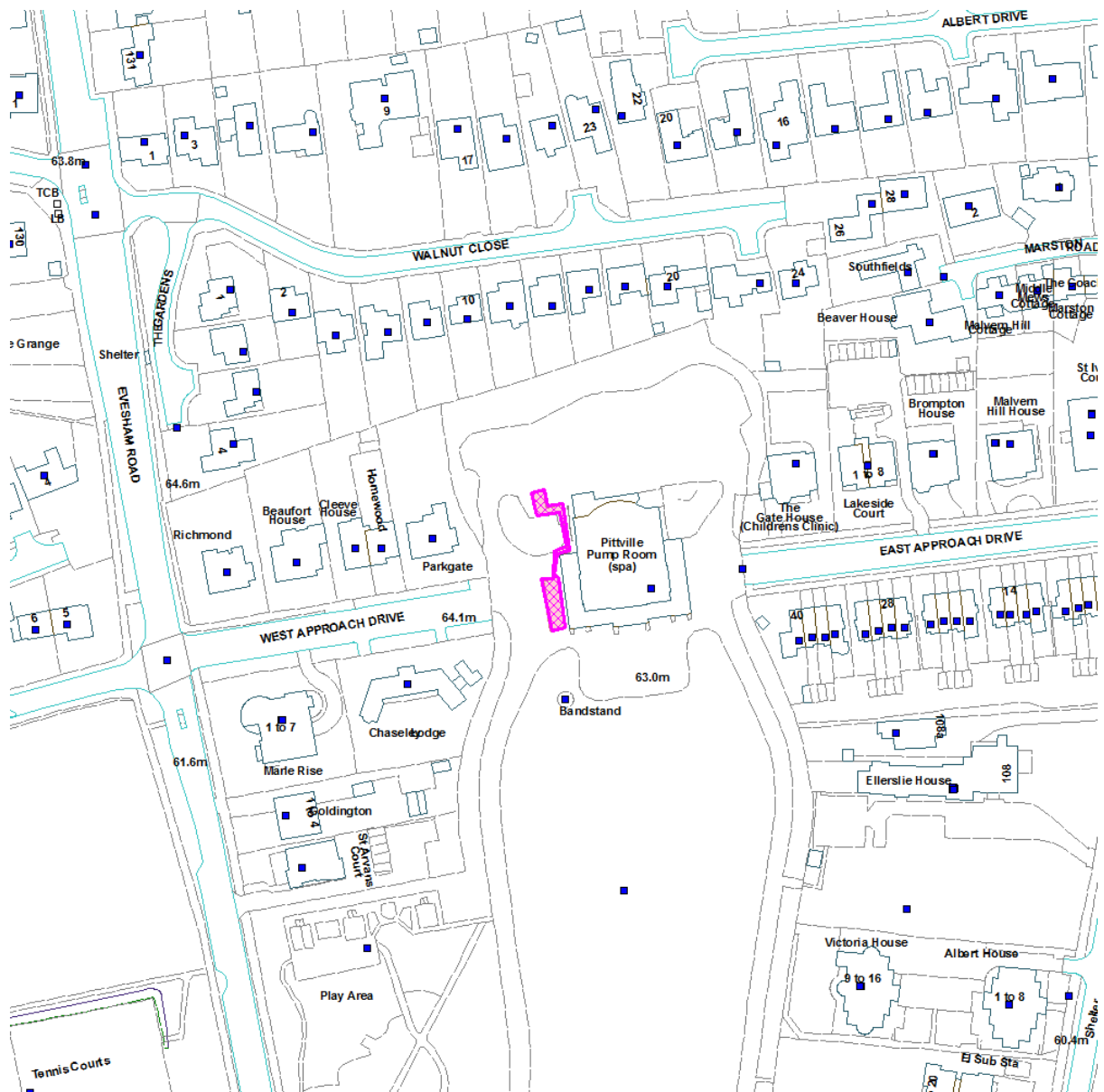


Officer Report

APPLICATION NO: 22/01439/FUL	OFFICER: Mr Ben Warren
DATE REGISTERED: 10th August 2022	DATE OF EXPIRY: 5th October 2022
DATE VALIDATED: 10th August 2022	DATE OF SITE VISIT:
WARD: Pittville	PARISH:
APPLICANT:	The Cheltenham Trust
AGENT:	Evans Jones Ltd
LOCATION:	Pittville Pump Room East Approach Drive Cheltenham
PROPOSAL:	Temporary change of use of land for up to two years for the siting of an orangery structure to be used as a cafe and the siting of ancillary toilets and storage facility

RECOMMENDATION: Refuse



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to Pittville Pump Room a Grade I listed building located within the northern section of Pittville Park. Pittville Park is registered park and garden and is also a designated local green space. The site sits within Cheltenham's Conservation Area and forms part of the Pittville Character Area and Management Plan.
- 1.2 During the early stages of the COVID-19 pandemic Cheltenham introduced a short-term relaxation of enforcement for temporary structures. This relaxation was introduced in order to help and support existing businesses and organisations to continue to operate whilst the Government imposed social distancing restrictions. The Cheltenham Trust benefitted from this temporary relaxation and as such the structure that now forms the Orangery at the Pittville Pump Room, and the ancillary toilet and storage facilities were installed to facilitate the use as a café. The use has been operational since September 2021.
- 1.3 The temporary period of relaxation that was granted ended on 30th September 2022 and therefore any business or organisation that had benefited from this relaxation either had to remove the temporary structures or were required to seek consent for their retention. In this instance, the Cheltenham Trust is seeking consent for the retention of the structures and use as a café for a further period of up to 2 years.
- 1.4 It is important to note that the Cheltenham Trust are also seeking temporary consent for the retention of a similar structure located within Montpellier Gardens, this is being considered under application reference 22/01438/FUL.
- 1.5 The application is at planning committee as Cheltenham Trust are the applicant and Cheltenham Borough Council are the land owners.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Conservation Area
Listed Buildings Grade 1
Principal Urban Area

