

<b>APPLICATION NO:</b> 21/00583/FUL	<b>OFFICER:</b> Mr Daniel O Neill
<b>DATE REGISTERED:</b> 19th March 2021	<b>DATE OF EXPIRY:</b> 14th May 2021 (EOT: 23.08.2021)
<b>DATE VALIDATED:</b> 19th March 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Pittville	<b>PARISH:</b> n/a
<b>APPLICANT:</b> Ms Elaine Cross	
<b>AGENT:</b> n/a	
<b>LOCATION:</b> Clarence Court Hotel, Clarence Square, Cheltenham	
<b>PROPOSAL:</b> Construction of a pergola (retrospective)	

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Clarence Court Hotel is a Grade II listed building currently used as a C1 hotel with associated facilities located in Clarence Square. The site lies wholly within the Pittville character area of the Central Conservation Area.
- 1.2 The applicant is seeking planning permission for the construction of a 'pergola'. Works have already been completed and therefore this application has been considered in a retrospective manner.
- 1.3 The application has been requested by Cllr Payne for determination at planning committee due to the impact of the pergola on the amenity of the surrounding residents and wider locality.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Airport Safeguarding over 45m  
Conservation Area  
Listed Buildings Grade 2  
Principal Urban Area  
Smoke Control Order

### Relevant Planning History:

**03/01845/LBC 1st April 2004 WDN**  
To face off entrance steps in Forest of Dean stone

**03/01846/FUL 1st April 2004 WDN**  
To erect railings to the front of the hotel

**03/01852/ADV NOTREQ**  
Free standing double-sided sign

**70/00478/PF 23rd February 1971 PER**  
Wellesley Court Hotel Clarence Square Cheltenham Gloucestershire - Addition Of Single Storey Kitchen At Basement Level Erection Of Single Bedrooms At Ground And 1st Floor Levels Internal Alterations And Improvements And Escape Staircase At

**77/00230/PF 24th August 1977 REF**  
Wellesley Court Hotel Clarence Square Cheltenham Gloucestershire - Formation Of New Stepped Access To Basement Replacement Of Basement Window By Entrance Doors And Installation Of Balustrading

**77/00394/PF 27th December 1977 PER**  
Wellesley Court Hotel Clarence Square Cheltenham Gloucestershire - Formation Of Stepped Access To Basement Area

**84/00566/AI 27th September 1984 PER**  
Wellesley Court Hotel Clarence Square Cheltenham Gloucestershire - Display Of 2 Illuminated Projecting Signs (Motoring Organisations)  
As Ammended By Your Letter Dated 15 September 1984

**84/00636/LS 27th September 1984 PER**

Wellesley Court Hotel Clarence Square Cheltenham Gloucestershire - Display Of Illuminated Signs

**97/00071/LA 20th March 1997 PER**

Internal Alterations To Bathroom. Alterations To Soil Stack.

**99/00074/PF 11th March 1999 PER**

Extension Of Car Park To Rear (Retrospective).(Revised Plans)

**06/00532/FUL 11th September 2006 WDN**

Erection of mews wing containing 14 bedrooms

**06/00533/LBC 11th September 2006 WDN**

Erection of mews wing containing 14 bedrooms

**06/01672/FUL 21st June 2007 REF**

Erection of mews wing containing 14 bedrooms and new railings to front

**06/01673/LBC 21st June 2007 REF**

Erection of mews wing containing 14 bedrooms and new railings to front

**11/00384/TIME 11th May 2011 PER**

Application to extend time to implement planning permission 06/01672/FUL (Erection of mews wing containing 14 bedrooms and new railings to front)

**11/00386/TIMELB 11th May 2011 GRANT**

Application to extend time to implement Listed Building Consent 06/01673/LBC (Erection of mews wing containing 14 bedrooms and new railings to front)

**81/00831/LBC 17th December 1981 PER**

Internal alterations

**21/00464/CACN 23rd March 2021 NOOBJ**

2 sycamore trees in rear car park - Remove (and replace with 6 Italian cypress trees)

**21/00628/CACN 22nd March 2021 NOOBJ**

Application to remove and replace lilac tree at front of building

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

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

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 8 Promoting healthy and safe communities

Section 12 Achieving well-designed places

Section 16 Conserving and enhancing the historic environment

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

D1 Design

G12 Replacement Trees

GI3 Trees and Development

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

SD4 Design Requirements

SD8 Historic Environment  
SD14 Health and Environmental Quality  
INF3 Green Infrastructure

**Supplementary Planning Guidance/Documents**

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

#### **4. CONSULTATIONS**

**Tree Officer**

*16th April 2021*

The CBC Tree Section does not object to this subject to an agreeable detailed landscape plan being submitted and agreed.

