone Avenue, Cheltenham, GL51 8EH

The Planning Officer introduced the report as published.

There was one public speaker on the item: the Ward Member.

Councillor Dearden, as Ward Member, addressed the committee and made the following points:

- She highlighted that she was grateful plans have been revised after concerns were raised by council officers, residents of Alstone Avenue, the Civic Society and herself. These revised plans no longer have external wall external wall insulation (EWI) on the front of the properties. While this change retains the Edwardian streetscape, she does not feel she can fully support the application as there are still some unresolved issues that need consideration.
- The first concern is why was the external cladding chosen in the first place? According to the Design and Access Statement, this external insulation will help Cheltenham achieve its net carbon zero targets by 2030. She is surprised that there has been no comparison made between the benefits of internal versus external insulation. There is no comparison provided between the installation costs, the improved energy efficiencies, as well as the lifespan of the different types of insulation. The main justification mentioned seems to be disruption to tenants.
- The officer's report also mentions that there have been similar upgrades to other properties. The Ward Member thinks it is important we know more about how successful these projects were before we proceed with this application. For instance, how many upgrades have been completed? Were these improvements to similar Edwardian properties? How improved was their energy efficiency? And were there any problems during these upgrades?
- The second concern is about the potential for damp as a result of either or any type of insulation that is used. Damp has been a major worry for neighbouring residents and it would be helpful if their concerns could be addressed in more detail. Can the contractors guarantee that the external insulation chosen is the very best option when trying to mitigate damp, not only to the upgraded properties themselves, but to the neighbouring properties as well.
- The Design and Access Statement states that the external system significantly reduces the risk of creating consequential damp and mould problems. Is this when compared to all of the alternatives that could be used?
- The officer's report states that any dampness is technically not a planning consideration and any issues created would be settled as a civil matter under provisions such as the Party Wall Act. While this legal position is truthful and any

potential damp problems between neighbours is a civil matter. The council have an obligation to go further in protecting not only the properties that the council owns, but the nearby homes and communities they serve. Any work done to properties should not mean neighbours need to engage solicitors or surveyors to rectify damp problems and other damage caused. The council, as the applicant, should do everything it can to mitigate this possibility by investigating which insulation type is best from the outset.

- The final concern relates to the streetscape and visual impact of the external cladding. Part 6.13 of the officer's report mentions that as properties are already rendered or painted at the side and rear, any changes would be in keeping with the appearance of the area. With this in mind, she would like the committee to take this opportunity, using the new voting procedures, to ask that measures be put in place to prohibit the installation of any front-facing cladding of any kind to protect this streetscape for the future.
- She would wholeheartedly support the use of EWI if it is known for sure, based on data and evidence, that it is the most energy efficient and longest lasting insulation option to achieve the council's net zero targets. And if it were known it was the option that is least likely to cause damp to council owned and neighbouring properties. However, if the council cannot answer yes to these questions, then she believes the application should be rejected or revised and brought back to committee with any necessary changes.
- Finally, as Alstone Avenue is not in a conservation area, she would ask that measures are put in place to ensure that cladding of any kind cannot be put on the front of these properties in the future. This will ensure that the streetscape of this lovely Edwardian Avenue is protected.

In response to Members' questions, officers confirmed that:

- Originally the application had proposed render to the front of the properties but as these are red brick properties in a terrace it was felt that rendering the front of the properties would have an impact on the character of the street scene. The officer had explained to the agent that the council would not be able to support this scheme, and the applicant decided to revise it to remove that part of the proposal and just retain the rendering of the front and the sides.
- Officers were unable to confirm whether technology and the materials proposed are the same or essentially the same as what has been successfully and widely used across CBC housing stock.
- Officer's were not able to confirm what the impact of the front of the property not being rendered would have on the efficacy of the insulation. However, they noted that the applicant would still have the option of installing internal insulation, which would not require planning permission.
- The officer did not have the technical details of the render carried out by neighbouring properties in terms of damping. Any issues with damp would be a civil matter between landowners under the Party Wall Act.

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

- A considerable number of properties in a Member's ward have had similar external insulation installed and have found significant difference with this form of insulation. In contrast cavity wall insulation in the area has led to properties experiencing significant damp problems and a number of complaints. It would be nice to see the front-face insulated, potentially internally, as the insulation itself is of enormous benefit.

- Another Member lives in a terrace street which is predominantly rendered but has some brick houses and does not feel it ruins the streetscape. They have no concern about the rear of the building being rendered.
- A Member noted that the council have carried out a programme of installing EWI in council-owned properties, which has been successful. It is disappointing that the committee have not been given assurance that it will be the same successful rendering techniques and technology that has been applied elsewhere in the town, and also that the knowledge of whether it would be effective if it was only partially rendered was not available. He suspects that any insulation will still have a positive effect and will make these properties cheaper to heat.

Councillor Wheeler put forwards a motion to accept the officer's recommendation to permit. This was seconded by Councillor Dobie.

The matter then went to the vote on the motion to permit in line with the officer recommendation:

For: 9

Against: 0

Abstain: 2

Voted for the motion to permit.

10 25/01073/FUL - Land 1 Off Kidnappers Lane, Cheltenham

The Interim Development Management Manager introduced the report and update report as published.

There were three public speakers on the item: the Ward Member, an objector, and the applicant's representative.

Councillor Horwood, as Ward Member, addressed the committee and made the following points:

- He is sad to be opposing this application as he has supported previous Newland Homes developments in this location, which has helped make houses reliant on solar panels and air-source heat pumps the norm in Leckhampton. Even the large new Miller development the planning committee reviewed has followed suit.
- This is an inexplicably bad application, overwhelmingly opposed by local residents and the parish council.
- There are a number of reasons for the committee to review it – a quite unnecessarily dangerous double road exit, a huge loss of habitat biodiversity, the gratuitous removal of a whole line of mature trees, and a clear breach of the brand-new neighbourhood plan.
- There is an unnecessary double road exit for just 21 houses, with the two exits just a few yards apart, across a busy walking and cycling route to the nearby secondary school. A route packed with kids at peak times. Whilst Highways have withdrawn their objection, they do not address a central issue – there is no reason for the roads to exist. If the gardens were put at the front and the access road to the back of the eight southern houses, the two roads would meet on site. Highways are ignoring their

own guidance. The manual for Gloucestershire streets says that where schools are nearby "priority should be given to pedestrian and cycle movements".

- The impressive biodiversity gain figure quoted in the report sounds great but that only refers to hedges, which represent only two out of the 13 units worth of natural value on this site. The other 11 units are for habitats, and these have a staggering -66.58% biodiversity loss. In plain English, the proposal trashes the vast majority of on-site biodiversity. To compensate they have promised to buy 8.45 units elsewhere, but these could be in Cumbria or Scotland. This would break the Joint Core Strategy (JCS) policy SD9 which clearly states that harm to the biodiversity of a site should be avoided where possible, and that where there is harm, this should be mitigated by enhancements on site, and that only "exceptionally, compensatory enhancements may be acceptable". So the committee does not have to accept such an enormous loss of habitat on site.
- Part of the damage is the proposed cutting down of 50 mature trees, in the tree officer's words, almost all the trees on site. Worst of all, a whole familiar avenue of trees along the corner of Kidnappers Lane. These aren't in the way of any houses and are to be replaced with a small hedge, he assumes for marketing visibility. The applicants claim they are of limited value but the tree officer addresses this point. He says that whilst the trees themselves may have limited amenity value, their value for habitat should not be underestimated. He has recommended a smaller development. It is wrong to gratuitously kill mature trees which are part of the Kidnappers Lane streetscape, familiar to adults and children alike. The council have fought hard with other applicants, like Miller, to retain familiar green boundaries and at least some of the rural feel of the area.
- The report acknowledges that the new Neighbourhood Plan policy LWH1 is breached by this application. It says, "developments of more than one hectare, more than 800 meters, from other grocery facilities should not be permitted unless suitable local grocery shop provision exists or is to be provided". Over the years roughly a thousand houses have been built between the Shurdington Road and Church Road by a number of developers, plus a new 900 student secondary school. Not so much as a corner shop has been provided. So, everybody hops in their cars, adding to congestion, particulate pollution, and carbon emissions. The policy allows a viability argument. No doubt the applicant will make it, despite the fact that two of their other developments here have been smaller. This is in reality phase four of a 64 house development that has come to the committee in parts. This is a robust reasonable local policy that has got through three public consultations, survived legal challenge and independent examination, and finally a referendum with overwhelming local support. It would be very sad if, after all that effort, the committee chooses not to enforce it.
- He asked the committee to support the neighbourhood plan, the JCS biodiversity policy, the tree officer and the manual for Gloucestershire streets and reject the application.

The objector addressed the committee and made the following points:

- He is an adjoining property owner speaking on behalf of fellow residents living in Pear Tree Close. While he is an architect by profession, he stressed that he was not acting in that capacity.
- He made it clear that residents are not objecting to the principle of appropriate development. While they recognise that the land in question has the potential to support modest low-density development, they strongly believe and request that such

proposals should align with the local green infrastructure objectives and overall spirit of the approved Leckhampton & Warden Hill Neighbourhood Plan.

- In harmony with that expectation, their objection is to the amount and density of development; it's appropriateness in the setting and its means of access. They are especially concerned about the consequential damaging impacts the proposals would have on biodiversity, traffic generation and road safety.
- By way of context, Kidnappers Lane and the land in question have recognised established character and value – which means that, at present, they form part of a distinctive balanced mosaic of mature landscape assets interspersed with pockets of smaller-scale development. This pattern is very evident at ground level within and around the lane, and when viewed from Leckhampton Hill.
- The proposed new development would, unfortunately, constitute another big step towards the total loss of this balanced pattern in a location that is already saturated with other recent housing schemes. Another large area of established greenspace would be obliterated and the rich and vibrant biodiversity that it supports would suffer an astonishing net loss of -65%, meaning that the many species of wildlife the site currently teems with will simply disappear.
- As far as traffic is concerned, Kidnappers Lane is already too narrow for large vehicles to pass without mounting the pavement. This is seen almost every day. He also noted that the road safety audit was undertaken at lunchtime in January – nowhere near representative of the true heavily congested conditions during the peak periods (including school runs) in the morning and afternoon. To add two new vehicle junctions will make the lane more congested and unsafe.
- Importantly, while residents fully recognise the need for more housing, they seriously question how appropriate its provision is in the complete absence of local community and retail facilities. How much more unsustainable car use will be generated and how, in turn, will meaningful net-zero carbon targets be achieved?
- Ideally, the residents would ask that the land in question be left and nurtured as the valuable natural asset it already is. Alternatively, if development is to be permitted, then a fresh and scaled back approach be taken with fewer dwellings, working along with the existing landscape and ecology, as opposed to against it.

The applicant's representative addressed the committee and made the following points:

- He is the senior project manager for Newland Homes for the site being discussed. Rather than reiterating the robust planning committee report, which recommends approval, he wanted to introduce Newland Homes to those unfamiliar with the company and address some of the comments that the application has received.
- Newland Homes are a privately owned regional house builder based in Gloucester and specialising in bespoke residential developments with sites in and around the southwest of England. They have a successful history of developments in Cheltenham, with recently completed and ongoing developments near this site.
- Importantly between these sites they have delivered 14 affordable zero-carbon homes in partnership with the council which have been well received following a recent visit by the Leader of the council.
- With all their developments, Newland Homes aim is to respond appropriately to the site and its surroundings, and to create homes that people wish to live in now and for future generations. This site is no exception to this approach.
- In addition to the high quality and sustainable materials that form part of this proposal, they have committed to delivering 100% of the homes as zero carbon. To help give this commitment perspective, at present, the highest energy performance certificate rating for a residential property is A. Only 2% of homes built in 2025

achieve this rating. this development in energy terms alone will therefore outperform even the top 2% of homes nationally. The proposals are therefore years ahead of the government targets to be zero carbon by 2050 and go far beyond obligations required by policy regulations and what other developers are building locally. So much so that Newland Homes sites have been used to benchmark others, something the company are extremely proud of.

