

<b>APPLICATION NO: 21/01265/FUL &amp; 21/01265/LBC</b>	<b>OFFICER: Miss Claire Donnelly</b>
<b>DATE REGISTERED: 27th May 2021</b>	<b>DATE OF EXPIRY: 22nd July 2021</b>
<b>DATE VALIDATED: 27th May 2021</b>	<b>DATE OF SITE VISIT:</b>
<b>WARD: Lansdown</b>	<b>PARISH: n/a</b>
<b>APPLICANT:</b>	Phil Vickery (No3 Restaurant)/Douro
<b>AGENT:</b>	Evans Jones Ltd
<b>LOCATION:</b>	12 Royal Crescent Cheltenham Gloucestershire
<b>PROPOSAL:</b>	<b>FUL &amp; LBC:</b> Internal alterations, and the erection of a single storey rear extension at nos. 12 and 13 Royal Crescent.

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application relates to 12 and 13 Royal Crescent, specifically the basement and ground floors. The application site is a grade II\* listed building located within the Montpellier Character Area of Cheltenham's Central Conservation Area.
- 1.2 The applicant is seeking planning permission and listed building consent for internal alterations and the erection of a single storey rear extension.
- 1.3 The scheme has been revised throughout the course of the application process to address concerns received from the conservation officer in regards to impact on the listed building and the loss of historic fabric. Revised plans have been submitted that have scaled down the alterations to the building.
- 1.4 The application is at planning committee at the request of Councillor Fisher due to the harm to the listed building.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Conservation Area  
Core Commercial Area  
Flood Zone 2  
Flood Zone 3  
Listed Buildings Grade 2star  
Principal Urban Area  
Smoke Control Order

### **Relevant Planning History:**

**89/00796/LA 24th August 1989 PER**  
Reduce Height And Repairs To Existing Garden Wall At Rear

**91/00752/PF 26th September 1991 PER**  
New Lecture Rooms, Training Areas And Offices

**09/00193/COU 9th April 2009 PER**  
Change of use of basement from Use Class A2 (financial and professional services) to Use Class A3 (coffee bar/bistro)

**09/00245/LBC 9th April 2009 GRANT**  
Internal alterations to basement

**09/00760/LBC 10th July 2009 GRANT**  
Proposed fascia sign

**14/02219/LBC 27th January 2015 GRANT**  
Provision of replacement fascia sign to front elevation

## 3. POLICIES AND GUIDANCE

### **National Planning Policy Framework**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 7 Ensuring the vitality of town centres  
Section 8 Promoting healthy and safe communities  
Section 12 Achieving well-designed places

Section 16 Conserving and enhancing the historic environment

**Adopted Joint Core Strategy Policies**

SD4 Design Requirements

SD8 Historic Environment

SD14 Health and Environmental Quality

**Cheltenham Plan Policies**

D1 Design

SL1 Safe and Sustainable Living

**Supplementary Planning Guidance/Documents**

Central conservation area: Montpellier Character Area and Management Plan (Feb 2007)

## 4. CONSULTATIONS

### **Environmental Health**

*8th December 2021 –*

Internal alterations, and the erection of a single storey rear extension at nos. 12 and 13 Royal Crescent.

I can advise:-

### Noise and Odour

No detail of the kitchen extract system (and other necessary mechanical plant) has been provided with the application. Given the listed status of the building, and the potential for design conflicts thereby arising, this information needs to be provided as part of the application, in order that the control of adverse noise and odour impacts from the proposed development are adequately considered.

It is strongly advised that the scheme for the extract system is informed by good practice found within 'The Control of Odour and Noise from Commercial Kitchen Exhaust Systems Update to the 2004 report prepared by NETCEN for the Department for Environment, Food and Rural Affairs' (2018).

The submitted scheme shall include details of the following:

- the stack height and position (for good dispersion);
- the velocity of effluent at the point of discharge (for good dispersion);
- details of the odour control system to be employed, including details of the filter residence time, if applicable;
- a schedule for maintenance of the odour control system, including the minimum frequency of change of filters (where applicable), and cleaning;
- noise emissions and times of operation of the kitchen extraction system.

### Outdoor Dining Area

Noise impact from this activity in the evening or at night has a significant likelihood of disturbing occupiers of residential property nearby. An assessment of noise impact from the outdoor area should be presented with the application, along with proposals necessary to suitably limit adverse noise impacts. This report would be informed by information, such as background noise levels at noise sensitive properties, contained in the acoustic reporting required for the kitchen extract system.

### **Building Control**

*18th June 2021 –*

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

## **Historic England**

*17th June 2021 –*

Thank you for your letter of 27 May 2021 regarding the above application for listed building consent. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

### Historic England Advice

Numbers 12 and 13 Royal Crescent Cheltenham are designated as Grade II\*, and as such is in the top 8% of listed buildings. Therefore, greater weight should be given to their conservation. The National Planning Policy Framework (NPPF) defines 'conservation' as 'the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance'.

