

## Planning Committee

6.00 pm, 21 August 2014

### Present at the meeting

Councillor Garth Barnes (Chair)	Councillor Helena McCloskey
Councillor Jacky Fletcher (Vice-Chair)	Councillor Andrew McKinlay
Councillor Paul Baker	Councillor Klara Sudbury
Councillor Andrew Chard	Councillor Pat Thornton
Councillor Matt Babbage	Councillor Malcolm Stennett
Councillor Flo Clucas	Councillor Chris Coleman (Reserve)
Councillor Bernard Fisher	Councillor Chris Nelson (Reserve)

**Present as an observer:** Councillor Whyborn.

### Officers in attendance

Tracey Crews, Head of Planning (TC)  
 Martin Chandler, Team Leader, Development Management) (MJC)  
 Michelle Payne, Planning Officer (MP)  
 Chloe Smart, Planning Officer (CS)  
 Wendy Tomlinson, Heritage and Conservation Officer (WT)  
 Cheryl Lester, Legal Officer (CL)

## 20. Apologies

Councillors Colin Hay and Seacome.

## 21. Declarations of Interest

### 14/01166/FUL 12 Everest Road

- (i) Councillor Coleman – personal and prejudicial – he is the applicant and will leave the Chamber for this debate. Attended Planning View on Tuesday but left the bus before the start of any discussion of this application, was not on site when Members visited, and rejoined the bus when the visit to this site was complete.
- (ii) Councillor McKinlay – personal but not prejudicial – knows the applicant.\*

\* Councillor Barnes noted that he and all Liberal Democrat Members would feel they have the same personal interest in this application.

### 14/01270/CONDIT Unit 3, Maida Vale Business Centre

- (i) Councillor Sudbury – personal and prejudicial – used to live adjacent to the site, in the house now occupied by the main objector and public speaker tonight. Will speak in objection to the scheme and then leave the Chamber.
- (ii) Councillor Chard – personal but not prejudicial – is a customer of Cotswold Linen Care, the applicant.

## 22. Public Questions

There were none.

## 23. Minutes of meetings held on 17th July and 31st July

- (i) Resolved, that the minutes of the meeting held on 17<sup>th</sup> July 2014 be approved and signed as a correct record *without* corrections.
- (ii) Resolved, that the minutes of the meeting held on 31<sup>st</sup> July 2014 be approved and signed as a correct record *without* corrections.

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

### 25. 14/01003/FUL 21 The Avenue

Application Number:	14/01003/FUL
Location:	21 The Avenue, Cheltenham
Proposal:	Proposed two-storey side extension, single-storey side and rear extensions
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Defer
Letters of Rep:	7
Update Report:	None

**MJC** introduced the application as above. The application is at Committee at the request of Councillor Baker, in view of the proposed alterations to the property and its prominence in the road. The recommendation is to permit.

#### Public Speaking:

##### **Mr Stephen Clarke, neighbour, in objection**

Lives at No 22 The Avenue, and is also speaking on behalf of the residents at No 20 and other neighbours concerned about the gradual erosion of the character of The Avenue. Cheltenham's sense of place is created by its avenues of fine houses set amongst trees and gardens, with a rhythm and balance giving a sense of confidence and pride. The Avenue is one such, a mid-twentieth century planned estate, and entitled to the same protection given to 19<sup>th</sup> century estates, for future generations to enjoy. Has two objections to the proposal: the first is the poor design of the ground floor east elevation replacing the front door, disrespectful of its prominent central position in The Avenue. The Planning Officer called it 'idiosyncratic' which is usually a euphemism. The applicant says it could be screened with a hedge, but it is not a question of style as much as one of good design which planning polices aspire to. The design should be worthy of its position and reflect its surroundings. The second objection is to the two-storey extension on the west side adjacent to No. 20. The character, rhythm and balance of these detached houses must be taken into consideration, and in this part of The Avenue, houses are separated from their boundaries at second storey level by at least 3 metres. This proposal leaves no room to screen the wall and interrupts the rhythm and balance of separation. The recent extension at No 33 on the other corner was a smaller and better design, and Cheltenham's Local Plan refers to the town's spaciousness, derived from spaces at the front, back and sides of buildings. The residents of No 20 are distressed at the prospect of a featureless two-storey brick wall shading their terrace, and negotiation with the planning officer made this worse – the wall now proposed is about a third of the depth of their back garden. There has been no negotiation or compromise here, and the planning officer does not appear to have paid due regard to the impact of the development, including the ground floor study window overlooking the garden of No 20.

##### **Mr Laurence Sperring, applicant, in support**

Purchased 21 The Avenue earlier this year with the intention of making a home for his family in the parish where his wife grew up. Sought pre-app advice on the draft plans from the planning office; the indication was that plans would be approved. 21 The Avenue was built in 1972 and has been little changed since then; it has three bedrooms and one bathroom, and needs upgrading for modern family life. The original proposal was for a new double garage, conversion of current garage to a two-storey extension, and creation of single-storey extension across the rear of the property. There were neighbour objections, mostly to the new garage of the east side of the property, and from planning officers who wanted to two-storey extension to be more subservient. These issues were addressed, and the case

officer spoke with colleagues, and said she would recommend the new drawings for approval, as has been done. Has made major changes to the original plans to take account of concerns: removed new double garage, altered two-storey extension in a number of ways, set upstairs back from ground floor, set roofline down from the main house, removed the gable, and moved the extension back to make it subservient. Residents at Nos 20 and 22 have raised concerns about loss of light; No 22 is 20metres away and will suffer no loss of light, and the proposal complies with the 45 degree light test with regard to No 20. The garden of No 20 is in its own shadow most of the day, and the proposed two-storey extension at No 21 will in fact cast a shadow over its own garden. The Avenue is characterised by large individual houses, which have had the chance to develop over many years, while No 21 has remained unchanged for more than 40 years. The plans are sympathetic to the current style of the house, will use matching brick and materials to the front and sides, and will improve the appearance of the house in keeping with others in the road.

**Member debate:**

**PB:** asked for this application to come to Planning Committee as some councillors have never been down this quiet cul-de-sac and do not realise what a special road it is – beautifully spaced, open, with houses set back from the road. Has sympathy with the applicant, as something clearly needs to be done with the house, but it is a hugely prominent corner plot, and he cannot understand the design of the extension from the east side. Can this be classified as good design? If so, doesn't know what the objective is. Is concerned by the massing and scale of the side elevations, and the gaps between the houses – these are a feature of the road; how would we consider an application to make other garages into a two-storey side extension, which would surely detract from the attractiveness of the road? Has big concerns about the design and is tempted to move to refuse on design grounds, but if the scheme is permitted, there are two windows which overlook the neighbouring garden, and these would be better if opaque.

**MS:** agrees with PB inasmuch that this area is a unique place, characterised by houses of different design. This proposal offers another different design and, as such, enhances the house. It is a little bit unusual with its up and down elevation, but can see nothing wrong with this – there are lots of different houses in The Avenue. Supports the officer recommendation to permit.

**CN:** has a question: a couple of the objectors talked about the extension being two times the size of the house – is this mathematically correct? Agrees with PB – knows the area well, and considers it beautiful and unique. Has sympathy with the applicant because this house is at such a critical point of the street – on the corner, in the centre of the development, forming a fundamental part of The Avenue – but has problems with both sides of the extension. The east side is a strange design and will look very odd to anyone walking along The Avenue. The two-storey extension on the other side is going to obscure the view, and undermine the continuity of the design of The Avenue. Found the site visit invaluable, and is uncomfortable with what is being proposed.