- The existing trees on site are self-seeded low value specimens in a varying state of decline, or non-native trees that remain present from former land use which have become wild and unwieldy due to the lack of a management regime. These are proposed for removal to facilitate the development and enable future enhanced measures. Higher quality trees on site are predominantly located on the site perimeter and these are to be retained. Fencing hedging along the site perimeter will be enhanced to increase ecology diversity, in addition to providing over 130 new native and diverse tree specimens which will be managed in perpetuity. This is in line with the tree officer's recommendations.
- Achieving biodiversity net gain gains on small sites is difficult. However, where possible, they have delivered an uplift. This is evidenced by the 100% net gain in hedgerow habitats. The remaining habitat found on site cannot wholly be offset following development. It will therefore be provided offsite and secured via legal S106 agreement. This ensures that proposals deliver an overall biodiversity net gain of 10% as required. This solution is in compliance with legislation and supported by Cheltenham Borough Council (CBC).
- On the matter of highways, an independent higher road safety audit was undertaken in January 2026. The findings evidence that the proposals are safe and do not conflict with any of the existing footway, cycle way or vehicle movements along Kidnappers Lane. Despite this, they have agreed to additional highway and pedestrian enhancements, including cycling widening, traffic calming, and to further enhance existing arrangements. This is supported by the Gloucestershire County Council (GCC) Highways team.
- It has also been suggested that each of Newland Homes developments along Kidnappers Lane have artificially been separated to avoid provision of a local shop. In fact, they have come forward for independent landowners at separate times over a 5-year period. On the subject of a local shop, if there is strong demand locally, one would expect the market to respond and provide one in a suitable location. However, if a 350-home development located north of this proposal were unable to accommodate one, missed opportunity should not be forced upon a developer proposing a minor 21 home development. Officers have concluded that existing facilities nearby are wholly accessible.
- Finally, following detailed conversations with CBC and GCC, there have been inconsistencies with comments received. This has led to significant delays during the course of the application. They are however pleased these have now been addressed and officers unanimously have offered their support.

In response to Members' questions, officers confirmed that:

- The committee is considering the scheme that is in front of them, so it would not be possible to change access to the site to a single entrance through the introduction of a condition as it would have significant impact on the scheme.
- There is a footpath link at the moment along the sides of the road, but these will be altered as part of the highway improvement works.
- The Gloucestershire Highways officer confirmed that the secondary access is to serve a small number of dwellings at one end of the site. It may have been provided

that way due to the layout of the site making that the most beneficial approach. This would have been part of the applicant's design process. In terms of the principle that there is nothing preventing a developer providing one access to the site, sometimes less is better because it reduces conflict points where a site's traffic users come out onto a road. In this case, Highways assessment is that the two accesses are both visible and provide suitable spacing according to minimum standards for the speed of traffic on the road to allow someone to stop or give way as they approach access. They also consider the interaction and proximity between one access and another, to assess whether large vehicles might have issues with manoeuvring which could create a conflict point or insufficient reaction time between users. In this case they consider that it was sufficiently spaced to have two accesses.

- The Highways officer confirmed that Kidnappers Lane would be considered a minimum width lane. Whilst it can probably cope with two cars passing on a two-way basis, this will be difficult for larger vehicles, but there are points along the lane where people can pull in. Whilst its location may lead to it being something of a rat run, in terms of considering the application and its impact, the proportionality in terms of the traffic generated needs to be considered. The officer believes that the traffic report for this application provided the potential peak hour movements in the morning and afternoon and their assessment was that this application would equal approximately one additional movement down the lane for each of those peaks. It was not considered that this impact was significant enough to warrant refusal.
- The Highways officer noted that elements of the application, such as urbanising the lane, and the cycle and pedestrian improvements, may provide some traffic calming. With the junctions as potential additional passing points for traffic.
- The traffic survey was taken on a single day and was taken as part of looking at the site access arrangements to consider the direct access arrangements for visibility and spacing and the points for the junction itself. Highways do internally have traffic data, and traffic counting takes place for other purposes to monitor roads from time to time.
- A crossing point at pavement height is part of the application being considered.
- There is a school positioned a street away from the location so there is potential that people may use the new accesses as dropping off points. The Highways Officer did not believe that the creation of these accesses creating a safety issue in relation to drop off.
- The parking provided will be proportionate to the size of the houses. If the streets within the development are of sufficient width that it will offer an additional opportunity for people to park, as they do on existing residential roads.
- The cumulative impact of a development of this scale would not normally bring with it a need to provide a GP surgery or facility.
- It is not possible to condition that the biodiversity being purchased offsite is bought in Gloucestershire.
- In terms of the local green space, this does wrap around the rest of the site, so this is the last site for development which is not designated as local green space.

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

- A Member highlighted that he lives on a similarly sized cul-de-sac in an estate that exits onto a road of a similar width to Kidnappers Lane, with a pavement about half the width of the one proposed in the application. Vehicle movements in and out of the estate are quite minimal and without problem. The Members anticipates the situation being the same in this case. He noted that having two exits may also make the situation marginally better. Also need to balance the concerns around highways with

the benefits brought by the solar panels and 40% affordable housing, which makes it difficult to argue against this development. However, he is not happy with the loss of the trees, whether they are self-seeded or ancient trees, and feels that at least some of these could be retained.

- A Member commented that they have lived in the area for their entire adult life and do feel regret at every development, as it is such a lovely space to walk in. However, considering this application in planning terms requires the committee to constantly work out the balance between benefits and harms. In Cheltenham there is a tilted balance as the town does not have a 5-year housing supply. This means that other things that might be considered as valid objections carry less weight than the impetus towards development.
- A Member highlighted that even if we set aside the problems with the trees and the lack of biodiversity net gains, this was a clear breach of the neighbourhood plan, which was recently established at great pains. He felt that there has been a large number of small developments that has left the local infrastructure massively overloaded, which has left him unable to support this scheme.
- A Member commented that we are in a climate crisis and are losing our insects and biodiversity, so they are not happy with the loss of mature trees proposed. They also felt unable to support the application due to the lack of available infrastructure.
- A Member noted that Newland Homes builds exemplary houses in respect of the fight against climate change. Including the use of air-source heat pumps which provide cooling in the summer, as well as heating. He thinks it is very important to encourage a local builder from Gloucestershire and there is an imperative to build more housing for the local population, particularly as the Golden Valley is developed. Recognised that it is painful, particularly having grown up in the area and having wandered through these fields. He is pleased that many of the green spaces have been preserved as green space, including space on the other side of the road. On balance feel that we have to look at the future of Cheltenham's communities, for young people, and approve exemplary developments like this one.
- A Member commented that there is good and bad to this application. It is great to see Newland Homes committing to 40% affordable housing, the majority of which is social housing. The big problem is the loss of the biodiversity, particularly the number of trees that will be lost. He highlighted that he would have preferred to see grass planting rather than hard standing in front of these properties, to address some of this loss. He also agreed that it was important that any offsetting be done within the town, rather than further away. He was not concerned about the two entrances as he didn't feel the number of properties would make a significant difference to Shurdington Road or Kidnappers Lane. In terms of local amenities, he noted that there are shops nearby and that a bus route is offered down Bath Road. On balance he felt that he would support the application due to the need for social housing.
- A Member noted that whilst the committee may feel like they have allowed a constant drip-drip of developments over the years due to the low impact of smaller numbers of houses, the cumulative impact can not be considered in this case. The only consideration that can be given is to the specific impact of the proposed 21 houses.
- A Member commented that they were conflicted due to the loss of biodiversity, the lack of amenities, and the highways issue. However, the tilted balance over housing is in place, so despite these conflicts they felt they would probably support the application.
- A new Member commented that on the basis of the very excellent training provided and his understanding of what the law says, it seems clear that this is a lawful application. If it were rejected by the committee it would probably succeed on appeal.

It is disappointing that some of the unsatisfactory elements, such as the two entrances and loss of biodiversity, seem unnecessary. The affordable housing is also all grouped in one area rather than spread throughout the development. Whilst these elements seem unnecessary they are not strong enough reasons to reject the application. He had also grown up in the area but is acutely aware that people all over Cheltenham are desperate for housing and, if small developments like this are rejected, that problem carries on for years and years.

- A Member asked whether through the S106 negotiations officers could push for the biodiversity offsetting to take place locally. The officer noted that this could not be a condition, but the applicant has expressed a desire to purchase local units and there are plenty available for what is needed. However, it could be included within the S106 agreement to ensure that the units are serving the local community. This request could also be included as an informative to encourage the purchase of local units.

Councillor Oliver put forwards a motion to accept the officer's recommendation to approve subject to a S106 agreement and with the addition of an informative to request that biodiversity net gain units are bought locally. This was seconded by Councillor Wheeler.

The matter then went to the vote on the motion to approve subject to a S106 agreement and with the addition of an informative to request that biodiversity net gain units are bought locally in line with the officer recommendation:

For: 7

Against: 3

Abstain: 1

Voted for the motion to approve subject to a S106 agreement and with the addition of an informative to request that biodiversity net gain units are bought locally.

11 Appeal Update

The appeal updates were noted.

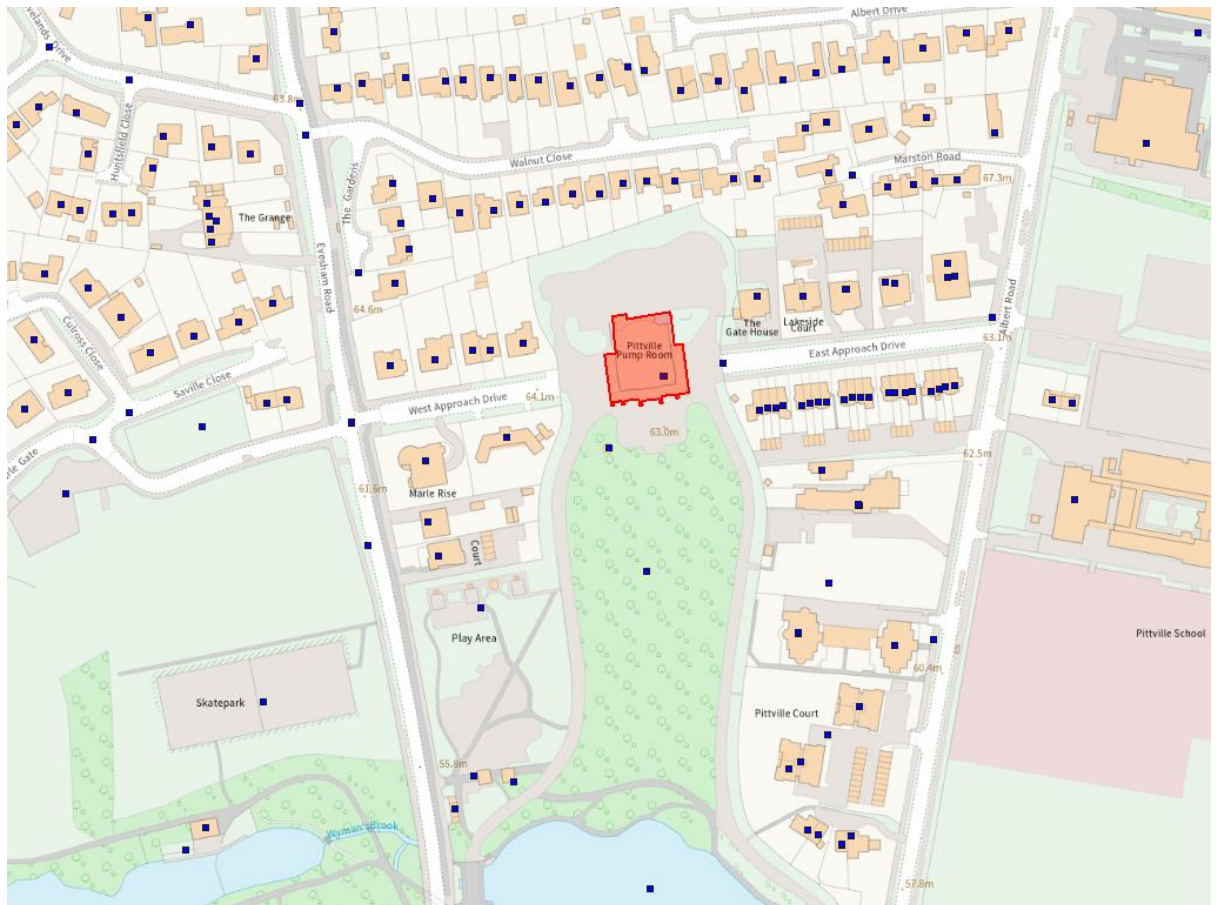
12 Any other items the Chairman determines urgent and requires a decision

There were none.

