

APPLICATION NO: 21/02385/FUL & 21/02385/LBC		OFFICER: Mr Ben Warren
DATE REGISTERED: 4th November 2021		DATE OF EXPIRY: 30th December 2021
DATE VALIDATED: 4th November 2021		DATE OF SITE VISIT:
WARD: Park		PARISH: n/a
APPLICANT:	Mr Graham Rix	
AGENT:	n/a	
LOCATION:	76 Andover Road, Cheltenham, Gloucestershire	
PROPOSAL:	To demolish the unauthorised 1970s garage at the rear of the plot and replace with a double garage/annexe.	

RECOMMENDATION: Permit & Grant



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is a mid-terraced residential property that has its main frontage onto Andover Road. To the rear of the terrace is an access road known as Tivoli Walk, whereby the properties have vehicle access to existing and recently demolished garage buildings.

The existing building is Grade II listed, located within Cheltenham's Central Conservation Area and within the Tivoli Character Area.

- 1.2 The applicant is seeking planning permission and listed building consent for the demolition of an existing garage and the erection of a new garage annexe building to the rear of the site. However, it is important to note that permission has already been granted on two separate occasions for a garage/annexe building on this site, under application numbers 18/01513/FUL & LBC and 19/01652/FUL & LBC.
- 1.3 The considerations of this application therefore relate to the changes shown in the revised plans. The changes identified in this submission relate to the partial demolition and re-building of two sections of existing garden wall located between 74 and 76 Andover Road, and 76 and 78 Andover Road.
- 1.4 The applications are at planning committee at the request of Councillor Harman, Councillor Barrel and Councillor Baker, who note the sensitivities around the works to the designated heritage asset and believe that in the interests of transparency, it is best that the applications are determined publicly at planning committee.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Conservation Area
Principal Urban Area

Relevant Planning History:

18/01513/FUL 3rd September 2018 PER

Internal and external alterations, demolition of existing single storey rear addition and replacement with a conservatory and demolition of existing garage to the rear and replacement with a new double garage/annexe.

18/01513/LBC 3rd September 2018 GRANT

Internal and external alterations, demolition of existing single storey rear addition and replacement with a conservatory and demolition of existing garage to the rear and replacement with a new double garage/annexe.

18/01916/DISCON 8th October 2018 DISCHA

Discharge of condition 3 (proposed materials and cross sectional details of steps), 4a, 4b and 4c (details of rainwater goods, balcony, cornice), 5 (sample of materials for flagstones) on planning permission ref. 18/01513/LBC

18/01917/DISCON 11th October 2018 DISCHA

Discharge of conditions 3 (materials) and 4a (vents/flues), 4b (rainwater goods) and 5 (garage fenestration) on planning permission 18/01513/FUL

19/01652/FUL 20th September 2019 PER

Internal and external alterations, demolition of existing single storey rear addition and replacement with a conservatory and demolition of existing garage to the rear and replacement with a new double garage/annexe. (Revised scheme to 18/01513/FUL - minor alterations to garage/annexe).

19/01652/LBC 20th September 2019 GRANT

Internal and external alterations, demolition of existing single storey rear addition and replacement with a conservatory and demolition of existing garage to the rear and replacement with a new double garage/annexe. (Revised scheme to 18/01513/LBC- minor alterations to garage/annexe).

21/01845/CONDIT 2nd November 2021 PER

Variation of condition 2 (approved plans) of planning permission 19/01652/FUL, changes to include an amendment to the gate and window design.

21/01860/CONDIT 2nd November 2021 PER

Variation of condition 2 (approved plans) of listed building consent 19/01652/LBC, changes to include an amendment to the gate and window design.

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 4 Decision-making

Section 12 Achieving well-designed places

Section 16 Conserving and enhancing the historic environment

Adopted Cheltenham Plan Policies

D1 Design

SL1 Safe and Sustainable Living

GI2 Protection and replacement of trees

GI3 Trees and Development

Adopted Joint Core Strategy Policies

SD4 Design Requirements

SD8 Historic Environment

SD9 Biodiversity and Geodiversity

SD14 Health and Environmental Quality

GI2 Protection and replacement of trees

GI3 Trees and Development

Supplementary Planning Guidance/Documents

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

4. CONSULTATIONS

Building Control

17th November 2021

The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.