Nos. 12 and 13 form part of a symmetrical, concave terrace of 18 townhouses designated under one list entry in the Montpellier Character Area of the Central Cheltenham Conservation Area, characterised by its Georgian and Regency buildings. The terrace is an early and important example within the Conservation Area which retains much of its original fabric and character with original plasterwork and joinery remaining in many interiors. Painted stucco finish with rusticated ground floor, 3 storeys and basement, each with 3 windows per floor, service ranges to rear, some (including 12 and 13) with railings and balconies to front.

The list entry (1387817) highlights no. 12 as having, at the time of listing, retained most of its original interior details: dogleg staircase has stick balusters and wreathed handrail, fireplaces, cornices with acanthus motifs, reeded doorcases with corner rosettes, some marble fireplaces - making this interior a particularly important example within the terrace. The Heritage Statement provided with the application notes the significance of no. 13 for its plan form, with its intact layout and many original details.

Due to the current Covid19 restrictions, we have been unable to undertake a site visit and therefore we cannot be definitive in our advice and have based our assessment on the submitted documents.

The proposed work to no. 12 and 13 involves internal alterations to basement and ground floor levels, changing the internal layout of the buildings and involving the removal of a large sections of historic internal wall and the loss of both sides of the corridor wall on the basement of no.13. Designed to create an additional open plan dining area this would cause the loss of legibly to the main corridor and the original planform on this floor, an important survival.

The proposal includes the creation of two access openings to the party and boundary walls with a loss of some historic fabric, the erection of bin/plant enclosure to rear of no. 13, and the removal of stud walls to enlarge rooms. Also included is the addition of low impact extensions to the rear; including a single story 'hot kitchen', glazed extension, and linking corridor.

We consider the addition of the single-story extensions to the back for the 'hot kitchen' and dining area to be low impact. The creation of openings in the historic boundary wall and between the properties constitutes some loss of historic fabric and some harm, the location of or access to this could be changed, reducing the number of new openings and reducing harm.

The removal of large sections of historic internal wall on the lower basement floor will lead to complete loss of the legibility of the original planform on this level. This harmful loss is considered unjustified as lighter-touch alternative options have not been considered and the proposed changes without this element would provide a considerable increase in dining space whilst retaining the special character and significance of the building.

The application material does not include an assessment of the significance of the heritage affected to the level of detail appropriate to a building of this significance as required by NPPF paragraph 189. A floor plan with phasing and a detailed assessment of original fabric on the effected floors and areas would allow for a clearer understanding of the potential impact of the proposals.

The application does not justify the removal of the corridor walls in no.13, the loss of legible historic planform and significance this signifies, as is required by para. 194 and 195 of the NPPF. We support the single-story extensions to the rear service ranges.

Retention of historic fabric should be sought, and the current level of loss reconsidered. Recent alterations may have covered rather than removed fabric and future work may create the opportunity to uncover historic fixtures, fittings and detailing and these should be retained to enhance the buildings character and appearance.

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". Section 72 of the act refers to the council's need to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in the exercise of their duties. When considering the current proposals, in line with Para 189 of the NPPF, the significance of the asset's setting requires consideration.

Para 193 states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be. Para 194 goes on to say that clear and convincing justification is needed if there is loss or harm.

### Recommendation

Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 189, 194 and 195 of the NPPF.

In determining this application you should bear in mind the statutory duty of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

*7th September 2021 –*

Thank you for your letter of 11 August 2021 regarding further information on the above application for listed building consent. On the basis of this information, we offer the following advice to assist your authority in determining the application.

### Historic England Advice

#### Summary of proposals

The revised proposal relates to the lower ground floor of No.13.

In the initial proposal included substantial removal of internal walls to both sides of the central corridor here, opening this area entirely and losing legibility of the original planform. The amended application shows the wall opening between the corridor and the treatment room to its south has been reduced, forming a large opening into the hall space. Also, in this area,

the north wall of the corridor is no longer proposed for demolition and instead this treatment room would form a guest WC.

The back area initially suggested for a guest WC would then be opened up into the hall to create further dining space. This would involve the removal of the current partitions between the kitchen and the WC, the kitchen and rear corridor, and the creation of a doorway between no 12 and 13 to allow access between the kitchen and all dining areas on this floor.

#### Impact of the Proposed Development

The revised proposals retain more of the historic wall fabric within the central corridor and the original plan form is more legible. The harm to this important element of the building has been reduced.

Although the proposal still involves the loss of material and a notable change to the floor plan it is in areas which are of lesser significance and in an area of less architectural and historic merit (on what are believed to be modern partitions and fixtures).

#### Planning Legislation & Policy Context

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses, the significance of the asset's setting requires consideration. Para 199 of the NPPF states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be. Para 200 goes on to say that clear and convincing justification is needed if there is loss or harm.