Committee Officer Report

APPLICATION NO: 26/00857/LBC	OFFICER: Mr Peter Ashby
DATE REGISTERED: 3rd June 2026	DATE OF EXPIRY: 3 rd August 2026
DATE VALIDATED: 3rd June 2026	DATE OF SITE VISIT:
WARD: Pittville	PARISH:
APPLICANT:	Cheltenham Borough Council
AGENT:	
LOCATION:	Pittville Pump Room East Approach Drive Cheltenham
PROPOSAL:	Additional floor strengthening works.

RECOMMENDATION: Grant



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The Pittville Pump Room, built 1825 – 1830, is a Grade I listed building, built in the Greek revival style. It represents a local landmark noted as a nationally significant building. It formed part of a wider plan of the Joseph Pitt (1759 – 1842) to develop a new spa well and spa town in Pittville. It is located in Pittville Park and is within Central Cheltenham Conservation.
- 1.2 This application relates to the approved Listed Building Consent (25/00954/LBC), and the additional floor strengthening works that were required to complete the project.
- 1.3 The building is currently operated by the Cheltenham Trust and is used as a venue for weddings and events.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Conservation Area
Listed Buildings Grade 1
Principal Urban Area

Relevant Planning History:

Replacement of third decayed timber to dome at top of building with new.

19/00485/LBC 4th June 2019 GRANT

To remove asbestos cement promenade tiles from the flat roof to the rear of the Pittville Pump Rooms 1960 extension, repair existing asphalt covering and overlay with liquid applied waterproof membrane colour to match existing, renew 10 nr circular skylights using white GPP to match existing profiles, with triple skin polycarbonate skin to adjacent existing leads and copper flashings to suit

20/01702/LBC 21st December 2020 GRANT

Investigate survey to open up three sections of the balcony

20/01899/LBC 29th April 2021 DISPOS

Installation of 8no. speakers located under the colonnade to supply music and announcements to the colonnade area of the Pump Rooms.

21/00579/LBC 21st May 2021 GRANT

To replace six cracked and unsafe slabs like for like

21/01391/DISCON 23rd June 2021 DISCHA

Discharge of conditions 3 (Details of materials) of planning permission 21/00579/LBC to replace 6 cracked slabs

21/01687/LBC 17th September 2021 GRANT

Installation of new gates and railings at East and West Approach Drives and associated alterations, and restoration of c19th steps to the front of the Pump Rooms

21/01687/FUL 17th September 2021 PER

Installation of new gates and railings at East and West Approach Drives and associated alterations, and restoration of c19th steps to the front of the Pump Rooms

21/01874/LBC 1st November 2021 GRANT

Removal of defective insulation and roof covering on the balcony, timber repairs, repointing of stone steps, addition of rodding point

21/02449/DISCON 8th November 2021 DISCHA

Discharge of conditions 3 (Repair and maintenance works) and 4 (Roofing material) of listed building consent ref. 21/01874/LBC

21/02618/LBC 25th November 2021 NOTREQ

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

22/00340/LBC 22nd April 2022 GRANT

Various repairs works

22/01439/FUL 21st October 2022 REF

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

23/00372/FUL 16th June 2023 PER

Temporary change of use of land for up to 20 months for the siting of an orangery structure to be used as a cafe and the siting of ancillary toilets and storage facility (Revised submission to 22/01439/FUL)

25/00380/FUL 22nd August 2025 PER

Temporary change of use of land for the siting of a trailer/vehicle as a servery and retention of ancillary mobile toilets and store, plus over-cladding of toilets and store.

25/00954/LBC 13th October 2025 GRANT

Removal of existing deck to the main floor, installation of a new floor deck.

25/01795/LBC 23rd January 2026 GRANT

Reuse and install removed floorboards in several rooms at Pittville Pump Room.

26/00108/DISCON 29th January 2026 DISCHA

Discharge of conditions 4 (Construction Method Statement) and 5 (details of oak floor boards) of granted permission 25/00954/LBC.

26/00736/DISCON 10th June 2026 DISCHA

Discharge condition 5.(Oak Floor Boards) of Listed Building Consent 25/00954/LBC.

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 4 Decision-making

Section 16 Conserving and enhancing the historic environment

Adopted Joint Core Strategy Policies

SD8 Historic Environment

4. CONSULTATIONS

Under Listed Building Consent (25/00954/LBC) full consultation was undertaken (no comments were received). As the works under the floor boards within this application did not affect the special character or appearance of the listed building and as the works were retrospective, no consultation was undertaken.

5. OFFICER COMMENTS

- 5.1 Following the approval of LBC (25/00954/LBC), works began to the Pittville Pump Room, with the removal of the modern main hall and apse floor deck. The floor void was inspected by structural engineers and the initial floor strengthening drawings has to be revised due to meet the required floor loading standards. The whole of the floor joist construction could not be inspected prior to the commencement of the works.
- 5.2 Given the scope of the revised drawings, a separate LBC application was requested .The floor works continued as the applicant's own risk and the flooring project with the installation if the new oak floor deck was completed on 30th April 2026.

- 5.3** The scope of works covers the final construction of the floor strengthening work. As per the previous LBC application, the works were essential to enable future high-level surveys and conservation work using a MEWP, thus avoid scaffolding areas of the interior as previously undertaken to date.
- 5.4** New timber joist were fixed throughout the main hall to the original timber joists, either to one or both sides of each joist. In this way almost all the original joists were retained, with the new joists representing a clear and later addition. Timber replacement was limited only where necessary. For example, where localised historic woodworm was present, or excessive decay to the timber.
- 5.5** Where the sole plate was not supported, new supporting pads have been installed.
- 5.6** The initial proposal was to strengthen the main hall and apse. However, during the floor void inspections and specification revisions, it was deemed not feasible to strengthen the apse area to this level. To do this would involve extensive strengthening works and was deemed to extensive and cost prohibitive. Instead, a conventional approach of timber repairs were used in the apse area, again fixing one or two timber joists to the original joists. A moveable tower scaffold can now be used in the apse. This has ensued high level works are possible but with a lesser proposed load to the apse.

6. CONCLUSION AND RECOMMENDATION

- 6.1** With the exception of timber defects, the existing substructure has been retained, with minimal intervention for the replacement of like for like timber where necessary. The replacements are clear, later additions which do not affect the legibility of the building.
- 6.2** The retrospective works are considered justified to enable conservation of the high-level original fabric of the building via MEWP access. Although the floor strengthening works were more extensive than anticipated, joists have been retained throughout, there has been very limited replacement.
- 6.3** The works will ensure current floor loadings for the intended use comply with current standards and future high-level works are carried out in an economic and efficient manner.
- 6.4** The works comply with the above policies. For the above reasons, it is recommended listed building consent is granted.

7. CONDITIONS

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

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

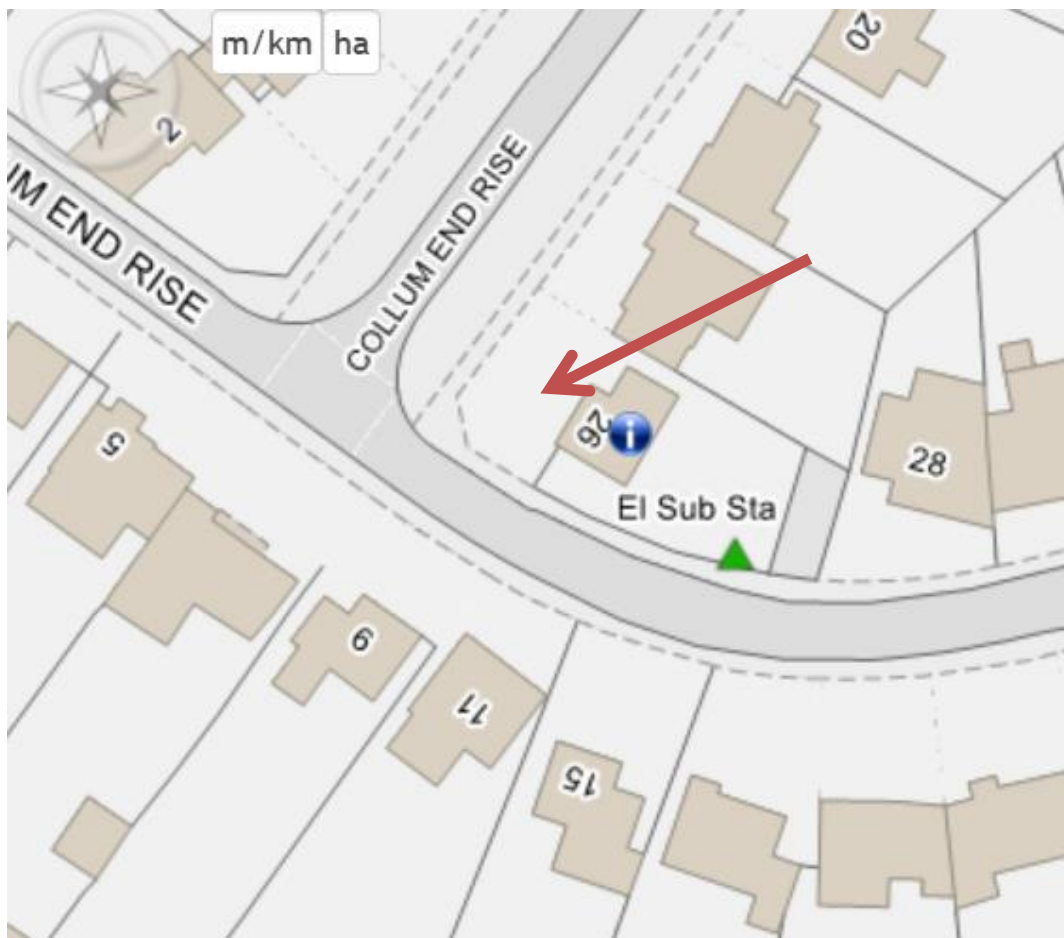
- 2 The listed building consent hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

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

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APPLICATION NO: 26/00863/TREEPO		OFFICER: Sam Reader
DATE REGISTERED: 4/6/26		DATE OF EXPIRY: 4/12/26
WARD: Leckhampton		PARISH: Leckhampton with Warden Hill
LOCATION:	Rear 26 Collum End Rise	
PROPOSAL:	TPO to protect one hornbeam tree	

