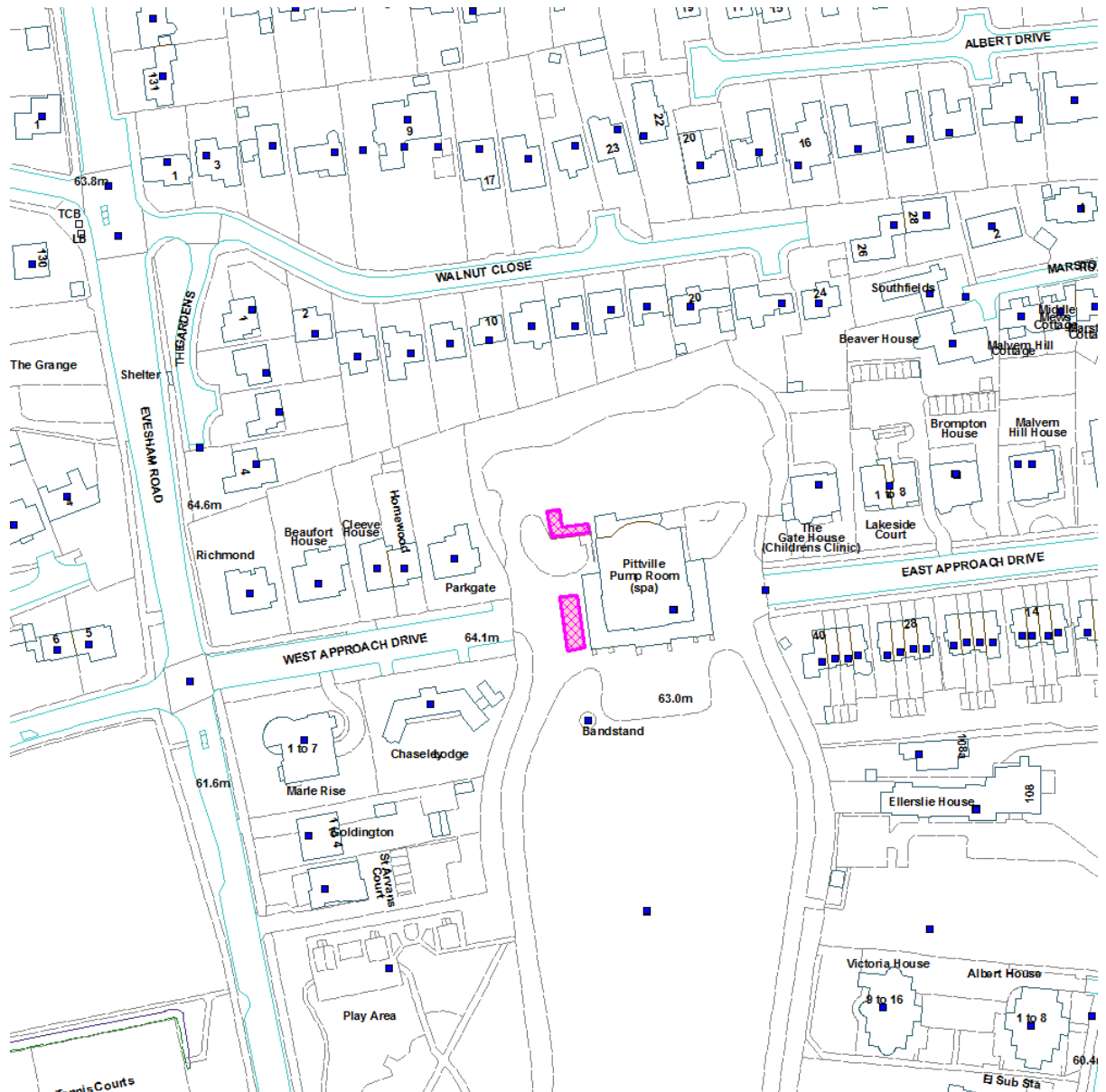


APPLICATION NO: 23/00372/FUL	OFFICER: Mr Ben Warren
DATE REGISTERED: 7th March 2023	DATE OF EXPIRY: 2nd May 2023
DATE VALIDATED: 7th March 2023	DATE OF SITE VISIT:
WARD: Pittville	PARISH:
APPLICANT:	The Cheltenham Trust
AGENT:	Evans Jones Ltd
LOCATION:	Pittville Pump Room East Approach Drive Cheltenham
PROPOSAL:	Temporary change of use of land for up to 20 months for the siting of an orangery structure to be used as a cafe and the siting of ancillary toilets and storage facility (Revised submission to 22/01439/FUL)

RECOMMENDATION: Permit



This site map is for reference purposes only. OS Crown Copyright. All rights reserved Cheltenham Borough Council 100024384 2007

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 In August 2022, the Cheltenham Trust submitted an application for the retention of the structures and use as a café for a period of up to 2 years following the end of the Governments temporary relaxation period on 30th September 2022. Some members will remember that this application was considered at planning committee in October 2023 and was refused, the reason being:

'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.'

- 1.4 The Cheltenham Trust has now submitted this further application for the retention of the structures and use as a café, but for a period of up to 20 months from the date of submission. The application responds to the previous reason for refusal by proposing a change to the proposal and the inclusion of more detailed information with regards to the background of the use, the level of public benefits and a detailed action plan for the 20month period. All of which are discussed in more detail in the report below.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Conservation Area
Listed Buildings Grade 1
Principal Urban Area

Relevant Planning History:

22/01439/FUL 21st October 2022 REF

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

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

Building Control - 14th March 2023

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

Heritage And Conservation - 27th April 2023

The proposed works are for the temporary change of use of land for up to 20 months for the siting of an orangery structure to be used as a cafe and the siting of ancillary toilets and storage facility. The proposed works are very similar to the proposed works in planning application 22/01439/FUL, for a 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, which was refused at Planning Committee. It was considered the structure resulted in less than substantial harm to the setting of the building and that harm was not outweighed by the public benefits. The conservation advice offered in the previous conservation comments for refused planning application 22/01439/FUL on the acceptability of the proposal in heritage terms is reproduced below for ease of reference.

