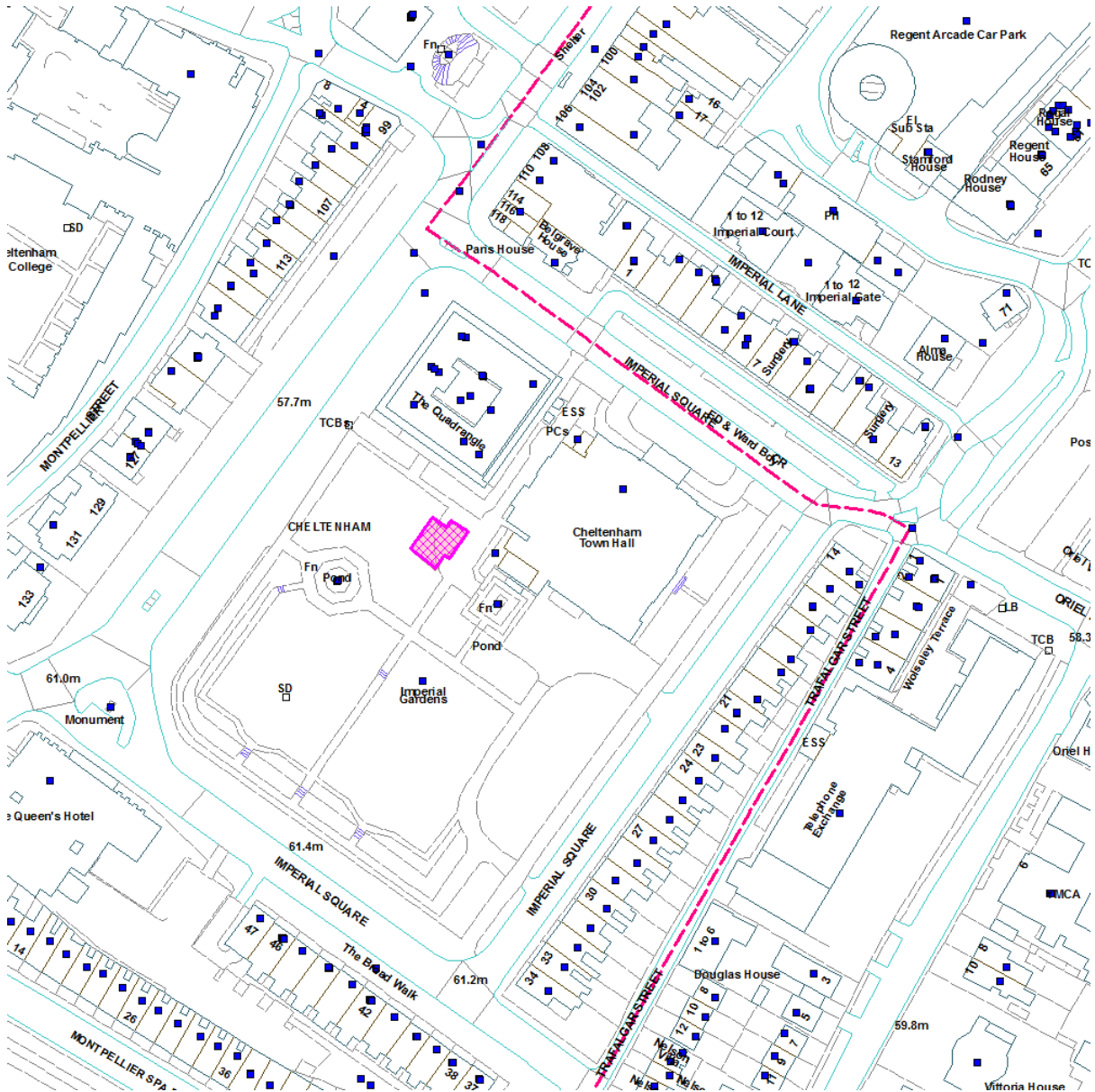


APPLICATION NO: 22/01438/FUL	OFFICER: Miss Claire Donnelly
DATE REGISTERED: 10th August 2022	DATE OF EXPIRY: 5th October 2022; extension of time agreed to 21st October 2022
DATE VALIDATED: 10th August 2022	DATE OF SITE VISIT:
WARD: Lansdown	PARISH: n/a
APPLICANT:	The Cheltenham Trust
AGENT:	Evans Jones Ltd
LOCATION:	Cheltenham Town Hall Imperial Square 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