**MJC, in response:**

- the issues boil down to the prominence of the site – which is why this application is at Committee;
- the east elevation has a double gable roof pitch; officers thought long and hard about whether this is appropriate, bearing in mind that the drawings don't always help or offer oblique views of the proposal;
- the projection of the side extension is narrow - only 1.4m – and this will be dominated by the two-storey mass behind it. Officers feel this will be an acceptable addition to the property – prominent but not harmful;
- it's true to say that the area has special characteristics, but the proposal is subservient and respectful and the gap between properties is maintained;

- as MS said, the road has special qualities, one of which is variety of properties, and the different widths of the spaces between them;
- PB asked about future applications to build over garages, but the common scenario in built-up areas is a first come, first served policy – although this is normally relevant in more built-up areas than this. Could the neighbour on the other side explore the idea of extending – this would be for future consideration, and is the approach used throughout the borough;
- regarding the windows on the side – it is a fair comment that these should be fitted with obscure glass. The windows serve a bathroom and a study. Would support a condition to stipulate obscure glazing if they committee wants to add it.

**BF:** how much of this proposed extension would be allowed under permitted development rights? The house has a massive garden and doesn't front to the road. Wonders if the double pitch roof has Velux windows? Agrees that the design is slightly strange, but as MS says, all the houses in the road are different, and different doesn't equal wrong. As this is the biggest plot on The Avenue, is quite glad that the applicant didn't want to build a second house in the garden. With regard to the house opposite, notes that houses are much closer together along from there, and also that house design and the gaps between vary, because people want more space, more bathrooms and so on. The design is not bad, even if it would not be his choice; the front door is acceptable where it is – not in the middle but that's OK. On balance, the proposal is not too bad.

**PT:** knows The Avenue extremely well, having been a regular visitor to a friend there, and thinks that one of the big problems here is that the house looks rather stark, with not much in the way of trees. On the left-hand side of The Avenue, there are big old houses masked by trees, offering shade and shadow all the way down; this house does not have the biggest garden. However, doesn't think there is anything wrong with this, and will be supporting it.

**CN:** would like an answer to his question, regarding whether the extension actually in doubling the size of the house. Also, adding to issues raised by BF, has been studying the plan, and notes that only a small extension on the back of No 33 is shown – noted on Planning View that work on the new extension there is in progress. This property is in a prime location, which is unfortunate for the applicant. Has the impression that planning officers expressed a preference for a softer look for the sloped roof on the east side of the design – is this correct?

**MJC, in response:**

- apologies for missing the question earlier. It is not correct to consider extensions mathematically. Officers ask whether a proposed extension is respectful, and whether it is subservient to the existing building. This extension is large but does not double the size of the property;
- the proposal has been assessed against policy and the relevant SPD on residential extensions, and is considered acceptable. It is not a mathematical calculation, but taking into account the buildings, the locality, and whether it is respectful, officers consider that it is OK;
- regarding the extension at 33 The Avenue, there a two-storey extension being built there which couldn't see from garden of application site;
- regarding the different treatment of the eastern elevation, when negotiating with the applicant, officers suggested an alternative treatment but this was not the only way to do it – if the applicant does not agree, this is not a reason to refuse planning permission. As Rob Garnham used to say – deciding planning applications is not a question of personal preference – we must consider everything against policy;
- to BF's comments about PD rights, in this location, the applicant couldn't extend to the side without planning permission. As it is a detached house, it could be extended by 4 metres to the rear, but not at two storeys – so not much of what is proposed could be done without planning permission;
- finally, in response to BF's question, there are no roof lights in the double pitch roof – this is the applicant's preference.

**CN:** is MJC saying the size of the extension is not important? Is bemused. The original proposal was rejected as being too big so the size is clearly an issue. Has been looking at the regulations, including Policy CP7, and understands that size can be an issue when considering planning applications.

**MJC, in response:**

- is not going to say that size doesn't matter, but policy is concerned with ensuring that what is proposed is truly subservient to the existing building;
- officers felt that the initial proposal was too much and not in line with policy, and therefore asked the applicant to scale it down.

**GB:** does PB want to move to refuse?

**PB:** considers poor design a suitable reason, bearing in mind the prominence of this site in the street scene. Appreciates that difference is OK, but the design has to have some merit too. Being different is one thing, but this proposal is horrible and could be better. Moves to refuse on design grounds.

**GB:** reiterated that a condition for obscure glass in the side windows should be included if the proposal is permitted.

**KS:** wasn't sure if she was going to speak, but has a few comments to make after listening to other Members. There are two issues. Has great sympathy with the applicants - a nice family looking to develop this house to suit their needs - but we need to get all applications right and this one isn't quite at that stage yet. Its unusual appearance on the side elevation will alter the look of the street. The house at the moment is no oil painting but at least it fits in. This solution is very complicated and will harm the appearance and character of the area. Is also concerned about the impact the two-storey extension will have on the next-door-neighbour's property. Understands that a light test has been done but can see that the extension will be overbearing – can officers add to this? Has sympathy for the applicants and hopes that they can come forward with something which will work better on this large plot, but it would be wrong for the Committee to approve this scheme. The design is too complicated. If it was not a corner plot, may be able to grin and bear it, but in this prominent position, will support the move to refuse.

**JF:** as the design seems to be the problem, how about a deferral – go back to the applicants to see if they can come up with something more sympathetic. Would hate to refuse the scheme which has some good points and some awful – all in the eye of the beholder – before going back to the applicants and giving them the chance to come back to the Committee with something it can accept.

**MJC, in response:**

- regarding JF's suggestion, officers have had discussions with the applicants already and made suggestions; the proposal being considered tonight is what the applicants want to build. They have already made concessions, and a deferral won't achieve a great deal. Members should make a decision on what is before them;
- regarding loss of amenity, the report states that the proposal passes the light test comfortably and won't have an unacceptable impact on the neighbouring amenity space. In relatively built-up areas, this type of scenario is normal;
- this week, to officers' surprise, an appeal has been allowed elsewhere for a two-storey flank wall extension with a much greater impact on neighbouring amenity. Cannot recommend that Members defer this proposal.

**AC:** thinks deferral would be a good idea. Also has sympathy with the applicant – the house is too small for the plot but the side elevation is ugly. This will not only be viewed obliquely – it is a junction – and any alterations should be characterful and add to the house. What is proposed does not.

**CN:** if that decision is deferred, would that avoid the danger of an appeal?

**MJC, in response:**

- not necessarily – this would be up to the applicants. They may choose to do nothing and come back to committee next month with the same application.

**GB:** does PB still want to move to refuse on design grounds? Anything else?

**PB:** no, just design grounds. Is not against the idea of deferral; the applicant is here and has heard what Members have to say – could come back with a different design next month. Isn't sure what to do.

**CL, in response:**

- planning committee protocol states that if Members vote on the move to refuse and it is lost, permission is automatically granted. Therefore, if Members want to consider deferring their decision, they should vote on a move to defer first; if this is lost, they can then vote on a move to refuse if still wished.

**PB:** will agree to move to defer first.

**Vote on PB's move to defer**

8 in support  
6 in objection

**DEFER**

**26. 14/01032/FUL 281 Hatherley Road**

Application Number:	<b>14/01032/FUL</b>
Location:	<b>281 Hatherley Road, Cheltenham</b>
Proposal:	<b>Erection of two storey side extension</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>4</b>
Update Report:	<b>None</b>

**CS** introduced the application as above, and said there have been four letters of objection. The recommendation is to permit subject to the conditions listed in the report.

**Public Speaking:**

None.

**Member debate:**

None.