Heritage And Conservation

7th December 2021

Relevant legislation and policies

Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act).

The National Planning Policy Framework (MHCLG: 2021) (the framework).

Policy SD8 (Historic Environment) of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2013 (adopted December 2017) (the JCS).

(Note that the following policies have not been 'saved', they are no longer

current/relevant: BE1, BE3, BE5, BE8 and BE9).

Consideration

The consideration of the scheme is undertaken primarily as a desk based assessment. Note that the officer viewed the boundary wall (east) from the garden of No. 74 on 13 October 2021.

The principal conservation-based considerations are the effect of the proposal on the historic environment, in particular on the significance of listed buildings and the conservation area.

In considering proposals for listed building consent, the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) requires via S.16 (2) "special regard to the desirability of preserving the building...or any features of special architectural or historic interest which it possesses."

In the appraisal of planning applications, the 1990 Act requires via S.66 (1) "special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

In the consideration of planning permission with respect to any building or land in a conservation area, the 1990 Act requires via S.72 (1) "the desirability of preserving or enhancing the character or appearance of that area."

These duties are reflected in section 16 (Conserving and enhancing the historic environment) of the framework. The relevant JCS policy is SD8.

The application(s) proposes the demolition of a garage at the rear of the plot and its replacement with a double garage/annexe. For clarity, with reference to drawing 3HV P1 (B) (revised garage/annexe details) (17 November 2021), in plan the garage is depicted as having been demolished, as has a section of garden/boundary wall (west).

Applications 18/01513/FUL & LBC and 19/01652/FUL & LBC included the demolition of the garage and its replacement with a garage/annexe; all were approved by the Local Planning Authority.

The principle of the demolition of the garage and the construction of a double garage/annexe has been established via previous permissions/consents. Therefore, these aspects of the scheme will not be considered further, unless the Planning Officer believes that comment is necessary.

With reference to the item, supporting document - additional information (17 November 2021), and the section titled Heritage. The text seems to be a justification for aspects of the scheme rather than describing "the significance of any heritage assets affected, including any contribution made by their setting" (para. 194, the framework (2021)). Note that paragraph 194 of the superseded framework (February 2019) related to justification.

No. 76 forms part of a wider terrace of houses that is included on the National Heritage List for England at Grade II. List entry number: 1386687. First listed on 12 March 1955.

The significance of the listed building(s) lies principally in being an example of the polite architecture of the first half of the nineteenth century, expressed in the form of a terrace of houses.

With regard to the garden/boundary walls to the eastern and western side (rear) of the site respectively, they form part of No. 76 by virtue of being attached to the house and are therefore part of the designated heritage asset. As shared boundary walls they also form part of Nos. 74 and 78, buildings of the wider listed terrace.

From reviewing historic maps, images and the visit as above to No. 74, the wall (east) appears to be contemporary with the construction of the house; it has been subject to various repairs.

Brick walls are the typical rear boundary treatments in the period and the town; they are plain and utilitarian in nature, reflecting their status and function.

The proposal site is located in the Central Conservation Area (Tivoli Character Area), a designated heritage asset (Cheltenham's 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).

The immediate vicinity to the rear of the site (Tivoli Walk) is characterised by various buildings and structures, including residential/habitable buildings.

The scheme proposes to dismantle and rebuild a section of the existing garden/boundary wall (east) as it is currently leaning and at its current angle cannot be integrated into the side elevation (east) of the proposed annexe/garage. Often where historic brick walls are failing, taking them down and re-building them is a typical approach. The wall has been subject to repairs of varying quality and therefore has lost the uniformity that it would have had when originally constructed.

The proposed rebuilding of the wall, re-using the current brick, utilising lime mortar and using a bonding pattern to match that as existing, will of course change the nature of the wall; however, it will be legible as a re-built garden/boundary wall, though integrated into the side elevation of the garage/annexe, using historic bricks and traditional forms of construction, and performing its original utilitarian function as a physical boundary between the two plots. This aspect of the scheme will not detract from the aesthetic or evidential value of the listed building and therefore its significance will be maintained.