RECOMMENDATION: Confirm without modification



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Hornbeam tree (*Carpinus betulus*) is growing in rear garden of 26 Collum End Rise. The tree is decades old and appears in good condition.
- 1.2 The tree is the principal arboreal feature of the garden. At the time of the TPO being served, there was also a *Robinia* whose lesser visual amenity value meant that it didn't qualify for protection.
- 1.3 The tree bifurcates at around 1.8m to form a multi-stemmed tree in a spreading form typical of the species.
- 1.4 The tree is clearly visible from the road and is a principal arboreal feature of the street scene.
- 1.5 At the time of the property's sale in April 2025, a member of the public contacted the Trees Section asking that the hornbeam be considered for protection (perceived threat from new owners / developers). TPO824 was served and, with no objections being made, it was confirmed without modification. However, the current owners objected to the TPO on the grounds that the site notices were invalid (no dates were printed on the site notice.) Therefore, the Trees Section revoked TPO824 and served TPO863, to which the current owners objected.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Relevant Planning History

25/00824/TREEPO – protection of hornbeam (**confirmed and subsequently revoked**)

25/01338/TPO - reduce crown by 2-3m (**permitted**)

25/01545/TPO - reduce crown back to 9m, to secondary branch framework. Final height of 9m and lateral spread of 8m. (**permitted**)

25/00824/TREEPO – TPO revoked

26/00863/TREEPO – protection of hornbeam

26/00942/TPO – full removal (**refused**)

3. POLICIES AND GUIDANCE

Town and Country Planning Act 1990

Part 8, Chapter 1 – Trees

Cheltenham Plan

Policy GI2

POLICY GI2: PROTECTION AND REPLACEMENT OF TREES

The Borough Council will resist the unnecessary (Note 1) felling of trees on private land, and will make Tree Preservation Orders in appropriate cases.

For protected trees (Note 2), the Council will require:

a) any tree which has to be felled to be replaced, where practicable (Note 3); and

b) pruning, where it is necessary, to be undertaken so as to minimise harm to the health or general appearance of a tree and to be in conformity with British Standard for Tree Work (BS3998, 2010).

In cases where trees are not protected by a Tree Preservation Order or by being in a Conservation Area but contribute to the townscape and character of the town, the Council will consider including such trees in a Tree Preservation Order.

4. CONSULTATION RESPONSES

4.1. Two site notices were put up nearby on Collum End Rise. A copy of the provisional order was sent to the tree owner.

4.2 The owner objected to the TPO on the grounds that the tree was too close to services (underground electrical and foul water service runs), that the tree had already caused damage to the foul water drain and that the tree posed a hazard to the public as a result of roots lifting the adjacent pavement.

5. OFFICER COMMENTS

- 5.1 The tree appears to be in good physiological condition. No defects have been identified or submitted as evidence to support tree works notices.
- 5.2 Although the tree is close to service runs, the evidence allegedly demonstrating root intrusion into the drainage run does not show any evidence of roots. No damage to service runs has been proven.
- 5.3 Furthermore, root damage to electrical service runs is not a documented phenomena and therefore the risk of this occurring appears negligible.
- 5.4 Furthermore, the damage to the pavement is restricted to the narrow slabs directly adjacent to the fence. These are unlikely to be used by passersby as they are impractically small to walk on. There is no clear damage to the pavement that may be caused by the roots of the tree.
- 5.5 The evidence submitted in objection to the TPO is speculative. No damage to property / infrastructure or danger to the public has been demonstrated.
- 5.6 A demonstration of the need for a TPO has been evidenced in the application to remove the tree (expedience) and the high visual amenity value of the tree.

6. CONCLUSION AND RECOMMENDATION

- 6.1 A threat to a high value tree has been established. Therefore, a TPO is expedient and appropriate for this tree. While the original TPO served in April 2025 did have an omission on the site notices, this was prior to the current owners' ownership of the property and a land search by their solicitors would have revealed the TPO as a charge on the property. No evidence to support the removal of the tree or revocation of the TPO has been submitted. The Council did not refuse reasonable works to the tree under the old TPO and would be very unlikely to refuse similar proposals under the current TPO.
- 6.2 On this basis the recommendation is to confirm the TPO without modification.

Addendum:

Objections:

To Sam Reader,

I am writing to formally object to the proposed Tree Preservation Order (TPO) relating to the European hornbeam tree situated within my garden at 26 Collum End Rise, Leckhampton, Cheltenham, GL53 0PB.

I appreciate the importance of protecting trees that contribute to the local environment and amenity. However, I believe that protecting this particular tree in its current location is inappropriate due to its proximity to essential utility infrastructure, the damage that has already occurred, and the significant risk of further damage and public safety issues as referenced in your email response dated 15th June 2026 - Note 1 'The felling of a tree will be necessary only where it is dead, unsafe, or causing unacceptable harm to building or infrastructure'.

The tree is located approximately 4 metres from the local electricity sub-main, which supplies electricity to approximately 200 properties, and approximately 1 metre from the main public sewer. Since raising my concerns, representatives from National Grid Electricity Distribution and Severn Trent Water attended my property to inspect the site in person.

During this meeting, I was advised that the electricity cables serving the sub-main are located at a depth of approximately 600 mm below the adjacent footpath. Given the maturity and size of the tree's root system, this relatively shallow depth raises concerns about the potential for future interaction between the roots and this critical electrical infrastructure.

I have also attached Severn Trent Water's published guidance on planting trees near underground assets. This guidance recommends that a large forest tree, including a European hornbeam, should be planted a minimum distance of 10 metres from their assets. The existing tree is approximately 1 metre from the public sewer, which is significantly closer than the recommended distance. I will be attaching proof of where the public sewer is located which shows it is 1 metre away.

The same guidance states that Severn Trent Water will recover the costs of repairing damage to its assets where that damage has resulted from inappropriate planting. This is particularly relevant given that there is already evidence of tree roots affecting the sewer system. Which I will attach to this email.

Unfortunately, these concerns are not hypothetical as proven in my supporting evidence. The tree has already caused visible damage by lifting the adjacent footpath through root growth. This creates an uneven surface and presents a potential trip hazard for members of the public, particularly as Leckhampton has a large elderly population who may be more vulnerable to falls.

In support of my objection, I will be providing the following evidence:

- Photographs showing the footpath that has been lifted by the tree roots.
- Evidence of tree roots within the public sewer.
- Photographs demonstrating the proximity of the tree to the public sewer and the electricity sub-main.
- The published Severn Trent Water guidance recommending minimum planting distances for large trees.

- Any additional photographs and plans showing the relationship between the tree and the surrounding infrastructure.

I wish to make it clear that I am not opposed to trees or to protecting the local environment. As a reasonable and constructive alternative, I am willing to plant a replacement tree elsewhere within my garden in a more appropriate location where it can continue to provide environmental and visual benefits without posing a risk to underground utilities, public infrastructure, or pedestrian safety.

I would also appreciate clarification from the Council regarding how these risks have been assessed when considering the Tree Preservation Order. In particular, if the order is confirmed and the protected tree subsequently causes damage to the electricity sub-main, the public sewer, or the adjoining footpath, I would be grateful if the Council could explain where responsibility for that risk and any resulting costs would lie. Given the importance of the sub-main, which supplies approximately 200 homes, and the public sewer serving the surrounding area, this is an important consideration.

I respectfully ask Cheltenham Borough Council to give careful consideration to the evidence of existing damage, the guidance published by Severn Trent Water, the findings of the joint site visit by National Grid Electricity Distribution and Severn Trent Water, and the potential risk to essential infrastructure and public safety.

While I fully support the protection of trees where appropriate, I do not believe it is in the public interest to preserve a tree that is already causing damage and is situated in a location that conflicts with critical underground services. My proposal to plant a replacement tree elsewhere within my garden would ensure that the environmental benefits of tree cover are maintained while avoiding the ongoing risks associated with the current location.

I therefore respectfully request that the proposed Tree Preservation Order is not confirmed and that permission is granted for the removal of the existing tree, subject to replacement planting in a suitable location.

Yours faithfully,

Jordan Bryan



Hi Sam,

I have noticed the document from Severn Trent hasn't attached very well.

Please let me know this is now showing correctly.

I will also attach the online link below.

<https://www.stwater.co.uk/building-and-developing/protecting-our-assets/tree-planting-restrictions/>

Many thanks,

Jordan Bryan

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APPLICATION NO: 26/00866/TREEPO		OFFICER: Sam Reader
DATE REGISTERED: 16/6/26		DATE OF EXPIRY: 16/12/26
WARD: Warden Hill		PARISH:
LOCATION:	Land at Castanum Court	
PROPOSAL:	TPO to three birch (Ts 1, 2, 3) and mixed woodland (W1)s	

RECOMMENDATION: Confirm without modification



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Three birch of various species on the southern border of the land adjacent to the brook. The northern edge of the land is wooded at the brook's edge. Site is accessible from Castanum Court.
- 1.2 The three birch are early mature and not fully grown. They appear to be in good condition and visible from both Castanum Court and the main road.
- 1.3 The wooded area is of mixed species with a range of maturity classes represented but in the main these trees are older and larger than the birch. These trees appear in good condition and are visible from both Castanum Court and the main road.
- 1.4 The TPO has been made in response to 26/00695/FUL which would remove T1 and T2. The development would also increase pressure on T3 by recontextualising it in a small garden and by inserting a parking space in its RPA. The woodland was included in anticipation of a revised layout closer to those trees.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Relevant Planning History

26/00695/FUL - Land At Junction With Warden Hill Road. Change of use of land to residential and construction of single storey dwelling.

3. POLICIES AND GUIDANCE

Town and Country Planning Act 1990

Part 8, Chapter 1 – Trees

Cheltenham Plan

Policy GI2

POLICY GI2: PROTECTION AND REPLACEMENT OF TREES

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For protected trees (Note 2), the Council will require:

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b) pruning, where it is necessary, to be undertaken so as to minimise harm to the health or general appearance of a tree and to be in conformity with British Standard for Tree Work (BS3998, 2010).

In cases where trees are not protected by a Tree Preservation Order or by being in a Conservation Area but contribute to the townscape and character of the town, the Council will consider including such trees in a Tree Preservation Order.

4. CONSULTATION RESPONSES

- 4.1. Two site notices were put up, one on Castanum Court and one on Warden Hill Road. A copy of the provisional order was sent to the tree owner (who is also agent for

26/00695/FUL). Note that the agent states he has never received this in the post but accepts it was received by email subsequently. A copy was sent to the neighbour at 54.

4.2 The neighbour at 54 responded in support of the TPO.

4.3 The owner submitted an objection based on:

- A request to only protect the woodland
- The council has not demonstrated that the trees are high value amenity trees and that the TPO is justified in terms of expediency (a threat to the trees)
- The trees are not visible enough to be protected as Castanum Court is a small cul-de-sac and that views of the trees from the main road are restricted by the hedge
- The trees are young and do not merit protection, furthermore that an estimated 20+ years lifespan (taken from their arborist's report) does not merit protection. The arborist's report also categorises T1 as young and all three as 'B' (as per BS5837:2012).
- The order fails to distinguish between local and wider amenity and that the trees' amenity contribution is readily replaceable.
- Replacement planting would provide a better public outcome.
- Ward canopy cover is not reason enough to protect healthy, visible trees and that amenity assessment should also be included in the assessment for TPO.
- Furthermore that overall canopy cover would not be reduced without mitigation (i.e. planting of four trees proposed as part of 26/00695/FUL)
- The agent points to the numbering of the TPO (T1, 2, 3) not matching the numbering used by their own survey (which includes a rowan as T3 not included in the TPO).