**Vote on officer recommendation to permit**

13 in support  
1 abstention

**PERMIT**

**27. 14/01070/FUL 10 Lilac Close, Up Hatherley**

Application Number:	<b>14/01070/FUL</b>
Location:	<b>10 Lilac Close, Up Hatherley, Cheltenham</b>
Proposal:	<b>Erection of single storey rear extension</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>2</b>
Update Report:	<b>None</b>

**MJC** introduced the application, which is at Committee at the request of Councillor Regan, due to concerns that it may be potentially overbearing on neighbouring property, impact on drainage, and cause loss of light. The recommendation is to approve.

**Public Speaking:**

None.

**Member debate:**

None.

**Vote on officer recommendation to permit**

12 in support

2 abstentions

**PERMIT**

**28. 14/01099/COU 81A New Barn Lane**

Application Number:	<b>14/01099/COU</b>
Location:	<b>Five Oaks, 81A New Barn Lane, Cheltenham</b>
Proposal:	<b>Retrospective change of use from ancillary garage to use as holiday let accommodation for not more than 42 weeks in any calendar year</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>2</b>
Update Report:	<b>Officer comments and conditions</b>

**CS** explained that this garage building is used in conjunction with 81A New Barn Lane, and this is a retrospective planning application to allow the first floor to be used as holiday accommodation as described above. There have been two representations from neighbours, objecting to the potential for increased noise and disturbance; the parish council has also objected on the grounds of inappropriate development. Officer recommendation is to permit.

**GB:** checked that Members have read the blue update.

**Public Speaking:**

**Mr Harrison, agent, in support**

Considers this application being brought to Committee an unusual situation – the officer recommends that permission be granted, but the application is here because the Parish Council has objected to the ‘inappropriate’ development, without giving any specific reason; in his opinion, not an appropriate way to object. If it were not for this objection, the application would have been decided under delegated powers. The greenbelt boundary in this part of New Barn Lane ebbs and flows, and the openness of the greenbelt will not be affected by this proposal – the building already has planning permission, and using it as a holiday let doesn’t affect the features of the site. Openness is not an issue, and the proposal falls in with guidance in the Local Plan and the NPPF. On practical issues, the potential

disturbance of an occasional vehicle will be insignificant; there will be no additional visual impact on the amenity of neighbours, and no alterations to the building itself. The windows will allow daylight into the space and are appropriate. The proposed use is sustainable - the site is close to the Park and Ride, which is intended for visitors and in line with policy, and will boost the local economy, with most visitors attending race meetings at Cheltenham Racecourse and using the Park and Ride to go to town. The property will be let for 42 weeks a year, and a condition sets out that it cannot be let to any one occupant for more than one month in any 12-month period. The proposal is modest and will have no impact on the neighbour.

**Member debate:**

**MS:** the report is a little on the light side. Members who were on Planning Committee when the original application to build a garage was approved in 2005 – PT, BF, GB, MS – will remember a lengthy discussion about amenity issues arising from putting up a building in this location, and the concerns of the neighbour. After the application was approved, the neighbour went to the Ombudsman, claiming that his amenity had suffered as a result of this application, and the Ombudsman agreed. It cost CBC £10k in compensation for the neighbour's loss of amenity. The conclusion was that the garage shouldn't be used for anything else apart from storage, but it obviously has been used as holiday accommodation – this is a going concern, advertised on the internet. If this is now given approval, the neighbour's amenity is likely to be further disturbed, with cars coming back at night, loud voices etc, and he could go to the Ombudsman again and incur more costs for the ratepayers' money. On this basis, moves to refuse the application – it doesn't comply with the conditions of the 2005 application and is contrary to CP4 in that it will harm the amenity of the neighbour.

**PT:** if the Ombudsman instructed CBC to pay compensation, why is the garage still there? Why was it not taken down?

**BF:** MS, PT and BF – long-serving planning committee members – remember this case. It doesn't say in the report that the previous case was looked at by the Ombudsman but it should do – it is relevant to what is being considered tonight.

**CS, in response:**

- paragraph 6.20 of the report refers to 'other considerations' which includes the Ombudsman case;
- the Ombudsman looks at the process by which a decision is arrived at, not at the decision itself. It is therefore not relevant to consideration of this application. Current local plan policies and the NPPF are the relevant considerations here. The Ombudsman case is mentioned in the report at Paragraph 6.21.

**AC:** it isn't up to officers to decide what Members should know or not know. This information should have been revealed, and finds it objectionable that it was not.

**PT:** agrees. Members should also know about the £10k, otherwise they will be working blind – they cannot all remember all the applications they have considered.

**HM:** notes that this is a retrospective planning application. Was not on planning view, but wonders how long this building has been used as a holiday let? The neighbour doesn't talk about noise, cars etc in reference to the recent unauthorised use of the garage.

**MJC, in response:**

- Members should not get distracted by the Ombudsman issue – it is historic and the reasons behind it are no longer relevant;
- in the 1997 greenbelt boundary review, the line was drawn incorrectly and this site was shown as being outside the greenbelt;
- two planning applications were submitted at that time, one for a house and one for a garage. The neighbour complained, and pointed out that the greenbelt change had



been carried out incorrectly – a genuine mistake – but during that window of opportunity planning permission was granted for the house and garage. The site was, erroneously, not shown as being in the greenbelt. This is why the Ombudsman was involved;

- the garage has planning permission, and the Ombudsman was not looking at the merits of the case but at how the decision was reached. The garage is therefore an authorised structure, and was not required to be removed;
- if planning permission is granted, the objector will need to go through the 3-stage process of internal complaints before going to the Ombudsman. Procedurally, the application has been handled correctly, and Members should determine it on its merits;
- the Ombudsman case is part of the history of this site but not relevant to the determination of this application – it is important to stress this.

**CS, in response:**

- the holiday let use was brought to the attention of the enforcement team about a year ago, but until then, its use was sporadic;
- it is at Planning Committee now to regularise that use as a holiday let, not as a permanent let.

**GB:** are Members ready to vote on MS’s move to refuse on CP4(a) and breach of earlier condition to use the area only for storage?

**PT:** if we agree this as the officer recommends, are we putting ourselves at risk of having to pay more compensation of any kind for any reason?

**CL, in response:**

- obviously, the reasons why a case would be taken to the Ombudsman are varied, and if there was some other reason why the decision-making was considered procedurally unsound, then it could be;
- for example, not taking into account the amenity of the neighbour, but provided members bear this in mind when making their decision so that it has been taken into consideration, this then would not be a ground

**Vote on MS’s move to refuse on CP4(a)**

5 in support  
9 in objection  
**PERMIT**

**29. 14/01166/FUL 12 Everest Road**

Application Number:	<b>14/01166/FUL</b>
Location:	<b>12 Everest Road, Cheltenham</b>
Proposal:	<b>Erection of first floor rear extension and part two storey/single storey side extension</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>0</b>
Update Report:	<b>None</b>

**Councillor Coleman left the Chamber for the duration of this item.**

**CS** introduced this application to extend a semi-detached property in Everest Road. There have been no objections from neighbours, and it is at Committee because the applicant is Councillor Coleman.

**Public Speaking:**

None.

**Member debate:**

None.

**Vote on officer recommendation to permit**

13 in support - unanimous

**PERMIT****30. 14/01171/FUL Bath Road utility boxes**

Application Number:	<b>14/01171/FUL</b>
Location:	<b>Roundabout, Bath Road, Cheltenham</b>
Proposal:	<b>Proposed decoration of 19 utility boxes within the Bath Road area and decoration of existing roundabout (junction of Bath Road, Leckhampton Road and Shurdington Road).</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>4</b>
Update Report:	<b>None</b>

**CS** introduced the application, which has been made by Connect Streets, a community scheme set up to improve Bath Road. Officers have been involved with the scheme. There have been four letters of support, and the officer recommendation is to permit, subject to conditions.

**Public Speaking:**

None.