The current application differs in regard to the previously refused application with an amendment to the café proposed and further information being submitted. Briefly this includes: an amended clear roof, replacing the solid roof, to the existing cafe, a further explanation of the policy context, clarification on the Trust's short-term and long-term plans, an options appraisal and a separate explanation why the building cannot accommodate a café, an updated Heritage Assessment, a commitment to preparation of a Conservation Management Plan and further clarification over the public benefits. It is acknowledged the current submission has gone some way to addressing the previous concern over a lack of sufficient information and justification, which is helpful for clarification purposes.

It is considered the amended clear roof would not make a meaningful difference to the impact the proposal would have on the significance of the affected heritage assets for the same reasons given in the conservation comments on refused planning application

22/01439/FUL. The cafe is therefore still not considered sustain and enhance the significance of heritage assets as required by paragraph 197 of the NPPF and does not give great weight to the asset's conservation as required by paragraph 199. There would be unacceptable harm, which would be defined as 'less than substantial' as defined by paragraph 202 of the NPPF. This requires the 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.

Regarding the proposed alternative options explored in the supporting documents, it is recognised the temporary cafe cannot be accommodated within the existing building due its awkward internal layout and a conflict with existing uses. However, it is considered either of the two alternative temporary options, and possible consideration of use of the upper floor, would be preferable in heritage terms to the existing option proposed within this application, although it is noted alternative options may raise other planning issues.

Reproduced conservation comments for refused planning application 22/01439/FUL

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 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.

Environmental Health - 20th March 2023

Environmental Health 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.