**Cheltenham Civic Society**

*13th April 2021*

The need for suitable outdoor space for restaurants and bars is acknowledged and supported in principle in the current operating climate but this is a densely populated area and the structure's use could generate considerable noise nuisance and anti-social behaviour for neighbours and those in the vicinity, although this might be controlled with, for example, conditions on opening hours and capacity controls. Alternatively, these might be addressed through licensing conditions.

Oak or similar rustic style rough wooden structures are not appropriate in one of Cheltenham's important Georgian squares in a conservation area and within the curtilage of one of its Grade II listed buildings. The proposal risks significantly harming this setting.

However, we recommend mitigation by painting the structure an appropriate painted finish in off white or a pastel colour, use of appropriate trellis and decorative items such as finials, appropriate paving and edging rather than just a cheap spread of gravel, and planters of appropriate designs as well as planting. Such measures would enhance the setting and should be covered by conditions to assist this business in the current operating environment.

Notwithstanding the Covid operating environment, this application is of a very poor standard and should not have been permitted to pass to this stage as it is not of sufficient quality or detail for a sensitive site to enable retrospective consideration. CBC is respectfully advised to remind the applicants of their responsibilities as custodians of a listed building in a conservation area and a significant Georgian setting.

**Heritage And Conservation**

*2nd August 2021*

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority when considering whether to grant planning permission, to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

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

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

Paragraph 197 of the NPPF states that 'In determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets'.

Policy SD8 (Historic Environment) of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2013 (adopted December 2017) (JCS) states that 'Designated heritage assets and their settings will be conserved and enhanced as appropriate to their significance.'

Paragraphs 199-202 of the NPPF provide an exercise that the decision maker(s) are required to undertake if harm to the significance of a designated heritage asset is identified.

The consideration of the scheme is undertaken as a desk based assessment (the application and representations contain a number of images, and Google Maps and its associated functions have been consulted).

Paragraph 194 of the NPPF states that 'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.' The application does not appear to contain such information.

The building now known as Clarence Court Hotel was listed on 12 March 1955 together with the attached building to the north (Lisle House) (Grade II). List entry number: 1386856. The buildings are depicted as having been planned on H.S Merrett's 1834 plan of Cheltenham, they are shown as having been constructed on a plan of 1855.

The terrace immediately to the south of the proposal site (Nos. 46-50 Clarence Square), was listed on 12 March 1955 (Grade II). List entry number: 1386852.

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

A plan of 1855 depicts outbuildings to the rear of the site (south-east), likely to have been a coach house and/or functional buildings with access to the service lane beyond (Wellington Lane). With the principal and polite entrance to the main building (the now hotel) located as existing, on the south-west elevation. On the 1855 plan no planting is shown at the location of the subject structure and though forward of the line of the south-west elevation of the principal building, this area set back in the plot, adjacent to the service lane, functional buildings and part enclosed by bare brick walls would have been a space of lower status.

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

Immediately to the south-west of the entrance elevation of the hotel, the area between the hotel and No. 46 Clarence Square, is hard standing used for car parking. To the north-east of the subject structure, some planting and an area for bin storage. The prevailing nature is that of functional space.

The subject structure is of timber and has an open form, and its height respects that of the boundary walls. It reads as a later addition to a pre-dominantly functional area of the site and does not hinder views of the hotel; the significance of the polite south-west elevation of the hotel remains evident. The structure does not detract from how the surrounding listed buildings are experienced and therefore their respective settings are maintained.

The only publically accessible vantage point of the subject structure appears to be from Clarence Square through the gap between the hotel and No. 46. Given the nature of this area of the plot, the form of the structure and the limited views of it; the pergola does not detract from the character or appearance of the conservation area.