**Member debate:**

**JF:** this will brighten up Bath Road – it would be wonderful if it could be extended into the town centre, if shop owners get together it could really make a difference.

**AC:** agrees with JF – this is a brilliant idea. Would love to see it extended, and if it doesn't work out, the boxes can always be painted dark green again. We should give it a bash.

**BF:** the boxes will look good for a while, but is thinking about the Charlie Chaplin artwork on the railway bridge. The boxes are green for a reason – we're not supposed to notice them – but when painted they will stand out like a sore thumb. This is OK when they're newly painted but in five years' time?

**CN:** agrees with JF and AC. The scheme is excellent, innovative and well thought through, and the applicants have worked closely with local communities. Believes the artwork will be painted with anti-graffiti paint to protect it. Agrees it would be nice to extend the idea across town.

**Vote on officer recommendation to permit**

12 in support

2 abstentions

**PERMIT**

**31. 14/01203/COU 40 Newton Road**

Application Number:	<b>14/01203/COU</b>
Location:	<b>40 Newton Road, Cheltenham</b>
Proposal:	<b>Change of use from residential dwelling to House in Multiple Occupation (HMO) comprising 8 letting rooms</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>3</b>
Update Report:	<b>Officer comments</b>

**MJC** introduced this change of use application. The house is currently occupied by four tenants. Planning permission would not be needed to increase this to six. The application is at Committee at the request of Councillor Wheeler who is concerned about the intensity of use and additional cars in the area. The officer recommendation is to permit

**GB:** checked that Members have read the blue update.

**Public Speaking:**

[See below]

**Member debate:**

**BF:** if eight people live in this house, all going to work in different directions with cars, bikes, pushbikes etc, there is going to be very little space outside for parking. These are average-sized terraced houses and with eight adults living together, it's going to be very crowded. The rooms are small, the sitting room is very small. Tenants are likely to be students, working men, professionals, civil servants – the size of the rooms is very small to accommodate eight people. Realises this is not necessarily something that should be considered from a planning point of view, but has safety concerns about the cramped space.

**CN:** also has concerns, which were not apparent on reading the report but became so on planning view. Agrees with BF's comments. The report seems to indicate that five people will share one bathroom – is this realistic, especially if they are all working people needing to leave the house at a similar time? Understands this type of issue is addressed in the HMO side of things after planning applications have been granted, but with no sinks in the bedrooms, there is going to be a lot of pressure on the bathrooms. The applicants have built two rooms on top of the house and then applied for planning permission. Why did they not apply for planning permission first? Comments from Environmental Health officers have been included in the report, but does the proposal deal adequately with the EH officer's concerns? Also notes that the report states that the road is wide. There were not many parked cars on planning view, but imagines that parking is probably quite a problem at night. The property is also close to a sharp bend, giving rise to safety issues. There are four people living in the house now and this application seeks to double the number of occupants.

**AC:** shares BF's concerns about safety, particularly in relation to the fire escape. Raised this question on planning view, and how easily people could get from the top floor to the ground floor. Realises this is part of the HMO process, but MJC said he would look at this and come back to Members. Remains concerned about safety.

**JF:** there are currently four parking spaces on the site – feels this is adequate and that parking will not be a problem. However, is worried about the two bathrooms serving eight people. There are not even any washbasins in the rooms. Will this issue be dealt with through the HMO process after planning permission is granted if Members have highlighted

it? Also raised the question of safety on planning view – how would people get down if there were a fire? This is a problem. MJC was going to look into it.

**FC:** can officers clarify the size of the smaller rooms as shown on the plan? Are they just bedrooms or are they bed-sitting rooms with kitchen facilities? If so, they are extraordinarily small.

**MJC, in response:**

- has spoken to colleagues in the housing standards team, and they have confirmed that they are in discussion with the applicants to grant a licence. They have indicated that there are no concerns with the property regarding space standards and the number of people;
- to FC, the small rooms are 3.9m x 2.5m, and are bedrooms, not bed-sitting rooms;
- in an HMO, people share communal living space - kitchen, bathroom and living rooms – this is normal;
- regarding space, Members need to be careful how they approach this as there is separate legislation to set out what is appropriate and what not;
- Members need to consider the use – does the building meet the new needs with regard to bin and cycle storage, car parking, how it sits in the locality?;
- bin storage is enclosed and adequate;
- the applicants have had a parking survey carried out and the County Council is satisfied with this; there were spaces in the street at 4.45pm and 7.30pm, within a short distance of the house;
- regarding wash-basins in bedrooms, this is not a planning issue – there is separate legislation to deal with this. Two bathrooms for eight people is OK – Members should not impose their own standards on other people;
- regarding the fire escape and dormer windows, these were discussed with the housing team, and also comes under separate legislation – feels uncomfortable when Planning Committee stray into discussion of this sort of issue;
- the dormer windows come under permitted development and do not need planning permission.

**PT:** with one kitchen between eight residents, and the bedrooms at the top some distance away, imagines residents might be persuaded to have a picnic stove or something similar in their rooms. Realises that this is straying into other territory but Members want to be reassured about their concerns and are not being.

**MS:** wouldn't want to live in this house but is sure that many people would find it suitable and useful. We always talk about the need for affordable places to live and this provides eight affordable places. We are straying into territory outside planning regulations, and have already been told that six people can live there without planning permission. The application is only asking for two more. Members should support it.

**GB:** reiterates officer's comments, and reminds Members to be careful they are not chasing hares.

**CN:** the EH officer is an expert on noise etc, and in his report, queries whether new windows are to be installed to mitigate potential noise issues, but later in the report, this advice is dismissed by officers without adequate consideration.

**MJC, in response:**

- planning permission would not be needed for six people to occupy this house, so the additional impact of two extra people is what needs to be taken into consideration tonight;
- the EH officer did not request that the applicant made the suggested changes before being permitted to go forward. Considering that two additional tenants could live in the house without planning permission, it would be difficult to justify a requirement of additional windows;

- to PT, MS has more or less answered her question. Issues she raised come under building control and HMO legislation – Members must consider the application on its merits and assess it against planning policy.

**KS:** this is a difficult application, and an example of problem which isn't going to go away around the town or the country, due to changes in the welfare system and young people being unable to afford a home of their own. This puts us in a difficult position - there will be eight people living in a family home, with two bathrooms, and there could be substantial impact on neighbouring amenity, and yet this sort of accommodation is clearly needed. We are between a rock and a hard place; these are not the living conditions she would like for the people of Cheltenham, but if there are people who can only afford this, it is difficult to refuse.

*[Mr Sawyer asking when he would get to speak]*

**GB:** will allow Mr Sawers, the applicant, to speak at this stage as, due to a misunderstanding, although he had made contact to be registered, this had not been recorded.

### **Public Speaker**

#### **Mr Sawers, applicant, in support**

Would like to clarify a couple of points of fact. There are four bathrooms in the property, not two as has been discussed. The top floor was converted many years ago, and complies with building regulations. There have been no external changes. In two weeks of marketing, there have been seven of the eight rooms have been let, demonstrating a clear demand for this kind of accommodation. The property meets HMO safety standards – the applicant has been working closely with the HMO licensing team on matters of fire regulations, size of room, number of bathrooms etc. There are two shower rooms on the top floor, one on the first floor, and one on the ground floor. There are four toilets and wash basins. The property was previously a six-bedroomed house – four double and two single – and therefore capable of housing 10 adults.