With reference to the proposed wall (west), that between Nos. 76 and 78. Drawing 3HV P1 (B) (revised garage/annexe details) (17 November 2021), includes text that indicates that the elevation (west) will be of "salvaged brickwork" and text that states new brickwork as previously approved will be used within the garage and bin storage area. The item, supporting document - additional information (17 November 2021), states that the "wall, where visible in the garage and bin store, will be fairface brickwork to match the previously approved for the exterior of the proposal". The information provided is unclear as to whether new or salvaged brick, taken to be from the demolished section of wall (west), is to be used. The Planning Officer should review this and if they agree, seek suitable revisions if necessary.

The item, supporting document - additional information (17 November 2021), states that "Most of the garden wall between 78 and me [No. 76] (where within the proposed coach house) was demolished in [the] 1960s" and "the wall between 76 and 78, where nearing Tivoli Walk, has been extensively rebuilt in recent times using cheap brickwork, and now possesses a 1960s precast concrete coping...The loss of a short section of wall was not the loss of a substantially original wall."

With reference to the document(s), supporting information - photos (November 2017) and the images relating to the wall between Nos. 76 and 78, the section depicted appears to comprise a mixture of historic and modern brickwork, and concrete coping. This seems to relate to the contention above, that it was not a wholly historic wall. It is not clear how many historic bricks from the demolished wall remain on site and what their condition is for any re-use. Their retention/re-use in the 'bin storage area' is preferred.

The framework defines the setting of a heritage asset as "The surroundings in which a heritage asset is experienced. Its extent is not fixed any 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).

The importance and extent of setting is typically conveyed by reference to visual considerations. Given that the wall (east) will remain legible as will the extent of the historic rear plots, the work to the wall will not detract from how the listed building is experienced, and therefore its setting and significance will not be harmed.

As above, the proposal site and wider listed terraced, and associated gardens are located in the Central Conservation Area. As the subject walls will not be visible from publically accessible vantage points, and as the proposed work does not detract from the aesthetic value of the listed terrace, the scheme will not be detrimental to the character and appearance of the conservation area; therefore, its significance will be maintained.

In conclusion, subject to clarification of how much historic brick will be used in part to the wall (west - lower section), the scheme will not detract from the significance of the designated heritage assets and in terms of conservation is acceptable.

Suggested conditions may include:

The Planning Officer/decision maker(s) should consider duplicating conditions as per previous permissions/consent.

In addition, consideration should be given to add conditions relating to the following, to any positive permission/consent, in an appropriately worded format:

Protection methodology for any other historic fabric/wall(s) - during demolition and construction.

The section of wall (east) as highlighted on the relevant approved drawing shall be re-built to match the existing (to include, but not limited to, existing bricks re-used, bonding pattern to match existing and lime mortar).

Gloucestershire Centre For Environmental Records

26th November 2021

Biodiversity Report available to view.

Building Control

17th November 2021

The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.

Tree Officer

16th November 2021

There are two trees within the sphere of influence of the development, a birch within site and an apple in the neighbouring property at 74 Andover Road.

The birch may need some access facilitation pruning and, as one would expect in Conservation Area, this should be done to BS3998 (2010). Care should be taken to avoid damaging the tree above and below ground through mechanical damage, ground compaction (e.g. storage of materials and tools beneath the tree), spillages of chemicals etc.

The apple will also likely need some access facilitation pruning and this should be done to BS3998 (2010). It is unclear where this tree is in relation to the proposed development as a tree survey has not been conducted and the tree doesn't appear on the plans. However, the root protection area should be established and marked on the plans, and should any excavation or construction be proposed within the RPA, a method statement to BS5837 (2012) should be submitted prior to determination to detail how this will be done without damaging or compacting the root system of the tree - this method statement should include e.g. hand-digging and no severing of roots greater than 25mm diameter.

Reason: to protect amenity, wildlife and screening value of these trees in line with Policies GI2 and GI3 of the Cheltenham Plan.