5. OFFICER COMMENTS

- 5.1 The protection of the woodland trees is not objected to so these will not be further discussed in this report. The birch trees appear to be in good physiological condition.
- 5.2 Each tree has been assessed visually in regard to their public visual amenity and expediency (threat). The TEMPO assessment tool has been used for clarification. Each tree is a good example of a difference species of birch. There is a clear threat to two trees and given the apparent likelihood of a reconfigured layout in response to the Trees Section's objection to their removal, it appeared expedient to also protect the third birch and woodland.
- 5.3 Although Castanum Court is a small cul-de-sac, it is a public road and the trees are clearly visible from that road. The legislation does not differentiate between public areas of very high footfall and those of low footfall. Furthermore, the trees are all visible from the main road – either from the entrance of Castanum Court or partially obscured behind the hedge.
- 5.4 The age of the trees is relevant only insofar as they have a reasonable remaining lifespan and are not so young and small as to be not visible or contributing significant amenity to their surroundings. A tree with at least 20 years expected lifespan would ordinarily merit protection if other criteria were met. Although the BS5837 cascade chart from which the arborist has categorised the trees as 'B' is not commonly used for TPO assessments (and the owner points this out), within that chart Grade B trees would be recommended for

retention within a development. The arborist's report demonstrates that these trees are constraints to development and should be retained.

- 5.5 The significance of these trees is already sufficient to warrant protection and will only increase as the trees reach maturity and full height. It may be fair to say that the trees' amenity could be replaced in time with new trees. However, that would take some years (and much watering and energy), and the existing trees are already well established. While it is argued by the owner that replacement planting would produce a better outcome than retention of the existing trees, the existing trees are already a valuable amenity assess that should be retained.
- 5.6 Canopy cover in Warden Hill is only 7% compared with a national target of 16.5%. Retention of the trees protected by this TPO would be in line with the aims of the Council's Trees Strategy and while this is not enshrined in planning policy, it does strengthen the mandate for protection in the overall assessment for TPO.
- 5.7 It is not the convention nor mandatory to use a developer's tree survey numbering to number trees on a TPO's schedule.

6. CONCLUSION AND RECOMMENDATION

- 6.1 A threat to demonstrably high value trees has been established. Therefore, a TPO is expedient and appropriate.
- 6.2 On this basis the recommendation is to confirm the TPO without modification.

Addendum:

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The tree is located approximately 4 metres from the local electricity sub-main, which supplies electricity to approximately 200 properties, and approximately 1 metre from the main public sewer. Since raising my concerns, representatives from National Grid Electricity Distribution and Severn Trent Water attended my property to inspect the site in person.

During this meeting, I was advised that the electricity cables serving the sub-main are located at a depth of approximately 600 mm below the adjacent footpath. Given the maturity and size of the tree's root system, this relatively shallow depth raises concerns about the potential for future interaction between the roots and this critical electrical infrastructure.

I have also attached Severn Trent Water's published guidance on planting trees near underground assets. This guidance recommends that a large forest tree, including a European hornbeam, should be planted a minimum distance of 10 metres from their assets. The existing tree is approximately 1 metre from the public sewer, which is significantly closer than the recommended distance. I will be attaching proof of where the public sewer is located which shows it is 1 metre away.

The same guidance states that Severn Trent Water will recover the costs of repairing damage to its assets where that damage has resulted from inappropriate planting. This is particularly relevant given that there is already evidence of tree roots affecting the sewer system. Which I will attach to this email.

Unfortunately, these concerns are not hypothetical as proven in my supporting evidence. The tree has already caused visible damage by lifting the adjacent footpath through root growth. This creates an uneven surface and presents a potential trip hazard for members of

the public, particularly as Leckhampton has a large elderly population who may be more vulnerable to falls.

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I would also appreciate clarification from the Council regarding how these risks have been assessed when considering the Tree Preservation Order. In particular, if the order is confirmed and the protected tree subsequently causes damage to the electricity sub-main, the public sewer, or the adjoining footpath, I would be grateful if the Council could explain where responsibility for that risk and any resulting costs would lie. Given the importance of the sub-main, which supplies approximately 200 homes, and the public sewer serving the surrounding area, this is an important consideration.

I respectfully ask Cheltenham Borough Council to give careful consideration to the evidence of existing damage, the guidance published by Severn Trent Water, the findings of the joint site visit by National Grid Electricity Distribution and Severn Trent Water, and the potential risk to essential infrastructure and public safety.

While I fully support the protection of trees where appropriate, I do not believe it is in the public interest to preserve a tree that is already causing damage and is situated in a location that conflicts with critical underground services. My proposal to plant a replacement tree elsewhere within my garden would ensure that the environmental benefits of tree cover are maintained while avoiding the ongoing risks associated with the current location.

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Many thanks,

Jordan Bryan

Application No.	Appeal Ref	Site Address	Appeal Type	Start Date	Questionnaire	Statement	Final Comments	Decision	Date of Decision	Costs Dec	Hearing Date	Costs awarded
25/01756/FUL	26/00001/PP1	6 Townsend Street	HAS	05.01.2026	12.01.2026			Dismissed	06.03.2026			
25/00539/FUL	26/00002/PP1	Laxton Meadow Farm	Written	19.01.2026	26.01.2026	23.02.2026	09.03.2026					
25/00983/TPO	26/00003/TP1	Pittville Court, Albert Road	Written	27.01.2026				Dismissed	27.03.2026			
24/02067/TPO	26/00004/TP1	189 - 191 London Road	Written	06.03.2026	20.03.2026							
25/00650/OUT	26/00005/PP1	Land at Glenfall Way	Written	27.04.2026	05.05.2026	03.06.2026	17.06.2026					
26/00117/FUL	26/00006/PP1	17 Shelley Road, Cheltenham, GL	Written	29.04.2026	06.05.2026			Dismissed	05.08.2026			
26/00312/LBC	26/00007/LISTB2	76 Andover Road	Written	09.06.2026	16.06.2026	14.07.2026	28.07.2026					
25/01072/FUL	26/00008/PP1	52 Tivoli Street	Written	23.06.2026	30.06.2026	28.07.2026	11.08.2026					
26/00237/FUL	26/00009/PP1	6 Hayes Road	Written	21.07.2026	28.07.2026							
26/01027/TPO	26/00010/TP1	Broadlands Lodge 56 The Park	Written	29.07.2026	12.08.2026							

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REPORT OF THE 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

JULY /AUGUST 2026

Address	Proposal	Delegated or Committee Decision	Appeal Type	Anticipated Appeal Determination Date	Reference

Appeals being processed

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
6 Hayes Road Cheltenham Gloucestershire GL52 2QF	Proposed two-storey side extension, single-storey rear extension, and rendering of the entire property	Delegated Decision	Written Representation Householder		Ref: 26/00237/FUL Appeal ref: 26/00009/PP1
Broadlands Lodge 56 The Park Cheltenham Gloucestershire	TPO T9, T10, T11 variegated western red cedars, remove trees and stumps and replant with black walnut.	Delegated Decision	Written Representation		Ref: 26/01027/TPO Appeal ref: 26/00010/TP1

Appeals Decided

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
17 Shelley Road Cheltenham Gloucestershire GL51 7DN	First floor side and rear extension and outbuilding.	Delegated Decision	Written Representations	Appeal Dismissed	Planning Ref: 26/00117/FUL Appeal Ref: 26/00006/PP1

Authorised By: Chris Gomm 11TH August 2026

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Appeal Decision

Site visit made on 14 May 2026

by **Richard S Jones BA (Hons), BTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 July 2026

Appeal Ref: APP/B1605/C/24/3338516

Land at 125, 127, 129, 131, 133 Promenade Cheltenham Gloucestershire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr J Dunkerton against an enforcement notice issued by Cheltenham Borough Council.
- The notice was issued on 11 January 2024.
- The breach of planning control as alleged in the notice is without planning permission, the retention of all marquees at 125, 127, 129, 131, and 133 Promenade, Cheltenham, Gloucestershire and associated fittings and chattels that facilitate the use of the marquees; the retention of the said marquees was refused permission under planning application 22/01373/FUL and the subsequent planning appeal to the Planning Inspectorate ref APP/B1605/W/23/3314132 was dismissed. A further application for planning permission under reference 23/01597/FUL has also been refused.
- The requirements of the notice are to remove all marquees from outside of the front, side and rear of 125, 127, 129, 131 and 133 Promenade, Cheltenham, Gloucestershire and remove all associated fittings and chattels that facilitate the use of the marquees, including temporary wood walls, bar areas and any other items associated with the marquees.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - Deleting the breach of planning control in section 3 and its substitution with “Without planning permission, the erection of marquees to the front of 125, 127, 129, 131, and 133 Promenade and to the side of 133, with their associated fittings and chattels facilitating their use.”
 - Deleting the requirement in section 5 and its substitution with “Remove all marquees from the front of 125, 127, 129, 131, and 133 Promenade and to the side of 133, and remove all associated fittings and chattels that facilitate the use of the marquees, including temporary wood walls, bar areas and any other items associated with the marquees.”
 - Deleting three months as the period for compliance in section 6 and substituting it with seven months.
2. Subject to the corrections and variation, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. I note that the appellant has sought to submit additional late evidence, but there are no exceptional reasons why evidence pertaining to the planning history of the site could not have been provided within the written representation timetable for this appeal. Furthermore, the interests of natural justice do not demand that I consider it. I have not therefore considered that information.
4. I note the highlighted errors in the Council's questionnaire, but the appellant is clearly aware of the correct name for the conservation area as it is stated in the notice. The appellant will also be undoubtedly aware that the enforcement notice does not relate to a single private dwellinghouse but does concern the setting of a listed building. He will again be aware of the development plan policies and their status and that of the CIL charging schedule. No injustice has therefore arisen as a result of those errors.

The Enforcement Notice

5. An enforcement notice is null if it is 'defective on its face'¹, normally by missing some vital element that it 'shall' include under s173 of the 1990 Act. S173(10) of the 1990 Act states that "*An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.*"
6. Regulation 5 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 requires that every copy of an enforcement notice served under s172(2) of the 1990 shall be accompanied by an explanatory note, which shall include the specified information set out therein.
7. The appellant says that the Council omitted "*several pieces of this statutory required information*" but refers only to the omission of the fee for the deemed application for planning permission, as required by Regulation 5(a)(iv). That omission is accepted by the Council.
8. Whilst that is a breach of the regulations, the fact that an enforcement notice must be "*accompanied by an explanatory note*", emphasises the fact that it is something separate from the enforcement notice. On that basis, omission of the explanatory note, let alone details of the fee, can't be a defect which is apparent on the face of the enforcement notice itself, so cannot give rise to nullity. In any case, no injustice or prejudice has arisen as the appellant has been able to make a valid ground (a) appeal.
9. An enforcement notice must be drafted fairly to tell a recipient what he has done wrong and what he must do to remedy it². A notice may be a nullity if it is 'hopelessly ambiguous and uncertain'³.
10. In this case, the breach of planning control as alleged in the notice is "*without planning permission, the retention of all marquees at 125, 127, 129, 131, and 133 Promenade, Cheltenham, Gloucestershire and associated fittings and chattels that*

¹ *R v Wicks* [1997] JPL 1049 (HoL)

² S173 of the 1990 Act

³ *Miller-Mead v MHL* [1963] 2 WLR 225

facilitate the use of the marquees; the retention of the said marquees was refused permission under planning application 22/01373/FUL and the subsequent planning appeal to the Planning Inspectorate ref APP/B1605/W/23/3314132 was dismissed. A further application for planning permission under reference 23/01597/FUL has also been refused”.