**JF:** are the plans on show not the present ones? Cannot see the four shower rooms on the drawings.

**BF:** the drawings on the wall show them, can see shower room on the top floor, if you look very closely.

#### **MJC, in response:**

- apologies to the applicant for not being in possession of all the facts. Unfortunately the case officer is unable to be present at the meeting tonight – she has visited the site and could have answered Members' questions more fully. There was no access to the building on Planning View, and MJC has not been in the building;
- having examined the plans more strenuously, can see two en suite shower rooms – apologies to the applicant for overlooking these previously;
- so the property has two main bathrooms and two en suite facilities on the top floor. This is a better situation than he had anticipated.

#### **Vote on officer recommendation to permit**

9 in support

1 in objection

4 abstentions

**PERMIT**

**32. 14/01226/FUL 16 Greenhills Road, Charlton Kings**

Application Number:	<b>14/01226/FUL</b>
Location:	<b>16 Greenhills Road, Charlton Kings, Cheltenham</b>
Proposal:	<b>Erection of a single dwelling to the rear of 16 Greenhills Road and associated access drive, following demolition of existing attached garage and re-instatement of integral garage within existing dwelling (revised scheme following refusal of planning permission ref. 14/00660/FUL)</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>9</b>
Update Report:	<b>None</b>

**MP** introduced the application as above. It is a revised application, the previous scheme being refused on design grounds. The current proposal is exactly the same as the dwelling built to the rear of 17 Greenhills Road. It is at Planning Committee due to objection from Parish Council as over-development of the site, and also at the request of Councillors Baker and Smith, due to residents' concerns. Officer recommendation is to permit.

**Public Speaking:****Mr Borrie, neighbour, in objection**

The previous application was rejected as its scale, form and massing would constitute over development, fail to complement or respect the neighbouring development, and fail to be subservient to the existing dwelling. None of these issues have been addressed with this new application. The NPPF discourages inappropriate development of residential gardens, which this is. Cheltenham's SPD on garden land developments gives clear guidance as to what is or isn't acceptable, stating that single tandem development will not normally be accepted, and a rear garden development should be of a reduced scale compared to the frontage houses – yet the proposed house has 2,400 sq feet, comparable to existing houses on that side of Greenhills Road. Local Plan policy CP7 requires development to complement and respect neighbouring development and the character of the locality, but the proposed house will result in significant loss of green space, totally out of character with the street scene and at odds with the urban grain. It will have a significant effect on neighbouring properties, leading the loss of privacy, a compromise on security due to the new driveway providing access to rear gardens, and visual impact on a number of surrounding homes. If every property in the road undertook tandem development, it would totally change the character of the neighbourhood and quality of life and amenities of residents. There would be no large gardens, less green space, and more flood risk. Permission has been granted for a similar development at No 17 Greenhills Road, despite it not meeting planning guidelines, but there is not requirement to grant permission for this more intrusive one, with only one parking space and 3 metres closer to the northern boundary. It seems odd that No 16 should be allowed to build at the extreme north end of its property because the owners of 7/8 The Avenue have not built in their back gardens.

**Mr David Jones, of Evans Jones, in support**

This application follows the Committee's decision to refuse planning permission for a dwelling on the site in June, on the grounds that the contemporary design did not complement or respect the neighbouring development and was not subservient. The revised proposal is identical to that approved at 17 Greenhills Road last October. Policies have not changed since then, so that consent provides a compelling recent precedent – as Members know, planning authorities have a duty to be consistent. In response to the refusal reasons and Members' comments, the revised proposal seeks consent for a single dwelling of traditional design, identical to the one approved at No 17 and similar to those approved at Haymans Close and Charlton Gardens. It has the same floor area as the dwelling approved next door, and is approximately one third smaller than the dwelling fronting Greenhills Road. In response to neighbours' objection that this is an over development, garden developments

have been permitted close to the site, and the principle of developing in rear gardens has been clearly established; this proposal compares in massing, height and urban grain with that previously consented by the authority. Regarding impact on privacy, the proposal is identical to that approved at 17 Greenhills Road, and the officer, having noted residents' concerns, considers it to be in accordance with policy CP4. No highway objection has been raised, and the proposed access has been designed to match that previously approved at No 17. In summary, the revised proposal has addressed Members' concerns, reduced the physical bulk of the proposal, and reverted to traditional design. It is subservient to the houses fronting Greenhills Road, and takes design references from new houses in Haymans Close and Charlton Gardens. National and local policy does not seek to prevent appropriate development on garden sites, and this is a sustainable development, which complies with both local and national planning policy.

**Member debate:**

**KS:** we are being told that this is an identical site to the one next door at No. 17. Is the boundary to the same level as the site next door? Was No. 17 on the same size garden as this, or was it smaller?

**CN:** has problems with this application. It seemed reasonable at first, but thinking about the report, the site, planning view, and the discussions about 21 The Avenue, is not so sure. The area is rather unique, and although Planning Committee agreed to the dwelling next door at No.17 which could be seen as creating a precedent, was brought up to believe that two wrongs don't make a right – and wonders if the previous decision was correct. If what was agreed for No 17 is agreed for No 16, what will happen in the future? Looking at the size of Greenhills Road gardens on the plans, it is clear that the lines converge from west to east. If each house made a similar application, at what point would it be decided that the garden is not big enough for a house such as this? Questions the wisdom of this precedent. The Architects' Panel raised the issue of the roof; we are told that the proposals at No 17 and No 16 are exactly the same, but are the roofs the same? It seems like a big building with a big roof. The report talks about the 2002 recommendation for the preparation of a development brief for this area, which was not progressed – why not? There is a comment in the report that CBC currently cannot demonstrate a 5-year housing land supply, but is this still the case, bearing in mind the proposed housing provision in the JCS? This proposal is a tandem development which is not permissible, according to the SPD on garden land development. Why have these rules not been applied at No17? There are some unusual conditions relating to parking and turning – are these included to justify going against policy? There is mention in one of the objections of a covenant – what is the legal position on this? Regarding traffic, knows this road well, and that traffic along it can be busy. If a whole load of houses is added over the years, this will increase the number of cars. With the width of pavements, cyclists etc, this is an accident waiting to happen, and the more houses, the greater the risk that this will happen.

**MP, in response:**

- the proposed dwelling is identical in every way to the one permitted next door at No 17 – there have been no changes;
- regarding the proposed development brief in 2002, Members decided they did not want to take the idea any further;
- to CN's question about why the dwelling was permitted at No 17 against advice in the SPD – the SPD is not intended to preclude all development, as explained at 6.5.6 of the report. In this case, because backland development has already taken place, the character of the area has altered and this will not be a stand-alone tandem dwelling;
- highway safety is also dealt with in the report. Highways officers have not commented on this proposal, but it is covered by standard highways advice; the revised plan shows that access will be in line with the comments made for No 17;
- covenants are not a material consideration to planning applications;
- the sites – No 16 and No 17 – are not exactly the same size, but are certainly comparable.

**KS:** when the application was at Committee the last time, had a problem with its bulk, scale and mass regarding the size of the site. This is better – but how does it compare to the other side, in case this makes a difference?

**PB:** is looking at the location of the building within the plot. The proposed new house is substantial yet appears to have no amenity space and no garden. It is also North facing – is this good design? Is opposed to this scheme on principle, and has difficulty with the existing permissions. It would be useful to know where the new dwelling at No 17 will be in relation to this.

**MP, in response:**

- regarding amenity space – this compares with amenity space of similar properties in Haymans Close and at No 17. It is only slightly smaller. There are no set standards to regulate this.

**PB:** the properties in Haymans Close are smaller – there will be four or five people living here. Asks again, is this good design?