Relevant Planning History:

19/00485/LBC 4th June 2019 GRANT

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

20/01702/LBC 21st December 2020 GRANT

Investigate survey to open up three sections of the balcony

20/01899/LBC 29th April 2021 DISPOS

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

21/00579/LBC 21st May 2021 GRANT

To replace six cracked and unsafe slabs like for like

21/01391/DISCON 23rd June 2021 DISCHA

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

21/01687/LBC 17th September 2021 GRANT

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

21/01687/FUL 17th September 2021 PER

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

21/01874/LBC 1st November 2021 GRANT

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

21/02449/DISCON 8th November 2021 DISCHA

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

21/02560/FUL 23rd February 2022 WDN

Installation of 2 no. temporary buildings and associated services for a period of 3 years on existing hardstanding adjacent to the Pittville Pump Room, to comprise a storage unit and public WC unit to be associated with the existing outdoor cafe and associated events.

21/02560/LBC 22nd November 2021 NOTREQ

Installation of 2 no. temporary buildings and associated services for a period of 3 years on existing hardstanding adjacent to the Pittville Pump Room, to comprise a storage unit and public WC unit to be associated with the existing outdoor cafe and associated events.

21/02618/FUL 3rd December 2021 WDN

Proposal to retain the current temporary Orangery structure on a permanent basis

21/02618/LBC 25th November 2021 NOTREQ

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

22/00340/LBC 22nd April 2022 GRANT

Various repairs works

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 6 Building a strong, competitive economy

Section 8 Promoting healthy and safe communities

Section 12 Achieving well-designed places

Section 14 Meeting the challenge of climate change, flooding and coastal change

Section 16 Conserving and enhancing the historic environment

Adopted Cheltenham Plan Policies

D1 Design

SL1 Safe and Sustainable Living

GI1 Local Green Space

GI2 Protection and replacement of trees

GI3 Trees and Development

Adopted Joint Core Strategy Policies

SD3 Sustainable Design and Construction

SD4 Design Requirements

SD8 Historic Environment

SD9 Biodiversity and Geodiversity

SD14 Health and Environmental Quality

INF1 Transport Network

Supplementary Planning Guidance/Documents

Cheltenham Climate Change (2022)

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

4. CONSULTATIONS

Historic England - *31st August 2022*

T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990

PITTVILLE PUMP ROOM, EAST APPROACH DRIVE, CHELTENHAM,
GLOUCESTERSHIRE, GL52 3JE

Application No. 22/01439/FUL

Thank you for your letter of 15 August 2022 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

Summary

The proposed temporary retention of the café structure would be harmful to the significance of the Grade I Pumprooms and has not been justified under para 200 of the NPPF, and we object to the application. While we would not be supportive of a permanent solution on this site, we would encourage the applicant to consider alternative options that utilise the listed building or perhaps an alternative site within the park.

Historic England Advice

Significance of Designated Heritage Assets

Pittville Pump room of 1825-30, with restorations and alterations of 1949-60 was designed by John Forbes for William Pitt. Considered to be the finest in Cheltenham and constructed in ashlar over brick with slate roof and copper dome, the details based on Stuart and Revett's engravings of the Temple of Illissus. It is situated in Pittville Park (Grade II Registered Park and Garden) and the Cheltenham Conservation Area. Being of the highest heritage significance and holding wide-ranging heritage value, it is designated as grade I, and as such is in the top 2.5% of listed buildings. Therefore, greater weight should be given to its 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'.

Summary of proposals.

Following the withdrawal of a previous planning application for the permanent retention of the structure, the current application proposes the retention of the café for up to two years. We understand that the temporary structure was erected without the need for planning permission, which will expire in September 2022.

Impact of the Proposed Development

We objected to the permanent retention of the café building in December 2021 on the basis of its position and design, and the associated impacts and harm to the setting of the Grade I building. We also offered to engage with the applicant to explore alternative solutions, which was not taken up.

To summarise our objection to the proposed structure in this location, we previously advised that the proportions, design and construction of the building make for a temporary-looking addition alongside a solid and architectural flamboyant focus within Pittville Park. It sits in an elevation position with the parkland sloping down to the serpentine lake below, making for a dramatic historic landscape with reflections of the Pumproom. While the flanking elevations of the GI building are less prominent within its wider setting, the approach from West Approach Drive still provides a framed setting to the west elevation with a symmetrical focus of its architectural components.

The temporary structure has resulted in impact on the setting of the GI building, its setting contributing highly to its significance. It is most prominent from within the immediate setting by virtue of existing landscape and trees. However, its position being close to the western side of the Pumproom and level with the front colonnade compromises the experience of the symmetry of the principal façade and obstructs views of the Grade I building. In terms of the design and construction of the café structure, this is a not a bespoke design response to its setting and elements such as building proportions and the temporary visual nature of timber cladding does not responding positively to the sensitivity of its setting. The revised application includes a Planning Statement which outlines the rationale for the request for a temporary permission. The structure was added to the site for the purpose of providing outside catering during the pandemic when the government had placed restrictions on existing inside facilities. These restrictions have now ended, and the planning statement outlines that the applicant is seeking a temporary permission while a solution for a permanent building is sought.

In terms of our standard guidance on temporary structures, this can be found in the document: Temporary Structures in Historic Places (2010).