Tree Officer - 18th November 2021

Given the shallow footings of the garden wall, it is likely that the roots of the apple in 74 Andover Road extend into the site. The proposed development sits within the RPA of this tree. With any excavation or construction within the RPA, a method statement to BS5837 (2012) should be submitted prior to determination to detail how this will be done without damaging or compacting the root system of the tree. An arboriculturalist could assess the likely impact of any such excavation and construction and write a suitable method statement.

The services to and from the development may well also fall within the sphere of influence of the trees on site and adjacent. This should also be taken into consideration when writing the method statement.

This tree appears to be in good physiological and structural condition. It is a mature specimen that has been managed as a pollard. There is no apparent evidence of any significant defects that would suggest that it's nearing the end of its life. Pollarded apples have a tendency to live for many decades and I would expect this tree to live for a good deal longer if managed responsibly. Due to it being within the Conservation Area, it is a protected tree.

5. PUBLICITY AND REPRESENTATIONS

5.1 The application has been advertised by way of a site notice, an advert published in the Gloucestershire Echo and letters sent to three direct neighbours. Representations and objections have been received from 72 Andover Road, 74 Andover Road and 1B1 Andover Road. The concerns have been summarised but are not limited to the following:

- Loss of historic fabric/impact on the designated heritage asset
- Impact on trees
- Impact on neighbouring amenity

Officers duly note various other points raised in the representations made by number 72 and 74 Andover Road, however the points specified above are the relevant material considerations of this application.

6. OFFICER COMMENTS

6.1 Determining Issues

6.2 As already noted, planning permission and listed building consent has already been granted in application numbers 18/01513/FUL & LBC and 19/01652/FUL & LBC for the demolition of an existing garage and the erection of a new garage/annexe building at the rear of 76 Andover Road. Therefore, the only considerations of this application are the acceptability of the changes proposed within this application, from that already granted permission. The considerations relate to design, impact on the designated heritage asset, impact on neighbouring amenity and the impact on existing trees.

- 6.3 The changes within this application relate to the removal and re-building of two sections of garden wall, one located on the eastern boundary between 74 and 76 Andover Road and the other on the western boundary, located between 76 and 78 Andover Road.

The previous permissions showed the sidewall (east) of the proposed annexe building to be built over the existing garden wall, therefore not requiring any works to the garden wall itself. However, the applicant has suggested that this approach is no longer possible and is now proposing the partial take-down and re-building of a section of this wall, as well as seeking similar consent for a section of garden wall on the western boundary.

- 6.4 Members should note that planning permission and listed building consent has also been granted for a garage/annexe building at the rear of number 78 Andover Road (19/01753/FUL and 19/01753/LBC). The permitted schemes are attached to one another and share a central party wall.

- 6.5 Members should also be aware that works on site for number 76 and 78 Andover Road have already started and the annexes to the rear of both sites are being constructed by the same contractor/builder. It is also important to note, that the section of wall between 76 and 78 Andover Road has already been taken down, however, the wall between 74 and 76 Andover Road remains intact.

6.6 **Impact on the designated heritage asset.**

- 6.7 The existing boundary/garden walls are considered to be curtilage listed, and therefore listed building consent is required for any alterations to these walls. With this in mind, the council's conservation team were consulted on the application. Early discussions with the conservation officer identified that further detail/information was necessary, which has since been provided by the applicant. Upon receipt of this information, the conservation officer was re-consulted and their full and detailed comments can be read above.

- 6.8 The conservation officer raises no objection to the works, and does not consider that the partial take down and re-building of these sections of garden wall would detract from the significance of the designated heritage assets. The conservation officer considers the proposed works to be acceptable in heritage terms.

- 6.9 Conditions are necessary and have been suggested. Conditions number two and three on the full application relate to materials and design details that have already been approved as part of the consented schemes. Condition two on the listed building consent application requires the walls to be rebuilt using salvaged bricks from the existing walls, and for a traditional bonding pattern and lime mortar mix to be used, as proposed by the applicant and as suggested by the conservation officer.

Officers note the suggestion of a further condition relating to a protection method for other parts of the existing garden wall, however, officers do not consider this necessary for the level of works proposed within this application. Furthermore, as the garden walls are curtilage listed, any works beyond those proposed within this application would require further consent.

