

Planning Committee

6.00 pm, 17 October 2013

Present at the meeting

Councillor Chris Coleman (Chair)	Councillor Robert Garnham
Councillor Penny Hall (Vice-Chair)	Councillor Les Godwin
Councillor Helena McCloskey	Councillor Peter Jeffries
Councillor Garth Barnes	Councillor Andrew McKinlay
Councillor Barbara Driver	Councillor Pat Thornton
Councillor Jacky Fletcher	Councillor Simon Wheeler
Councillor Bernard Fisher	Councillor Klara Sudbury

Present as observers: Councillor Wendy Flynn
Councillor Diggory Seacome

Officers in attendance

Tracey Crews, Head of Planning (TC)
Martin Chandler, Team Leader, Development Management (MC)
Michelle Payne, Planning Officer (MP)
Chloe Smart, Planning Officer (CS)
Karen Radford, Heritage and Conservation Manager (KR)
Lindsey Mulrairie, Trees Officer (LM)
Mark Power, Gloucestershire Highways (MPower)
Jonathan Clarke, Gloucestershire Highways (JC)
Cheryl Lester, Legal Officer (CL)

36. Apologies

Councillor Stennett.

37. Declarations of Interest 13/01216/COU 1A Everest Road

Cllr Coleman – personal and prejudicial – lives in Everest Road; knows many of the neighbours who have submitted representations; wife has recently started a business which provides services to nurseries – will leave the Chamber during this debate.

Cllr Sudbury – personal and prejudicial – wrote a letter of objection prior to September planning committee meeting, which she could not attend. Will address committee as county councillor for the area, then leave the Chamber during the debate.

38. Public Questions

There were none.

39. Minutes of last meeting

Resolved, that the minutes of the meeting held on 19th September 2013 be approved and signed as a true record, without corrections

40. Planning/Listed Building/Conservation Area Consent/Advertisement Applications, Applications for Lawful Development Certificate and Tree related applications

41. 13/01216/COU 1A Everest Road

Application Number:	13/01216/COU
Location:	1A Everest Road, Cheltenham
Proposal:	Change of use from residential (C3) to a nursery (D1)
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	20
Update Report:	Photographs from neighbour and officer comments

Cllr Coleman left the meeting for this debate; Cllr Hall acted as Chair

CS introduced the application, which was deferred at the September meeting for further detail and further highways comments. These have now been received. The officer recommendation remains to permit.

Public Speaking:**Councillor Sudbury, county councillor, in objection**

Couldn't attend the September planning committee, but wrote a letter of objection to this proposal, all of which still stands. Has sympathy for the applicant and his wish to open a nursery, but thinks this is not the right location for this type of business. When a school or institution has a particular focus, it will attract people from a wider area, not just the immediate location; this application is for a Montessori nursery, and may be used by parents and children from a wide geographical area, making more traffic movements more likely. Stands by all her previous objections – this is not the right development for this situation.

Cllr Sudbury then left the meeting for this debate

Mr Sam Hashimzai, applicant, in support

The proposal complies with OFSTED regulations and with legal space requirements of 2.6sq m for a two-year-old and 2.3sq m for a three-year-old – the floor space measures 40sq m. The outside space is enough for six children at a time, and adequate provision as they will only be at the nursery for five hours - there are some nurseries with no outdoor space at all, and parents can choose whether they feel this provision is adequate. Children will bring their own packed lunches, and a quiet area will be provided for them to rest or sleep if required – though again, this is unlikely to be required very much during the five-hour day. This area is within the main room of the building, as it is not good practice to have a separate room. Members have expressed concern about disposal of nappies; as the children are over two years old and only at nursery for five hours, they shouldn't generate a lot, but any nappies will be disposed of correctly and kept in a bin in the new garage. Regarding the tree and hedges, these are to be retained to help with privacy and containing any noise, and the children will be involved in the upkeep of the garden, planting vegetables for example. The new in-out driveway to the front will alleviate any traffic issues, together with a 45-minute drop-off window; photos taken at the relevant times show how quiet the road is when parents will be dropping off and picking up. The nursery will provide a positive start to its children's education; he and his wife are passionate about it, and have talked about starting a Montessori nursery in Cheltenham for many years – they will put their hearts and souls into making it work.