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application relates to the Garden Bar which is located within the Imperial Gardens to the rear of the Town Hall. Imperial Garden is a designated public green space. The site is within the Montpellier Character Area of Cheltenham's Central Conservation Area.
- 1.2 The Cheltenham Trust benefitted from the Council's relaxation of enforcement for temporary structures which was put in place to help and support the successful running of businesses and organisations within the town to ensure they remained open and viable due to the COVID-19 restrictions/guidance and provide more physical space to accommodate social distancing and safer operations. In June 2020 a marquee was erected, however in August 2021 a more secure structure was required which led to the replacement of the marquee with the orangery structure that is currently in place. The Council decided to bring an end to the temporary relaxation of enforcement on 30th September 2022 given that COVID-19 restrictions have come to an end. Any businesses seeking to retain their structures past this date, were required to seek the necessary consents for their retention.
- 1.3 In this instance The Cheltenham Trust are seeking consent for the retention of the structure and use as a café/bar for a further period of up to two years.
- 1.4 The Cheltenham Trust have confirmed in a supporting statement that during the two year temporary consent, a more permanent solution would be explored; a timeline of this has been set out within the statement received 6th October 2022.
- 1.5 It is important to note that The Cheltenham Trust are also seeking temporary consent for the retention of a similar structure and change of use of the land for use as a café at The Pittville Pump Rooms; this is being considered under application ref. 22/01439/FUL.
- 1.6 The application is at planning committee as the applicant is The Cheltenham Trust and the structure is sited on Cheltenham Borough Council owned land.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport Safeguarding over 45m
Business Improvement District
Conservation Area
Core Commercial Area
Principal Urban Area
Smoke Control Order

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 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

SD3 Sustainable Design and Construction
SD4 Design Requirements
SD8 Historic Environment

SD14 Health and Environmental Quality
INF1 Transport Network

Cheltenham Plan Policies

D1 Design
SL1 Safe and Sustainable Living
GI2 Protection and replacement of trees
GI3 Trees and Development

Supplementary Planning Guidance/Documents

The Cheltenham Climate Change SPD (adopted June 2022)
Central conservation area: Montpellier Character Area and Management Plan (Feb 2007)

4. CONSULTATIONS

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

4th October 2022 –

The proposed works are for the temporary change of use of land for up to two years for the continued siting of an orangery structure. The orangery structure is comprised of a glass room supported by a dark coloured metal frame, with a soft plastic roof and a timber base which extends from a raised deck, surrounded by a post and rope railing, used as a patio for outdoor seating. The orangery structure and decking is used as a temporary café/bar, called Garden Bar, and is associated with Cheltenham Town Hall. It is located in close proximity to the outdoor Garden Bar attached to Cheltenham Town Hall, whose informal outdoor seating area previously spilt out into Imperial Gardens.

Notably the orangery 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 Garden Bar 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 Garden Bar is located where it is prominently visible in the central, northern area of Imperial Gardens, with the roads surrounding it, Imperial Square and Promenade, forming part of a planned Regency square. The surrounding Regency square has a high number of listed buildings around it, many of which are grade II* listed, whose setting is considered to be affected by the development proposal.