Tree Officer - 8th March 2023

The CBC Tree Section does not object to Option 1 - Leave structure in it's current position. However, it is noted that the current positioning does little for the amenity of the fine strawberry tree growing adjacent.... Being a "temporary permission", the CBC Tree Section does not object to this application in the short term

There are concerns regarding Option 2 turn through 90 degrees and move further north west. Whilst this would not involve digging into the root zone of the adjacent large lime tree, it would move the proposal closer and within falling distance of tree debris onto the roof top. This could prove alarming for staff + diners alike and could lead to pressure to have this mature tree cut back to reduce the likelihood of accidents. The nature of this large lime is to shed honeydew underneath (whilst in leaf). Any glass roof to this proposal will likely become sticky and dirty very quickly in summer months. It would need to be cleaned regularly (-every week?)

There is no objection to Option 3 -move structure to far north west of car park.

Cheltenham Civic Society - 31st March 2023

23/00372/FUL | Temporary change of use of land for up to 20 months for the siting of an orangery structure to be used as a cafe and the siting of ancillary toilets and storage facility (Revised submission to 22/01439/FUL) | Pittville Pump Room East Approach.

OBJECT. Our objection to this application is not about a café in itself, but about the impact of a temporary structure on the setting of a Grade I listed building that sits within Pittville Park, a Grade 2 listed park on the English Heritage Register of Historic Parks and Gardens.

Paragraph 6.2 of the Planning Statement makes clear that, although 3 options are considered, the actual application is for Option 1, which would retain the existing structure but replace its roof with a clear one. The Civic Society OBJECTS strongly to this application, as does Historic England.

Despite the Heritage Statement and the Planning Statement, the Civic Society considers the retention of the structure will cause substantial harm to the setting of the Grade I listed Pump Room and Registered Park. 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; and that the more important the asset the greater the weight should be. That greater weight clearly should apply here but is absent from this application.

Pittville Park forms approximately half the total extent of the Pittville Character Area of the Central Conservation Area. The park and the Pump Room are essential components 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 address the setting of Pittville Pump Room and the impact of the structure on it, as set out in National Planning Policy Guidance (NPPG) Paragraph 013. Importantly, that paragraph states, 'Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places.' The Civic Society believes the Park is seriously affected by the structure, and not just the views from East Approach Drive and northwards from Pittville Lake towards the Pump Room. For example, the accumulation and poor storage of detritus for the café, as shown in the attached photographs. The application fails to address these issues. Likewise, the application fails to demonstrate how the setting is enhanced by this temporary structure.

Following the long delay after the first application had been refused, we hoped for a stronger application this time. It is regrettable therefore that we have no choice but to object again.

The Civic Society welcomes Cheltenham Borough Council's overdue commitment to prepare a Conservation Management Plan for Pittville Pump Room. We also appreciate Cheltenham Trust's engagement with stakeholders, including the Civic Society. We acknowledge the importance of income generation from a café on the site and its popularity among users, but we are not convinced by the arguments offered against relocating the café inside the Pump Room. While we would want to examine the details of any such proposal, we would in principle support the choice such a location.

Gloucestershire Centre For Environmental Records - 13th March 2023

Report available to view in documents tab.

Ward Councillors - 27th March 2023

As Borough and County Councillor this this area. I continue to have major concerns about this proposal.

There is still no clear justification for why this external structure needs to remain, it was clearly a understandable structure during COVID, but that time is over and there is no reason why the Pump Room which is used for weddings and other events, can not cater for this operation internally, or that an alternative part of the park could be used instead.

The proposers still have not come anywhere near to assuaging residents concerns about what is Cheltenham's most historically important site. The amount of press coverage and comments that these applications garner shows the level of concern shown by residents.

Historic England - 16th March 2023

See Appendix 1

GCC Highways Planning Liaison Officer - 31st March 2023

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.