#### Historic England's Position

This proposal is an improvement on the first, with less loss of historic fabric and the retention of more of the hallway. We feel the opening to the south of the corridor could be reduced further and would be better retained as is, as a doorway or door sized opening. This would reduce the harm further and still function in the same way as access to this dining space.

The change to the position of the WC and the associated relocation of the dining space is an improvement to the proposal, and we accept the reasonable opening of the less significant part of the building to accommodate the necessary covers.

#### Recommendation

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 199 and 200 of the NPPF. After this we would have no objections to the proposal on heritage grounds.

In determining this application you should bear in mind the statutory duty of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

*14th December 2021 –*

Thank you for your letter of 1 December 2021 regarding further information on the above application for listed building consent.

Following our letters of 16 June and 6 September the proposal has been amended. Our previous concerns have been addressed and we are happy for the application to proceed in agreement with the Conservation Officer.

If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

## **Heritage And Conservation**

*7th June 2021 –*

Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority when considering whether to grant listed building consent to 'have special regard to the desirability of preserving the building' or any features of special architectural or historic interest which it possesses.'

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 184 of the National Planning Policy Framework (MHCLG: 2019) (NPPF) states that 'Heritage assets' are an irreplaceable resource, and should be conserved in a manner appropriate to their significance'.

Paragraph 192 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.'

The consideration of the scheme is undertaken as a desk based assessment.

The scheme comprises internal alterations and the construction of a single storey rear extension.

The buildings (Nos. 12 and 13) form part of a terrace of 18 houses, which currently have various uses, that was constructed c.1806-1810. Listed on 12 March 1955 (Grade II\*). List entry number: 1387817.

The Royal Crescent is considered to be 'the earliest important terrace in the town' (D. Verey and A. Brooks, *The Buildings of England, Gloucestershire 2: The Vale and the Forest of Dean*: Yale University Press, 2002, p. 260).

Grade II\* buildings are particularly important buildings of more than special interest; 5.8% of listed buildings are Grade II\* (2.5% of listed buildings are at Grade I and 91.7% at Grade II) (<https://historicengland.org.uk/listing/what-is-designation/listed-buildings> - accessed 7 June 2021).

The proposal site is located in the Central Conservation Area (Montpellier Character Area), a designated heritage asset (Cheltenham's central conservation area was designated by

Gloucestershire County Council on 28 May 1973 and its boundary extended by Cheltenham Borough Council on 14 August 1987) [The Old Town Character Area abuts the subject site(s) to the west].

The Montpellier Character Area Appraisal and Management Plan was adopted by Cheltenham Borough Council on 23 February 2007 as a Supplementary Planning Document (the SPD) and is a material consideration in the determination of planning applications.

The SPD states that the 'Royal Crescent' may be regarded as the town's first major piece of Regency architecture' (para.1.12 (a), p.3).

The polite architecture of the subject buildings and the terrace reflect the aspirations of the residents, particularly in the front elevation. Buildings of this type and period have a hierarchy which is evident through aspects of design. Typically those areas for the residents and their guests have more decorative features whereas the functional areas are often devoid of such elements. This hierarchy is fundamental to the architectural and evidential value of the subject buildings.

Service areas such as basements and rear ranges are often under appreciated in their contribution to the significance of the building as they typically lack polite decorative features that may be found in other areas of the building; however, they provide important evidence of how the household functioned and are an aspect of the hierarchy.

H.S Merrett's 1834 plan of Cheltenham depicts attached ranges to the rear of the subject buildings. Maps/plans from the later nineteenth century show the ranges as being of a greater extent than the existing.

The following relates to proposed work to No. 13.

The scheme proposes the loss of walls which currently form the 'treatment' rooms and central corridor/hallway. This work, even with 'Downstand beams at ceiling level' (Heritage Statement, item 3, p.36), would result in the loss of the legibility and compartmental nature of the historic service rooms. The larger of the existing 'treatment' rooms appears to be one of the historic principal rooms at this level. The Historic Statement contends that 'The lower ground floor of No.13 retains a good proportion of its historic layout' (para.9.2, p.33). This aspect of the proposal will detract from the architectural and evidential value of the building to the detriment of its significance. The Heritage Statement recognises that the effect will be negative (item 3, p. 36).

The significance, if any, of the door leading to the existing 'reception' is unclear. Information, perhaps in the form of an image and supporting comment should be sought. The door does not appear to be covered by item 2, p. 36 of the Heritage Statement.

The following relates to proposed work to No. 12.

It appears that at lower ground floor level the principal section of the building has, regrettably, lost much of its historic layout, particularly the plan form of what was likely to have been two rooms to the left hand side in plan; Appendix 2 (conjectural original layout plans) of the Heritage Statement (p.44) is helpful for comparisons. No.12 was subject to alterations c.2009; however, the historic plan, to the left hand side in plan, appears not to have existed at the time (application 09/00245/LBC ' internal alterations to basement). A brief consideration of the planning history does not seem to show when the plan form was altered.