Our principle concern over the principle of retaining the structure, even on a temporary basis, is that it has not been demonstrated why the Pumprooms cannot accommodate the café, which was presumably the situation pre-pandemic? Outside seating during good weather could still be accommodated outside on the terraces. We advise that this would be the most appropriate long-term solution, which would also provide the heritage benefit of public access into the Grade I building and utilise the existing kitchen and toilet facilities. An alternative, permanent building in this location would not be acceptable or supported, particularly if there is no clear or convincing justification. We therefore advise that the applicant considers alternative options to continue the café facilities in the longer term while utilising the principal listed building in the meantime.

The temporary retention of the existing café would be harmful to the setting of the Grade I building, and there is little justification offered why the Pumproom cannot be utilised for the café business, even in the short term. This is therefore contrary to par 200 of the NPPF. We consider there to be a solution that would minimise the harm, or even remove the harm all together. If the Trust are seeking a separate new café building within the park, we would be happy to provide pre-application advice, although this should be informed by a comprehensive assessment of the significance of the wider site, where the sensitivities lie and provide a range of options for discussion.

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". 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 194 of the NPPF, the significance of the asset's setting requires consideration. Para 199 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 advice is provided in line with the importance attached to significance and setting with respect to heritage assets as recognised by the Government's revised National Planning Policy Framework (NPPF) and in guidance, including the Planning Practice Guidance (PPG), and good practice advice notes produced by Historic England on behalf of the Historic Environment Forum (Historic Environment Good Practice Advice in Planning Notes (2015 & 2017)).

Heritage assets are an irreplaceable resource NPPF 189 and consequently in making your determination your authority will need to ensure you are satisfied you have sufficient information regarding the significance of the heritage assets affected, including any contribution made by their settings to understand the potential impact of the proposal on their significance NPPF 194, and so to inform your own assessment of whether there is conflict between any aspect of the proposal and those assets' significance and if so how that might be avoided or minimised NPPF 195.

The significance of a heritage asset can be harmed or lost through alteration or destruction of the asset or development within its setting. As heritage assets are irreplaceable, any harm (whether substantial or less than substantial) is to be given great weight, and any harm to, or loss of, the significance of a designated heritage asset (or site of equivalent significance) should require clear and convincing justification.

Recommendation

Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 199, 200 and 206. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their 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.

Building Control - 15th August 2022

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

Heritage And Conservation - 29th September 2022

The proposed works are for the temporary change of use of land for up to two years for the siting of an orangery structure to be used as a cafe and the siting of ancillary toilets and storage facility. The orangery structure is comprised of a glass room supported by a dark coloured metal frame, with a white coloured soft plastic roof and a timber base, which extends to form a covered raised deck, enclosed by dark coloured metal railings and a post and rope fence, used as a patio for outdoor seating. The orangery structure and decking is used as a temporary café/bar, called Heritage Deco Cafe, associated with Pittville Pump Room.

Notably the orangery structure was originally constructed without planning permission, with the knowledge of the local planning authority, when planning enforcement was relaxed to address social distancing concerns during the Covid 19 pandemic. These restrictions have now ended. The applicant, the Cheltenham Trust, would have previously been made fully aware of the temporary nature of this relaxation and constructed the Heritage Deco Cafe with this understanding.

It is important to consider the policy context in which the proposal needs to be determined. The cornerstone of heritage legislation is the Planning (Listed Building and Conservation Area) Act 1990. In determining this application it is important to note the statutory duty of local planning authorities under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their 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.

A core principle of the National Planning Policy Framework 2019 (NPPF) is heritage assets be conserved in a manner appropriate to their significance. Chapter 16, paragraphs 199-208 set out how potential impacts on heritage assets need to be considered. This assessment takes account of the relevant considerations in these paragraphs, including paragraph 197 of the NPPF, which requires the significance of heritage assets to be sustained and enhanced, with paragraph 199 requiring great weight be given to the asset's conservation.

The context of the development site is highly sensitive in heritage terms. The Heritage Deco Cafe is located in Pittville Park and at the end of West Approach Drive, where it is prominently visible within the context a number of listed buildings, whose setting is affected by the development proposal.

These listed buildings include Pittville Pump Room, Pittville Park a grade I listed Regency pump room. Pittville Pump Room is the principle building within Pittville Park, standing to the east of Evesham Road, in the north part of the park. It was built in 1825-30 for Joseph Pitt, by the architect John Forbes. It is a square, two-storey ashlar building in the Greek Revival style, based on engravings of the Temple of Illissus, near Athens. The roof is of slate and has a central copper dome. The east, south, and west sides projecting colonnade with Ionic columns around three sides of ground floor with the upper stage set back. The main, central entrance is in the south face of the building. It is described in its list description as the finest Regency building in Cheltenham.

There is a group of similar grade II listed villas on the north side of West Approach Drive, which include Park Gate, Cleeve House and Homewood (subsequently divided villa), Beaufort House and Mount Sorrell, Italianate, dating from the early 1850s.

The site is also located in Pittville Park, a grade II listed Park and Garden laid out 1825-42 as a centrepiece for the town of Pittville, a development undertaken for the wealthy lawyer, banker, and MP for Cricklade, Joseph Pitt. It provided walks for those taking the waters at Pittville Pump Room or living in the estate.

The site is also located within the Central Conservation Area: Pittville Character Area. The area is noted within the Central Conservation Area Pittville Character Area Appraisal and Management Plan adopted 2008 (the Appraisal) for Pittville Park which creates a parkland setting for the character area and takes up approximately 50% of the total space of the character area. The park is a quintessential component of the character area. It is also noted within the Appraisal for containing the Grade I listed Pittville Pump Room, which dates from 1825. The building is seen by Bryan Little (author and historian) as being "...the supreme architectural masterpiece of Cheltenham".