Councillor Smith, on behalf of neighbours, in objection

Objects to the proposal on the same four bases as last time: lack of clarity (thanked the applicant for updating this and providing better clarity, but this serves to highlight previous concerns); flawed traffic assessment; constraints on outside space; and proposals from Environmental Health which are unworkable for a nursery in a residential area. There is insufficient evidence to show that policy CP4 will not be breached, and residents remain very concerned. Children may bring packed lunches but some sort of food preparation area will

still be required – even if only to boil a kettle – with appropriate ventilation needed. The outdoor play area is too small to ensure that the outside amenity of neighbours won't be disturbed. The three parking spaces are presumably for staff, not parents. Residents disagree with the views of the traffic officers, and consider the extra cars will cause additional road danger and congestion in the area. Regarding the in-out drive, this is a key route to Leckhampton Primary School, with mothers, children, toddlers and prams walking past – cars crossing the pavement to the drive will present a danger. Residents' perception is very different from the traffic officers, and his own personal experience is more in line with what the residents say than what the traffic officers say. The double yellow line from the corner to the property is proof that there are safety concerns from the County about this stretch of road – it is a dangerous area, and additional cars and congestion will mean added danger. It is stated that noise and music will be contained by keeping the windows closed, but this is impractical, and how can it be enforced in practice? The cycle racks are uncovered hoops – adding a cover will further reduce the outdoor space. There is still enough evidence to show that the scheme will have a negative impact on neighbouring amenity and be in contravention of policy CP4.

Member debate:

RG: a neighbour has provided a large number of photos showing parking congestion on Everest Road – Members need to hear MPower's opinion on these, and if he would like to give any different advice from what is currently in the report.

HM: would also like to hear highways officer's opinion on the in-out driveway. Is concerned about its proximity to Old Bath Road, and whether one side would be best designated as 'in' and the other as 'out'.

MPower, in response:

- to answer these two questions first: lives quite nearby and travels down the road frequently – the neighbour's photograph don't appear to be the common state of parking on Everest Road or represent an everyday occurrence, at either peak or non-peak times;
- regarding the in-out drive, a lot of nurseries around the county use this method for short-term drop-offs, and it works well; it is best not to be prescriptive about which side is in and which is out, as these things have a natural balance and work out for themselves;
- to appreciate our highway comments on this proposal, it is important to understand both the application and the policy which governs it. Under the NPPF, applications should not be refused unless they will have a severe cumulative impact, and furthermore this scheme is well below the threshold for any kind of Transport Assessment – set at over 50 beds for an institution, over 80 houses for an estate;
- of the children attending the nursery, some may be walked, some may share lifts, so the figure of 16 additional cars would be the high end;
- reminded Members of a recent application for a veterinary practice in Lyefield Road West, Charlton Kings, adjacent to shops, café and chemist, and the problems prophesied by neighbours; these have not materialised, and the perception of a problem usually makes it greater than it actually turns out to be;
- this application cannot be refused on traffic grounds – it is a sustainable under the terms of the NPPF;
- to KS's comments about the application being for a particular type of nursery, this is irrelevant – the proposal cannot be assessed against this – and to Cllr Smith's comment that yellow lines indicate that this is a dangerous junction, said yellow lines to stop people parking on the radii of a junction are normal, to help visibility;
- told Members there is no planning policy to back up refusal of this application on highways grounds.

PT: are there any accident statistics for the area?

MPower, in response:

- accidents can occur anywhere, and there are no statistics to suggest that this is a dangerous location. Recalled a recent highways consultation on road safety in Old Bath Road. Of the households consulted, eight out of ten residents were against a crossing proposal and all other traffic-calming options, including build-outs, parking restrictions, and a zebra crossing (100 residents objected to this). There is no record to say that traffic causes any particular problem;
- does not think the in-out drive will prove a problem for pedestrians or other road-users, taking into account the number of mothers and children walking to school along Everest Road. The capacity of a road such as Everest Road would be 700 vehicles one way in a peak hour; current flows of 100 make this well within capacity;
- Everest Road is an unusual Z-shaped road, not used a rat run, and would be described in highways terms as 'lightly trafficked' and unclassified.