It appears, given the feature depicted on drawing 2111-P003-P4 (existing and proposed lower ground floor plans) as if an existing opening between the principal section of the building and the service range is to be infilled in some way (from the 'dining area'). Clarity is required as to what the feature is.



With reference to the stair, it seems that it is proposed that it be enclosed. Confirmation should be sought as to whether or not this is the case and images and comment on the significance of the stair and any existing associated joinery if this work is indeed part of the scheme is required.

With reference to the window subject to proposed loss at the rear of the 'dining area', it appears to be a later replacement. The Heritage Statement considers that it is non-original (item 7, pp. 38 & 39). Though it appears not to be original better images of it are likely to inform a full consideration of this aspect of the scheme; particularly images of the glazing bars.

In principle the proposed extensions to No.12 are acceptable as they will be subservient in scale and the glazed aspects will read as a later addition.

Views of the rear of the subject buildings particularly that of No.12, are limited. The character and appearance of the conservation area in the immediate vicinity is dominated by the varying designs of the service ranges to the rear of the Royal Crescent. Views of the rear of the subject properties are limited, and given the design of the extensions, the work will not detract from the character and appearance of the conservation area and therefore its significance will be maintained.

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, p. 71).

The setting of No.12 is dominated by the 'mews building' (St Johns House/Royal Mews) of the late twentieth century. The proposals will not be detrimental to how the rear of the building is experienced and therefore the proposed development does not detract from the setting of the listed buildings.

In the context of benefits of the scheme, the Heritage Statement refers to 'the sensitive programme of repair' would enhance the external appearance of the buildings, the improvements to the external landscaping to enhance the buildings' setting and appearance and the removal of the unsightly fire escape from the rear elevations' (para. 9.6, p.33).

The NPPF as above (para 192 of the NPPF) refers to the 'desirability of sustaining and enhancing the significance of heritage assets', and the JCS (policy SD8), also as above, states that "Designated heritage assets will be conserved and enhanced as appropriate to their significance'. The decision maker(s) should be mindful that both the NPPF and JCS are clear that enhancement and conservation/sustaining are both aims and not one at the exclusion of the other.

The Planning Statement concludes that the scheme will result in 'less than substantial harm' (para. 7.2, p. 20) and the Heritage Statement finds that the proposals 'would result [in] 'less than substantial harm' to the significance of the listed buildings under the terms of the NPPF' (para. 9.4, p.33).

The NPPF at paragraph 193 requires Local Planning Authorities when considering the impact of a proposed development on the significance of a designated heritage asset, to give great weight to the conservation of the asset; and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm equates to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 196 of the NPPF states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal.

Due to unacceptable aspects of the scheme, it is considered that the proposal will be detrimental to the importance of the listed building; the degree of harm is considered to be less than substantial. When balancing the harm against the public benefits of the proposal the NPPF requires great weight to be given to the conservation of the heritage assets (paragraph 193).

The Planning Officer/decision maker(s) will need to carry out the balancing exercise as per the provisions of the NPPF.

It is not possible to conclude on all aspects of the proposals based on the submission to date; however, additional information is likely to enable the provision of full comments.

Regardless of the above, the scheme contains elements that would detract from the architectural and evidential value of the building (No.13) leading to less than substantial harm to its significance.

*8th July 2021 –*

Initial comments were supplied on 7 June 2021. The following comments are in light of additional material supplied by the planning agent (8 July 2021 ' Local Planning Authority reference date).

The initial comments included the following,

'The significance, if any, of the door leading to the existing 'reception' is unclear. Information, perhaps in the form of an image and supporting comment should be sought. The door does not appear to be covered by item 2, p. 36 of the Heritage Statement.'

Based on the information as submitted the proposed loss of the door is acceptable.

The initial comments contained the following, relating to No.12;

'It appears that at lower ground floor level the principal section of the building has, regrettably, lost much of its historic layout, particularly the plan form of what was likely to have been two rooms to the left hand side in plan; Appendix 2 (conjectural original layout plans) of the Heritage Statement (p.44) is helpful for comparisons. No.12 was subject to alterations c.2009; however, the historic plan, to the left hand side in plan, appears not to have existed at the time (application 09/00245/LBC ' internal alterations to basement). A brief consideration of the planning history does not seem to show when the plan form was altered.'

Appendix B (8 July 2021) appears to be implying that the Local Planning Authority has accepted the aforementioned layout of No.12 (lower ground floor); however, the appendix states that 'It is not known when the layout was altered' (un-numbered 3rd page). Of course the layout could have been formed prior to the listing of the building or has been carried out without consent.

The initial comments contained the following,

'It appears, given the feature depicted on drawing 2111-P003-P4 (existing and proposed lower ground floor plans) as if an existing opening between the principal section of the building and the service range is to be infilled in some way (from the 'dining area'). Clarity is required as to what the feature is.'

