

Planning Committee

22nd March 2018

Present:

Members (13)

Councillors Barnes, Chair (GB); Fisher, Vice-Chair (BF); Baker (PB); Colin Hay (CH); Hegenbarth (AH); Lillywhite (AL); McCloskey (HM); Nelson (CN); Oliver (TO); Seacome (DS); Thornton (PT); Wheeler (SW).

Substitutes: Councillor Paul McCloskey (PM)

Officers

Tracey Crews, Director of Planning (TC)
Martin Chandler, Team Leader, Development Management (MC)
Michelle Payne, Senior Planning Officer (MP)
Joe Seymour, Senior Planning Officer (JS)
Chris Chavasse, Senior Trees Officer (CC)
Annie Holdstock, Trees Officer (AH)
Nick Jonathan, Legal Officer (NJ)

1. Apologies Councillors Collins, Hobley and Savage.

2. Declarations of interest

There were none.

3. Declarations of independent site visits

- i. **18/00127/FUL 21 Tivoli Road**
Councillor Hay
- ii. **18/003232/FUL Chapel Spa, North Place and 18/00215/TPO 8 Moorcourt Drive**
Councillor Paul McCloskey

4. Public Questions

There were none.

5. Minutes of last meeting

Resolved, that the minutes of the meeting held on 15th February 2018 be approved and signed as a correct record *without* corrections.

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6. Planning applications

Application Number:	18/00127/FUL and LBC		
Location:	21 Tivoli Road, Cheltenham		
Proposal:	Extension and alteration of existing single storey garage block, and alterations to rear ground floor fenestration		
View:	Yes		
Officer Recommendation:	Permit		
Committee Decision:	Permit		
Letters of Rep:	1	Update Report:	None

MP introduced this application for works to a GII-listed detached property on the north-west side of Tivoli Road, which is situated in a conservation area. The application for full permission and listed building consent is detailed above; there have been several revisions to address the conservation officer's concerns. It is at Committee at the request of Councillor Harman, due to the neighbour's concerns about the impact of the proposed garage on the three windows to the side of his property. The recommendation is to permit.

Public Speaking:

Mr Adam Fletcher, neighbour, in objection

Would like to reiterate his objection on diminished light grounds. Has been told by the officer that there are no grounds, as one window is the wrong type of glass, one is in the wrong place, and the third is shared. Members have visited and seen the impact the new building will have, not only on direct light but also on ambient and reflected light. That is a fact - even though no light survey or impact study has been done. Regarding the traffic, whether or not this is a problem depends on the vehicle numbers and types. The design will work with one or two cars, but will get difficult if it hits three; it is unfortunate that the drive is a first-in-last-out design. Regarding impact and amenity, this is the longest and highest construction to be built in the area in 52 years; is not an expert but feels that the frontage is abrupt, the main body dominating and the overall effect shape altering. Turning to the conservation argument, does not have enough experience or knowledge to form a meaningful take on the elements, but it has been pointed out that the garage falls within sections 3, 4 and 5 of the Local Development Framework for Tivoli. This seems to be the case - a conservation officer could confirm if it is. Leaving the final words to his late father - 'Once the light is gone, it's gone. That's it'. There will be no opportunity to alter or modify once the work is done.

Mrs Nash, applicant, in support

Lives at 21 Tivoli Road with her husband and daughter. The existing garage is of poor construction, and is cold and damp. It has a corrugated metal roof and cladding on the side, with access via an unattractive metal door. It is too narrow, and detracts from the appearance of the house. Rebuilding it will enhance the house, and provide desperately needed space for a gym and to store her husband's vintage car. The current garage is large enough for one car only. Her husband has early-onset arthritis and needs the gym; she and her daughter also like to keep fit. The new building will have a solid floor, not old timber. The vintage car needs to be kept in the dry, and a dry, secure space is also needed for storage of garden equipment and bikes. It is a beautiful house and the proposal is not unreasonable. It is for a single storey building in an unused space; cannot see it will have any impact on neighbours, but will make a big difference to their lives.

Member debate:

SW: has sympathy on both sides here. Can see that what the applicant is asking for is, in many ways, not unreasonable, but couldn't take her comments as great grounds for doing the work - though those are the

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reasons why they want to make the alterations. Has sympathy for the neighbour; the new building will be level with the top of his side windows, and very close and imposing. Has spoken to the officer, who has confirmed that an objection on the loss of light issue would be difficult to sustain – the objection is not strong enough to hold. As said, has sympathy with both sides, but in view of the above, must go with the officer recommendation.

PT: has a light test been carried out? Was it acceptable?

TO: looking at the neighbour's kitchen on side visit, noted that there is another window at the back but this is not large. The effect of extended garage will have a big impact on the light in the kitchen.

BF: can officers please remind him which way do the three affected windows face?