**Vote on officer recommendation to permit**

9 in support

5 in objection

**PERMIT**

**33. 14/01270/CONDIT Unit 3, Maida Vale Business Centre, Maida Vale Road**

Application Number:	<b>14/01270/CONDIT</b>
Location:	<b>Unit 3, Maida Vale Business Centre, Maida Vale Road</b>
Proposal:	<b>Variation of condition 2 (hours of business) and condition 3 (hours of loading/unloading) on planning permission ref. 02/00813/CONDIT granted 25th July 2002 to allow the premises to be used between the hours of 7.00am and 7.00pm Monday to Friday, and 7.00am and 3.00pm on Saturday, Sunday and Bank Holidays</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Refuse</b>
Letters of Rep:	<b>10</b>
Update Report:	<b>Officer comments; additional representation</b>

**MP** introduced this application to vary two conditions on this business unit which has been used as a commercial laundry for a number of years. The applicant is seeking to increase the hours of operation. The application is at Planning Committee at the request of Councillor Sudbury, who is concerned about loss of amenity. The recommendation is to permit, subject to revised conditions.

**Public Speaking:**

**Ms Wiseman, neighbour, in objection**

With every fibre of her body, urges Members to refuse this application. This is a mixed residential and business area. Nothing has changed since the site was developed in 2000 in terms of residents requiring less amenity, or since 2002 when this unit's working hours were increased by 11%. If anything, amenity should be more valued now than it was 14 years ago, with the pace of life as it is. Neighbours simply want to keep things as they are – no increase in noise due to increased hours; peace and quiet on summers' evenings, Saturday afternoons, Sundays and Bank Holidays. Is not a complainer without good reason. Members on Planning View did not experience the full noise from the unit on their site visit, as it would not be in the unit's best interest to show that. From time to time, all the unit



occupiers are on their premises outside their contractual hours - this is challenged by residents but maybe overlooked if there is no noise – but with CLC, it is not about giving an inch and taking a mile – they just take, take, take. They worked on Easter weekend and the 26<sup>th</sup> May Bank Holiday, as well as regular Easters, Christmases and New Years – even the Queen’s Jubilee. Has video evidence to prove it which was offered to CBC but not accepted. Other people look forward to Bank Holidays, but she braces herself, knowing that CLC will steal her peace and relaxation – it is very stressful and frustrating. Has exhausted every avenue to reason with CLC and get the council to enforce the current terms. Nothing happens to resolve this, only an application for more working hours. It is exhausting to have to repeatedly confront this Groundhog Day situation. There are eight objections, five of which refer to lack of enforcement; has submitted complaints about this recently. The 2002 conditions have not been respected by CLC or enforced by the council when residents have raised concerns over the last 12 years. If the scenario is that the two parties do not stick to the agreement and residents’ concerns are repeatedly ignored, what is the purpose of all this? It makes mockery of the whole planning process. The area should not have to become 24/7 because one business wants to double its turnover and profit; it needs to maintain a balance – residents’ amenity is not elastic and has reached breaking point. CLC could have made improvements long before now, but have only done so now at the 11<sup>th</sup> hour in an attempt to win this application – no doubt the silencers will be on eBay soon. Asks Members to imagine this was their home in the balance.

**Mr Korant, applicant, in support**

Has been the owner of Cotswold Linen Care since October 2004, and understands the main objection to the application is to do with noise disturbance. As a company, CLC respects neighbours’ concerns regarding noise, and has liaised with and acted upon recommendations from the council’s enforcement officers to minimise the impact from operations. Members have now visited the site and council officers have monitored and recorded noise levels; therefore respectfully asks that a fair and reasonable decision be made purely on the facts and findings relevant to this application. CLC’s intention has never been to extend operational hours on a permanent basis, but to have flexibility to cover exceptionally busy periods which have resulted for changes in trading practices over the years. As with all seasonal businesses, they have quiet periods when working days are shortened, staff members finish early, and there are no washing machines or dryers operating. If this application is permitted, there would be a maximum of three members of staff on site on Sundays or Bank Holidays, with entry to the unit via the office door at the front – there would be no use of the roller shutter door. For the record, has never worked on Christmas Day, Boxing Day or Good Fridays.

**Councillor Sudbury, in objection**

Has not prepared a speech, so will speak from the heart. Is amazed at the last comment from the previous speaker, when she lived there in 2001 remembers how much the business got on her nerves – recalls a Christmas dinner when the family could feel the rumble and heat coming out of the machines. This happened most Christmases – she is not lying. Ms Wiseman spoke from the heart, and it is difficult to explain the impact of this noise 11 hours a day – it cannot be ignored. It’s true that when she moved in, she knew there was a laundry nearby. The introduction of new machinery in 2002 made it quieter, but it is still a loud noise to put up with several hours every day, and a great relief when the machinery is turned off. It is difficult to explain to Members the impact this has, but the complaints speak for themselves.

When she lived at No 6, she was very busy – too busy to fight the case – and this is also the case with Ms Wiseman, but it is just so annoying to have to live with this noise. It varies a lot – sometimes it can be quite peaceful, sometimes it affects every room in the house. If this application is permitted, it is like saying to the residents they are not entitled to Bank Holidays, not entitled to use their gardens for barbecues etc. Now lives in Brizen Lane, which isn’t exactly quiet – there is background noise and noise from the road – but it is an

altogether different type of noise from the vibrating noise emanating from the laundrette. Got the impression the owners didn't give a monkey's about local residents.

This isn't the right site to further expand a business of this kind. The report refers to the refused application in 2002, which sought to increase working hours but was felt by Planning Committee to give rise to intensification of activity which would have a harmful effect on the amenities enjoyed by local residents. The laundrette is even busier now, and the noise greater than it would have been back then. Asks Members to be consistent and refuse the application tonight.

**Councillor Sudbury left the Chamber for the rest of the meeting.**

**Member debate:**

**GB:** checked that all Members had read the blue update.

**AC:** is very confused. Could not object to the noise that Members heard on Planning View, which wouldn't cause any problems, but is hearing at the meeting that what they heard was not the truth. Someone isn't telling the truth. Would move that the decision should be deferred, allowing spot checks to be carried out to establish the true situation before making a decision.

**BF:** the laundry has been operating for a number of years, and residents have been complaining for a number of years and yet there is no record of what has happened as a result, what enforcement officers have done, what measures have been put in place. The neighbours say the laundry operates on Christmas Day. There should be a track record, but it is the age-old story – we talk about enforcement a lot but don't actually do it.

**PT:** on Planning View, asked officers to provide details about the complaints that have been made, when etc. It is easier to comprehend if this is in written form, and not very good that this has not been provided. Will go along with deferral if she has to - someone is not telling the truth.

**CN:** similar to AC, BF and PT, believes there is a problem of honesty here. Attaches great weight to what KS has said – she lived in the house for six years and has spoken very eloquently about the issue, and has submitted very comprehensive and detailed letters. Has a strong impression that the noise heard by Members on Planning View is not the same as that experienced by Mrs Wiseman. Is minded to refuse. Residents aren't saying they want the business to close down, and it's true to say that they knew when they moved in that a laundrette business operated on the site – it is the extra hours which are the issue. The applicant had originally wanted 11 extra hours per week; this has been reduced to nine, spread out over evenings and Saturdays. It is a huge affront to extend the working hours and run the risk of additional noise – not the noise as heard by Members on planning view but the noise experienced by residents over the years. The noise Members heard on Tuesday wasn't bad but suspects that at various times of work, the volume of noise is significantly greater. Members should refuse the scheme.

**AM:** agrees with AC. At the very least, there is a significant divergence in interpretation of the facts. Listened to the speakers and appreciates that there is a long-standing problem with noise nuisance here. The applicant says these comments are not true and that he is respectful of his neighbours. The environmental health officer sits on the fence – says maybe there is a bit of an issue with noise here. Other Members are right in saying there is a dispute of fact and that information should be available to them – such as a log of complaints to environmental health about the noise nuisance from this and other activities on site. If it is true that the applicant minimised the noise for Planning View, a few spot checks would clarify the situation and could be reported back at the next meeting. The nub of the issue is the extent to which neighbours are disturbed, and Members have not been provided with enough information to make a judgement. Supports AC's deferment for more information.