LG: applications such as this, and the location of the site, will never attract support from local residents, but Members need to consider whether there is any policy constraint, sustainable at appeal, other than those set out of Page 26 of the report; if there isn't, to refuse will be pushing the boundaries. The officer report sets out why it cannot be refused on design, for loss of residential accommodation, highway safety, or safe and sustainable living, so unless Members can come up with any other policies to quote as a refusal reason, it is unlikely that it would lose at appeal. The conditions are very stringent as far as the applicant is concerned, and more than satisfactory to meet the worries and concerns of local residents.

CS, in response:

- all the relevant local plan policies have been covered by the report, and there are no policy grounds for refusal;
- regarding conditions, it was stressed last month that the conditions suggested by Environmental Health are tied back in to the applicant's supporting statement, and are considered reasonable for the running of the business.

BF: concerned about enforcement of these conditions – there are some strict restraints on operation of the nursery but what can be done once it's up and running? These could be very difficult to enforce. It looks very clear-cut – closed windows to contain noise, limited time in the garden – but sanctions would be minimal, and it will have to be policed by neighbours. What would the sanctions be if the conditions are breached?

AM: BF is treading a dangerous path here, assuming that the conditions can't be enforced. The decision has to be based on something, so Members must assume that they can be. Agrees with LG – local people won't like it but there is no valid reason to refuse.

BD: it is the right thing in the wrong place – can't vote for it. The neighbours will be bothered by additional cars, and it is a tiny building with no garden. The proposal is totally, utterly wrong.

PJ: grateful for highways clarity, and can't work out the pictures provided by the neighbour which bear no relationship to the road as he knows it. Members' concerns have to be weighed against policy. Presumes all the conditions recommended by Environmental Health will be enforced.

CS, in response:

- the majority of the conditions are recommended by Environmental Health, and tied in to supporting evidence from the applicant and what he has said about the running of the business;
- regarding the enforceability of the conditions, a breach of conditions notice can be served if the applicant does not adhere to them. This type of notice usually relies on the authority being made aware of the breach by neighbours.

SW: noted a lot of concerns, but none of these are really within Members' remit and therefore can't go along with them. The highways issue has been covered, and has difficulty sympathising with neighbour concerns about noise – it will be lovely to listen to the sound of children playing during the morning.

PH: a 45-minutes window for dropping off children was mentioned by the applicant. Has this been discussed?

CS, in response:

- the applicant submitted this information in his statement, and it is allowed for in the conditions, although there is no specific condition relation to a 45-minute drop-off window. Condition 4 sets out hours of operation as 8.45am-2.15pm.

Vote on officer recommendation to permit

7 in support
 2 in objection
 3 abstentions
PERMIT

42. 13/01109/FUL 17 Greenhills Road

Application Number:	13/01109/FUL
Location:	17 Greenhills Road, Cheltenham
Proposal:	Erection of a single dwelling to the rear of 17 Greenhills Road, formation of new access, and erection of a garage for the existing dwelling
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	7
Update Report:	None

MP told Members this is a full application for a four-bedroomed house to the rear of 17 Greenhills Road, originally submitted as an outline application, but with additional information later submitted for consideration. Access is via a new shared access at the eastern end of the site, and officer recommendation is to permit

Public Speaking:

Dr Jon Mutimer, neighbour, in objection

The proposed development is inappropriate for several reasons and contravenes policy. Having read the paperwork, attended meetings and read objections from residents, does not consider this to be a sustainable application. It is a tandem development, which is poor planning according to the SPD, and could set a precedent which would ruin the local character of the area. It represents poor use of the limited land and amenity space, and developments such as this should make use of irregular-sized plots rather than single tandem development. The proposed dwelling will not reflect the urban grain of Hayman Close and Charlton Close – Hayman Close is a larger development, but an additional dwelling in a single garden will not enhance the area and is grossly out of character. Houses in Hayman Close have three bedrooms, but the proposal is for a four-bedroomed house, greater in height, scale and massing than the original house, against the principles of the SPD. In addition, the orangery at 4 Hayman Close has not been taken into consideration when calculating minimum distance between the proposal and existing dwellings. Parking provision is inappropriate, with the flat roofed garage setting an ugly precedent, and if more than two cars are parked on site, they may need to reverse up the drive onto Greenhills Road, which is a dangerous and busy road. To conclude, this is a poor use of the plot and in

contravention of local policy, and many other reasons to reject the scheme are outlined in letters from neighbours.

Mr David Jones, agent, in support

Notes the many objections to the scheme, and is surprised and depressed that the previous speaker owns and lives in one of the houses constructed some 6-7 years ago on garden land to the rear of Greenhills Road – if his objections were valid, he would not be living in a house in this location. To be specific, 17 Greenhills Road is approximately a half-acre plot, and the garden remaining for the existing house will be a sizeable 25m x 17.5m, with the new property taking up just 18% of the plot. Houses in Hayman Close take up 24-27% of the plot, and in Charlton Close 21-27%, excluding access – so the proposal represents lower density than comparable properties. Hayman Close was built in the gardens of 18-20 Greenhills Road, and complements the area well. The Local Plan SPG doesn't set out to prevent development on garden land, if it is considered appropriate, and this proposal, in scale, mass, urban grain and landscaping meets with requirements. It is a modern development, and has been designed to protect the amenity of neighbouring properties and of 17 Greenhills Road.

Member debate:

BD: regrets that she cannot vote against this, saying that Members created this situation by agreeing to the other development of garden land along Greenhills Road and not following through the preparation of development brief to avoid small-scale developments such as this. They were warned about piecemeal backland development and this is now happening – Members should have had the courage of their convictions at the time, and hoped they would learn not to let the threat of appeal get in the way of this.

RG: recalls himself and Grahame Lewis trying to get a comprehensive development design brief for Greenhills Road, and also the assumption when Hayman Close was built that it would prevent any further development from No. 17 Greenhills Road downwards because there could be no access off Hayman Close.

PT: also remembers discussion of a development brief for the area, but there was no NPPF then, and this now supersedes everything, unless we have an up-to-date local plan. We have to toe the line as far as the NPPF is concerned.

JF: for clarity, is it right to say that the SPD on garden grabbing is superseded by the NPPF? If not, why is this proposal recommended for permission and why is the SPD not being used effectively?

MP, in response:

- to RG, the suggestion that the Hayman Close development could prejudice future development is flawed, as we need to consider each site on its own merits. This proposal didn't come forward at the time, and Hayman Close is long complete. To refuse, Member need to identify what harm the proposal will do;
- to JF, the SPD is not superseded by the NPPF – this is set out in the report – but it should be remembered that the SPD does not set out to prevent development. Page 36 advises against single development if this is harmful to the urban grain, but here, looking at the block plan, it is clear that the proposal sits comfortably in this setting. In addition, there are no highways issues, and there is a need for housing in the borough. We need to move forward and consider applications on their own merit.

PH: looking at Para 6.1 of the report, would it be easier to refuse this application if Hayman Close and Charlton Close hadn't been built? If so, isn't hindsight a wonderful thing?

MP, in response:

- we need to take each application on its own merits. It can be argued that the urban grain has changed since Hayman Close was built. This application seeks to reflect that urban grain.

PH: will it make it easier for subsequent developments along the road to get permission?

MP, in response:

- the report sets out the fact that this is likely, but each application will be determined on its own merits.