Appendix B (8 July 2021) states that 'There is currently a modern solid timber door in this position. A door could be retained (even fixed shut) for legibility of the historic layout if desirable' (un-numbered 3rd page). With reference to Appendix C (8 July 2021) and 'collection B' it is not evident that there is a door in this location. The drawing 2111-P003-P4 (existing and proposed lower ground floor plans) does seem to depict the infilling of this opening, so clarity with what is required. A door, even one fixed shut, would be acceptable over the blocking up of the opening in order to maintain some legibility; however, it is considered that how the opening is to be blocked is not evident via the aforementioned drawing.

With reference to the stair (No.12) and the information submitted (8 July 2021, it is agreed that it has no significance.

With regard to the window subject to proposed loss (No.12, lower ground floor, rear of 'dining area', it appears to be a much later replacement and therefore its loss and the formation of an opening is acceptable.

In conclusion, aspects of the scheme remain unacceptable and the degree of harm is less than substantial. The Planning Officer/decision maker(s) should be mindful of the requirements of the NPPF balancing exercise as outlined in the initial comments and that 'When balancing the harm against the public benefits of the proposal the NPPF requires great weight to be given to the conservation of the heritage assets (paragraph 193).'

*29th July 2021 –*

Comments have been previously supplied on 7 June and 8 July 2021 respectively. The following is in light of 1no. revised drawing (existing and proposed lower ground floor) (28 July 2021).

(The Planning Officer should note that previous comments made reference to paragraphs of the National Planning Policy Framework (NPPF) and that the numbering quoted may no longer be correct in light of the latest version of the NPPF (20 July 2021).

The covering email (28 July 2021) from the planning agent states with reference to the revised drawing 'that the change relates to the retention of a greater part of the corridor walls within No.13 to provide clearer legibility of the historic planform of the building. This compromise will result in less harm to the listed building than the previous proposal via a) the loss of historic fabric; and b) enabling the coherent retention of the historic planform.'

The proposed layout will detract from the historic compartmentalisation and plan form of the basement of No.13, and entail the loss of historic fabric, to the detriment of the evidential and architectural value of the building, detracting from its significance.

The following is an extract from the initial (conservation officer) comments of 7 June 2021.

'The Planning Statement concludes that the scheme will result in 'less than substantial harm' (para. 7.2, p. 20) and the Heritage Statement finds that the proposals 'would result [in] 'less than substantial harm' to the significance of the listed buildings under the terms of the NPPF' (para. 9.4, p.33).'

No revised Planning or Heritage Statement, or contrary statement has been submitted; therefore, it appears that these conclusions remain.

For clarity, the following references to the NPPF relate to the current version (20 July 2021).

The NPPF at paragraph 199 requires Local Planning Authorities when considering the impact of a proposed development on the significance of a designated heritage asset, to give great

weight to the conservation of the asset; and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm equates to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 202 of the NPPF states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal.

Due to unacceptable aspects of the scheme, it is considered that the proposal will be detrimental to the importance of the listed building; the degree of harm is considered to be less than substantial. When balancing the harm against the public benefits of the proposal the NPPF requires great weight to be given to the conservation of the heritage assets (paragraph 199).

The Planning Officer/decision maker(s) will need to carry out the balancing exercise as per the provisions of the NPPF.

With further reference to paragraph 199 as above and the importance of the asset in the balancing exercise, note that the building is listed at Grade II\*. Grade II\* buildings are particularly important buildings of more than special interest; 5.8% of listed buildings are Grade II\*(2.5% of listed buildings are at Grade I and 91.7% at Grade II) (<https://historicengland.org.uk/listing/what-is-designation/listed-buildings> - accessed 29 July 2021).

In conclusion, the scheme will lead to less than substantial harm to the Grade II\* listed building.

*18th August 2021 –*

Comments have been previously supplied on 7 June, 8 July and 29 July 2021 respectively. The following is in light of revised and additional information (11 August 2021).

It is noted that the supporting statement (public benefit) dated 9 August 2021 states that 'The tenant' has a vision to occupy the building and carry out treatment works to resolve the damp/mould issue'. For clarity, this work does not appear to form part of the subject submission and it should be noted that some forms of treatment/intervention require listed building consent.

The revised scheme includes the loss of a doorway and a section of the wall that forms one of the principal historic rooms and central corridor at basement level in No.13.

A fundamental principle in the planning of a nineteenth century house was the distinction of functions, the allotment of a separate room for each and every purpose. This allowed for the segregation of much of the work carried out by servants from the rest of the house and the containment of associated noises and odours.

The loss of the doorway and section of wall will detract from the evident existing historic compartmentalisation and plan form.

The supporting statement from the Heritage Consultant (dated 6 August 2021) states 'in my opinion, the harm to significance would be reduced to a low level of 'less than substantial harm'.'

The NPPF at paragraph 199 requires Local Planning Authorities when considering the impact of a proposed development on the significance of a designated heritage asset, to give great weight to the conservation of the asset; and the more important the asset, the greater the

weight should be. This is irrespective of whether any potential harm equates to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 202 of the NPPF states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal.