Regarding the justification for the proposed works in heritage terms, it is considered the supporting information within the application does not fully recognise the significance of the site and its context and the impact the development proposal has on them. It is also considered unclear from the submitted application why the continued need for a temporary orangery structure is required given the lifting of Covid restrictions and why this use cannot be accommodated within Pittville Pump Room. Concern is therefore raised over the principle of retaining the structure in heritage terms, even on a temporary basis, as it has not been adequately demonstrated why Pittville Pump Room cannot accommodate a café without a temporary structure.

The proposal is considered to fail to meet the requirement of paragraph 194 of the NPPF, which requires an applicant to describe the significance of any heritage assets affected by a development proposal, including any contribution made by their setting, with the level of detail proportionate to the assets' importance and sufficient to understand the potential impact of the proposal on their significance. It also fails to address paragraph 200 of the NPPF, which requires any harm to, or loss of, the significance of a designated heritage

asset (from its alteration or destruction, or from development within its setting), to require clear and convincing justification.

In terms of the design of the orangery structure, it is not a tailored response to the site and its setting, the cumulative impact of its temporary appearance, scale and massing, design detailing and prominent location is considered to respond poorly to the sensitivity of its setting. The proposed orangery structure, due to its temporary appearance and prominent location, is considered to appear incongruous within its context and therefore detract from the setting of the listed buildings, the registered park and garden and the conservation area, an unacceptable impact even on a temporary basis.

The impact of the proposed works on the heritage assets is considered to neither sustain or enhance their special interest as required by Paragraph 197 of the NPPF and does not meet the requirement of paragraph 199 of the NPPF, which requires great weight be given to the asset's conservation, which includes setting. The temporary retention of the existing café is considered to cause harm to the heritage assets, which is considered less than substantial harm for the purposes of the NPPF, with a poor understanding of the affected heritage assets and justification. The development proposal does not comply with Section 16 of the Planning (Listed Building and Conservation Area) Act 1990, Chapter 16 of the National Planning Policy Framework and Policy SD8 of the Joint Core Strategy 2017.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the NPPF requires this harm be weighed against the public benefits of the proposal. It is important this exercise be undertaken as a separate exercise to the general planning balance as it is distinct from it.

Parks & Landscapes Division - 31st August 2022

For clarification, our comments submitted on 30th August 2022 are not an objection to the current application.

30th August 2022 - LOCATION: Pittville Pump Room East Approach Drive Cheltenham

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

COMMENTS: Whilst it is acknowledged that the application is for a temporary change of use, Green Space Development would be opposed to it becoming a permanent fixture beyond the proposed timescale. The view of the Pump Rooms from the lake area and along West Approach Drive are iconic to the Park and its listed setting, both of which are detrimentally affected by the orangery structure.

Kind regards
Green Space Development

GCC Highways Planning Liaison Officer - 3rd October 2022

Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 has no objection.

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained. The Highway Authority therefore submits a response of no objection.

Yours Sincerely

Development Coordinator

Environmental Health - 23rd August 2022 –

In relation to application 22/01439/FUL Pittville Pump Room, please could the below be added from Environmental Health:

Condition:

A condition for deliveries, collection of waste, and servicing of the temporary toilets to be restricted to hours of work of: Monday-Friday 07:30 to 18:00. Saturday 08:00 to 13:00. Never on Sundays or bank holidays.

Reason:

To prevent noise from legitimate use of the premises from causing loss of amenity to residential properties in the vicinity.

Ward Councillors -26th August 2022

As Borough Councillor for Pittville. I have serious concerns about the continuation of a temporary structure that effectively extends onto a Grade I listed building, especially when facilities are already available inside the Pump Room to provide wedding and dining services.

There were already concerns about the structure when it was first placed, but due to the COVID situation there was as feeling of leniency in the community as businesses were struggling and it was positive to have such a facility in a beautiful public park to encourage people to enjoy themselves safely in the open air.

That time has now gone, there is no need for this temporary structure continuing - why not still provide a cafe inside? Why not have seating under the portico still providing people the ability to enjoy themselves outside if there are additional COVID restrictions. This would provide a great service to locals and tourists while also respecting the Grade I listed building?

Historic England have already stated their concerns before. Cheltenham Trust need to look at this again and change the application.

Pittville Pump Room Revival Group - 13th September 2022

Comment from Pittville Pump Room Revival c/o 42 Clarence Square, Cheltenham GL50 4JP <https://pumproomrevival.com/>

I OBJECT to this planning application as Chair of Pittville Pump Room Revival (PPRR), a Cheltenham Borough Council-recognised community group working to ensure that Cheltenham's most important heritage building is preserved, developed, interpreted and promoted in a way that acknowledges its Grade I listed status and its significant place in Cheltenham's history.

The outside cafe in the portico was welcomed during Covid. Then, along came a temporary structure serving as a café, with an outside portable toilet trailer and an industrial storage container. The development was constructed almost 'overnight' and in secret, with no announcement or consultation with anyone in Cheltenham, not even immediate residents.

If we are to go back to life as near normal post-pandemic then the temporary structure, erected without planning permission or building controls, and this retrospective planning application for a change of land use, suffers from the following points:

1. It is a 'land grab' of public space. Can The Cheltenham Trust, which does not own any land but is the equivalent of a lessee of the Pump Room from the Borough Council, which

took over responsibility and ownership on behalf of the people of the town in 1890, erect buildings wherever it wants and can the Borough Council pass its own planning decisions, as its senior officers contend?

2. The Change of Land Use application is most likely outside of The Cheltenham Trust's 'leased listed building' curtilage of control. It is noted that the land at the rear of the building, within what is marked on the plan as the curtilage of the Pump Room, is owned and operated separately to the building as an income-generating car park.

3. The temporary café is sited just two metres away from the Grade 1 listed building; we believe its closeness is to utilise for the temporary café the alcohol licence held for the Pump Room. That siting is in direct contravention of Historic England guidance and resulted in Historic England objecting twice to planning applications by The Cheltenham Trust to legalise the erection of the structure.