The listed buildings within the context of the site and whose setting is affected by the development proposal include but are not limited to: Cheltenham Town Hall, a grade II listed Edwardian municipal building; 14-34 Imperial Square, a grade II* listed terrace of Regency townhouses; 99-119 Promenade, a grade II listed terrace of regency townhouses; 121 and 123 Promenade, a grade II* a pair of semi-detached regency villas; 125 and 127 Promenade, a grade II* a pair of semi-detached regency villas; 129 (Gloucester Lodge) and 131 (Sherborne Lodge) Promenade, grade II* a pair of semi-detached Regency villas; 133 (Clarence House) Promenade, grade II* Regency villa; and The Queen's Hotel, Imperial Square, a grade II* listed Regency Hotel.

The site is also located within the Central Conservation Area: Montpellier Character Area. The area is noted within the Central Conservation Area Montpellier Character Area Appraisal and Management Plan adopted 2007 (the Appraisal) for predominantly containing Regency buildings, with the presence of many complete and uniform formal terraces, large villas set within spacious grounds. It is also noted within the Appraisal for containing three important areas of public open space, which includes Imperial Gardens. These formal gardens are stated as greatly enhancing the character and appearance of the Montpellier, and the setting of surrounding buildings. The Appraisal also notes the Promenade, which contains the town centre's southern spine and one of the town's most visually striking streets.

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. 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 the Town Hall or within the open air as it previously operated. Concern is therefore raised over the principle of retaining the structure, even on a temporary basis, in heritage terms as it has not been demonstrated why Cheltenham Town Hall cannot accommodate the bar without a temporary structure.

The proposal is therefore 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 within Imperial Gardens and surrounding context 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 Imperial Gardens and the setting of the affected heritage assets, an unacceptable impact even on a temporary basis.

The impact of the proposed works on the setting of listed buildings and the conservation area 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 bar is considered to cause harm to the setting of the affected listed buildings, which is considered less than substantial harm for the purposes of the NPPF, with poor understanding of the affected heritage assets and justification. The development proposal does not to 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. If consent is granted due to the public benefits associated with the development proposal being considered to outweigh the harm, it is advised it be made clear to the agent and applicant within an informative as part of the decision notice that further renewal of any temporary consent would not be granted, as this by proxy would unacceptably prolong this harmful impact on the affected heritage assets.

The Victorian Society

13th September 2022 -

RE: 22/01438/FUL | Temporary change of use of land for up to two years for the siting of an orangery structure to be used as a cafe | Cheltenham Town Hall Imperial Square Cheltenham Gloucestershire GL50 1QA

The Victorian Society was informed of this application by a concerned member of the public. We object to the proposal.

Cheltenham Town Hall is a significant Grade II listed building by the important local architect F W Waller. Designed in 1901, it represents one of the most important buildings in the town that postdates its development in the Regency Period. Although the Town Hall's principal elevation is on the north-eastern side of Imperial Square, it still sits within Imperial Gardens and can be appreciated on all sides, this is an important part of its character.

This proposal is to retain a temporary 'orangery' structure for a period of 2 years which was erected under Permitted Development Rights during the Covid-19 pandemic, and which has remained in place despite contravening current Permitted Development Rights for temporary buildings on at least three accounts (height of the structure, period of use, and display of advertisements within/on the structure). While we appreciate the submission of an application to regularise this situation, we are concerned about the harm the retention of the structure will cause to the setting of the listed building.

The structure, by its temporary nature, is not of a design quality appropriate for its location next to prominent listed building and within a public space of high significance.

Furthermore, the siting of the structure relates poorly to the formal layout of Imperial Gardens. These combined mean that the temporary structure detracts from the listed building and its setting. Considering this harm, the temporary structure should not remain in place any longer than is strictly necessary.

The Victorian Society understands the economic benefit the temporary building has created and given that historically there was a large winter garden in Imperial Gardens we recognise that there is an opportunity for a permanent building in this area. However, any proposed building must be of the highest design quality and sensitive to the nearby heritage assets. If the applicant is considering this, we urge them to consult the Victorian Society at an early stage in the development of plans.