MP, in response:

- The only window where a light test was carried out was the window on the rear elevation, which will not be affected by the proposal; windows which serve WCs and circulation space, as the side windows here, have no protection;
- The side window to the kitchen is a secondary window; the main kitchen window to the rear of the property will be unaffected by the proposal.

PB: both speakers made eloquent presentations, and this is a difficult decision to make. Can appreciate both points of view, but in situations such as this, Members have to make that decision on planning grounds. It is important that the objector doesn't think that his comments haven't been considered tonight, but Members have to consider planning laws as to what can and can't be done. There are no planning grounds to refuse this application; has sympathy for the neighbour but must support the officer recommendation.

GB: agrees with this point, which is felt all round the Chamber. If he was living next door, would also feel that the proposal would affect the light to his home, but Members have to go by planning rules.

18/00127/LBC

Vote on officer recommendation to grant

13 in support

GRANT

18/00127/FUL

11 in support

1 in objection

1 abstention

PERMIT

The Chairman agreed to Item 4 on the Agenda being taken next, to allow the speaker to leave early

Application Number:	18/00215/TPO		
Location:	8 Moorcourt Drive		
Proposal:	Yew - fell because of excessive shading and low amenity value. Replant with 3-4 fruit trees.		
View:	Yes		
Officer Recommendation:	Refuse		
Committee Decision:	Refuse		
Letters of Rep:	1	Update Report:	None

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CC introduced the application as above, which comes to Committee with a recommendation to refuse. The tree has been there a long time and provides significant amenity on Pittville Circus Road. Has negotiated with the owner but is unable to agree on a way forward. Is therefore giving Members the opportunity to discuss and decide the outcome.

Public Speaking:

Ms Lauren Kemple, applicant, in support

Has three main points to make in support of her application: firstly, the tree is deadly poisonous, and she has three young children; secondly, it gives excessive shade, spoiling her family's enjoyment of their garden; and thirdly, its removal will have little impact on Pittville Circus Road. Has three young children, and is concerned for their safety with the yew tree in their garden; the roots, bark, leaves and berries are all poisonous, even when dried and wilted; a small handful could kill a cow. Anyone who has ingested the poison shows no symptoms; they just die. Children put things in their mouths, and although it is unlikely that they will eat any part of the tree, the outcome would be catastrophic. The dark, dense foliage provides excessive shade in the garden, making the south corner an oppressive, dead area. Would like to plant fruit trees in its place, and would take specific advice on the species to plant. The tree cannot be seen from Pittville Circus Road, being set back from the boundary, and screened by holly bushes. The replacement fruit trees would be in keeping with Pittville Circus Road – rare varieties which would be pollinated by bees and inhabited by insects, making a positive impact on the environment. This tree has a massive impact on her family and anxiety levels. Its removal will be good for the environment, and have no impact on local amenity.

Member debate:

PB: visited the site. Feels very strongly about protecting Cheltenham's trees – they are important, and the council plays a crucial role in protecting them. Came to Committee thinking he would vote to refuse this application, but having heard the speaker, has changed in mind. From a biodiversity point of view, the yew tree has limited value, and the thought of fruit trees, providing biodiversity, pleasure for the family, and peace of mind is an overpowering reason to permit the application to remove the tree. As long as there is a condition to replace it with fruit trees, will support the application to take it down. Will move to permit.

CH: a few trees down from this tree is another yew tree which is quite magnificent. The hollies in front of the yew tree of this application have caused the side of it not to have much in terms of branches and foliage. Would suggest taking the hollies down, to improve light to the yew. If this was done, the yew might look as fantastic as the one down the road. Large yew trees are quite rare; would struggle with conscience to vote for this tree to be removed, even though it doesn't look as good as it could hidden by the holly bushes – and might not be as marvellous as the one down the road, if they are removed. Notes the applicant's concerns about the poisonous nature of the tree, and appreciates that this causes worry and anxiety, but the reasoning in these cases has to be that the tree has been there for 100 years or so, before the houses were built, and that people knew it was there when they moved in. On balance, will go along with the officer recommendation - likes yews.

SW: on Planning View, was reminded of his own childhood; lived in the middle of a wood, where there were several yew trees, one being only a few yards from the house. It was the three children's favourite tree; they spent many hours climbing it, eating worms and woodlice and probably bits of tree as well! Does not recall any illness from playing around the yew tree, which the owners of this tree can bear in mind and take comfort from. He and his siblings survived. This is a beautiful tree. Will vote with the officers.

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BF: has a question for the officer. Noticed on Planning View that there is another yew tree in the next door garden – understands that the application tree is a female and the tree next door a male (or the other way round?). Are they interdependent? Do they need each other for pollination? A close hair cut will help the application tree. There is plenty in most gardens which can kill but not many people are killed.