4. The temporary structure housing the café is an eyesore immediately adjacent to the No.1 landmark building of Cheltenham.

5. It creates noise and smells and light pollution to local residents, removing from them the right to peaceful enjoyment of their properties.

6. Unless proved to the contrary, the development may involve the misuse of central government grant money received during the pandemic; we would not want the Borough Council to be held in disrepute as a result of the Trust's application.

7. The arrangement between The Cheltenham Trust and the Borough Council in this instance is unfair to other business operations within the town which have had to take out loans and mortgages, etc and/ or pay hefty rent and leases in order to expand their businesses.

8. We object strongly to this latest application to circumvent the law with regard to the removal of temporary structures erected under Covid-related rules.

9. The raised floor design of the temporary café is a magnet for vermin, particularly relevant in an area of the town that has suffered from high rat populations in recent years; they are regularly seen in the park.

10. The temporary structure is what it is, a temporary structure. It conflicts with Cheltenham Borough Council's 'Climate Emergency'. It will clash with plans to become a net zero carbon council and borough by 2030. It is environmentally unfriendly and will take tremendous amounts of energy to heat and light over winter as it is not fit for purpose.

11. It could jeopardise Pittville Park's hard-won Green Heritage Site accreditation. Although the judges re-accredited Pittville Park this year they were not pleased to see the temporary structure.

12. Why does The Cheltenham Trust have an unchallenged right to manage food, beverage and other services at the Pump Room when the town might be better served if the cafe operation was put out to tender? Does the Trust pay rent and rates for the temporary cafe space? The heritage of Cheltenham might be better served by putting the catering operation at the Pump Room out to competitive tender at the earliest legal opportunity. The TripAdvisor reviews on the current operations do the town no favours.

13. The bigger picture, of course, is that despite the Cheltenham Trust claiming "1.5m have visited the Pump Room temporary cafe", the reality is that the Pump Room has mostly been used as a facade backdrop for events in the park.

14. The correct solution, and one that has led to so many objections to this planning application, is to operate a cafe inside the Pump Room and under the colonnade and for this to be a catalyst for the Pump Room to become the heritage destination that the town needs to drive it forward (see the Vision and Plan for Pittville Pump Room at www.pumproomrevival.com).

15. Moving the cafe inside, and under the colonnade, would be a sensible long-term solution and might even get the Borough Council to focus on getting the mineral waters flowing again after an absence of four years. Virtually all publicity promoting the town uses images of the Pump Room and refers to spa town and waters, probably not in breach of advertising standards but not far away.

16. The planning application has no decision date, obviously by intention, and should be discussed before the full committee and speedily rejected, no matter what the recommendation made by planning officers who will be under pressure from other officers

and councillors in the Municipal Building to allow the Trust to carry on regardless of objections.

17. The business case for an inside cafe is now proven, following the release of data by The Cheltenham Trust. With 1.5million visitors to the temporary cafe (1500 on average each and every day since opening (source CT petition)).

18. Weddings are clearly a source of income for the operator of the Pump Room but only less than ten weddings per year have used the main hall, most are in the smaller rooms (source Revival minutes of meetings with the Trust). So let's assume £3000 profit per main hall wedding, minus wear and tear and repairs paid by the council, that amounts to, let's say, £30k per annum. Note that weddings will go back down to pre-Covid levels soon.

19. The Trust previously declared intentions to build a glass-like structure to the rear of the building as a cafe and restaurant (source minutes of revival /Trust meetings). Compare 19, above, with the cost of building an outside permanent café at, let's say, £800,000. The loan to fund the outside permanent café would take 26 years to pay off, even without interest.

20. All kinds of grants and fundraising would be achievable for an inside cafe, mineral water refurb, Heritage Destination enhancement. Buxton secured £42million for its major heritage works, over half from the private sector.

21. It should be noted that Cheltenham Borough Council does not have a Heritage Strategy, whereas many other Spa towns and neighbouring boroughs such as Tewkesbury and Stroud do. The creation of such a Strategy would be of considerable value to residents, developers, the planning department, Historic England, councillors and officers of the Borough Council.

22. In conclusion, PPRR believes that the revival of the Pump Room should be seen in the context of Cheltenham's new-found position as a leading centre of cyber security, both internationally and nationally. Linking the Pump Room with the global players that are setting up shop just a mile away, providing a setting for the signing of compelling contracts of such international significance, will be beneficial to the town at a much higher and more valuable level than operating our major heritage asset as a wedding venue.

Ends

Cheltenham Civic Society - 8th September 2022

On 24 Nov 21, 21/02618/FUL sought to retain the current temporary oangery structure on a permanent basis. That application was withdrawn due to widespread public opposition. That application confirmed that temporary structures/buildings may be placed on land without planning permission until 1 January 2022. This arrangement was put in place to support hospitality businesses during the COVID-19 pandemic.

Class BB was effective from 2 January 2022 (over 8 months ago) under the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 3) Order 2021. The pertinent parts of this Order as they apply to listed buildings enable permitted development of one moveable structure within the curtilage of a listed building, for a total of no more than 120 days per year, with a maximum height of 3 metres, and with a footprint of the lesser of 50% of the footprint of the building or 50 square metres, and is not to be used for advertising. The present application exceeds all these parameters, including advertising banners that have been attached to the structure.

COVID restrictions are no longer in place so the application should be considered solely on its planning merits.

The planning statement outlines that the applicant is seeking a temporary permission while a solution for a permanent building is sought. Evidently the Cheltenham Trust (CT) has failed to use the last 2 years to find a viable permanent solution to replace the temporary structure.