**FC:** is confused. Page 122 of the officer report states that an application was approved in 2002 which set out hours of operation and loading, to include no Sundays or Bank Holidays, to ensure the amenity of neighbours. The blue update relates to enforcement of those conditions, stating at 1.2 that there was no mechanism in place for enforcing when the laundry should not be operative. It states that the conditions were not enforceable which led to inaction – this is not acceptable. Residents have endured unacceptable noise at times when children are in bed, on Sundays and Bank Holidays, and not been able to enjoy peace and quiet in their homes, in line with local policy CP4. We need to look at this in depth, not just in relation to this planning application. Conditions attached to the premises should have been enforced but this was not done, and if the current application does not receive a plain refusal today, it's quite possible that these conditions won't be enforced either. What conditions currently pertain to the premises? Are they enforceable? If not, how can we make them enforceable?

**PB:** would move refusal on this, the laundrette is a growing and successful local business, but it shouldn't increase its hours and profits at the expense of local people – it should move elsewhere. The neighbour's speech to Committee was impassioned and genuine. What is being asked for by the applicants amounts to an extra day. It is unacceptable and should be refused.

**CN:** AM's suggestion of a deferral sounds reasonable in view of the conflict of evidence – had thought about suggesting this himself - but what period of time would be put on this – one month, two months, three months? There is evidence of the existing hours of work agreed in 2002 not being followed, with Councillor Sudbury and Ms Wiseman giving examples of the business working outside those hours. If the applicant has not been following the rules and the decision is deferred for a few months for spot checks etc, what is to stop the applicant from sticking to the specified hours for those few months? It is not only Councillor Sudbury and Ms Wiseman who have spoken tonight – other local businesses are also against the proposal, and other neighbours to the back of the building have also objected. The weight of evidence is very strong. The application should be refused.

**MP, in response:**

- would first point out that the Christmas Day working referred by a speaker to dates back to 2001; applicant himself set out that he did not take over the business until 2004, and his comment about not working on Christmas Day could be true as could the other speakers – referring to different times;
- the nature of complaints has been sporadic, the first being in 2001, and all complaints have come from one neighbour. There have been no complaints from other properties. There are no dates available to check;
- Councillor Clucas has referred to the nature of the condition, as set out in the blue update. Officers consider this to be ambiguous, as it refers to use of the premises as a whole and precludes the applicant from other activities such as paperwork etc – this would be very difficult to enforce, and is the reason for any previous inaction;
- the application being considered tonight has come about as a result of an enforcement requirement to regularise what has been occurring on the site;
- regarding the noise levels on site, this is not as bad as the objections state. Environmental Health officers have made regular checks when all the machinery is working at full capacity, and Members on Planning View walked through the laundry when every machine was on;
- the noise level has been further reduced in the last few days – on the advice on the EH officer, the applicant has extended duct work and fitted silencers to the dryers. These can be conditioned if Members suspect the applicant could remove them in the future.

**AM:** in response to CN's point, does not think refusing at this stage is the right thing to do – it would be empty posturing. The complaints are a result of the current work of the applicants, and show that existing controls are ineffective. If this application is refused, the existing position – which is unacceptable to neighbours - will continue. Regarding the length

of time of the deferral, hopefully the application can be brought back sooner rather than later. Sees two options here: on the one hand, we can leave things as they are, which we know is clearly unacceptable to neighbours; on the other, we can approve the application, with evidence under serious challenge. Neither of these options is comfortable for Planning Committee. There is also the possibility of CBC being challenged for non-determination, but if we turn the application down and do nothing to improve matters, the current position will not have changed.

**PT:** is disappointed – had asked officers on Planning View for a list of complaints and when they were made, and this has not been produced. Not satisfied with the officer's explanation.

**FC:** regarding the current conditions – if these are being breached, as both KS and the objector say they have been – they should be enforced. The current permitted hours of work are 7.00am to 6.00pm Monday to Friday, 7.00am to 1.00pm Saturday, and no time on Sundays or Bank Holidays. This has got to be enforceable – is flummoxed to know why these conditions have not been enforced, and would like a proper written answer as to why this is the case; otherwise residents' lives are being put through hell. Now the applicant is seeking to increase the working hours and if Members are minded to refuse, they should have this evidence to justify their refusal. It doesn't matter if it's one household or 50 being affected. The business has been operating on Bank Holidays and outside the stated hours – why has no action been taken?

**MS:** has a lot of sympathy with what has been said, and agrees whole-heartedly with AM – to refuse the application would be dangerous at this time. It would be helpful if a temporary approval could be granted, for six months. Members have been hearing from local residents what is going on, but enforcement officers have not been involved. The residents could keep a log, we could see what action enforcement officers would take, and see what happens over six months.

**MJC, in response:**

- the enforcement issue is an important point. The original condition was not worded in the most helpful way - the word 'premises' was used to safeguard the amenity of residents, but if the building was being used outside the stated hours for paperwork, office activity etc more related to B1 use, this would be OK in a residential area; it would not be expedient to enforce the condition if the machines are switched off but someone is working in the office at 6.00am;
- this is why the condition has been amended to refer to machinery, and if the amenity of the neighbours is compromised by noise of machinery outside the stated hours, this would not be acceptable;
- MS's suggestion is a sensible one to test if the additional hours of work, and more suitable than a deferral;
- it is important to remind Members of the EH officer's comments on the orange update – he recommended extending ductwork and fitting attenuators to the ducts, and the applicant undertook this work immediately. On further inspection, the EH officer considers the impact of the noise is not unacceptable – this is the clear comment of CBC's professional adviser on these matters.

**GB:** notes that five Members have indicated to speak. Requests they do not repeat comments which have already been made, and that they keep their comments brief.

**CN:** notes that Members are being told they should follow the advice of the EH officer on this application whereas they were told to dismiss professional advice for the previous one - it seems to be decided according to the mood of the moment. As AM has said, a refusal of this application would lead us right back to where we were, which wouldn't be right. There are a lot of complaints about the applicant breaching hours, and Members are here to see if this should be legitimised. If the application is refused, at least that refusal will deliver justice.

**BF:** regarding MS's suggestion for a six-month temporary permission, there is only one Bank Holiday between now and Christmas, and based on the previous track record, it's possible that the conditions will be broken. FC has referred to the conditions, and the officer has stated that the applicant may be doing paperwork after the machines have stopped, but the current conditions states that business should shut down at 6.00pm and not start again until 8.00am. The applicant understands this, and it doesn't matter what the reason for being in the building is – he should stick to the planning permission – the law is the law. Officers have said that some conditions are unenforceable, but Members should remember that all conditions are appealable. From comments and letters, it's clear that people in the area have had their peace and quiet disturbed and are in turmoil. His daughter had trouble when living in Hove, with neighbours in the flat above playing loud music at 3.00am in the morning – it was only when she found the landlord's home phone number and rang him at 3.00am to complain that something was done. CBC doesn't give out environmental health officers' numbers so any incident is likely to be reported some days later – this is no good. There is no track record; enforcement is abysmal. The owners of the Banksy house will get away with a caution; the vast majority of enforcement work is not done because we do not have the personnel to do it. These conditions should have been enforced and business carried out within the conditions of the planning permission. Why can't people work to the planning permission as given?

**PB:** enforcement is a side issue. The current planning application is asking that local residents accept the business opening from 7.00am to 8.00pm on weekdays, 7.00am to 3.00pm on Saturdays and Sundays, with all the vibration and noise it brings. This is not reasonable or acceptable, and we should not be supporting it. End of story.