The NPPF is clear about the desirability of sustaining and enhancing the significance of heritage assets, and that 'Local planning authorities should look for opportunities for new

development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance.' The retention of this building for a further 2 years would not better enhance the significance of the listed building. Therefore, we object to the proposal.

Cheltenham Civic Society

8th September 2022 –

Cheltenham Civic Society believes that only a one year, and final, extension should be allowed. The orangery in Imperial Square was erected in August 2021 as a temporary structure without planning permission under arrangements put in place to support hospitality businesses during the COVID-19 pandemic. These arrangements were originally to run until 1 January 2022, but were reviewed and extended till the end of September 2022. A proposal (21/02620/FUL) was made last November to retain the current temporary orangery structure on a permanent basis, but this was withdrawn in December.

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. We doubt that the current structure, and the way in which it is operated, are fully in compliance with these conditions.

COVID restrictions are no longer in place and the extension till September is about to expire, so the present application should be considered solely on its planning merits.

The orangery lies within the curtilage of the Grade II listed Town Hall and intrudes into one of the finest squares in Cheltenham, whose gardens are greatly valued by residents and visitors. The accompanying heritage statement argues that the "modest temporary structure is discreetly and unobtrusively positioned against the backdrop of the less sensitive southern and western elevations of the Town Hall". The planning statement says the Cheltenham Trust (CT) are actively working on securing a permanent building design that is appropriate to the historic setting, but that this will inevitably take time.

Issues

The Civic Society recognises the popularity of the café and that there is a need for a permanent facility of this kind at the edge of Imperial Square. This is well borne out by the letters of support that the proposal has attracted. The Society also recognises the importance of the income generated by the café for the finances of the CT.

However, the current design is not satisfactory: it both looks and is lightweight and temporary. It is poorly insulated and would doubtless fail the test of carbon efficiency introduced by the Council's new Climate Change SPD. It does not enhance the setting of the Town Hall. Also, it is now spilling out with picnic tables encroaching into the green space around.

Moreover, this application cannot be assessed in isolation from other potentially intrusive uses of Imperial Square, notably the temporary use of a large part of it as a skating rink and the occasional erection of an outdoor cinema and a Ferris wheel. The cumulative effect is to alter the character of Imperial Square so that it becomes less of a place where one can find peace and quiet off the busy Promenade.

The Civic Society accepts that a café is needed in the square but the urgent need is to find a better and permanent solution than the one in place now. The society is therefore disappointed that the CT seeks a full two year extension to the temporary use in order to

come up with proposals for a permanent scheme. Such work should have put in hand months ago.

Recommendation

We urge the council to:

- Agree to a one year extension only
- Call upon the CT to come up with a permanent scheme by the end six months which respects the historic character of the Town Hall and Imperial Square
- Make it categorically clear to CT that no further temporary permission will be granted.

Historic England

16th August 2022 –

We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. If you would like detailed advice from us, please contact us to explain your request.

Environmental Health

23rd August 2022 –

In relation to application 22/01438/FUL Cheltenham Town Hall, please could I request a condition on the following lines, should permission be granted.

Condition:

The operational hours to be restricted to those detailed in the application: Monday to Friday 11:00-20:00. Saturday 11:00-22:00. Sundays and Bank Holidays 11:00-17:00.

Reason:

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

Tree Officer

19th August 2022 -

Whilst there are existing flowering pear trees within the footprint of this application, they pre-existed the development and as such the Orangery has been built taking these trees into account.

It is not envisaged that the trees concerned will not grow to such an extent within the next 2 years that the build will need modifying or the trees need pruning.

As such the CBC Tree Section does not object to this application.

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.

Parks & Landscapes Division

31st August 2022 –

Green Space Development do not object to this application recognising the value of the café to the Cheltenham Trust. We would like to be involved as plans develop for a more permanent solution, beyond the timescales of this application, recognising that Imperial Gardens is an important public open space.