Vote on officer recommendation to permit

10 in support

3 in objection

1 abstention

PERMIT

43. 13/01251/FUL & CAC Corner of Lansdown Place Lane and Lansdown Walk

Application Number:	13/01251/FUL & CAC
Location:	Corner of Lansdown Place Lane and Lansdown Walk, Cheltenham
Proposal:	Partial demolition of dilapidated and fire-damaged buildings at junction of Lansdown Place Lane and Lansdown Walk, and refurbishment and reconfiguration of retained building together with redevelopment of remainder of site to form 5no. self-contained dwellings (1no. 3-bed unit and 4no. 4-bed units)
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	7
Update Report:	None

MP introduced the proposal as a full application for planning permission and conservation area consent. It is an important site in the conservation area, set amongst G2*-listed Regency terraces. The proposal sets out to demolish all but one of the existing buildings, and replace them with five dwellings. It is at committee at the request of Councillor Driver.

Public Speaking:

Mr Jacob Pot, neighbour, in objection

Realises the site will inevitably be developed, but it is important the design is right. Said revisions to the scheme deal with original infringements on the amenity of adjacent properties, but not with the overriding objection to the three-storey element, which is also objected to by English Heritage, the Civic Society, Architects Panel and other local residents. There is no design argument for the extra storey, and the Conservation Officer excuses it because the three-storey areas are set back. Considers the only benefit of this is an increased site value. The 2004 approval included a small second floor, but this was in a pitched roof no higher than the existing roofs, and the original 2004 scheme for a part three-storey, flat-roofed, contemporary development was rejected by officers – a lower, traditional scheme was eventually recommended. At that time, Jeremy Jefferies, the conservation officer, said three storeys was entirely alien to this mews area, Simon Cairns said that a maximum of two storeys would normally be acceptable here, and Grahame Lewis state that there were fundamental issues in terms of design, layout and height. An application for a two-storey contemporary coach house, opposite the site, was refused two months ago, based on the conservation officer's advice that Lansdown Place Lane is characterised by small mews houses and modest buildings which complement the grandeur of the principal terraces. Cannot understand why the conservation officer is recommending approval of the current scheme, as this is inconsistent with advice of her predecessors, current statutory

consultees, and her earlier statements – this proposal is not modest. Members have seen the mews area from the G2* listed terraces, and noted that all the buildings are two storeys high. The proposal will rise above the pitched roofs like some contemporary ziggurat, totally out of character, in full view, and changing the setting of the listed terraces. There are no changes since 2004 in the Council's statutory obligation to preserve or enhance the character and appearance on the conservation area and settings of listed buildings. The three-storey element of this proposal will not achieve this, will establish a dangerous precedent, and should be omitted or refused.

Mr David Jones, agent, in support

The proposal is for the redevelopment of a partly fire-damaged site, on which permission was granted in 2004 for eight residential units with workshops. The demolition proposed now is the same as in 2004, with the retention of the art shop, and five residential units being built on the site. There have been some objections to the three-storey element, but the 2004 scheme also included a three-storey wing on the eastern boundary – in both cases, it is set back from the street. Extensive marketing of the site with the approved scheme has attracted no interest from developers, and with the fire-damaged buildings proving impossible to insure, the whole site will inevitably be vacant in the future. The applicant has worked closely with the conservation officer and planning officers, with the final scheme amended to address objections from neighbours and the recommendation adapted to take these into account.

Member debate:

SW: looking at the south face of the site, likes the pitched roofs to the right, and didn't realise there is a pitched roof directly next door to this face as it can't be seen from ground level. The same applies to the Studio on west side. With tall buildings all around, it is difficult to refuse this proposal in terms of height, even though other buildings in the location are two-storey. Will support the application.

BD: doesn't like the three-storey element. People always look at the front of buildings, but recently went on the new terrace at the Art Gallery and Museum and was shocked by the view of the back of the Brewery development – no-one stopped to think about what it would look like from the back. People will be looking at the back of this proposal – what will they be seeing? If the scheme is permitted, there needs to be a condition for gull-proofing the flat roofs, if not already included, written in bold, black ink. The inner rooms originally appeared to have no escape in case of a fire – has this now been adjusted and agreed with building control? Wants to see the area developed but if this scheme is permitted, can there be a lot of rules and regulations on parking when it is being built – otherwise it could cause chaos, with people being forced to walk in the middle of the road.