PT: has a lot of sympathy for young mums, but children have to be taught that they can't eat certain things in the garden – they have to learn. Was brought up in a garden surrounded by yew hedges, with big berries. Has difficulty in agreeing to this tree being destroyed. People have to learn to live with these things – they are natural, and part of nature. We can't get rid of everything.

AH: are we prepared to allow children to possibly die and then say they've learnt that lesson? The speaker's points were good enough reason for him – the tree should go, and replacements be planted. It is a no-brainer.

TO: looking at the site, notes the tree in the garden is a male, with no berries; the tree in the neighbouring garden on the left has berries, as does another tree next door. This is a good tree. Will be voting to keep it.

GB: hates taking trees down, and wonders in this case whether it would reduce the poisonous effect as there are other yew trees all around. This is a nice, spacious garden, and there is room for the fruit trees the applicant would like. Is on the fence at present, but leaning towards keeping the tree.

CC, in response:

- There is no doubt that the tree is highly poisonous, but in his experience, people don't die from ingesting parts of yew trees in urban areas; and it would be very unusual for anyone to try to eat the bark;
- This is a male tree and has no berries; the chances of a child ingesting them in this garden are very slim;
- Fruit trees are more biodiverse, but yew trees can live for up to 1000 years whereas apple trees live for a much shorter time – so in that sense, yew trees are more biodiverse;
- Could condition one replacement tree, not three or four;
- The yew tree is suppressed by holly, but this could be pruned right back to reduce the perception of it being suppressed. It would grow back, and still be a tree to enjoy;
- Female yew trees need male yew trees to reproduce; if this male tree is removed, it would not necessarily mean that there isn't any pollen hanging around to fertilise neighbouring trees.

Vote on officer recommendation to refuse

7 in support

5 in objection

1 abstention

REFUSE

Application Number:	18/00182/FUL		
Location:	7 Victoria Street Cheltenham Gloucestershire		
Proposal:	Two storey rear extension		
View:	Yes		
Officer Recommendation:	Refuse		
Committee Decision:	Refuse		
Letters of Rep:	0	Update Report:	None

JS introduced the application as above, for a single storey ground floor extension and two storey first floor extension on a property in St Paul's. It is at Committee at the request of Councillor Hobley, who is

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concerned that it may present an over development of a very small property/plot, and also by the potential for community imbalance caused by further HMOs in this area. He considers this a material consideration in light of the proposals currently out for consultation as part of the Cheltenham plan regarding an article 4 direction in St Pauls. Officers recognise this concern, but the recommendation is to refuse, due to the impact on the conservation area and on neighbouring residents.

Public Speaking:

None.

Member debate:

None.

Vote on officer recommendation to refuse

13 in support

REFUSE

Application Number:	18/00332/FUL		
Location:	Chapel Spa, North Place, Cheltenham		
Proposal:	Retention of dropped kerb (temporary permission granted 15/01208/FUL)		
View:	Yes		
Officer Recommendation:	Temporary Permission for two years		
Committee Decision:	Permit		
Letters of Rep:	5	Update Report:	None

MJC introduced the application as above. Temporary consent was granted two years ago, to drop the kerb for access to Warwick Place by staff of Chapel Spa. The area is fenced off, and the land owned by Chapel Spa. This application is for permanent consent, but the recommendation is for further temporary consent to enable further discussions regarding Portland Street re-development, without re-introducing another constraint to compromise further development of the site.

Public Speaking:

Mr Louca, applicant, in support

Began by asking how a dropped kerb in front of Chapel Spa can effect Portland Street car park development? Needs the dropped kerb now, and in the future, if there is still a land swap. Was advised by planners to apply for the dropped kerb in 2015, but now, because they land swap did not go ahead, officers are recommending another temporary permission. Why was there no objection to the previous application but there is now? Nothing has changed with the Portland Street development; it has failed to secure a viable developer for the superb plan, which he would love to see developed. Neither Augur Buchler nor anyone else has objected to this proposal. The car park is leased for 35 years from March 2017, with five-yearly breaks – there are four years left before the first break, so if another two-year permission is granted, will have to apply twice more – which is unfair. This application isn't about Portland Street or a land swap – it is simply an application for a dropped kerb in front of Chapel Spa. This is not the time or place to negotiate about what might or might not happen at Portland Street. Chapel Spa is an existing business, providing employment for 20 members of staff. Has a budget of £0.5million to carry out improvements, but will not go ahead with this in light of the present

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situation. Is fighting for a business that adds to the economic wealth of Cheltenham, and will not let CBC's failure to bring forward a good development also kill his business by depriving him of the use of his land. This is not acceptable. All the information and evidence provided shows that he has been badly treated; is putting his faith in Members to end the abuse of power exercised against him and vote for a permanent dropped kerb.