- 6.10 For the reasons discussed within the conservation officer's comments, the proposal is considered to be acceptable in heritage terms and is therefore compliant with Cheltenham Plan Policy D1 and adopted JCS policies SD4 and SD8.

6.11 **Trees**

- 6.12 The council's tree officer has noted two trees located within the sphere of influence of the proposed development, this includes a birch tree located within the application site and an apple tree located within the garden of number 74 Andover Road. The tree officer has noted that the proposal to rebuild the existing wall with deeper foundations could have an

impact on the tree roots of the apple tree. Whilst officers duly note that an extant planning permission has already been granted, the proposal now includes new foundations in closer proximity of the roots of this tree and is therefore a relevant consideration of the application.

6.13 The tree officer has requested the submission of a method statement for how the foundations will be constructed. This has been discussed with the applicant, who has agreed to a condition being attached. The condition requires any foundation works within the tree root protection area of the apple tree to be hand dug and no tree roots over 25mm to be severed. Further information has also been provided by way of informative's. This has been discussed with the council's tree officer who considers this approach to be acceptable.

6.14 With the condition attached, officers consider that the proposal will appropriately protect the adjacent apple tree and the development would therefore accord with adopted JCS policies GI2 and GI3.

6.15 **Impact on neighbouring property**

6.16 The works proposed to the garden walls within this application will not result in any greater impact on neighbouring amenity than the schemes already approved, the works do not result in any increased loss of light, loss of privacy or overbearing impact and is therefore acceptable in amenity terms. The proposal is therefore compliant with Cheltenham Plan policy SL1 and JCS policy SD14.

6.17 **Other considerations**

Public Sector Equalities Duty (PSED)

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

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

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

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

7. CONCLUSION AND RECOMMENDATION

7.1 Having considered all of the above, officer recommendation is to grant planning permission and listed building consent, subject to the conditions set out below:

8. CONDITIONS / INFORMATIVES

21/02385/FUL:

- 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 external facing or roofing materials shall be applied unless in accordance with the details/samples submitted in application number 18/01917/DISCON.

Reason: In the interests of the character and appearance of the area, having regard to Policy D1 of the Cheltenham Plan and Policies SD4 and SD8 of the Joint Core Strategy.

- 3 Notwithstanding the submitted details, the following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details submitted and approved in application number 18/01917/DISCON:

- a) Vents/flues;
- b) Rainwater goods; and
- c) Eaves/soffits/barge boards.

Reason: In the interests of the special architectural and historic qualities of the listed building, having regard to policy D1 of the Cheltenham Plan, adopted policies SD4 and SD8 of the Joint Core Strategy (2017), Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Historic Environment Good Practice Advice Note 2.

- 4 The foundations for the side (east) wall of the proposed annexe, which fall within the Root Protection Area (RPA) of the Apple Tree (located within the garden of 74 Andover Road), shall be hand dug, and no tree roots over 25mm shall be severed.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020).

21/02385/LBC:

- 1 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.

- 2 The section of wall (east) between 74 and 76 Andover Road and the section of wall (west) between 76 and 78 Andover Road, which are the subject of this application, shall be re-built using re-salvaged bricks taken from the demolition of the existing garden walls, a bonding pattern and lime mortar mix to match that of the existing wall shall also be used, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the special architectural and historic qualities of the listed building, having regard to policy D1 of the Cheltenham Plan, adopted policies SD4 and SD8 of the Joint Core Strategy (2017), Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Historic Environment Good Practice Advice Note 2.

INFORMATIVES

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

when dealing with a planning application with the aim of fostering the delivery of sustainable development.

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

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

- 2 During foundation works, any exposed roots shall be wrapped for protection, with the protective wrapping removed prior to backfilling. Prior to backfilling, retained roots should be surrounded with topsoil or uncompacted sharp sand (builders' sand should not be used because of its high salt content, which is toxic to tree roots), or other loose inert granular fill, before soil or other suitable material is replaced. This material should be free of contaminants and other foreign objects potentially injurious to tree roots.
- 3 The applicant should be aware that should any pruning works be necessary to either the birch tree within the application site or the apple tree within the neighbours garden that these works should be done according to BS3998 (2010), but would also be the subject of an application for Tree works to the Local Authority.