PJ: notes the concerns of English Heritage – can the Conservation Officer provide some clarity on the impact of the scheme and why she considers the three-storey element to be OK?

KR, in response:

- has great respect for her English Heritage colleagues, but they look at applications on paper, not on site, and due to a restructure, the officer commenting on this particular scheme is new to the job. Considers some of her comments to be valid, but disagrees with others. For example, the comment that the buildings were originally stabling and coach houses – some clearly were, but some were residential accommodation for grooms and staff, evidenced by 19th century fireplaces. There are some issues with the detailed comments from EH;
- these are not listed buildings or curtilage-listed, so it is impossible to control internal protection of the fabric through legislation. Agrees with a lot of EH advice about retaining historic fabric – one building is to be retained, another has severe fire damage, and the buildings between – former stables – are now essentially garages and there is not a lot to retain;

- why is the three-storey element acceptable? We need to consider the comments on the recent application at Lansdown Place Lane. This is an interesting area in Cheltenham, essentially a service area, built for horses, carriages, stables, servants; there is a hierarchy in its formality – it is not all brick or all rendered, but still has some architectural status. The proposal re-introduces formal architecture, laying it out in a modern way. Lansdown Place Lane is much more into the heart of the area, where the formality of the architectural language is lost and was never intended to be read;
- the three-storey element is proposed where there is currently a two-storey building with a pitched roof. It is set back and will only be apparent when looking down on it from higher buildings. There are many examples in town where this arrangement has been allowed, and if the form and mass is acceptable, the architecture should follow on;
- looking at the original plot form, the relationship of the building to the space around it is as it was historically.

LG: is worried about the application, and did not feel any happier about it after visiting the site on Planning View. This is an important conservation area in Cheltenham, and Lansdown Place Lane is an area of traditional, small, two-storey workshops and accommodation mews. Cannot see the justification for introducing a three-storey building in the same vicinity. If permitted, will it not set a precedent for the future, for other similar buildings and applications? We should appreciate what is written in the conservation SPD, and given Cheltenham and its conservation areas the respect they deserve.

BF: notes Para 1.4 of the officer report – this was traditionally an area of coach houses, stables and mews, but there is not any need for these now. The backs of many Cheltenham buildings – including the Municipal Offices – are horrible, and this is an improvement on what is currently on the site. Members are told repeatedly that precedent doesn't apply in planning.

MP, in response:

- to BD, there is not a condition to gull-proof the roofs at present, but a standard condition can be attached;
- regarding escape routes for the inner rooms, has discussed this with the building control manager, and understands that this will need a fire-engineered solution. This would be set in place after the planning permission, as is normal;
- regarding parking during construction, there is no construction method statement at present, but this can be included to ensure that construction vehicles are kept off the road.

Vote on officer recommendation to permit with additional conditions on the planning permission in respect of gull-proofing the roof and a construction method statement

11 in support

3 in objection

PERMIT

44. 13/01372/FUL 19 Shaw Green Lane

Application Number:	13/01372/FUL
Location:	19 Shaw Green Lane, Cheltenham
Proposal:	Retrospective application for raised patio area
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	1
Update Report:	None

MJC introduced this retrospective application to regularise works as built. Planning permission was obtained for a single storey extension with a platform area, but this had to be

built larger than approved because of land levels at the site. The recommendation is to approve, subject to a condition covering privacy issues. It is at committee at the request of Councillor Stennett.

Public Speaking:

Mrs P Kennard, neighbour, in objection

Lives in the house next door, and understands that the retrospective application has to be considered in its own right. Told Members it became clear that building work on the original application was going off-plan, and had referred back to the plan and worked hard with the builders to minimise the effect on her property. Disappointed that planning officers consider a privacy screen to be a solution, as this will be detrimental to her amenity, with loss of outlook from her kitchen – she won't be overlooked, but neither will she be able to see out. In the report update of 11th October, there are two outline solutions, at Paras 1.2 and 1.3 – asked for clarification of this, and how the condition would be enforced. Also concerned that a future resident of the house could take down the privacy screen.