In conclusion, the structure does not detract from the significance of the designated heritage assets.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	35
Total comments received	45
Number of objections	20
Number of supporting	24
General comment	1

5.1 There were 20 objections received as part of this application and these have been summarised but not limited to the following points;

- Impact on privacy and outlook
- Increase in noise and disturbance
- Impact on the listed building and conservation area
- Sitting and scale of the pergola
- Impact on wider locality
- Impact on parking
- Incorrect type of application
- Misleading information submitted
- Loss of trees in conservation area

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

6.2 The main considerations when determining this application are design, in regards to impact of the proposed works on the historic environment, impact on the wider locality, impact on the amenity of the surrounding neighbours, parking arrangements and impact on trees.

### 6.3 The site and its context

**6.4** The application site is in use as C1 hotel with associates bar, restaurant and other facilities. To the rear of the site is an area used for functional purposes and grassland land. To the side of the main building is the on-site parking spaces used by guests of the hotel.

**6.5** The area of grassland to the rear has several trees, bushes and other vegetation located within the curtilage of the property. This is the subject area of the proposed development. Several trees have been removed and this has been considered as part of a separate conservation area notification.

**6.6 Design and Impact on Historic Environment.**

**6.7** The application proposes a timber 'pergola' located at the rear of the site in part of the existing grassland and adjacent to the on-site car parking area. The pergola is a freestanding structure measuring approximately 7feet and 10inches tall, or 2.3m high, at a width of approximately 8m and approximately 7m deep.

**6.8** The pergola will sit adjacent to the rear and side boundary brick wall. The ground surface will consist of permeable hard standing that will replace existing grassland. Two sycamore trees have been removed to facilitate the construction of the pergola structure.

**6.9** In context of this application, the historic environment relates to how the proposal is located within the curtilage of a listed building and lies wholly within the central conservation area. The Councils conservation officer has been consulted as part of this application and full comments are available to read above.

**6.10** The conservation officer has raised no objection to the proposed development. Consideration has been given to how the 'pergola' structure has an open form, sits at a modest height in comparison to the boundary walls and will not hinder views of the listed building. Furthermore, it will clearly read as later addition to the functional area of the while the rear elevation of the main building will still be evident. Overall, it is considered that neither the significance of the listed building or its surrounding setting will be detracted by the proposed development.

**6.11** With regard to its impact on the wider conservation area, the proposal will have limited views within the public realm. Given its location at the rear, the nature of the area and its overall openness; it is considered that the proposal will not detract from the character and appearance of the conservation area.

**6.12** Officers therefore are satisfied that the proposed pergola will comply with Cheltenham Plan policy D1, JCS policies SD4 and SD8, as well as the section 12 and 16 of the NPPF.

**6.13 Impact on Neighbouring Amenity and Wider Locality.**

**6.14** There are been numerous objections to this application in regards to its impact on the amenity of surrounding neighbours and wider locality. Clarence Court Hotel is surrounded on either side by residential properties. Its boundary to the rear is adjacent to Wellington Lane, a rear back lane, which is itself sits between several back lane developments and rear gardens of properties facing Evesham Road.

**6.15** The most notable cause of concern is the potential increase in noise and disturbance as a result of the proposed pergola. The 'pergola' will be used as an area of outdoor seating for the hotels bar and restaurant.

**6.16** It should be noted that the 'pergola' only requires planning permission as the structure is located within the grounds of a listed building and stands to the side of building that sits in a conservation area. Planning permission is not required for the provision of outdoor

seating operated by the hotel. The specific use of the 'pergola' is not pertinent to the merits of this application.