11. Unless relating to a breach of condition, the planning history does not form part of the breach, so those references should be deleted. They are repeated in the reasons for issuing the enforcement notice in any case.
12. The appellant considers that the notice is imprecise and unclear in that it does not refer to a specific number of marquees. However, the breach refers to “*the retention of the said marquees...*” which were refused permission under planning application 22/01373/FUL. The matters therefore concern those specific marquees across the frontages of the three listed buildings and to the side of No 133, which were the subject of that application and subsequent appeal. The appellant confirms that number to be 19.
13. Consequently, any pre-existing marquee(s) to the rear of No 133 do not form part of the breach of planning control. Accordingly, I have not considered the acceptability or otherwise of a marquee in that location (even on the basis of its siting for four months per year), and the specific reference to remove any such structure should therefore be deleted from the requirements.
14. In essence, the breach is the retention of the marquees, with associated fittings and chattels facilitating their use, despite planning permission being refused for them. The requirements of the notice are to remove the same. That is unambiguous and there is no uncertainty. The appellant will therefore clearly know what he has done wrong and what he must do to remedy the breach.
15. Nevertheless, “*retention*” is not an act of development, so should be deleted. It is also unnecessary to repeat the full address of the breach as that is already set out under section 2 of the notice. The allegation should therefore be corrected to “*Without planning permission, the erection of marquees to the front of 125, 127, 129, 131, and 133 Promenade and to the side of 133, with their associated fittings and chattels facilitating their use.*” It follows that the requirement should be similarly corrected.
16. Correcting the notice as such does not expand or change the fundamental aspects of the breach or the requirements, and I am satisfied that I am able to make those corrections under the powers transferred to me by s176(1)(a) of the 1990 Act, without injustice to any party.
17. The appellant is also critical of the Council for not providing an expediency report. However, whilst that would clearly have been helpful to the appellant, I am only able to consider whether or not a notice is a nullity by considering whether any defect is evident on its face. I am unable to assess the background to issuing the notice, including expediency; such matters must be pursued through the courts. Furthermore, an application for costs has not been made and I have no reason to believe that the Council has acted unreasonably.
18. For the reasons explained, I do not therefore find the enforcement notice to be hopelessly ambiguous or uncertain so as to amount to a nullity, and I have found no defects that would render it invalid.

The Appeal on Ground (a)

Background

19. The enforcement notice relates to the marquees and associated fittings and chattels used in connection with the hotel and restaurant/bar use of the main listed buildings.
20. The marquees were originally erected during the COVID-19 pandemic under the relaxed planning regime for temporary, moveable structures in place at that time. When those measures ended, an application was made to retain the marquees for a further two-year period⁴. That application, as referred to in the uncorrected breach, was refused and a subsequent appeal was dismissed in August 2023⁵.
21. For the avoidance of doubt, that appeal decision evidently relates to what was proposed in its entirety, including the three marquees that had been removed from the side of No 133. Nevertheless, the Inspector states that “As they [the marquees] are predominantly in place already, I was able to take into account the effects of the structures on the designated heritage assets that I observed on site. My assessment considers the effect of the proposed retention of the marquees for a further two years...”.
22. By any reasonable reading of that decision, it is clear that the majority of the Inspector’s commentary on identified harms were made in respect of the marquees in place at the time of his site visit. It then logically follows that harm is exacerbated by three additional marquees to the side of No 133.
23. Following the appeal, the Council then declined to determine a subsequent application for the retention of a reduced number of marquees in July 2023 on the basis that a similar application had been considered⁶. Although the appellant disagreed, a further application was submitted to retain 16 marquees with an altered roof form. That was refused in December 2023⁷.
24. The Council appears to imply that a further s78 appeal is pending determination, but I have been provided with no such details, and the appellant is unaware of any other ongoing appeals.

Main Issues

25. The main issues are the effect of the marquees on the special interest of the adjacent listed buildings, with particular regard to their setting, and whether they preserve or enhance the character or appearance of the Central Conservation Area.

Reasons

Special interest and significance

26. The appeal concerns the existing marquees situated within the frontage areas of three elegant, Grade II* listed Regency villas constructed in the early 1830s at Nos 125 to 133 Promenade, and the pre-existing marquees situated to the side of No 133.

⁴ Ref: 22/01373/FUL

⁵ Appeal Ref: APP/B1605/W/23/3314132

⁶ Under s70b(3) of the 1990 Act. Ref: 23/01118/FUL

⁷ Ref: 23/01597/FUL

27. The listed buildings are designed with classical proportions and are finished in stucco render. No 125 and 127 have two main storeys, an attic and basement. The outer bays and the central section project slightly forward from the main façade. The central projection is decorated with six pilasters running through the ground and first floors, topped with composite-style capitals, and supporting an entablature above. The main frontage entrances are reached via a flight of steps at each end of the building, leading up to decorative porches supported by two fluted Doric columns, with wreath decorations on the frieze above. Each entrance has a pair of panel doors, with overlights above.
28. Nos 129 and 131 are two storeys above a basement. The central section projects forward with windows framed by fluted columns. A continuous decorative entablature runs across the top of the building. The ground-floor windows and main central entrance have decorative stone surrounds. The central entrance is reached by rounded-edge steps. At each end are slightly recessed two-storey entrance sections.
29. No 133 is two storeys and a basement, with three main bays. The central section is taller and projects slightly forward of the lower flanking end sections. The central section contains three first-floor windows and is decorated with pilasters. At ground-floor level, the pilasters are Doric style and support decorative curved arches above the windows. At first-floor level, the pilasters are Ionic style.
30. The ground floor windows to each villa are tall and elegant, indicating the historical importance of the rooms on this level. Each ground floor features balconies with decorative metal railings. Continuous decorative balconies are present for much of the ground floor at No 125 and No 127, and at No 133 with tent roofs above, whilst those at Nos 129 and 131 are individual balconies served by French windows.
31. The previous Inspector highlighted that the design detailing of the appeal buildings contributes to an elegant appearance, reflective of the increasing prosperity of Cheltenham as a Regency Spa town. He further commented that whilst each building has individual design features, their materials, scale and spacious siting are unifying characteristics, together forming part of an outstanding group of Regency villas along this part of Promenade overlooking Imperial Gardens and the Queens Hotel, also Grade II* listed.
32. I see no reason to disagree with any part of that assessment, which entirely accords with my own observations at the time of my site visit.
33. The villas are set back from their frontages facing onto the broad, tree-lined Promenade, and are predominantly enclosed by black railings. The three sets of gate piers adjacent to No 133 are also individually Grade II listed. The elevated ground floor levels of the appeal buildings along with their elegant ground floor windows and balconies allow key views of that planned tree-lined avenue and Imperial Gardens beyond.
34. The consciously larger plots to the villas are distinctive compared to nearby terraces and add to the sense of space and grandeur, whilst the deliberate setback from the road allows these buildings to be better appreciated by those walking along Promenade, a clear intention of the design of the buildings in the nineteenth century.

35. The appeal site also falls within the Central Conservation Area (Montpellier Character Area), the significance of which is largely derived from its many complete and uniform formal terraces and villas built in the Regency style, set within spacious grounds. Its significance is also derived from its formal public gardens, important landmark public buildings, and the importance of the Promenade as a planned tree-lined, wide and spacious thoroughfare.
36. The appeal buildings, being elegant Regency villas in a spacious and planned setting and forming a high-quality building group, reinforce those characteristics and positively contribute to the significance of the Conservation Area as a designated heritage asset. The sensitivity of the site is reinforced by facing out onto one of the town's most visually striking tree lined streets and towards Imperial Gardens, and by its proximity to the Queen's Hotel landmark building, all of which also make a very positive contribution to the significance of the Conservation Area.

Effects

37. The Inspector for the previous appeal found that:

"Owing to their considerable height, spread and form, the marquees almost completely obscure the ground and basement elevations of the buildings, radically reducing the visibility of their architectural detailing, such as the arcading and balconies to the ground floor areas referred to above. The peaks of the marquees also obscure parts of the first floors of the buildings. Visibility of the buildings in views from outside the site as well as from the entrance to Imperial Gardens opposite and from further along Promenade has been radically reduced. This severely restricts the ability to appreciate the significance of the buildings.

Within the site, views of the exterior of the buildings are extremely limited and diners within this space, in my view, are unlikely to be able to gain a realistic appreciation of the significance of the buildings that they are visiting."

38. He also found that:

"The scale of the development has drastically reduced the degree of spaciousness within the appeal site (despite three proposed marquees being absent on my visit). The development of the site has had a significantly diminishing effect on the legibility of the original conscious design as grand villas within a spacious setting, adversely affecting their significance. Moreover, the tented form and irregular positioning of the marquees within the site jars with the formal symmetry of the Regency buildings. This also has the effect of reducing the individuality between the three buildings and blurring the definition between them.

Having regard to the above, the marquees have become a prominent and incongruous feature of the streetscene along Promenade and due to their scale, colour and form are visible for much of its length. They are also prominent in views from Imperial Gardens. The marquees intrude into the space adjacent to the street trees, imposing upon them, unbalancing the symmetry of the avenue in views looking down Promenade from the Queens Hotel and adversely affecting the spacious, verdant character of the CA as a whole."

39. The Inspector therefore concluded that the retention of the marquees would have a harmful effect on the special interest of the adjacent Grade II* listed buildings, particularly their setting, and would fail to preserve or enhance the character or

appearance of the conservation area, thereby causing harm to the significance of those designated heritage assets.

40. The appellant seeks to highlight the differences between the development subject to this ground (a) appeal, and the applications and appeal listed in the enforcement notice. However, as explained, the notice relates to the same marquees as considered under the referenced application and related appeal. Although it is likely that the marquees to the side of No 133 had been removed by the time of issuing the enforcement notice, the photographs show that that part of the breach had occurred before that date. The previous Inspector's findings are therefore entirely applicable to this ground (a) appeal and are an important material consideration.
41. In any event, it is evident from the Inspector's assessment that his comments are primarily made in respect of those marquees in place at the time of his site visit, which is very likely the same as those in place at the time of issuing the enforcement notice. To include the additional three marquees to the side of No 133 would serve only to increase the degree of harm.
42. By the time of my site visit, the marquees had been removed from the front of Nos 125 and 127, thereby allowing the significance of that building to be appreciated. The difference is stark and serves to clearly demonstrate the degree of harm caused to the setting of the listed buildings arising from the marquees. Still, the adjacency of the remaining marquees to that space affect how it is appreciated from oblique angles and how Nos 129 and 131 can be appreciated from the outdoor seating area of No 125 and No 127.
43. The previous Inspector further found that:
44. *"Lying within its setting, the appeal site also contributes to the special interest and significance of the Grade II* listed Queens Hotel. This is through reinforcing the spacious character of the area and allowing views across it to the appeal buildings' facades as part of a conscious grouping of Regency buildings and development along this part of Promenade. Through interrupting the spacious character and views between the two buildings the development has adversely affected the significance of the Grade II* listed Queens Hotel through development within its setting."*
45. Again, those findings remain applicable here and are fully consistent with my own observations.
46. In terms of the Grade II listed gate piers located along the frontage of No 133, the previous Inspector rightly highlighted that their significance derives from their association with No 133, which lies within their setting. In that regard he found that *"A further consequence of the appeal development has been that these gate piers have also been partly or totally subsumed by the structures, eroding their legibility within the site, to the detriment of their significance."* Again, I agree with those findings; given their height and extent in the intervening space, the marquees severely compromise the ability to appreciate the gate piers' association with No 133.
47. Whilst the effect on the special interest and significance of the Queens Hotel and the gate piers did not form part of the reasons for refusing the application subject to the previous appeal or indeed the reasons for issuing the enforcement notice in

this appeal, the Inspector highlighted the statutory duty of the decision maker under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their settings. In that regard, my findings, as per the previous Inspector, add to the harm to the heritage assets described above.