5. PUBLICITY AND REPRESENTATIONS

- 5.1 A total of 76 letters were sent out, this included immediate residents and those that had commented on the previous application. 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:
- 34 individual letters of objection
 - 10 individual letters of support
 - 3 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
 - Provision of employment opportunities

6. OFFICER COMMENTS

- 6.1 **The site and its context**
- 6.2 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.
- 6.3 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.

6.4 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.

6.5 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.

6.6 **Determining Issues**

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

6.8 As noted in the introduction this application has been submitted following a decision to refuse permission for the retention of the structures and use as a café for a 24 month period in October 2022. This new submission seeks consent for a period of up to 20 months from the date of submission (this being the 6th March 2023). The application also proposes a physical change to the Orangery building which is to replace the existing roof covering with a clear glazing option. The application is also supported with a more detailed planning statement which discusses the following:

- The Cheltenham Trust's short term and long term plans
- An options appraisal
- An understanding and reasoning as to why a cafe use cannot be accommodated within the existing building
- Clarification/detail of the public benefits associated with the café use
- Updated heritage statement
- Programme delivery
- Discussion of a Conservation Management Plan

6.9 The planning statement discusses the short term options appraisal, the 3 options include:

Option 1 – retention of orangery in its current location but replacement of the roof with a clear option

Option 2 – turning of the structure through 90 degrees, remove decking and move north

Option 3 – move the structure to the northern west corner of the car park

6.10 Members should be aware that whilst 3 options are discussed as an appraisal, the application is seeking consent for the retention of the structure for 20 months, alongside option 1 which would see the existing roof covering replaced.

6.11 Impact on heritage assets

- 6.12 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 Cheltenham's Civic Society.
- 6.13 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.
- 6.14 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.'*
- 6.15 Concerns and objections to the application have been raised by Cheltenham's Conservation Officer, Historic England, the Civic Society and a local ward councillor.
- 6.16 Comments from Cheltenham's Conservation Officer acknowledges that this new application is a more comprehensive submission which has gone some way to addressing the previous concerns over a lack of sufficient information and justification. However, the conservation officer is not convinced that the change in roof covering would make any meaningful difference to the impact the structure has on the significance of the Pittville Pump Rooms. The reasons being the same as those raised in their comments on the previous application.

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.

- 6.17 Historic England, have similar views with regards to the impact of the Orangery on the heritage assets, they are also of the view that the proposed replacement roof covering would not be of any significant benefit. They maintain that the Orangery structure would be harmful to the significance of the Grade I listed Pump Rooms'. Historic England's full comments can be read in Appendix 1.
- 6.18 A difference between the views of the conservation officer and Historic England is with regards to paragraph 200 of the NPPF which requires any harm to require clear and convincing justification. Historic England suggest this has still not been addressed, whereas the council's conservation officer suggests this new submission has gone some way to providing sufficient justification.

6.19 **Public benefits**

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. 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.

6.21 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 supporting planning statement identifies that The Cheltenham Trust is a non-profit organisation that manages five iconic venues in Cheltenham which are owned by Cheltenham Borough Council, one of these being the Pittville Pump Rooms. It is identified that Cheltenham Trust is the lead provider of culture, heritage, sport leisure and entertainment and as such is responsible for sustaining these venues as well as contributing to the towns local and visitor economy.

6.23 The supporting planning statement identifies that the café has been a huge success since its implementation and is now an integral part of the Trusts income, allowing the Trust to maintain and sustain the Pittville Pump Room as well as delivering their annual programme of free and inclusive events across Cheltenham. The Trust suggests that the income generated from the café use is an integral part of their income, so much so that they are actively trying to secure a more permanent solution for a café use which will enable them to carry on with the work they are doing with the Pittville Pump Rooms, the other venues in their portfolio and the programme of events for locals and visitors.

6.24 The café use has a lot of support from locals and visitors who support the facilities that are provided by the café use, letters of support suggest it provides a much needed and valued space for socialising. In addition to the social elements, the café use also provides job opportunities for staff that now work there.