Due to unacceptable aspects of the scheme, it is considered that the proposal will be detrimental to the importance of the listed building; the degree of harm is considered to be less than substantial. When balancing the harm against the public benefits of the proposal the NPPF requires great weight to be given to the conservation of the heritage assets (paragraph 199).

The Planning Officer/decision maker(s) will need to carry out the balancing exercise as per the provisions of the NPPF.

In conclusion, the scheme will lead to less than substantial harm to the Grade II\* listed building.

*13th December 2021 –*

Comments have been previously supplied on 7 June, 8 July, 29 July and 18 August 2021 respectively. The following is in light of 3no. items (1 December and 2 December 2021) respectively and additional information supplied by the agent via an email of 13 December 2021.

The email from the agent (1 December 2021), appears to contend that the door (No. 13, lower ground floor, serving the current 'treatment room) is not historic and that the legibility of the planform lies with doorway and not the door, and that without a door in situ the historic planform will be re-instated. Whilst the door is not historic, it is very likely that a door was located in this position originally, for purposes of compartmentalisation or segregation (see the comments of 18 August 2021).

The scheme proposes the loss of the door and a slight widening of the subject doorway. This will not detract from the significance of the listed building, as sufficient legibility of the historic plan form will remain.

With regard to the proposed work to form a wider opening between the two principal rooms at (upper) ground floor level in No. 13. The current arrangement seems to be the result of later work that has formed an archway, which cuts through moulding of the picture rail above, and a doorway that does not match the design or proportions of the flanking cupboard doors. The agent contends that the studwork was inserted in an open archway c. 2007; however, there does not appear to be a corresponding application for this work from a brief consideration of the planning history. It is not evident if originally (when constructed) the archway was present, though the archway (without infill) is likely to be an historic alteration (latter half of the nineteenth century). Therefore re-opening it by the removal of the modern infill will not detract from significance of the building.

In conclusion, the scheme will not detract from the significance of the designated heritage assets and is acceptable in terms of conservation.

Suggested conditions may include (where applicable to the subject application types planning permission and listed building consent):

Design details

Architrave(s): to include but not limited to ' elevation drawing(s) at a scale of 1:10 or a similar standard scale, section drawing(s) at a scale of 1:5 or a similar standard scale, indication of material(s) and details of location(s).

Coping: to include but not limited to ' specific details of material(s).

Door(s): to include but not limited to - elevation drawing(s) at a scale of 1:10 or a similar standard scale, section drawing(s) at a scale of 1:2 or a similar standard scale, an indication of material(s), location(s), and specific details of any external finishes/colour(s) (product name/reference, physical samples/swatches may be required).

External finishes: to include but not limited to ' specific products details (including composition of render(s) and colour(s)) and an indication of location(s).

External paving: to include but not limited to ' specific product details including images.

Fascia: to include but not limited to ' specific details of material(s) including finish/colour(s).

Gate(s): to include but not limited to - elevation drawing(s) at a scale of 1:10 or a similar standard scale, section drawing(s) at a scale of 1:2 or a similar standard scale, an indication of material(s), location(s), and specific details of finishes/colour(s) (product name/reference, physical samples/swatches may be required).

Glazed link (typical glazed units/screens): to include but not limited to ' elevation drawing(s) at a scale of 1:10 or a similar standard scale, section drawing(s) at a scale of 1:2 or a similar standard scale, an indication of material(s) and specific details of external finish/colour(s).

Rainwater goods: to include but not limited to ' specific product details (including material(s), finish/colour(s) and dimensions), and details of any new location(s).

Roof-lights: to include but not limited to ' section drawing(s) at a scale of 1:5 or a similar standard scale (including relationship with roof), an indication of material(s) and specific details of external finishes/colour(s).

Roofing material(s): to include but not limited to ' specific product details and images (physical sample(s) may be required dependant on the above).

Screening (bins/plant enclosure): to include but not limited to ' elevation drawing(s) at a scale of 1:50 or a similar standard scale and specific details of material(s) and finishes/colour(s).

Skirting: to include but not limited to ' section drawing(s) at a scale of 1:5 or a similar and an indication of location(s).

Stair(s): to include but not limited to - section drawing(s) at a scale of 1:5 or a similar standard scale, details of material(s) and finishes.

Vents/flues/air conditioning units: to include but not limited to ' specific product details (including dimensions and external colour(s)), and an indication of location(s).

Other

Disturbed surfaces made good.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	18
Total comments received	1

Number of objections	1
Number of supporting	0
General comment	0

- 5.1 Letters have been sent to eighteen neighbouring properties, a site notice has been displayed and an advert placed in the Gloucestershire Echo; one response has been received.
- 5.2 The main concerns raised by the objecting neighbour include, but are not limited to, the following summarised points:
- Increase in noise from restaurant use, from both internal and external diners,
  - Noise from kitchen extraction,
  - Odour,
  - Increase in traffic due to take-away availability.