48. I therefore find that the marquees fail to preserve the special historic interest of the setting of the identified Grade II* and Grade II listed buildings and fail to preserve or enhance the character or appearance of the Conservation Area.

Public Benefits and Balance

49. Paragraph 212 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

50. Paragraph 213 goes on to advise that any harm to, or loss of, the significance of a designated heritage asset from development within its setting, should require clear and convincing justification.

51. On the basis of the above, I find the harm to be less than substantial in this case. I note the appellant argues that would be at the lower end of that spectrum, as the marquees are temporary in nature and do not physically touch the listed buildings. However, the harm to the setting of the listed buildings, including those which are Grade II*, is significant, such that the degree of harm is towards the midpoint of the spectrum. Even the harm to the Conservation Area as a whole is not at the very lowest end of the spectrum, given the sensitivity of the location. In any case, the harms are of considerable importance and weight.

52. In such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the development, including, where appropriate, securing its optimum viable use.

53. I recognise the importance of tourism to the economy of Cheltenham and in that context the contribution of the hospitality sector to visitor experiences. I also recognise the importance of the hospitality sector to employment in the town and the myriad factors which make this a challenging time for that sector.

54. The appellant states that the lack of a more appropriate and longer-term replacement of the existing marquees would have severe economic consequences. However, this appeal is concerned with the marquees subject to the enforcement notice, rather than any longer-term replacement, which would be a matter for the appellant and the Council.

55. In that regard, I note that since submission of the appeal, the appellant has been granted planning permission for the erection of metal-framed pergola structures within the frontages of Nos 125-133, to provide external restaurant, dining and drinking facilities in association with the hotel⁸.

⁸ 24/01763/FUL approved 13 March 2025

56. This appeal is supported by an Economic Impact Statement (EIS) which states that the year-round availability of marquee dining and drinking represents over 53% of the total turnover of the venue over the period from 2020-2023. The appellant has also provided figures showing a significant revenue growth for the business after the installation of the marquees. Whilst I have no reason to doubt the headline financial figures provided, in the absence of any underpinning financial data, they do carry less weight. The figures are also likely skewed by restrictions in place during the COVID-19 pandemic.
57. Nonetheless, it is very likely that the marquees facilitate a very significant contribution to the total turnover of the venue, arising from the additional covered trading capacity and differing offer. The appellant states that removing these facilities would necessitate making 39 part-time and 23 full-time staff redundant, amounting to a 61% reduction in the employment headcount.
58. In the event that this type of facility is permanently lost, it is argued that the overall viability of the entire premises would be genuinely threatened, meaning a loss of 103 jobs, as well as the related adverse consequences for the supply chain, the evening and wider economy.
59. The appellant argues that the figures illustrate the essential economic role of the dining and drinking experiences provided by the marquees in driving venue viability and that their continued operation remains integral to the financial sustainability of the business based on revenue dependency. The appellant argues that the business is simply unviable without the additional space provided and the alternative and distinctive experience it offers. To that end, the appellant further argues that the viability of the business is essential to the on-going use and maintenance of the listed buildings.
60. Despite the limited evidence underpinning the EIS, I accept that significant economic benefits are likely derived from the marquees in relation to the business premises, its employees and the supply chain, all of which will contribute to the vitality and viability of the town centre. Those are public benefits that weigh in favour of the marquees.
61. In that context paragraph 85 of the Framework states that planning decisions should help create the conditions in which businesses can invest, expand and adapt, and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 90 also states that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
62. The marquees glean further support from Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (CS) Strategic Objective 1 (building a strong and competitive economy), Strategic Objective 2 (ensuring the vitality of town centres) and to the employment objectives of Policy SD1.
63. However, the recent planning permission represents a fallback position which would likely continue to provide the economic benefits derived from the marquees in a manner which is much less harmful and is evidently acceptable to the Council. In any event, it is not an all or nothing scenario in terms of the economic benefits as the space in which the marquees sit, would remain. I saw that there are significant outdoor dining and drinking opportunities outside the areas covered by marquees

to the side and rear of No 133 and now in front of Nos 125 and 127. I see no reason why such facilities could not be replicated in place of the remaining marquees, should the appellant wish to do so.

64. Facilities attractive to visitors would then remain, albeit on a more seasonal basis. Indeed, it seems to me that much of the attraction of sitting outside in a location such as this, is the ability to be able to appreciate the surroundings, including the adjacent listed buildings. A more conventional arrangement of outdoor dining and drinking would better facilitate that compared to the more enclosed nature of the marquees. Moreover, as pointed out by the previous Inspector, although nearby bars and restaurants have outdoor seating, he saw no similar marquee type structures. That is consistent with my own observations.
65. Nevertheless, I recognise that the marquees will provide better weather protection than a conventional beer garden type umbrella or commercial parasol, so will be able to attract customers to the outside area for much longer periods of the year.
66. The appellant considers that the marquees are supported by paragraph 4 of CS Policy SD8, which states that proposals that will secure the future conservation and maintenance of heritage assets and their settings that are at risk through neglect, decay or other threats, will be encouraged. Whilst in that regard, I do not doubt the benefits to the business flowing from the use of the marquees, I do not have the evidence to demonstrate that the business is unviable without them or is at risk in a manner envisaged by CS Policy SD8. In any case, the marquees are harmful to the setting of the listed buildings so do not secure their future conservation and maintenance in that regard, and, moreover, a less harmful option has been approved.
67. The appellant further argues that the retention and continued use of the marquees allows the heritage assets to fulfil their “*optimum viable use*”. However, this issue was considered by the previous Inspector who explained that, although the buildings were vacant prior to being incorporated into the current business, the appellant has not demonstrated why they consider the buildings’ current use is their optimum viable use. In that regard he noted that Planning Practice Guidance sets out that where there are other economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, and, that this may not necessarily be the most economically viable one.
68. Whilst the marquees may be particularly profitable, the approved scheme demonstrates that there are other viable options for outdoor dining and drinking which would cause less harm to the significance of the heritage assets compared to the marquees. Therefore, as per the previous Inspector, I am not convinced that the marquees in particular are fundamental to maintaining the buildings’ optimum viable use.
69. Therefore, given the alternative, less harmful options available to the appellant for outdoor dining and drinking, I attribute limited weight to the economic benefits offered by the marquees.
70. I recognise that the outside space is accessible but that would remain the case without the marquees and presumably the same would apply to the recently approved alternative. I therefore attach limited weight to the marquees in terms of their specific accessibility benefits.

71. I accept that in the aftermath of the pandemic some people may remain nervous about being in crowded, indoor spaces, and prefer to socialise in well-ventilated spaces where greater distancing can be achieved. However, I have nothing to show that numbers attracted to the site are material in that regard and I saw that a significant stretch of the marquees are fully enclosed on their sides anyway. In any event, customers could sit outside during the warmer months and achieve any health benefit arising. I therefore apply very little weight to that argument.
72. Collectively therefore, the individual and cumulative weight I have attributed to the public benefits identified are not sufficient to outweigh the considerable importance and weight I attach to the harm arising to the special interest and significance of the adjacent Grade II* and Grade II listed buildings, with particular regard to their setting, as well as the harm to the character and appearance of the conservation area. Indeed, I find that the marquees do not sustain or enhance the significance of the designated heritage assets and do not conserve them in a manner appropriate to their significance.
73. The marquees thus fail to satisfy the requirements of sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and are contrary to the Framework and CS Policy SD8, which together seek to conserve and enhance heritage assets and safeguard local distinctiveness and the historic environment. The marquees are also contrary to CS Policy SD4 and Policy D1 of the Cheltenham Plan, which state, amongst other things, that development will only be permitted where it complements and respects neighbouring development and the character of the locality.
74. In principle, if I were to have allowed the ground (a) appeal, permanent planning permission would be granted for the marquees, which are likely only designed as temporary structures. The appellant's primary case is that temporary planning permission should be granted for them, and he has confirmed he would be happy to accept a condition on that basis. However, as noted, the Inspector for the previous appeal has already found the harm arising from the marquees to be unacceptable even for two years. For this appeal, I find that the degree of harm is such that a lesser period of even 12 months would be unacceptable.

Alternative schemes

75. In the event that I make the above finding, the appellant has requested, under ground (f), that I consider whether lesser steps would remedy the harm. To that end the appellant has proposed three alternatives.
76. Caselaw⁹ directs that, so long as there is an appeal on ground (a), I must consider whether those modified schemes would be 'part of the matters' and should be permitted. Such options should be considered under ground (a), even though the actual application under ground (a) relates to the marquees as erected. Whether or not the proposed alternative scheme amounts to part of the matters, and may be permitted, is for the planning judgement of the decision maker¹⁰.
77. Alternative 1 is stated to be an amendment to the height and shape of the roof of the marquees and is in effect the scheme considered by the Council under application reference 23/01597/FUL.

⁹ *Ahmed v SSCLG & Hackney LBC* [2014] EWCA Civ 566

¹⁰ *R (oao Banghard) v Bedford BC* [2017] EWHC 2391 (Admin)

78. Although they would remain marquees in the same position, their design and appearance would be materially different. The existing marquees are a distinctive pagoda style so have a steep roof with a relatively high, single peak, whereas what is proposed has a shallow curved roof, akin to an arcum marquee.
79. Consequently, it is very likely that a different cover would be required and, at least, a partly differing frame. Although virtually any alternative scheme is likely to involve some element of new work, the extent of the work in this case would likely to be relatively significant, such that alternative 1 would not form part of the matters stated in the enforcement notice and would be materially different. Consequently, the alternative would not fall within the statutory powers open to me to grant planning permission under s177(1)(a) of the 1990 Act.
80. As alternative 2 would utilise the same design as alternative 1, but with the smaller linking marquees removed, I reach the same conclusion that that modified scheme would not form part of the matters stated in the enforcement notice.
81. For alternative 3 the appellant states that he would be willing to accept the removal of one or more of the marquees to the front of Nos 125 and 127, leaving as few as eight marquees in front of Nos 129 to 133. However, it is proposed to utilise the same design as alternatives 1 and 2, so it again follows that alternative 3 would not form part of the matters.

Other Matters

82. The appellant submits that there is a legitimate fallback available in that listed pubs and restaurants can erect a moveable structure (including a marquee) for 120 days in a 12-month period, subject to prior approval. The appellant does not identify the permitted development right but presumably reference is being made to Class BB of Part 4 of Schedule 2 of the GPDO¹¹.
83. Various court cases have considered the concept of fallback development as a material consideration. In the case of *Mansell*¹², the Court of Appeal confirmed that there should be a “*real prospect*” of a fallback development being implemented and that the decision-maker should exercise their planning judgment as to whether that would be the case depending on the particular circumstances. The basic principle is that a real prospect does not have to be probable or likely: a possibility will suffice.
84. The case of *Mansell* also confirmed that it was plainly appropriate for the Council to take into account the fallback available to the developer, including the permitted development rights arising under Class Q in the GPDO. In the circumstances of that case, it was found to be entirely reasonable to assume that any relevant permitted development rights by which the developer could achieve residential development value from the site would ultimately be relied upon if an application for planning permission for the construction of new dwellings were refused.
85. That is clearly applicable here. Having regard to the EIS submitted with the appeal, there remains a real prospect of the appellant seeking to utilise Class BB permitted development rights in the event that this appeal is dismissed, even though planning permission has recently been granted for the pergola structures.