Mr Tom Banwell, applicant, in support

Has never taken on a project such as this before, and having secured planning permission to extend his property by an additional foot, agreed with the neighbour not to build the full extent of the approved square footage, and stopped the builders while they were digging the footings to appease her concerns about loss of light and view and maintain a good relationship. The raised step at the rear of the house is needed to enable safe access to the garden; obvious practical and health and safety considerations were overlooked in the original step design, and if it was smaller, someone could trip and fall down into the garden or up into the glass doors, which would be more dangerous if items were being carried. The wider step allows a person space to fall to their knees instead. The 90cm bi-folding doors require at least 1m depth to enable opening and securing without the need to step down and back up again, and the area isn't large enough to be used as anything other than a step to reach the garden – there is no room for table and chairs. Similar permanent raised decks, a large conservatory and a significant raised patio have all been built or approved within the same terrace, and in all cases, side fences have been installed to offer screening and a reasonable level of privacy. Understands that the neighbour is concerned about overlooking, loss of privacy and increased noise, but even prior to refurbishment, there has been a direct sight line from inside their kitchen into the neighbours' garden, and the neighbours' view back into their kitchen. Bearing in mind the fact the extension has not been built to the full extent of the original consent, the working action of the doors, and the obvious health and safety concerns, hopes that Members will see it as a reasonable compromise to permit the steps retrospectively, with the condition that a privacy screen be installed to eye level to overcome the neighbour's objections.

Member debate:

RG: the question with retrospective applications must always be whether the officer would have permitted the proposed changes on the original application had they been included. The report doesn't answer the question as to whether this extra bit of concrete would have been allowed first time round. Accepts the applicant's arguments regarding the folding doors and health and safety, but is concerned that the neighbour is affected by additional building in their back yard.

LG: this is a case of damned if you do and damned if you don't. Agrees with RG's point and doesn't know if the raised patio area would have been agreed first time round, but it is now constructed, and an appeal would be successful. Notes from emails that the neighbour has declined the offer of a privacy screen, because it will not be a thing of beauty and she will not be able to see across the landscape. There are two conflicting situations here – the solution to the problem created by the additional patio is to put up a screen but the only person who is affected by it doesn't want it. This is an occasion when further talk between the applicant, neighbour and officer seems the most sensible compromise solution. Will abstain from voting, as doesn't see the point of including a condition which isn't acceptable to the one

person concerned. Hopes the applicant and neighbour can get together with the officer and sort it out – the applicant could always put up a screen later without planning permission, so it would be better to thrash it out now.

BF: other things than fencing can be used as a screen – plants, for example, such as jasmine or clematis, might be considered better than a wooden screen.

MJC, in response:

- to RG, if the original planning application had been for the scheme as it is now proposed, the officer recommendation would have been the same – approval with a condition to contain views into the site. The officer would have negotiated through the application as she had done with this retrospective scheme and proceeded in the same way;
- LG makes an interesting point – the advice, as officers, is that where there is loss of amenity, this needs to be addressed. If the permission is granted with a condition, the two parties can then discuss how to go about this and the local authority will have done the right thing;
- to BF, a different type of screening can be used, but it's up to the parties to discuss this – for the committee to do so could be seen as micro-managing;
- where there is loss of amenity, a privacy screen is generally the right solution. It should be remembered that although the current neighbour doesn't want one, a future occupier may consider it to be necessary, and therefore the planning permission needs to ensure the inclusion of a screen. There may be alternative solutions which can be discussed once the permission has been granted.

BD: would a planning application be needed to put up a screen, or will it be left to the applicant to decide whether to put it up or not? This is rather woolly.