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

- 6.2 The application proposes a single storey lower ground floor extension at no. 12 Royal Crescent and internal alterations to no's. 12 and 13 Royal Crescent; the key considerations for this application are the impact on the designated heritage asset, the design and any impacts on neighbouring amenity.

### 6.3 Design and impact on the heritage asset

- 6.4 Policy SD4 of the JCS and policy D1 of the Cheltenham Plan require development to be of a high standard of architectural design that responds positively to and respects the character of the site and its surroundings. This draws from paragraph 130 of the NPPF which seeks development to be visually attractive and sympathetic to local character.
- 6.5 Policy SD8 of the Joint Core Strategy requires development to make a positive contribution to local character and distinctiveness, having regard to the valued elements of the historic environment. Section 16 of the NPPF seeks development to consider the impact of a proposed development on the significance of a designated heritage asset; great weight should be given to the asset's conservation.
- 6.6 The Conservation Officer and Historic England have been consulted on this application. Full comments can be read above. Initial concerns were raised with the internal works due to the unacceptable loss of historic fabric. Revised plans have been submitted throughout the course of the application which have overcome officers concerns.

### 6.7 Internal alterations

- 6.7.1 The application proposes to extend the existing restaurant at no. 12 Royal Crescent into the basement and ground floor of no. 13 Royal Crescent. In order to facilitate this, the applicant is seeking internal changes to the buildings.
- 6.7.2 At lower ground floor, the layout of no. 12 remains largely unchanged; the main changes include removal of a window to provide full height opening and reconfiguration of existing toilet provision and provision of a new toilet in an existing storage cupboard. However, more changes are proposed to alter the layout of no. 13. Changes have been made at no. 13 to reduce the amount of historic fabric and plan form which would have been lost to address comments made by Historic England and the council's Conservation Officer. New and larger openings are proposed to allow the restaurant business to operate, the openings have been significantly reduced since the initial scheme and the historic plan

form would still be read. Other minor alterations are proposed providing dining areas, an additional small kitchen area, and toilet provision.

6.7.3 At ground floor, the layout of no. 12 would remain largely unchanged, however the use of the rooms would become offices spaces rather than dining areas. At ground floor, no. 13 would remain largely unchanged, however would see a new opening created to allow for access to a new dining area. This element has been introduced as part of the revised scheme which was an agreed compromise as a result of the changes made at lower ground floor. The new opening is considered to be acceptable and would not result in harm to the heritage asset.

6.7.4 The scheme has been through a number of revisions to reach a scheme that would work for the applicants future vision for their business whilst protecting the historical importance of the grade II\* listed building. As per the comments received from the Conservation Officer and Historic England, it is considered that the revised scheme will not detract from the significance of the designated heritage assets and is acceptable in terms of conservation. The proposed internal alterations as shown on the revised scheme are considered to be acceptable in terms of policy SD8, section 16 of the NPPF and other relevant policies and guidance.

## 6.8 Rear extension

6.8.1 The application proposes a single storey rear extension at lower ground floor. Both the Conservation Officer and Historic England support the principle of the rear extension. The Conservation Officer states in their comments:

*“Views of the rear of the subject buildings particularly that of No.12, are limited. The character and appearance of the conservation area in the immediate vicinity is dominated by the varying designs of the service ranges to the rear of the Royal Crescent. Views of the rear of the subject properties are limited, and given the design of the extensions, the work will not detract from the character and appearance of the conservation area and therefore its significance will be maintained.”*

6.8.2 Historic England state the following:

*“We consider the addition of the single-story extensions to the back to be low impact; we support the single-story extensions to the rear service ranges.”*

6.8.3 As such, the proposed extension is considered to be of an appropriate design due to its predominantly glazed design, the scale and form and would achieve a subservient addition to the listed building that would result in low impact on the character and setting of the designated heritage assets.

6.9 Taking the above and the relevant consultee comments into consideration, the proposed internal alterations and rear extension is considered to be acceptable in terms of design and protecting the significance of the grade II\* listed building. The proposal therefore complies with policy SD4 and SD8 of the JCS, policy D1 of the Cheltenham Plan, and paragraphs 130, 195, 197 and 199 of the NPPF.

## 6.10 **Impact on neighbouring amenity**

6.11 Policy SD14 of the JCS and policy SL1 of the Cheltenham Plan require development not to cause unacceptable harm to the amenity of adjoining land users; this echoes section 12 of the NPPF which requires development to be of a high standard of amenity for existing and future users.