It is not for the planning system to compensate for an applicant's failure to manage its business in line with operating conditions, especially when the impact on heritage assets is so significant.

NPPF para 200 states that clear and convincing justification is needed if there is loss or harm to a heritage asset. This application fails to do that. In particular, the application fails to say why the Pump Room itself cannot be used to accommodate the café. This would have the benefit of bringing the building into better use and allow the building to be appreciated from the inside. The Pump Room has been closed to the public for most of the time for so long, even before Covid, that it is almost as though the Trust does not want people to appreciate it or use it.

NPPF para 194 requires the significance of the asset's setting to be considered. Para 199 states that, in considering the impact of proposed development on significance, great weight should be given to the asset's conservation: the more important the asset the greater the weight should be. The Pump Room is a Grade I listed building that sits within Pittville Park, a Grade 2 listed parkland on the English Heritage Register of Historic Parks and Gardens.

Pittville Park forms approximately half the total space of the Pittville Character Area of the Central Conservation Area. It is an essential component of the character area. The Park was awarded Green Flag and Green Heritage Site status and is the only park in Gloucestershire to hold the prestigious Green Heritage award. The application fails to acknowledge this significance. It fails to demonstrate how the setting is enhanced by this temporary structure. The Civic Society believes the Park is affected detrimentally by the structure, particularly the views from East Approach Drive and looking northwards from Pittville Lake towards the Pump Room.

NPPF para 190 requires proposals to set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. The proposal is silent on this critical matter.

The NPPF advises that such a strategy should take into account:

- (a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
- (b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- (c) the desirability of new development making a positive contribution to local character and distinctiveness; and
- (d) opportunities to draw on the contribution made by the historic environment to the character of a place.

The café is an important economic consideration, especially to the financial viability of CT, but that function can be carried out in other ways without these temporary structures and without compromising the important and significant heritage structures or the surrounding heritage context. The application fails to demonstrate why the Pump Room cannot be used to achieve these considerations without the need for such a poor quality temporary structure (indeed, CT's failure to appreciate the heritage significance of the Pump Room is demonstrated in its branding of the temporary structure as a 'Deco Café', which ignores the Pump Room's Georgian and Regency richness). Alternatively, there is land behind the Pump Room that could accommodate a café.

The Civic Society opposes this application and recommends the land now be reinstated, in accordance with the legislation. The CT should without delay work to find an acceptable permanent solution that respects the outstanding heritage qualities of the Pump Room and its setting.

Tree Officer - 26th August 2022

The Trees Section has no objection to this application.

Property Services - 2nd September 2022

Further to your recent correspondence in respect of the above planning application, the various planning and associated arguments put forward for the proposals are acknowledged. We will, therefore, accede to the judgement of the Local Planning Authority to determine this application appropriately and as landowner, have no objection in principle in terms of the planning issues.

5. PUBLICITY AND REPRESENTATIONS

- 5.1 31 letters were sent to neighbouring land users, two site notices were displayed (one at the end of West Approach Drive and one at the end of East Approach Drive), the application was also advertised by way of a notice published in the Gloucestershire Echo.
- 5.2 In response to this public consultation process the following number of representations have been received:
- 38 individual letters of objection
 - 11 individual letters of support
 - 11 petitions in support
- 5.3 The concerns raised in the letters of objection have been summarised but are not limited to:
- Inappropriate design
 - Impact/harm on heritage assets
 - Impact on amenity – loss of privacy, noise and disturbance
 - Highways – congestion and parking
 - Health and safety
 - Orangery unnecessary as use could be accommodated within the existing building
- 5.4 The reasons given in support of the application have been summarised and include the following:
- Economic benefits
 - Social benefits

6. OFFICER COMMENTS

6.1 Determining Issues

6.2 The key considerations of this application are impact on heritage assets, design, public benefits, impact on neighbouring amenity and highways related matters.

6.3 The site and its context

6.4 As already noted in the introduction to this report, the application site relates to the Pittville Pump Room, which is a Grade I listed building located within the northern part of Pittville Park which is a registered park and garden. The site also falls within Cheltenham's Central Conservation Area and Pittville Character Area.

- 6.5 The orangery has been erected on an area of hardstanding to the east of the Pittville Pump Room, with the toilet block and storage container located further north and towards the rear of the building. The orangery measures approximately 15 metres by 9 metres and has a ridge height of approximately 4 metres. The frame of the structure is made of steel in anthracite grey and includes double glazed wall panels and doors. It also provides ramp access points and an external decking area. The toilets are contained within a moveable structure and the storage facility comprises of a shipping container.
- 6.6 In terms of the wider context, the surrounding development is predominantly made up of residential dwellings. The properties to the north of West Approach Drive consist of detached and semi-detached properties, all but one of these are Grade II listed, to the south are two large detached buildings which consist of residential flats, one of which is locally listed. On East Approach Drive the properties to north of the highway are detached, some of which are locally listed, and properties to the south of the highway are made up of two storey terraced properties, all located within the conservation area.
- 6.7 The orangery structure is fully visible on the approach to the Pump Room building along West Approach Drive, is also visible from within Pittville Park when looking north and a small section can be seen when approaching from the east.
- 6.8 **Impact on heritage assets**
- 6.9 The application site has a particularly sensitive location, the proposed development affects a number of designated heritage assets including the setting of the Grade I listed Pump Room, the Grade II registered park and garden, the conservation area in which it sits and a number of listed buildings that surround it. Both the Council's conservation team and Historic England were consulted on this application and their detailed comments can be read in section 4 above. In addition, comments have also been received from the Pittville Pump Room Revival Group and Cheltenham's Civic Society.
- 6.10 Policy SD8 of the JCS relates to the historic environment and states how *'Designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance'*. Section 16 of the NPPF also echoes the importance of conserving and enhancing heritage assets.
- 6.11 As required by the NPPF paragraph 199, *'great weight should be given to the assets conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'*. Furthermore, paragraph 200 of the NPPF states that *'any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.'*
- 6.12 Concerns and objections to the application have been raised by Cheltenham's Conservation Officer, Historic England, the Civic Society and the Pittville Pump Room Revival Group.
- 6.13 Comments from Cheltenham's Conservation Officer highlighted that the supporting information within the application did not fully recognise the significance of the site, its context, or the impact of the development on the heritage assets, and therefore failed to comply with paragraph 194 of the NPPF which requires applicants to describe the significance of any heritage assets affected by the development. The conservation officer also noted that clear and convincing justification had not been provided which also failed to comply with paragraph 200 of the NPPF, something that was also raised in comments from the Historic England and the Civic Society. It should however be noted that a justification statement was subsequently received on 6th October 2022, this statement also includes a project timeline for the future plans of the site.
- 6.14 The conservation officer considers that the orangery fails to respond to the sensitive setting in which it sits by virtue of its temporary appearance, scale, massing, design