**JF:** if the application is approved with suggested conditions, couldn't something be included to make them stronger – so the applicant and the residents know exactly when the laundry won't be working? It's not feasible that the laundry should be working those hours.

**FC:** the officer's explanation about enforcement was unacceptable. Would like to suggest that Condition 2, as set out at para 1.3 of the blue update, be amended, with stated hours of operation as 7.00am to 6.00pm Monday to Friday, 7.00am to 1.00pm Saturday, and not at all on Sundays and Bank Holidays. The unenforceable conditions are precisely those currently set out in Condition 2, and by changing the hours, we can achieve all we want to achieve and protect the residents by setting finite hours for laundry to work, which enforcement officers can enforce.

**GB:** does AC still want to move to defer?

**AC:** has listened to the debate and is no longer certain that deferral is the right thing to do. Had been working on the evidence of his own experience on Planning View, where the noise and disturbance could not be considered unreasonable, even on a Sunday. After being told that what Members heard is actually not what goes on, suggested spot checks to find the truth. Is beginning to think we will never get the truth, and is increasingly minded to refuse, even though from the evidence of his ears, the noise seemed reasonable. Will withdraw move to defer.

**AM:** moves to defer.

**MJC, in response:**

- to FC, would advise against amending the condition as suggested – this approach would be unreasonable. The application is to vary the condition on the applicant's terms; after discussion with the EH team, the suggested opening hours were reduced. FC is suggesting the hours remain the same. The committee cannot unilaterally decide how the applicant uses his premises. It would be better to refuse;
- regarding deferral, after listening to the debate, this is a better option. AC is quite right – the noise Members heard on Planning View seemed acceptable – and suggested

deferral to allow spot checks to take place. The applicant is present tonight, and has heard the strength of opinion from Members regarding this;

- a deferral would be an opportunity to give a better planning application for residents and the applicant, and a better scenario than if permission is refused and goes to appeal;
- if the decision is deferred, we can monitor the situation, speak with the applicant, objectors and EH officers, and come back with a better body of evidence in two months;
- if the application is refused tonight and goes to appeal, the Planning Inspector will make a decision and CBC will lose a degree of influence.

**AC:** can we be assured that, if deferred, the spot checks would happen and the applicant would not be warned in advance, in order to provide sufficient evidence to make a decision? Has his doubts, but could be slightly more comfortable if this can be assured.

**MJC, in response:**

- is inclined to suggest that, if the application is deferred, officers meet with Chair and Vice-Chair to decide on a plan of action, with EH officers and enforcement colleagues;
- one month would not be long enough to get the necessary information up together; two or three months would be better to give officers a chance to formulate a plan of action, discuss issues with the applicant and objectors, and provide a better body of evidence.

**GB:** feels we are going round in ever-decreasing circles here, with several Members still wishing to speak.

**HM:** MJC's suggestion is sensible, but if we defer, would like to hear from an EH officer what are the long-term effects on people's health of living in the vicinity of constant noise and vibration.

**MS:** to CL, if the application is deferred, can the applicant claim non-determination if the application isn't decided in the set time-scale?

**CL, in response:**

- the determination date is 9<sup>th</sup> September, so yes, the option for a non-determination appeal would be there – this would be in the hands of the applicant.

**GB:** can Members give clarification about deferment?

**AC:** likes the idea of three months, but is now being told that there would be a non-determination appeal so withdraws move to defer.

**CL, in response:**

- a non-determination appeal is not automatic – it is up to the applicant to decide whether or not to follow this course of action.

**FC:** has a proposal. Does not feel we are doing the residents justice. Repeated her proposed amendment to Condition 2 as given earlier, to ensure no machinery is used outside those hours, in keeping with Policy CP4, but understanding office work should not be precluded – so that residents can live in peace and harmony.

**AM:** will move to defer. We are on the verge of maladministration.

**GB:** is concerned about how the debate is going. Asks MJC to comment.

**MJC, in response:**

- officer advice remains that deferral is the sensible option;
- is struggling with FC's suggestion, for the reason that we agree to vary the condition, we will be giving the application two options: to implement the new permission or continue working in keeping with the still-valid extant permission;

- deferral is a much tidier option, with new evidence produced for Members to consider. If they are still unhappy with the recommendation, they can refuse. This is a much clearer way to proceed – to defer and monitor the situation for three months.

**FC:** is using Officers' words for the suggested new Condition 2 – not making anything up or giving any additional planning consent. The condition will allow 7.00am to 7.00pm Monday to Friday, restricted working on Saturdays, and none of Sundays and Bank Holidays. This doesn't limit the applicant – can still use the premises for office work. Has taken the wording the officers have given and applying a sensible way forward to residents suffering from the noise and vibration.

**GB:** can CL comment on the best way to proceed.

**CL, in response:**

- the officer recommendation is to permit;
- PB has said he would move to refuse; there has also been a move to defer , a suggestion to amend Condition 2 , and a suggestion of voting on a temporary six-month permission ;
- due to the protocol, a the move to defer whould need to be taken first to be an option, but AC has now withdrawn it; AM has said he will move to defer instead; but PB has already previously said he would move to refuse
- ; under the protocol if a move to refuse is lost, the application will be permitted as on the papers
- FC has moved to make an amendment to the substantive recommendation on papers; if Members want this to be put forward, there would need to be an opportunity for this this to be voted on as an amendment before then any vote on the substantive recommendation were taken
- similar considerations would apply as regards any move for permitting only a six month permission
- the Committee needs to bear all this in mind

**CC:** one Member has moved to defer, another has moved to refuse. These should be taken in order – we do not want a bloodbath about who should go first. If AC has withdrawn his move to defer, we should take the other moves in order – so PB's move to refuse should be next.

**GB:** this seems sensible. Is PB still of a mind to move to refuse?

**PB:** yes, on the grounds of loss of amenity.

**AC:** if Members vote against the refusal, is the application automatically approved?

**CL, in response:**

- yes. Has been trying to explain the various scenarios in relation to CBC protocol;
- if a move to refuse is lost, permission is automatically granted as on the papers;
- if Members are not happy for that to happen, they may for example want to be able to vote on the amendment to Condition 2 first;
- it is up to PB and others who spoke before the amendment proposals as to whether they want to enable any change to the conditions to be put foward; but it maybe they are secure in their minds that it isn't necessary;
- if protocol was different, it would be a case of asking for a new proposal when a move is lost, but instead we have to work within CBC protocol as it stands.

**FC:** on a point of order: if we vote on a refusal and the vote is carried, the current unenforceable planning conditions remain as they are, with no mechanism to enforce.

**CC:** doesn't understand why the current conditions are not enforceable. Doesn't see any risk in voting on the move to refuse. The condition on the paper is well-drafted and enforceable. Is this the correct position?

**CL, in response:**

- looking at the wording of the condition on Page 123 as it originally stands, with the hours as stated. MJC has said that it would not be expedient to enforce this if the premises are being used for paperwork etc outside the hours stated. If machinery is being used outside those hours, we would need to look to see why this is not enforceable.

**CC:** what is the risk in refusing, if the condition should be enforced to protect residents? If the condition achieves what we want it to achieve, there is no danger in refusing.

**MJC, in response:**

- the existing condition lacks precision. However, Planning Committee has sent a clear message regarding enforcement to officers, who will pass this on to their enforcement colleagues.

**GB:** would like to start the voting now. Does PB still want to move to refuse?

**PB:** yes.

**Vote on PB's move to refuse on CP4 – loss of amenity**

12 in support

1 abstention

**REFUSE**

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

There were none.

The meeting concluded at 9.05pm.