Councillor Parsons, in support

Doesn't usually have much to do with planning applications, but can think of few reports where the officer has shown less enthusiasm for what he is recommending. The bottom line is that if it wasn't for the Portland Street development, this application would not be at Committee, and that development is not related to this application. The issue is the potential impact of this application on the Portland Street development. The small shaded square shows the entrance to the car park; the other shaded square shows the carpark. Mr Louca has no intention of selling it; it is crucial to his business – without it, the business isn't viable, with nowhere for staff to park. The idea that this piece of land might be of relevance to future development of Portland Street car park doesn't bear examination. A two-year extension is recommended, but there is no guarantee that we will be any the wiser regarding this development in two years' time. The government has made a grant of £3m but will this make the Portland Street development viable? It might need £10m to do that. The suggestion that the officer recommendation will give certainty for two years doesn't bear scrutiny. It assumes that Mr Louca will sell the land for Portland Street, but that isn't going to happen. At Monday's Council meeting, an action plan for Cheltenham's Place Strategy was discussed - the vision was agreed a year ago – setting out to make it a place where everyone can share in an exciting future. Chapel Spa is a Grade II listed building, which had fallen into disrepair until Mr Louca took it on; he has worked hard on the building, to preserve its heritage. The Place Strategy talks about encouraging businesses to thrive; Chapel Spa is thriving – Mr Louca has spent £1.5m on it, increased staff numbers from six to 20, many of whom are full-time and dependent on this employment for their living. The business contributes to the Cheltenham economy, and it is laughable to suggest the council is helping him to thrive – it is acting like a big boy bully, holding this strip of land to ransom. This isn't the vision of the Place Strategy, or the vision the council would want.

Member debate:

SW: listened to the officer comments, which seem to be saying 'we appreciate what Chapel Spa is wanting but are concerned about Portland Street Car Park and what might happen in the future'. But this application is only for a dropped kerb, not for a new building. If it stayed for ever would there be any real harm to the town? No, most people won't even notice. Understands officer concern, but rather than two years, why not give permission for four, five or ten years? We might need to do a land swap in two years, but what is the worst thing that can happen? If permanent permission can't be granted, it should definitely be granted for a longer term than two years.

PB: Chapel Spa is an iconic building and an iconic business. It is a great employer, offering high-quality spa treatments in a spa town, and the building is fabulous inside. The future development issue is a red herring. Whether there is a drop kerb or not won't stop development on Portland Street. We need to support this. It is a thriving business, part of the tourism officer. It would be folly to give two year after two year after two year permissions – nonsense. We should grant permanent permission and move on.

PT: let them have the drop kerb in perpetuity until the development happens. There will be negotiations regarding the car parking for them and others in the area, and they can take advantage of that then. There is no need to consider Portland Street at the moment.

AL: there are a lot of issues to take up, but fundamentally Members need to look at this in planning terms. Is the drop kerb acceptable in planning terms? If it is, no further conditions should be added.

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PM: this is a matter of principle. Normally with a planning application, when a second or third phase are expected, we are told only to deal with that is in front of us. Agrees with other Members. Permission should be granted in perpetuity. We can worry about the future in the future.

SW: why isn't the drop kerb where the road is? Initially, there was a drop kerb there. In so far as we don't want cars parking next to the building, it might be considered necessary to say drop kerb stays, but no parking on little square.

PB: proposes to allow the drop kerb on a permanent basis. And what about the railings – who put them up, and can they be taken down? They are an eyesore.

MJC, in response:

- Councillor Parsons referred to a 'less than enthusiastic' recommendation – would prefer to call it 'balanced'!;
- This application can be argued either way, and it is for the decision makers to weigh up the facts before them;
- The dropped kerb and associated parking won't prevent the development but will change it in a slight way. Either argument is acceptable, and is not surprised by the conclusion Members have reached;
- If the proposal is permitted, would suggest a condition regarding the loss of the space to the front of the building – parked cars here are harmful to the setting of the listed building;
- To PB, re the railings – CBC put them there. They are the landowners. Members may want to speak to the Property team to consider changes;
- Members may want to vote with a condition that the two spaces in front of Chapel Spa are removed.

Vote on officer recommendation of temporary permission for two years

0 in support

11 in objection

2 abstentions

NOT CARRIED

BF: the applicant owns the two spaces in the hatched area. We can't tell him what to do with his own land.

MJC, in response:

- Those spaces are within the grounds of the listed building, and affect the setting of the listed building, therefore class as development of some form. The original discussion with applicant was on the basis of him forfeiting the spaces to the front of the building as they harm its setting.

Vote on PB's move to grant permanent permission with condition re two spaces

12 in support

1 abstention

MOTION CARRIED - PERMIT

The meeting ended at 7.00