- 6.17** Nevertheless, officers do consider that the proposed 'pergola' could exacerbate the existing use of the hotels bar and restaurant as it does give the appearance of a more formal seating area. For this reason, officers have restricted the hours of use for pergola intended outdoor seating area. A suitable condition has been attached and the pergola can only be used for these purposes between 9am to 9.30pm Monday – Saturday and 9am to 8.30pm Sunday.
- 6.18** There were concerns raised regarding the privacy and outlook of the surrounding neighbours. The proposed pergola will be at ground level and screened by boundary walls of a similar height. Any views to the upper floors of the neighbouring buildings will be at an oblique angle and therefore there will be no unacceptable loss of privacy. While the proposal will be visible from some surrounding upper floor properties, its open form and screening will not cause any unacceptable loss of outlook to the surrounding neighbours. Additionally, it is not reasonable to refuse the application solely on the basis that the 'pergola' is visible from the certain neighbouring properties.
- 6.19** A concern has been raised with regard to potential disturbance from lighting associated with the pergolas use. Outdoor lighting is considered external paraphernalia which can be installed without the benefit of planning permission. This type of work is considered De Minimis and therefore does not form a material planning consideration.
- 6.20** In light of the above, the proposed development will not cause any unacceptable impact on the amenity of the surrounding neighbours or the wider locality. As such, it is considered that the application complies with the relevant local and national policies related to amenity.
- 6.21 Impact on Trees**
- 6.22** Two sycamore trees have been removed to facilitate the development of the proposed pergola. Works to remove these trees begin without any formal consent from the local planning authority Tree Officer. Conservation Area Consent was formally sought and no objection was raised by the councils Tree Officer with regard to their removal.
- 6.23** In order to mitigate the loss of the proposed sycamore trees and proposed pergola, the application will seek to plant 6 cypress trees to the rear of the proposal adjacent to the brick boundary wall. Under legislation, the local planning authority is only required to request the replacement of two trees. It is welcomed that the application will propose 6 cypress trees to ensure a more attractive area.
- 6.24** The tree officer raises no objection to this scheme and a condition has been attached for a detailed landscape plan to be submitted before any trees are planted. The remaining grassland area including other trees and vegetation will be unaffected by the proposed development.
- 6.25 Parking Arrangements**
- 6.26** It is acknowledged that the proposed development will result in the loss of one off-road parking space adjacent to the subject area. The existing parking arrangements designated to hotel guests have been established as formal parking through painted white lines. The submitted information indicates that 3 more additional spaces have been created but these are informal parking spots located adjacent to functional area of the hotel.
- 6.27** Officers consider that the proposed loss of the one parking space will not impact the residential on-road parking situated within Clarence Square. The remaining parking spaces will be unaffected by the proposed development. The hotel is located within a

sustainable area, a short walk from the town centre and in close proximity to a wider range of transport links. Additional customer parking can also be provided by the large North Street car park.

**6.28** Furthermore, the on-street parking around Clarence Square is subjected to residential permits or pay and display parking tickets. As such, it is considered that no unacceptable impact on the existing parking arrangements within the immediate vicinity will be caused as a result of the proposed 'pergola'.

#### **6.29 Other considerations**

**6.30** Several objections have been made regarding how the type of application submitted is correct and a change of use is required. A change of use application relates to how if a site proposes to change from one Use Class to another. The 'pergola' will be used in relation to the sites overall C1 hotel use and its associated facilities such as the bar and restaurant.

**6.31** There have been claims from several objections that the proposed information submitted within the application is misleading and there has been facial misrepresentation of the proposal. Officer's consideration does not involve disputing whether certain information made by the applicants in regard to the site is factual or not. Consideration can only be made with regard to the proposed pergola impact in regards to design, amenity, parking, and trees. Assessing factual misrepresentation of the proposal is not a material planning consideration.

## **7. CONCLUSION AND RECOMMENDATION**

**7.1** In light of the above, officers are satisfied that the proposed development will comply with the relevant Cheltenham Plan policies, JCS policies, NPPF and any other supporting planning documents.

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

## **8. CONDITIONS**

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

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

2 No customers shall be served or remain in the outdoor dining/seating area outside of the following hours Monday-Saturday 09:00-21:30, Sundays and Bank Holidays 09:00-20:30.

Reason: To safeguard the amenities of the neighbours and the area, having regard to adopted Policy SL1 of the Cheltenham Plan (2020) and adopted Policy SD14 of the JCS (2017).

3 Notwithstanding the submitted information, a landscape plan shall be carried out in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. All landscaping works shall be carried out in accordance

with the approved details prior to the first planting unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017).

- 4 The use hereby granted shall only be for the benefit of Clarence Court Hotel and in accordance with the details set out within the application form and accompanying documents.

Reason: The development is only acceptable in this location because of the special circumstances of the applicant, having regard to the provisions of the Cheltenham Plan (2020) and the Joint Core Strategy (2017).

## **INFORMATIVES**

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

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

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