

Cheltenham Borough Council Planning Committee Minutes

Meeting date: 15 June 2023

Meeting time: 6.00 pm - 7.30 pm

In attendance:

Councillors:

Paul Baker (Chair), Garth Barnes (Vice-Chair), Glenn Andrews, Adrian Bamford, Bernard Fisher, Paul McCloskey, Emma Nelson, Tony Oliver, Diggory Seacome and Simon Wheeler

Also in attendance:

Ben Warren (Planning Officer), Michael Ronan, Mike Holmes and Chris Morris (Senior Heritage and Conservation Officer)

1 Apologies

Apologies were received from Councillor Payne.

2 Declarations of Interest

Councillor Baker declared an interest in Agenda Item 5d, 23/00382/LBC Sandford Park Lido. As a trustee of the Lido, he will leave the Chamber during this item.

3 Declarations of independent site visits

Councillor Andrews independently visited the Lido and the Pump Rooms.

4 Minutes of the last meeting

The minutes of the meeting held on 18 May 2023 were approved as a true record and signed accordingly.

5 Planning Applications

6 23/00414/FUL 61 Moorend Park Road, Cheltenham GL53 0LG

The case officer introduced the report, highlighting the main objections as loss of light and privacy, and the proximity of the proposed extension to the boundary. The Parish Council has objected, and the application was at Planning Committee at the request of Councillor Horwood.

Public Speaking

Neighbour, in objection

The neighbour thanked members for considering his concerns, saying that the proposed extension would significantly alter key aspects of his home life and impact his most-used social spaces. It would be visually overbearing, obstructing both sunlight and view, thus diminishing the quality of his family life. The previously-approved application began by requesting a 4m extension which was amended to 3m, with the report highlighting the concerns about scale and impact on neighbouring amenity. It was surprising, therefore, that this scheme has now been resubmitted, with no alterations. It feels that the neighbour's concerns have been overlooked by this reversal and the recommendation to permit, and an unfair way of the architect and applicant to get what they want. While appreciating the applicant's right to expand, he had hoped for a compromise solution that would not have such an impact on his home and garden.

Councillor Horwood, in objection

Councillor Horwood began by saying that although this may seem like a small issue on the face of it, by incremental changes this proposed extension was being allowed to grow, thus undermining the credibility of the decision-making process and contradicting the idea of applicants sticking with the decisions taken. Concerns were originally raised over loss of light, overshadowing, and the overbearing nature of the extension on the neighbouring property, and the Parish Council also objected; the plans were revised accordingly, reduced in depth and width, resulting in an extension which was considered to fit comfortably in the plot. It was therefore difficult to understand how, whilst acknowledging the proper concerns of the neighbours, the recommendation on this revised scheme appeared to reverse the previous comments with a recommendation to permit. This method of applicants submitting repeated applications, chipping away at the planning system to get what they originally wanted is increasing across Cheltenham. Once a decision has been made for a suitably-sized extension, there is a strong case for sticking with that decision and not allowing incremental changes.

Member questions

The Chair reminded Members that they must consider the scheme before them.

In response to Member questions, the case officer confirmed that:

- the revisions to the previous proposal for a 4m extension were made following objections from the neighbour and the Parish Council; the officer did not say anywhere in his report that he considered it unacceptable and that the original application would not have been supported. The applicant and agent chose to revise their previous application, but were within their rights to submit a follow-up application;
- a 45-degree light test was carried out to measure the impact of the extension on the neighbour's kitchen-diner French doors and window; both passed, with the French doors alone passing without taking into account an additional kitchen window;
- officers have considered whether the proposal will be overbearing or overshadow the neighbouring property, and conclude that whilst it will have an impact, this will not be unacceptable;
- the rear elevation faces south-west;
- other than a nominal (less than one brick) reduction in the width, the current proposal is the same as the original application.

Member debate

One Member said he fully understood the neighbour's concerns and agreed with Councillor Horwood that this proposal for an extra metre was a step too far. He thought the first floor extension made the extension overbearing.

Vote on officer recommendation to permit

6 in support

4 in objection

PERMIT

7 23/00430/FUL 82 East End Road, Cheltenham, GL53 8QL

The case officer introduced the application, a revised scheme following a previous Committee refusal on the grounds of loss of light and outlook for the neighbouring property. The current application, supported by a light assessment, reduced the width, eaves height and ridge height, and while accepting it would have an impact on neighbouring amenity, this was not considered unacceptable. The recommendation was to permit, including a condition requiring obscure glazing

Public speaking

Neighbour, in objection

The neighbour began by saying there was nothing in the revised application to alter the refusal reasons on the previous one, with the small reductions making no difference and still resulting in the loss of six hours of daylight to his property. The report acknowledges that the proposal fails the 25 degree light test to the kitchen window, but was factually inaccurate, stating that the doors to his kitchen are the main source of light – this is not the case. As this harm has been identified and will have a serious impact, the application should be refused. He considered the house to be big enough for a family of four, and that there was no reason other than profiteering to extend it further. If approved, the extension would be oppressive and

overbearing, and he was depending on the Committee to restore his faith in the planning process.