- 6.12 As a result of the public consultation, one neighbouring resident has raised concerns to the proposed application; full comments can be read above. The neighbouring resident occupies a residential dwelling at no. 11 Royal Crescent. The main concerns raised by the applicant relate to an increase in noise due to the expansion of the restaurant and odour impacts as a result of a larger kitchen area. The Environmental Health Officer (EHO) has been consulted on this application however the comments request information that is not necessary due to no change of use and no new extraction equipment proposed. As such, whilst the EHO's comments have been noted, the information requested is not considered to be necessary in this instance.
- 6.13 The applicant has confirmed that sufficient plant is currently in place and therefore there would be no additional plant proposed. The applicant has confirmed however that there will be a like for like replacement system that will not be visible, and new vents would be included within the flat roof of the extension.
- 6.14 Whilst the application shows that parts of the buildings are to change use, officers must be mindful of the permitted change of use from office to restaurant. As such, the changes proposed do not require planning approval. Therefore the comments made by the EHO in terms of assessing noise levels seems unnecessary given the change of use does not require planning permission. The neighbouring resident raises concern over the proposal of a take-away service to be run from the existing restaurant; this is considered to be an ancillary use to the restaurant given the in-dining restaurant will be the main use at the premises. In terms of the comments regarding increased traffic due to the take-away provision, the site is located within a sustainable location in the town centre.
- 6.15 As such, whilst neighbour comments and the EHO's comments have been duly noted and taken into consideration, the proposal; single storey extension and internal alterations is unlikely to result in harm to the existing amenity of adjoining land users and therefore would comply with relevant planning policies and guidance.

#### 6.16 **Other considerations**

#### 6.17 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 The applicant has addressed concerns raised by officers through engagement with the council and the submission of revised plans in order to protect the significance of the listed building. As per the reasons in this report, the scheme in its revised form is considered to

sustain the significance of the designated heritage assets. The proposal is therefore considered to be in accordance with the relevant planning policies and guidance.

- 7.2 The recommendation is to therefore permit planning permission and grant listed building consent subject to the conditions set out below.

## 8. SUGGESTED CONDITIONS / INFORMATIVES

### 21/01265/FUL

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

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

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

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

- 3 Details of the ventilation system serving the 'hot kitchen' shall be submitted to and approved by the Local Planning Authority prior to first beneficial use. The ventilation system shall be installed in accordance with the approved details and shall be retained as such at all times.

Reason: To safeguard the amenity of adjacent properties and the general locality, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

### 21/01265/LBC

- 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.

- 3 Notwithstanding the submitted details, the following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority:

i) Architrave(s): to include elevation drawing(s) at a scale of 1:10 or a similar standard scale, section drawing(s) at a scale of 1:5 or a similar standard scale, indication of material(s) and details of location(s).

ii) Coping: to include specific details of material(s).

iii) Door(s): to include elevation drawing(s) at a scale of 1:10 or a similar standard scale, section drawing(s) at a scale of 1:2 or a similar standard scale, an indication of material(s), location(s), and specific details of any external finishes/colour(s) (product name/reference, physical samples/swatches may be required).

iv) External finishes: to include specific products details (including composition of render(s) and colour(s)) and an indication of location(s).

v) External paving: to include specific product details including images.

vi) Fascia: to include specific details of material(s) including finish/colour(s).

- vii) Gate(s): to include elevation drawing(s) at a scale of 1:10 or a similar standard scale, section drawing(s) at a scale of 1:2 or a similar standard scale, an indication of material(s), location(s), and specific details of finishes/colour(s) (product name/reference, physical samples/swatches may be required).
- viii) Glazed link (typical glazed units/screens): to include elevation drawing(s) at a scale of 1:10 or a similar standard scale, section drawing(s) at a scale of 1:2 or a similar standard scale, an indication of material(s) and specific details of external finish/colour(s).
- ix) Rainwater goods: to include specific product details (including material(s), finish/colour(s) and dimensions), and details of any new location(s).
- x) Roof-lights: to include section drawing(s) at a scale of 1:5 or a similar standard scale (including relationship with roof), an indication of material(s) and specific details of external finishes/colour(s).
- xi) Roofing material(s): to include specific product details and images (physical sample(s) may be required dependant on the above).
- xii) Screening (bins/plant enclosure): to include elevation drawing(s) at a scale of 1:50 or a similar standard scale and specific details of material(s) and finishes/colour(s).
- xiii) Skirting: to include section drawing(s) at a scale of 1:5 or a similar and an indication of location(s).
- xiv) Stair(s): to include section drawing(s) at a scale of 1:5 or a similar standard scale, details of material(s) and finishes.
- xv) Vents/flues/air conditioning units: to include specific product details (including dimensions and external colour(s)), and an indication of location(s).

The works shall not be carried out unless in accordance with the agreed details.

Reason: In the interests of the special architectural and historic qualities of the listed building, having regard to adopted policy 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 All disturbed surfaces shall be made good using materials to match the existing materials, composition, form, finish and colour of the existing building.

Reason: In the interests of the special architectural and historic qualities of the listed building, having regard to adopted policy 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**

### 21/01265/FUL

- 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, the authority sought revisions to the scheme to overcome concerns relating to impact on the listed building and historic fabric.

Following these negotiations, the application now constitutes sustainable development and has therefore been approved in a timely manner.