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

Number of letters sent	n/a
Total comments received	11
Number of objections	1
Number of supporting	9
General comment	1

- 5.1 The application was publicised by way of a number of site notices erected around Imperial Gardens, and an advert in the Gloucestershire Echo; eleven responses have been received; as shown in the above table.
- 5.2 In addition to the comments received as set out above, there have been 11 petitions submitted in support the proposed structure.
- 5.3 A summary of the main comments raised are set out below:

Support

- Platform for encouraging and supporting local artists/businesses
- Creates a sense of community and a place to meet and socialise
- Provides employment
- Key role for the town's economy
- Area with open space
- Income for the Trust and re-investment into the town/heritage assets

Objections

- Nuisance and noise issues from live music events and suggest a number of conditions to ensure nuisance is kept to a minimum
- Uses up green space within the town
- Sets a precedent
- Area of café/bar is spreading beyond the structure

6. OFFICER COMMENTS

6.1 Determining Issues

6.2 The key considerations for this application are;

- The impact on designated heritage assets,
- The public benefits of the structure/use,
- The impact on neighbouring amenity,
- Any highway implications as a result of the proposed use and structure,
- Sustainable development, and
- Impact on trees.

6.3 **The site and its context**

6.4 As outlined in the introduction, the Cheltenham Trust has benefitted from the Councils relaxation of enforcement for temporary structures, however this relaxation has now come to an end. The structure was erected in August 2021 is now sought to be retained along with a temporary change of use of the land.

6.5 The site relates to the existing Garden Bar which is located to the rear of the Cheltenham Town Hall within the Imperial Gardens. The site is surrounded by a number of listed buildings to the East, South and West of the application site, as well as the grade II listed Town Hall for which the application relates to. The Garden Bar was in operation prior to the COVID-19 pandemic, however provided external seating only.

6.6 The proposed orangery structure has been erected on a grassed area to the front of the existing Garden Bar. The orangery has a footprint of 10 metres by 10 metres, and a pitched roof with a maximum height of approximately 4.3 metres. The structure has a grey steel frame, with glazed panels to form the side elevations and pvc panels to the roof. To the front (west) of the structure is an L-shaped raised decked area which wraps around to the side (south) of the structure providing additional external seating.

6.7 Surrounding the site is a mix of residential, commercial, restaurant/bar/cafe uses, and is located within the core commercial area of Cheltenham's town centre.

6.8 **Heritage impacts**

6.9 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.

6.10 Paragraph 199 of the NPPF states:

“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

6.11 Paragraph 200 of the NPPF states:

“Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.”

6.12 The proposed structure is sited to the rear of the grade II listed Town Hall; the structure is not fixed to the listed building. The structure is sited within the Imperial Gardens which is surrounded by a number of grade II* listed buildings to the East, South and West of the application site.

- 6.13 Concerns and objections have been received by the Council's conservation officer, the Civic Society and The Victorian Society; all comments received can be read above.
- 6.14 The conservation officer sets out that the supporting information does not fully recognise the significance of the site and its context, nor does it set out the need for the continued retention of the structure following the lifting of COVID-19 restrictions and why the café/bar cannot go back to its previous open air operation. The retention of the structure, even on a temporary basis, is not considered by the conservation officer to sustain or enhance the special interest of the designated heritage asset. It has therefore been identified that the structure is considered less than substantial harm when assessed against the NPPF.
- 6.15 Following the receipt of the conservation officers comments, the applicant has submitted a further justification statement (received 6th October 2022) which sets out a timeline for the future plans of the site. This statement also sets out that the structure would provide for the Garden Bar to be open year round which is vital for The Cheltenham Trust economically; this consideration is covered in detail below.
- 6.16 Whilst a level of harm has been identified by the conservation officer, officers are mindful that the principle elevation of the listed Town Hall fronts Oriel Road. The proposed structure is located to the rear of the Town Hall and therefore the principle elevation and key views of the listed Town Hall would not be obscured by the structure. The conservation officer comments also state that the setting of the conservation area and listed buildings surrounding Imperial Gardens would be impacted; however whilst these comments have been noted, the structure is seeking consent on a temporary basis and therefore any wider harm would be temporary.