MJC, in response:

- to clarify, it is officers' view that a screen is necessary – there will be loss of amenity and a screen is the appropriate solution. The correct decision here is to grant permission with a condition to provide a privacy screen;
- outside the planning forum, the applicant and the neighbour may discuss the matter and reach a different solution. If this is the case, the authority will have nothing to enforce against, as it will not know;
- if this is maintained for 10 years, it will become a default situation;
- to reiterate, officers consider the right decision is to grant planning permission with a privacy screen.

RG: thanked MJC for the clarification, and supports the application. Was wondering whether there should be a condition to ensure that the raised step isn't used as a patio area, but with the bi-folding doors requiring space to open, this is unlikely to happen. Also wonders about a condition about noise, but thinks this is irrelevant in this case too.

LG: agrees with RG. This isn't an easy situation, but if what MJC suggests is accepted, it should be possible to resolve it. It shouldn't be forgotten that if the conservatory had been built according to the original planning permission, there would be no need for a screen anyway. There is therefore an obligation on the planning department to help resolve the problem.

PT: looking at the photos can see that a screen will obstruct the neighbour's view, but it is a fact that no-one has any entitlement to a view. The authority needs to put in place the necessary permission and condition to show that we have fulfilled our obligation, and let the applicant and neighbour take it from there.

KS: regarding the loss of view, asks when the loss of amenity aspect can be taken into account – even a clematis screen next to the kitchen window will give a closed-in feel. Has to ask the question.

MJC, in response:

- on planning view, Members went into the neighbour's kitchen, and it is the officers' view that the screen will have no additional impact on the loss of light. As Members have said, the loss of a view is not a planning consideration.

Vote on officer recommendation to permit

13 in support

0 in objection

1abstention

PERMIT**45. 13/01386/FUL Coronation Flats, Oak Avenue - DEFERRED**Application Number: **13/01386/FUL**Location: **Coronation Flats Oak Avenue Charlton Kings**Proposal: **Provide new refuse bin storage stores**

Consideration of this application was deferred, pending further clarification and revised drawings from the applicant

46. 13/01386/TPO 1 Finchcroft LaneApplication Number: **13/01484/TPO**Location: **1 Finchcroft Lane, Cheltenham**Proposal: **Atlas Cedar in rear garden – fell**View: **Yes**Officer Recommendation: **Permit**Committee Decision: **Permit**Letters of Rep: **5** Update Report: **None**

LM told Members that this is an application to fell a Cedar tree in the applicant's rear garden, subject to a condition to replant replacements to the front of the site.

Public Speaking:**Mrs Lucy Simpson-Daniel, applicant, in support**

She and her husband fully appreciate that the removal of a tree is not something to be taken lightly, have given it much consideration and employed an arboriculturalist to write a full report. The tree is 8m from the house, is overbearing and oppressive, dominates the garden, obscures natural light, and interrupts the view of the hills. However the primary concern is safety. The tree's close proximity to the house, structural weakness at the bark junction, susceptibility to branch loss, particularly in winter, and the possibility of branches fracturing and falling are all causes for alarm. The applicants are facing challenges with building insurance due to the class of risk, and there has been root damage to the drainage system. The tree has outgrown its context and is a safety risk. The applicants are committed to replanting three good trees in a part of the garden where they can mature, be viewable from the road and add to the visual amenity of the area. Was aware of the TPO when they bought the property, and did not automatically seek to fell the tree – sought expert advice before making a decision. Does not want to strip the area of its assets but to improve it with three new trees.

Member debate:

CC: drew Members' attention to the second of the two conditions on Page 144 – the report to be referred to is dated 'June 2011' in error. If the application is permitted, this condition will be amended to reflect the correct date of the report by reference to its site visit date.

SW: hates to see trees removed and this is a beautiful tree, but as the tree officer has pointed out, it has a serious fault. Would hate to see the tree fail and cause any injury. Does not have much sympathy with the loss of light issue, but from a safety point of view, the tree has to go.

Vote taken on officer recommendation to permit

13 in support

1 abstention

PERMIT

The meeting ended at 7.45pm.

47. Any other items the Chairman determines urgent and requires a decision

There were none.

Chairman

The meeting concluded at Time Not Specified