detailing and prominent position in which it is located. The development is considered to read as an incongruous addition in this context and detracts from the setting of the designated heritage assets. The conservation officer concludes that the development will neither sustain nor enhance the special interest of the heritage assets as required by paragraph 197 of the NPPF and therefore does not meet the requirements of paragraph 199.

6.15 Historic England, a statutory consultee for applications that affect a Grade I listed building, have raised an objection to this application. Their summary states *'The proposed temporary retention of the café structure would be harmful to the significance of the Grade I Pump rooms and has not been justified under paragraph 200 of the NPPF.'* This is a conclusion also made in comments from the Civic Society and Pittville Pump Room Revival Group.

6.16 The local ward councillor for Pittville has also raised similar concerns to those set out above.

6.17 **Public benefits**

6.18 When considering public benefits, the NPPF itself does not define what public benefits are for this purpose. Further guidance is given in the Historic Environment Chapter of the PPG. This refers to anything which delivers the economic, social or environmental objectives of sustainable development described in paragraph 8 of the NPPF. Those objectives are defined in paragraph 8 of the NPPF as follows:-

(a) Economic - to help build a strong, responsive and competitive economy

(b) Social - to support, vibrant and healthy communities

(c) Environmental - to contribute to protecting and enhancing the natural, built and historic environment.

6.19 The PPG makes clear that the public benefits must flow from the development and must be of a nature or scale that would benefit the public at large but these benefits do not always have to be visible or accessible to the public or to all sections of the public to be genuine public benefits.

6.20 In terms of benefits, the supporting planning statement identifies that the café has been a huge success since its implementation and has generated a significant increase in revenue for the Cheltenham Trust. The statement also identifies that The Cheltenham Trust is a non-profit organisation and uses its funds to re-invest in to the town by way of maintaining much of Cheltenham's heritage, whilst also being the lead provider of culture, heritage, sport, leisure and entertainment. The statement highlights that the success of the café and the money that it has generated will allow the Cheltenham Trust to deliver their annual programme of free and inclusive events, as well as delivering the social benefits of providing a place for members of the public to meet and experience the assets that Cheltenham has to offer.

6.21 The justification statement received on 6th October 2022 touches on the benefits of this development and also details how the retention of the orangery and café use will enable a more permanent solution to be developed, the statement includes a project time line on how this would be achieved within the next 2 years and is the applicants justification for the 2 year temporary consent that is being sought.

6.22 It is quite clear that the café provides significant economic benefits, as well as social benefits to the wider public and to Cheltenham in general. However, the requirement of paragraph 202 requires these benefits to be weighed against any harm to the designated heritage assets. This is discussed in the next section of this report.

6.23 Impact on heritage assets versus public benefits test

- 6.24 Significant concerns regarding the impact of the orangery on the various designated heritage assets, most notably the setting of the Grade I listed building have been raised by a range of consultees, local residents, community groups and ward councillors. The conservation officer has identified the level of harm as being 'less than substantial', and officers agree with this assessment. With this being the case, paragraph 202 of the NPPF is relevant to the considerations of this application. Para 202 states 'Where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.'
- 6.25 Clear public benefits have been identified, this includes the economic benefits which in turn would be reinvested in to Cheltenham, as well as the obvious social benefits by providing a place for Cheltenham residents and tourists to enjoy social gatherings within the setting of one of Cheltenham's most well-known listed buildings and registered park and gardens. It should however be noted that this is not the only café facility that currently provides this type of facility/use within Pittville Park.
- 6.26 A point raised by the consultees and also in a number of letters of representation from the public highlights a lack of information or reasoning within the application to understand why the café use cannot be provided within the existing Pump Room building, this would negate the need for the orangery structure, but would still provide the noted public benefits associated with the use.
- 6.27 Officers are also mindful that the orangery structure was only allowed to be erected on a temporary basis due to the relaxations imposed by the Council in direct response to the COVID-19 pandemic and the need for social distancing. Under no other circumstances would these structures have been allowed. The government are no longer imposing any social distancing requirements, nor are there any restrictions regarding indoor activities. Therefore officers no longer consider there to a need for such a structure.
- 6.28 As noted above, a justification statement has been submitted, albeit quite late in the decision making process. The information and reasons provided within the statement are not considered to provide sufficient justification for the development which results in harm to the designated heritage assets, particularly as officers believe the benefits associated with the café use could still be achieved without the need for the orangery structure.
- 6.29 Officers duly note that the application is seeking consent for a temporary 2 year period and therefore harm could be considered as temporary, however, the structure is prominently located in front of one of the principle elevations of the Pump Room Building and therefore has a significant impact on this designated heritage asset and its surroundings. Furthermore, due to its temporary nature the scale, form, design and finish of the structure is not considered to be appropriate and results in further harm to the setting of this designated heritage asset.
- 6.30 Whilst officers fully acknowledge the social and economic benefits associated with the development and use as a café, on balance, these benefits are not considered to outweigh the harm that the orangery has on the setting of the Grade I listed building, the registered park and gardens and the surrounding designated heritage assets, even on a temporary basis.