6.17 **Public benefits**

- 6.18 As discussed above, the development is considered to result in harm to the setting of the grade II listed Town Hall, and other the surrounding listed buildings. The conservation officer has identified the proposed structure would result in harm to the designated heritage assets and that level of harm to be less than substantial. As such, Paragraph 202 of the NPPF is relevant.

- 6.19 Paragraph 202 of the NPPF states:

“Where a development proposal 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...”

- 6.20 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 these objectives are as follows:
- a) Economic - to help build a strong, responsive and competitive economy;
 - b) Social - to support strong, vibrant and healthy communities; and
 - c) Environmental - to protect and enhance our natural, built and historic environment.
- 6.21 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.

6.22 The applicant has submitted a planning statement and supporting information which sets out justification for the temporary retention of the orangery structure in regards to economic, social and environmental benefits.

6.23 Economic benefits

6.23.1 The supporting statement sets out that The Cheltenham Trust is a 'not for profit charity' that manages five iconic venues in Cheltenham owned by Cheltenham Borough Council, and is the guardian of much of the town's heritage and the lead provider of culture, heritage, sport, leisure and entertainment. The Cheltenham Trust therefore uses its funds to re-invest into these iconic venues to sustain these important, historic venues and actively contributing to the local and visitor economy.

6.23.2 Due to the threat of insolvency as a result of the pandemic and government restrictions, opportunities to use outdoor spaces for income generators were sought by The Cheltenham Trust leading to the erection of the marquee structure, then the orangery structure to provide a year round weather protected seating area to be associated with the existing Garden Bar.

6.23.3 The supporting information identifies that The Garden Bar café has been a huge and growing success since the structure was erected in June 2020 which has generated a significant increase in revenue for the Cheltenham Trust and therefore contributing sizeable revenue to put back into contributing to the local and visitor economy.

6.23.4 The supporting statement sets out:

'Without the cafes the Trust would not be in a position to host, or deliver these events [free, accessible events throughout the year], or to provide investment to sustain and maintain the iconic listed buildings that now attract thousands of visitors helping to boost the local and visitor economy and place Cheltenham firmly back on the map following the pandemic'.

6.23.5 Officers therefore acknowledge that The Cheltenham Trust has clearly set out the economic benefits of the proposed structure and the café/bar use has contributed to The Cheltenham Trust and how this revenue has allowed the organisation to remain viable as well as being able to continue its investment into the town and special historic venues.

6.24 Social benefits

6.24.1 The supporting information has set out how The Cheltenham Trust supports the local community by hosting free and accessible events, as well as creating popular visitor destinations. Within the comments received during the public consultation period, a number of residents have identified how the café provides a space for socialisation and meet ups, and creates a sense of community.

6.25 **Impact on heritage assets versus public benefit test**

6.26 As set out in the conservation officers comments, and discussed above, harm to the setting of designated heritage assets has been identified. With this in mind the identified harm shall be weighed against the public benefits of the scheme as per paragraph 202 of the NPPF.

6.27 The Cheltenham Trust have clearly identified public benefits of the scheme which include economic benefits; seeing revenue reinvested back into the Town as well as important heritage assets, and social benefits; providing a place for local residents and tourists to enjoy social gatherings. It has been demonstrated that the since the structure has been

erected The Cheltenham Trust income has increased which has enabled the continued running of The Cheltenham Trust and protection of key sites and events within the Town.

6.28 Whilst harm to the setting of designated heritage assets, adjacent to and surrounding the application site has been identified, it is considered here that due to the location of the structure to the rear of the listed Town Hall, the impact upon this heritage asset is lessened as key views of the building and wider designated heritage assets would not be obscured.