Applicant, in support

Although disappointed by the original planning refusal, the applicant said he had chosen to submit a modified scheme which met guidance for daylight and sunlight rather than appeal. Overwhelming expert evidence showed it met all guidance, yet the neighbour has chosen to reduce the light to his own kitchen by introducing solid panels to the French doors; these were easily reversible, but were an attempt to thwart the plans. In so doing, the neighbour has reduced the light to his kitchen and his outlook - his two main grounds for objecting to the proposal – and his new outlook, towards the applicant's boundary fence and garden, compromises their privacy. In addition, the neighbour is now claiming loss of views of trees from the non-habitable landing window as a reason to refuse the proposal. The applicant said his family is happy in Charlton Kings, but will clearly never satisfy the neighbours. He hoped his willingness to change his plans and engage professional advice would demonstrate the acceptability of his proposals.

Member questions

In response to Members' questions, the officer confirmed that:

- he did not suggest that the neighbour block their French doors. He had previously explained how light test worked, taking into consideration the impact on the main and secondary light sources, and that if the French doors weren't there, the impact on the side window as the only source of light would be taken into account, resulting in a recommendation to refuse;
- no light test was submitted with the previous application. The applicant had engaged a light assessment professional for the revised scheme.

Debate

In debate, Members made the following points:

- the previous proposal was a bit uneven but only as deep as the extension on No. 84;
- the outlook from the neighbour's kitchen window was very much compromised, either its view or loss of sunlight, being north-west facing;
- on Planning View, Members saw a small kitchen window and solid French doors at the neighbouring property. This would fail the light test, which assumed glazed French doors, and presents a quandary in deciding whether to support the proposal;
- Members cannot solve neighbour disputes – they are here to make judgements on planning matters. If someone appears to contrive to change an outcome by blocking doors, they can do so, but the doors were clear when the application was made and the light test undertaken;
- the difference between this and the previous application is the substantive information on the light test. There is no doubt that the applicant has done as much as possible to satisfy planning requirements and address the neighbour's concerns;
- if the door had been obscured before the original application, we would be looking at one window as the only source of light, and it is difficult to adjust

thinking that it became obscure part-way through the application process. The neighbour says the door was blocked for more insulation and to keep the kitchen cooler, but this is not a planning matter.

Vote on officer recommendation to permit

7 in support

1 in objection

2 abstentions

PERMIT

8 23/00372/FUL Pittville Pump Room, East Approach Drive, Cheltenham, GL52 3JE

The case officer introduced the application which, following refusal of an earlier proposal, was now seeking a 20-month extension for the temporary structure from the date of submission, together with changes to the roof, and more detailed information regarding the use, public benefit, and action plan. Concerns remain, but officers consider the public benefits outweigh the less than substantial harm caused by the structure.

Public speaking

Neighbour, in objection

The neighbour said the structure was put up in secret, is noisy and intrusive, and gives a clear view to his house. The excuse was that it was temporary, although it was unsuitable for use in a pandemic, being crowded and poorly ventilated, and is now infested with rats. In a published statement in 2021, the CEO indicated that the structure was to be a permanent offering, and applied for planning permission. The temporary permission was extended until 2022, when an application to extend the time period further was submitted and refused but not enforced. This application talks about three options, but only Option 1 is viable. Changes to the roof from white to clear glass will make no difference to the visual damage and be an environmental disaster, too hot in current weather conditions and freezing in winter. The first view of the Pump Room from West Approach Drive aspect is now a greenhouse, rubbish bins and catering trollies. Planning regulations in conservation areas are strict – he was not allowed to change a window in his own GII-listed house - yet the Trust is allowed to install this giant greenhouse on a GI-listed building.

Agent, in support

The agent began by reminding Members that this is a temporary application; the intention being to develop a permanent solution whilst securing an income to help maintain the Pump Room. Following the previous refusal, the Trust has engaged with planning and conservation officers, the Civic Society and Historic England to explore changes that will reduce or mitigate the recognised less than substantial harm to the setting of the Pump Room. Clarification of the Trust's short- and long-term future plans have been provided, focussing on the café, and a timeline for delivery of a permanent solution provided. Different options re. siting and configuration have been considered, but this is the most appropriate, resulting in a

low level of localised harm to the conservation area, Pump Room and Park outweighed by the public benefits. Accommodating a café within the Pump Room would result in the loss of half its available floor space for events, and a significant income stream. The café enjoys great public support, demonstrated by the letters and petitions, and was at the centre of the King's Coronation community event, attended by 13,000 people. The Trust is committed to helping CBC develop its heritage strategy, and the café helps promote this asset, achieving all the objectives of Key Priority 4 of the council's Corporate Plan.