6.25 Whilst all of the above public benefits are duly noted, 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.

6.26 **Impact on heritage assets versus public benefits test**

6.27 The council's conservation officer and Historic England both make reference to the proposed change in roof covering having a limited meaningful difference. Whilst officers agree that the change is relatively minor, officers are of the view that the change in the roof covering will reduce the visual impact of the Orangery albeit nominally, but the very nature of a clear roof covering will enable more parts of the Pittville Pump room building to be seen through the Orangery structure.

6.28 Clear public benefits have been identified, the level of detail and information regarding the benefits that are associated with the café use is much greater in this submission than that which was previously provided. This greater level of information has enabled officers to better understand the extent of benefits that the income from the café use is currently

providing. In addition to the clear economic benefits which results in significant re-investment in the town, there are obvious social benefits associated with the café in providing a place for Cheltenham residents and visitors to enjoy social gatherings within the setting of one of Cheltenham's most well-known listed buildings and registered park and gardens.

- 6.29 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 and a ward councillor. In particular, the council's conservation officer and Historic England identify the level of harm as being 'less than substantial', which officers agree with. As harm has been identified, 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.'
- 6.30 Whilst officers acknowledge that the structures associated with the café use results in harm, the public benefits that have been more clearly identified in this submission are considered to be of great value to Cheltenham residents and visitors. Having fully understood the extent of the public benefits and when considering the harm as a result of these structures is temporary, for a reasonably short period of 20 months, officers are of the view that in this instance, the public benefits do outweigh the less than substantial harm to the designated heritage assets.
- 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 not to harm the amenity of adjoining neighbours.
- 6.34 The position of the structures within the site, the use and the hours of operation have not changed from that detailed in the previous application. As discussed in the previous officer report there are no concerns with regards to a loss of light or loss of outlook. The change in roof material would have no greater impact on neighbouring amenity, in fact, it would result in a small reduction in visual impact.
- 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 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.

6.37 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.

6.38 As before, officers do raise concerns with regards to the disturbance associated with deliveries, waste collection and servicing of the facilities and as such consider that a condition is necessary to restrict the hours for these particular activities. 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.

6.39 **Access and highway issues**

6.40 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.

6.41 Comments within a number of representations raise concerns regarding increased traffic and parking congestion which have been duly noted.

6.42 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.

6.43 **Sustainability**

6.44 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.

6.45 In this instance the development is for a temporary structure and is proposed for a temporary period of up to 20 months, this therefore means there is little opportunity to include specific low carbon technologies. However, sustainability has been discussed in the supporting statement, 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. 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.

6.46 **Other considerations**

6.47 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.

6.48 *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 Officers acknowledge that a period of approximately 8 months has passed since the application was last considered at planning committee and there are sensitivities around the period of time for the retention of the structures. This has been noted by the applicant and is why the application now seeks a lesser period than before, and is now for only 20 months. It is important to note that this period of time started from the date of submission for this application, therefore, should permission be granted, a condition is recommended which would require the removal of the structures from the site on or before 6th November 2024. It is also important to note that the Cheltenham Trust have confirmed that they are currently on course and meeting the key dates set out in the programme delivery timeline for developing a permanent solution.
- 7.2 Having considered all of the above, whilst officers acknowledge that concerns remain regarding the impact of the structures on the designated heritage assets, for the reasons discussed in the report above, given the temporary period of time for the retention of these buildings and the public benefits that currently arise from its continued use, officers consider that, on balance, the public benefits do outweigh the less than substantial harm and therefore the officer recommendation is to support the application subject to conditions.

8. CONDITIONS / INFORMATIVES

- 1 The building(s)/structures hereby permitted and listed below shall be removed and the land restored to its former condition on or before 6th November 2024.
- a) Orangery structure
 - b) Ancillary toilets and storage facility

Reason: The permanent siting of these temporary buildings/structures on this site will have a detrimental impact on the designated heritage assets, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017) and in the interests of the special architectural and historic qualities of the listed building, having regard to adopted policy SD8 of the Joint Core Strategy (2017), Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Historic Environment Good Practice Advice Note 2.