6.29 Officers are also mindful that the structure was only allowed to be erected on a temporary basis due to the relaxation in enforcement initiative imposed by the Council in direct response to the COVID-19 pandemic and the associated restrictions put in place by the Government. Officers have taken into consideration when determining the impacts as a result of this proposal, that The Cheltenham Trust are seeking a two year temporary permission whilst a more permanent solution to provide the existing facilities is explored and developed. The Cheltenham Trust submitted a justification statement for the temporary permission, albeit late in the decision making process, that sets out a clear timeline to explore a permanent solution.

6.30 On balance, taking all of the above into consideration; the public benefits are considered to tip the balance in favour of the application when considering harm to heritage assets in this instance. The location of the structure to the rear of the listed Town Hall, the two year period in which the structure would remain and the public benefits are considered to tip the balance in terms of acceptability, and therefore the structure is considered to be acceptable when assessing the heritage impacts against the public benefits.

6.31 Impact on neighbouring property

6.32 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.

6.33 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.

6.34 Concerns have been raised by local residents in regards to a nuisance from noise generated from the proposed use. Whilst the predominant use in the vicinity of the site is commercial, restaurant, bar, café uses, there are a number of residential uses that surrounds Imperial Gardens. The Environmental Health Officer has commented on the scheme and suggests a condition for operational hours; the hours are as per those set out within the application form which are Monday to Friday: 11:00 - 20:00, Saturday: 11:00 - 22:00, and Sundays and Bank Holidays: 11:00 - 17:00. These hours are considered to be acceptable given the location of the site within the town centre and core commercial area; as such the hours are considered to be appropriate and would reasonably protect the amenity of surrounding residential properties; the suggested condition has been added.

6.35 It is considered that the as a result of the proposed structure there would not be an unacceptable impact on neighbouring amenity; the proposal would therefore comply with the relevant planning policies.

6.36 Access and highway issues

6.37 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.

6.38 Gloucestershire County Council Highways officer has been consulted on the application; full comments can be read above. The Highways officer has identified that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion, as such no objection has been raised. The proposal is therefore considered to comply with policy INF1 of the JCS.

6.39 **Sustainable development**

6.40 In June 2022, Cheltenham's Climate Change SDP was adopted which identifies and provides guidance for how development can contribute to the aims of sustainability to achieve net zero carbon by 2030.

6.41 Given the temporary nature of the proposal, officers acknowledge there is little opportunity to include specific low carbon technologies. The applicant has submitted a sustainability statement to address how the development would accord with the aforementioned SPD. The statement sets out the following measures, solar gain, ventilation, sustainable infrared heating panels, energy efficient lighting. Given the nature of the proposed development these measures are considered to be acceptable in this instance.

6.42 **Other considerations**

6.43 Trees

6.44 There are existing trees located within the footprint of the proposed structure, specifically the decked area. The Tree officer has therefore comments on the scheme; full comments can be read above. The Tree officer has raised no objection to the scheme as it is considered that over the next two years the applicant is seeking to retain the structure, the trees are not considered to be impacted by the siting of the structure. The proposal would therefore comply with policy GI2 and GI3 of the Cheltenham Plan.

6.45 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 Taking all of the matters raised and discussed in this report, on balance the proposal of retaining the structure and associated use for a further two years whilst The Cheltenham Trust develop a permanent solution, is considered to be acceptable and accord with the relevant planning policies and guidance.

- 7.2 The recommendation is to therefore permit this application subject to the conditions set out below.

8. CONDITIONS / INFORMATIVES

- 1 The use and structure hereby permitted shall be removed and the land restored to its former condition on or before 20th October 2024.

Reason: Permanent building(s) on this site may detract from the amenities of the locality, having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020) and adopted policies SD4, SD8 and SD14 of the Joint Core Strategy (2017).

- 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 The operation hours shall be restricted to:

Monday to Friday: 11:00 - 20:00,
Saturday: 11:00 - 22:00,
Sundays and Bank Holidays: 11:00 - 17:00

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

INFORMATIVES

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

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

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