6.31 Impact on neighbouring property

- 6.32 It is necessary to consider the impact of development on neighbouring amenity. JCS Policy SD14 and Cheltenham Plan Policy SL1 state how development should not cause unacceptable harm to the amenity of neighbouring properties. The Local Authority will consider matters such as potential loss of light, loss of privacy, loss of outlook, noise disturbances and overbearing impact.

- 6.33 Policy SD14 of the JCS and Cheltenham Plan Policy SL1 require development to not harm the amenity of adjoining neighbours.
- 6.34 Due to the position of the structure within the site, its height and its relationship with neighbouring land users, the proposal is not considered to result in any unacceptable loss of light or overbearing impact on any neighbouring land user.
- 6.35 Concerns from local residents have been raised regarding the impact of the development in terms of a loss of privacy, as well as noise and disturbance associated with the use of the café. The nearest residential properties and therefore those most impacted by the development are those properties directly to the west of the site located on West Approach Drive, this includes the properties known as Park Gate and Chaseley Lodge, which are approximately 30 metres away from the Orangery. The specific concerns raised by these local residents include the general noise and disturbance associated with the use of the facility, the noise created by deliveries to the site, as well as the setup of the café each day which requires the transportation of equipment and food stock from the Pittville Pump Room building to the Orangery itself.
- 6.36 It is important to note that the café business operates from within the Orangery structure, rather than simply being an area for external seating, which is the case for the application within Montpellier Gardens.
- 6.37 Due to the sloping nature of the site, the construction for the base of the orangery has created a platform area that is raised above the existing ground level, whilst this is duly noted, due to the distance from the neighbouring properties, officers do not consider that the development results in any unacceptable overlooking or unacceptable loss of privacy to any of the adjoining residential land users.
- 6.38 Officers acknowledge that the use results in an increase in deliveries to the site, potential noise and disturbance resulting from the general use of the facility as well as from the day to day operational needs. Officers consider that whilst the use may cause an impact on amenity, the operating hours, as set out in the application form are not considered to be unreasonable. These are stated as Monday – Friday 09:30 – 17:00, Saturdays 09:30 – 19:00 and Sundays 09:30 – 17:00.
- 6.39 Officers do however raise concerns with regards to the disturbance associated with deliveries, waste collection and servicing of the facilities and therefore would seek to control such activities if permission were to be granted. The Council's Environmental Health team have reviewed the application and have suggested a condition which would restrict the times for such operations, these being Monday – Friday 07:30 to 18:00, Saturdays 08:00 – 13:00 and never on Sundays and bank holidays. Officers agree with this suggested condition and would seek to impose such a condition in order to protect the amenity of the neighbouring land users and in order to comply with Cheltenham Plan policy SL1 and JCS policy SD14.
- 6.40 **Access and highway issues**
- 6.41 Adopted JCS policy INF1 sets out that planning permission will only be granted where the impact of the development is not considered to be severe.
- 6.42 Comments within a number of representations raise concerns regarding increased traffic and parking congestion which have been duly noted.
- 6.43 Gloucestershire County Council as the Local Highways Authority has been consulted on this application and their detailed comments can be read above. No objection has been raised and they conclude that the development does not result in an unacceptable impact on highway safety or result in a severe impact on congestion. The proposal is therefore considered to be compliant with adopted JCS policy INF1.

6.44 Sustainability

6.45 As members will be aware Cheltenham adopted the Climate Change SPD in June 2022. The SPD sets out a strategy for decarbonising buildings and other development in order to help Cheltenham meet its target of becoming carbon neutral by 2030.

6.46 In this instance the development is for a temporary structure and is proposed for a temporary period of up to 2 years, this therefore means there is little opportunity to include specific low carbon technologies. However, a sustainability statement has been provided which details how the orangery is acceptable and accords with the SPD. Particular points such as ventilation, solar gain, natural light, heating, cooling and lighting are all discussed in the statement. It identifies that the electricity supply serving the development is from a renewable energy source. Given the temporary nature of the structure, officers consider the detail included within this statement to be acceptable and the proposal to be compliant with the SPD.

6.47 Other considerations

6.48 A number of trees are located within close proximity of the development, the council's tree officer has therefore been consulted. No concern or objections have been raised, the development is therefore not considered to result in any harmful impact on the existing trees and therefore accords with Cheltenham Plan Policy GI2.

6.49 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, whilst the café may well be considered to be acceptable in terms of its use, impact on neighbouring amenity, highway safety and congestion, the concerns regarding the impact of the orangery structure on the character and setting of the Grade I listed building, the registered park and garden and surrounding heritage assets are not considered to be outweighed by the identified public benefits and therefore officer recommendation is to refuse the application.

8. REFUSAL REASONS

- 1 By virtue of the scale, form, design and siting of the development in relation to Pittville Pump Room, a Grade I listed building, the development is considered to represent harm to this designated heritage asset, the level of harm is considered to be less than substantial. The public benefits associated with the development are not considered to outweigh the harm that has been identified and therefore the development is considered to be unacceptable in heritage terms. The proposal therefore fails to comply with Cheltenham Plan policy D1, Adopted JCS policies SD4 and SD8, and section 16 of the NPPF.

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 authority cannot provide a solution that will overcome the harm to designate heritage assets;

As a consequence, the proposal cannot be considered to be sustainable development and therefore the authority had no option but to refuse planning permission.