Member questions

In response to a Member's question, the legal officer confirmed that the structure was permitted at a time when the government relaxed enforcement legislation in relation to outdoor development, to assist businesses during the pandemic. Although that legislation is no longer applies, and the subsequent application to extend the time period was refused, enforcement is discretionary, and it isn't unusual to put it on hold while an applicant works on an application to remedy a situation. There is nothing out of the ordinary with this application, and process has been followed.

The case officer added that there was a lot of information in the supporting planning statement to explain why the café was needed; ultimately, income from the café is used to sustain the Pump Room and other buildings of the Trust, as well as all the events it puts on for visitors, tourist and locals.

The Chair confirmed that, although there was no photograph showing the view of the Pump Room from the front, Members on Planning View stood by the lake and looked towards the building – they could not see the café, as it was obscured by the bandstand and trees.

Member debate

In debate, Members made the following points:

- the view from West Approach Drive is the most affected, but unfortunately there is nowhere else for the café to go. Most people approach the Pump Room on foot from the south side, and there is no great harm to the full magnificence of that aspect, with the bandstand and yew tree obscuring the café;
- before the café, the council regularly bailed out the Trust because it was unable to produce the funds it needed; this was unsustainable, and unreasonable that tax payers should need to support it. With problems at the Town Hall as well as the Pump Room, to cut off this income stream could be disastrous for Cheltenham;
- all decisions must balance both sides of the argument, and whilst appreciating the heritage arguments, the greater public good and overall benefits must be taken into account;
- the 20 months will pass quickly with no great harm done, but this must be the very last temporary permission, while a permanent solution is found. The Trust must get its finances in order to secure the Pump Room's economic future and carry out the job the council has asked it to do;

- not much has changed from the previous application: the toilets, bins, and storage container should not be on view next to a Grade I listed building. A café inside the Pump Room isn't suitable, but to allow the Trust to keep this temporary structure when other businesses in Cheltenham have been told to remove theirs is the height of hypocrisy. There is an appeal pending on temporary structures at a Grade II listed building in town, but we need to say enough is enough. There are three places in Pittville Park to buy refreshments.
- while there are other places to get coffee in Pittville Park, these don't generate income for the Trust;
- the difference between this and the GII-listed building in town is that there is it has alternative accommodation inside and is a profitable business without the tents;
- life has moved on since Covid, and it's great to encourage people to use Cheltenham's wonderful parks and enjoy the magnificence of the Pump Room. If this enables the Pump Room to be used for other things, it has to be good;
- there are many conflicting issues, but the Pump Room has some of the best acoustics in the country for classical music, and it is patently obvious that it cannot be a dual or triple purpose room, with it already being used for conferences, music and weddings;
- it is scaremongering to suggest that the council may have to sell the Pump Room. The Trust won't collapse without the café, and there is room elsewhere in the park for a catering unit. The planning authority must think carefully, as people may judge that the rules that apply to everyone else don't apply to us;
- there is a lot of support to keep the café, and the Pump Room is an expensive building to maintain. Very few such buildings could be funded by cash-strapped councils without a similar facility or coffee shop. This proposal is not unreasonable;
- this is an important application, and different from the previous one, which did not include enough information, any explanation of why the café could not be inside the building, or evidence of engagement with Historic England. This application demonstrates significant engagement with all parties, and it is interesting to note that Historic England's comments are positive about a lot of what the Trust is doing to the building. There are clear reasons why a café cannot be relocated inside the building, and the Trust seems to be dedicated to finding a long-term solution within 20 months;
- the proposed glass roof will not make a difference to the appearance of the building and make it unbearable in hot, sunny weather. This condition should be dropped.

Vote on Councillor Baker's proposal to drop the condition regarding a glass roof, seconded by Councillor Wheeler – CARRIED

Vote on officer recommendation to permit, excluding the condition regarding the glass roof

9 in support

1 in objection

PERMIT

9 23/00382/LBC Sandford Park Lido, Keynsham Road, Cheltenham, GL53 7PU

Having declared an interest in this item, Councillor Baker left the Chamber. The chair was taken by Councillor Barnes.

The Senior Conservation and Heritage officer presented the report as set out in the papers.

There were no questions and no debate on this item.

Vote on officer recommendation to grant

9 in support – unanimous

GRANT

10 Appeal Update

An update on recent appeals lodged and decided had been circulated for information.

A Member suggested that training on how to present an appeal would be helpful.

11 Any other items the Chairman determines urgent and requires a decision

There was none.