¹¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

¹² *Mansell v Tonbridge and Malling BC & others* [2017] EWCA Civ 1314

86. However, the prior approval of the Council would be required as to the siting of the moveable structure. Even if that were to be granted, the height would be restricted to 3m and the duration of any potential harm would be restricted to 120 days, whereas those currently in place are likely significantly taller and are in place year-round. Consequently, that fallback position would amount to an improvement in terms of the effect on the setting of the listed buildings and the conservation area. I therefore apply limited weight to it as an argument in favour of the ground (a) appeal.
87. The planning permission for the metal-framed pergola structures had not been implemented by the time of my site visit, but it represents a clear fallback position for the appellant. However, because the approved scheme amounts to a significant improvement over that before me, that fallback also carries very limited weight.
88. Nevertheless, if there are any elements of the enforcement notice which have been granted planning permission as part of that scheme, s180(1) of the 1990 Act provides that where planning permission is granted after the service of an enforcement notice for any development already carried out, the enforcement notice shall cease to have effect insofar as it is inconsistent with the planning permission.

Ground (a) Conclusion

89. For the reasons given above, I conclude that the marquees are contrary to the development plan as a whole, and material considerations do not indicate that the appeal should be determined otherwise than in accordance with the development plan. The ground (a) appeal should not therefore succeed. I shall refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Appeal on Ground (f)

90. An appeal on ground (f) is that the requirements of the enforcement notice are excessive to remedy the breach of planning control or, as the case may be, the injury to amenity caused by the breach.
91. The corrected breach in this case is the erection of marquees with associated fittings and chattels facilitating their use. The corrected requirements of the notice are to remove all marquees from outside of the front and side of Nos 125 to 133 and remove all associated fittings and chattels that facilitate their use, including temporary wood walls, bar areas and any other items associated with the marquees.
92. The purpose of the notice must therefore be to remedy the breach of planning control. Accordingly, the appeal on ground (f) can only succeed if it is shown that the steps set out in the notice are excessive for that purpose.
93. The appellant disagrees that the steps required by the notice are the minimum required to remedy the current breach. However, the requirements tally with the breach, save that the former clarifies the associated fittings and chattels include temporary wood walls, bar areas and any other items associated with the marquees.

94. The appellant argues that is unclear, and that there are a number of external fixtures, most of which sit under the marquees, that are not considered by the appellant to be 'associated' with them (they do not support the marquees and the marquees do not rely on them to stay in place).
95. However, the breach relates to the fittings and chattels that facilitate the use of the marquees, so would not be restricted to those which keep them in place. The appellant will be best placed to know what those fittings and chattels are. As the requirements include bar areas the appellant is wrong to assume that they are acceptable and can be retained. Even if the acceptability of such aspects has not previously been considered, the appellant has not provided any specific details of any severable fittings or chattels which would allow me to consider whether a split decision could be issued for part of the matters.
96. The appellant is also critical of the Council for not considering that the steps should go so far as is necessary to remedy any injury to amenity which has been caused by any such breach. However, as explained, the purpose of the notice is to remedy the breach not the injury to amenity, so the latter is not applicable in this case.
97. As discussed under ground (a), the appellant has submitted three alternative schemes as part of his ground (f) case but, for the reasons explained, they would not form part of the matters such that it would be open to me to grant planning permission for them under s177(1)(a) of the 1990 Act.
98. The appellant argues that, in theory, there are almost innumerable possible lesser steps which would overcome any harm identified, but, for the purposes of ground (f), none are shown that would remedy the breach of planning control. The requirements in that regard are not excessive, save for the reference to marquees at the rear, which I will delete.
99. That is not the same as saying that the only way to avoid the harm to the listed buildings is to have no marquees, it just means that under ground (f) all of the marquees need to be removed in order to remedy the breach. A scenario in which they remain, remain in part or remain in an amended form would not achieve that purpose.
100. The appeal on ground (f) therefore succeeds only insofar as the reference to the marquees to the rear of No 133 should be deleted, as explained above.

The Appeal on Ground (g)

101. The ground (g) appeal is that the three months given to comply with the notice is too short and would cause material harm to the interests of the business at the site.
102. The appellant argues that at least 12 months would represent a far more reasonable period of time to undertake the works. The appellant refers to the need to honour existing bookings and business commitments and explains that the removal of the marquees would need to take place alongside ongoing business operations.
103. Clearly, for the most part, the removal of the marquees is likely to be a relatively quick and straight forward operation. Moreover, as noted, the marquees situated in front of Nos 125 and 127 have already been removed, thereby significantly reducing the scope of the requirements.

104. However, I understand the appellant's concern that they need to be taken down at a time that would minimise disruption to the business, considering contractor availability. Although the appellant has now benefitted from the marquees beyond the two years sought via the previous appeal, he is entitled to assume success in this appeal on any ground pleaded.
105. I therefore accept that three months, particularly during the summer season, is too short and would likely cause significant disruption to the business. Nevertheless, a period of 12 months is excessive and would amount to a temporary planning permission, which has already previously been dismissed at appeal, albeit for two years. A period of seven months would allow the marquees to be retained for the remainder of the summer and for the Christmas/New Years Eve period and would strike a reasonable and proportionate balance between any disruption to the business and the public interest in this case.
106. Should the appellant wish to implement the aforementioned planning permission sooner, that will be a matter for him.
107. The appeal on ground (g) succeeds to the extent explained.

Richard S Jones

INSPECTOR

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Appeal Decision

Site visit made on 9 June 2026 by K Hole BA (Hons)

Decision by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2026

Appeal Ref: 6008771

17 Shelley Road, Cheltenham, Gloucestershire GL51 7DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Matt Marks against the decision of Cheltenham Borough Council.
 - The application Ref is 26/00117/FUL.
 - The development proposed is “first floor side and rear extension and outbuilding”.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. I have taken the description of development from the Council’s decision notice which provides a more accurate description.
4. The proposed development comprises an extension to the dwelling and a replacement outbuilding. The Council are of the view that the replacement outbuilding is acceptable in terms of scale, form and design. There are no compelling reasons for me to disagree. This decision therefore relates to the extension to the dwelling.

Main Issues

5. The main issues are;
 - i) whether the proposed extension would preserve or enhance the character or appearance of the Poets Conservation Area (CA); and
 - ii) the effect of the proposed extension on the living conditions of occupiers of 15 Shelley Road with regard to outlook and light, and neighbouring occupiers with regard to overlooking and privacy.

Reasons for the Recommendation

Character and appearance

6. The appeal site is located within the Poets Conservation area. The significance of the CA, as it relates to this appeal, derives from its development as a carefully

planned and laid-out residential suburb constructed in the early 20th century and influenced by Garden City and Arts and Crafts principles. There is a cohesive and unified residential character which remains largely unchanged with spacious plots, consistent building lines, distinctive roof forms and a strong visual relationship between the dwellings and landscaping. Dwellings tend to be red brick or rendered and are of similar scale with gable, hipped and catslide roof forms.

7. The appeal property is a two-storey semi-detached dwelling which when viewing to the front mirrors it's semi-detached neighbour. The pair sit in a prominent location at the junction of Shelley Avenue and feature a shared rendered front gable with red bricks to the ground floor and red clay tiles to the gable end catslide roof. Their design and appearance reflect the strong character of the area, and contribute positively to the significance of the CA.
8. The side extension would be set back from the front elevation and in that regard, it would display a level of subservience to the appeal dwelling and limit the views of the extension from Shelley Road. However, the design would introduce a complex roof form with a pitched roof that slopes down from the side gable end catslide roof. This arrangement, which is not characteristic of the area, would create a visually discordant and poorly integrated addition to the dwelling.
9. Given the generous spacing between 15 Shelley Road and 22 Shelley Avenue, the rear elevations of the appeal dwelling including the roof of the single storey rear extension is visible from the public highway on Shelley Avenue. While the use of matching materials would assimilate with the dwelling, notwithstanding the hipped pitched roof design, the cumulative effect of the depth, height and width of the rear element of the extension would appear as a bulky and dominant addition to the dwelling. This would be at odds with the Residential Alterations and Extensions Supplementary Planning Document (2008) which advises that extensions should not dominate or detract from the original building and should be subservient in height and width.
10. I note that the extension would not significantly increase floor space as a whole. However, the resulting visual effects would be harmful to the character and appearance of the CA.
11. The appellant has drawn my attention to several examples of extended dwellings in the area, including some that are visible from the public highway. However, I have not been provided with any substantive evidence regarding their planning history or the planning policy context under which they were determined, or which material considerations may have been considered, and therefore I am unable to make any meaningful comparisons with the proposed extension before me.
12. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Having regard to the scale of the proposal, which relates to a single property in the CA, the harm to the CA would be at the lower end of less than substantial.
13. The National Planning Policy Framework (the Framework) requires me to give great weight to the heritage asset's conservation and to weigh the level of harm identified in this case against any public benefits. While the proposed development would provide additional living accommodation, this would constitute a private

benefit. No public benefits have been put forward that are of sufficient weight to outweigh the harm identified to the CA.

14. The proposal would not preserve or enhance the character or appearance of the CA. In that regard, it would conflict with the requirements of policies D1 of the Cheltenham Plan (2020) (CP) and SD4 and SD8 of the Joint Core Strategy (2017) (JCS) which collectively require development to complement and respect neighbouring development and character of the locality, and that heritage assets are conserved and enhanced as appropriate to their significance. For the same reasons, the proposal would conflict with the requirements to conserve and enhance the historic environment in The Framework.

Living conditions

15. The submitted drawings indicate that the rear extension would marginally breach the 45-degree line taken from the centre of the window of the nearest ground floor room at 15 Shelley Road (No 15). However, this would result in only a minimal effect on levels of light received and as such, there would be no material harm to the occupiers of No 15 in this regard. Even so, while the extension would be set in from the shared boundary, due to its depth and height, it would be highly discernible from this window diminishing the outlook of the occupiers of No.15 and creating a perception of enclosure that would not have existed before. Whilst there would be a reasonable amount of garden space that would be unaffected, the loss of outlook and feeling of enclosure would also be felt in part of the rear garden of No 15, to the detriment of the enjoyment of its occupants.
16. Given that the windows on the side elevations would be small and set high or within the roof, there would be no meaningful overlooking or loss of privacy to the occupiers of 15 and 19 Shelley Road. The windows on the rear elevation of the extension do not face any dwellings. Whilst they would provide direct views into the rear portions of the gardens at 21 and 22 Shelley Avenue, intervisibility between properties and gardens is not unusual in residential built-up areas. I consider that the separation distances between these windows and the gardens would be sufficient to avoid harm to their occupiers with regard to overlooking and privacy.
17. However, the proposed extension would unacceptably harm the living conditions of the occupiers of 15 Shelley Road with regard to outlook. Accordingly, it would conflict with policies SL1 of the CP and SD14 of the JCS which collectively set out that development should not cause unacceptable harm to the amenity of neighbouring properties.

Other Matters

18. I note that there are several representations from neighbouring occupiers in support of the proposed development. I am mindful that personal circumstances and ownership of properties can change and any harmful effects resulting from new development would be permanent. Furthermore, while there may be other residential development in the wider area, each proposal must be considered on its own merits within its specific site context.
19. There have been no technical objections in relation to highways and drainage. Nevertheless, the lack of harm is a neutral factor that does not outweigh the harm that I have identified arising from the main issues.

20. The appellant considers that the proposal would represent sustainable development, make efficient use of land and would support the long term occupation of the property. However, it has not been demonstrated that the development proposed is the only way of achieving those objectives. Moreover, the Framework is clear that good design is a key aspect of sustainable development. Given the harmful impact that the proposal would have on the CA, the development fails to achieve the aims of the Framework.

Conclusion and Recommendation

21. The proposed development conflicts with the development plan read as a whole and the Framework read as a whole. There are no material considerations advanced, which indicate the decision should be made other than in accordance with the development plan. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

K Hole

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

L C Hughes

INSPECTOR