- 2 The proposed works to replace the existing roof covering with a clear roof option, as discussed in the planning statement (ref 00372.03), shall be carried out within 3 weeks of this decision.

Reason: In the interests of the special architectural and historic qualities of the listed building, having regard to adopted policy D1 of the Cheltenham Plan (2020), adopted policy SD4 of the Joint Core Strategy (2017) and adopted policy SD8 of the Joint Core Strategy (2017), Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Historic Environment Good Practice Advice Note 2.

- 3 No customer shall be permitted to be on the premises outside of the following hours, without express planning permission:

Monday to Friday : 09:30 to 17:00
Saturday: 09:30 to 19:00
Sunday / Bank holiday 09:30 to 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).

- 4 Deliveries, collection of waste and servicing of the temporary toilets shall only take place during the following hours:

Monday to Friday : 07:30 to 18:00
Saturday: 08:00 to 13:00
Never on Sundays / Bank holiday

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.



Mr Ben Warren
Cheltenham Council

Direct Dial: 0117 975 0742

Our ref: P01557232
16 March 2023

Dear Mr Warren

**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. 23/00372/FUL**

Thank you for your letter of 7 March 2023 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

Of the three options proposed, we would be supportive of option 2 on the basis of a temporary permission that is workable in terms of a realistic timescale to deliver a permanent replacement building. While option 1 includes a replacement roof covering, we are not supportive of this, particularly as this is still considered to result in harm which has not been justified under the requirement of the NPPF.

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'.



1ST FLOOR FERMENTATION NORTH FINZELS REACH HAWKINS LANE BRISTOL BS1 6JQ

Telephone 0117 975 1308
HistoricEngland.org.uk





Summary of proposals.

Following the refusal for the temporary change of use of land and the retention of the existing café for a period of two years, the revised application is for the same proposals for a period of 20 months.

Impact of the Proposed Development

We have already objected to the permanent retention of the café building in December 2021 on the basis of its position and design, and also the temporary retention of the structure. Since the latest refusal, we have met with representatives of the Cheltenham Trust to discuss a way forward. We were also shown around the Grade I Pump Rooms to better understand the layout of the building and how it currently functions.

The main discussion points centred around the present and future of the principal building and the positive economic outcomes of the café, which was erected during the pandemic. We advised that the following matters should be considered and actioned as a more positive and constructive way forward for the building and the Trust who manage it:

- We advised that an options appraisal for a temporary location of a café should be developed, to include utilising the Pump Rooms (which we advised would be the option most consistent with the conservation of the building, and also potentially the option of least or no harm).
- We suggested that, as the Trust identified a range of issues that they were currently addressing with the Grade I building, a conservation management plan (CMP) is produced, which should identify the priorities and future maintenance of the building.
- For the longer-term solution of a café provision for the Pump Rooms and wider Pittville Park, we offered our pre-application engagement, once draft options had been developed. We identified that the rear car park had once been landscaped, with a central glasshouse/orangery and glasshouses attached to the rear, south-facing wall. We suggested that landscape restoration here, if a solution could be sought for the car parking provision, could deliver heritage benefits and deliver a suitable landscape setting for a new café building.

In the light of our discussions with the Cheltenham Trust and the information submitted with the current application, we offer the following observations and advice:



1ST FLOOR FERMENTATION NORTH FINZELS REACH HAWKINS LANE BRISTOL BS1 6JQ

Telephone 0117 975 1308
HistoricEngland.org.uk





1. We are pleased that the Trust recognises the benefits of a CMP and are committed to producing one. We acknowledge that this will take some time to produce, but have offered our advice once a preliminary draft has been put together.
2. From a tour of the Pump Rooms, we are firstly encouraged that the principal ground floor areas are in almost constant daily use in association with bookings and events. It would be difficult to accommodate the café offer within this space without providing significant partitioning, which would be harmful. We also recognise that while some of the upper floor rooms could be used for a café, which also have lift access, ground floor access to the building would need to be through the rear entrance when events were being held within the Main Hall and Apse. However, this option needs to be tabled together with the other options being considered (even if this is suitably discounted).
3. We are pleased that the Trust are dedicated to finding a long-term solution for a café provision and we have offered our engagement, as part of a pre-application process. We would just reiterate that the existing prefabricated structure would not be supported on any part of the site and that a bespoke building that responds positively to its context would be strongly encouraged. We are also encouraged that the Trust's programme for planning and implementing a replacement building within the projected 20-month timeframe is included in the submitted planning statement.
4. The Trust have identified three options: option 1 to retain the existing structure in its current location, but with a replacement clear roof; option 2 to rotate the structure through 90 degrees and move further to the north-west and option 3 to move the structure to the north-west corner of the car park. The preferred option of the Trust is option 1.
5. Option 1 would result in the most harm to the setting of the Grade I building, although we concede that a clear roof would lessen this harm, but only marginally. We understand that this would be the most economical option for the Trust. With other options, which would minimise harm, we are not persuaded that the justification for option 1 is clear or convincing, as required by para 200 of the NPPF.
6. Option 2 would still result in harm, but less so than the present position, as the approach from the west would be less visually impacted by the structure. The disadvantages of this option, as identified in the submitted planning statement,





include a reduction in the number of covers (which could be augmented with external seating in the spring/summer months), cost of moving and services, and other more planning-related issues. While this option would reduce the harm from that of the existing position, it is not the option of least harm. However, it could be considered acceptable if the temporary period of consent were to be increased, so that a) more money could be generated to off-set the moving costs and b) a more realistic time frame is provided to deliver a long term alternative solution, particularly if initially the preferred solution does not come within budget. If this way forward is agreed with your council, an extended temporary permission should be adhered to and we would not be supportive of an additional period of consent, something that commonly happens with temporary permissions. We would want to see a solution that is feasible and workable for the Trust, and if you consider that 20 months is an ambitious timeframe, we would rather support a longer, but workable temporary consent, if the café provision is to transition smoothly from the temporary to permanent building.

7. Option 3 would result in the least harm of the 3, in heritage terms, although the applicant states that a location away from the principal building would ideally require a separate, temporary kitchen, in addition to the car park (in its current form) being a less desirable location for the café. We tend to agree with these purported disadvantages and while this could be an acceptable temporary solution, we are persuaded that this site has been suitably dismissed.

In summary, we remain very concerned over the preferred option to leave the café building in its current location, even with the reduced impact of a clear roof. We believe that option 2 would reduce (not remove) the harm of the structure, and if seriously pursued by the Trust, could justify a longer consent for the reasons outlined above. We are keen to maintain our dialogue and engagement with the Cheltenham Trust in helping them fully realise the potential for this extremely significant building within the city, and would be happy to discuss this option further.

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



1ST FLOOR FERMENTATION NORTH FINZELS REACH HAWKINS LANE BRISTOL BS1 6JQ

Telephone 0117 975 1308
HistoricEngland.org.uk





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 has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 199 and 200 of the NPPF. 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.





Historic England

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If, however, you propose to determine the application in its current form with option 1 as the preferred position, please treat this as a letter of objection, inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

Please contact me if we can be of further assistance.

Yours sincerely

Stephen Guy

Inspector of Historic Buildings and Areas

E-mail: stephen.guy@historicengland.org.uk

cc: Chris Morris, Conservation Officer



1ST FLOOR FERMENTATION NORTH FINZELS REACH HAWKINS LANE BRISTOL BS1 6JQ

Telephone 0117 975 1308
HistoricEngland.org.uk



Historic England is subject to both the Freedom of Information Act (2000) and Environmental Information Regulations (2004). Any Information held by the organisation can be requested for release under this legislation.