

## **Planning Committee**

**6.00 pm, 15 December 2016**

### **Present at the meeting**

Councillor Garth Barnes (Chair)	Councillor Tony Oliver
Councillor Bernard Fisher (Vice-Chair)	Councillor Louis Savage
Councillor Paul Baker	Councillor Diggory Seacome
Councillor Colin Hay	Councillor Klara Sudbury
Councillor Adam Lillywhite	Councillor Pat Thornton
Councillor Helena McCloskey	Councillor Simon Wheeler

### **Officers in attendance**

Tracey Crews, Director of Planning (TC)  
 Martin Chandler, Team Leader, Development Management (MC)  
 Michelle Payne, Senior Planning Officer (MP)  
 Emma Pickernell, Senior Planning Officer (EP)  
 Chloe Smart, Planning Officer (CS)  
 Gary Dickens, Planning Officer (GD)  
 Nick Jonathan, Legal Officer (NJ)  
 Dave Parrish, GCC, Local Lead Flood Authority

### **67. Apologies**

Councillors Collins, Hobley and Nelson.

### **68. Declarations of Interest**

#### **16/01909/FUL 53 Beeches Road**

Councillor McCloskey – is a close neighbour of the only objector. Will leave the Chamber.  
 Councillor Lillywhite – is a friend of the only objector. Will leave the Chamber.

#### **16/01577/FUL 83 Hewlett Road**

Councillor Savage – is a resident of Hewlett Road. Will leave the Chamber.

### **69. Declarations of independent site visits**

Councillor Sudbury as visited 83 Hewlett Road previously, and has spoken to residents at Sandford Court.

Other members viewed all sites on Tuesday 13<sup>th</sup> December.

### **70. Public Questions**

There were none.

### **71. Minutes of last meeting**

Resolved, that the minutes of the meeting held on 17<sup>th</sup> November 2016 be approved and signed as a correct record *without* corrections.

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

**73. 16/00383/FUL Lilley Brook Golf Club, 313 Cirencester Road**

Application Number:	<b>16/00383/FUL</b>
Location:	<b>Lilley Brook Golf Club, 313 Cirencester Road</b>
Proposal:	<b>Engineering works to re-profile and re-contour the existing practice facility to create a mini 9-hole golf course by importing 100,000 cubic metres of inert fill material</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>29</b>
Update Report:	<b>None</b>

**MP** introduced the application as above, a 5.35 hectare parcel of land in the AONB, on the western edge of the golf course, adjacent to Sandy Lane and including access through the site via Cirencester Road. Having scrutinised a number of matters, including the AONB, ecology and biodiversity, trees and landscaping, archaeology, flood risk, and highway safety, officers consider that the application should be refused on two grounds: firstly, the lack of information relating the archaeological remains on the site, and secondly the absence of a legal agreement to secure completion of the works. The application is at Planning Committee at the requests of Councillors Baker and Smith, due to concerns from local residents, and also as a result of an objection from the Parish Council.

**Public Speaking:****Mr Matthew Kendrick, agent, in support**

This application is a re-submission of the previously withdrawn proposal, which raised concerns about drainage and traffic – access was via residential area of Sandy Lane. Was engaged to look at the proposal and suggest an alternative route using the A-road, and has been discussing the drainage issue with planning officers since March. There is now a tangible change in what is being proposed. The drainage scheme has an over-engineered capacity – 40% above what is required - and run-off will be drastically reduced. The 9-hole course will be well used, by juniors and beginners, providing them with a good introduction to the game. The applicant is happy to carry out an archaeological survey – which will be expensive - once it has the reassurance that other issues are OK. The officer recommendation is to refuse, but would request that the decision be deferred instead, to allow archaeological works to be undertaken.

**Member debate**

**SW:** has two main concerns. The site is in the AONB; the report refers to inert material being brought in. Is concerned about what type of material this will be – crushed concrete, old brick covered with top soil? This isn't what the AONB is made of, and it will have an effect on areas outside the golf course. Would like to see material similar to what is there already. Secondly, there have been no geological studies done. Bringing in thousands of tons of material without knowing what is underneath is not advisable. A proper study should be done. The cost would not be outrageously expensive, and it would be invaluable to the application to get something of that nature done. On the question of whether the application should be deferred or refused, do the officers consider that deferral would allow the applicant time to do all that is needed?

**HM:** we don't get this type of application very often, so would appreciate some clarification on two points: firstly, there is no environmental impact assessment even though the site is bigger than the 1 hectare which she understood makes it necessary; and secondly, the NPPG calls infill of this size a 'waste development' – as this proposal seeks to re-profile the golf course, is this not a county issue and is CBC therefore the right authority to be determining it?

**PB:** is he right in thinking that if the application is refused on two specified grounds and the applicant later comes back with a new scheme, it cannot be refused on any other grounds? Can officers clarify? If the officer recommendation is overturned and the scheme is supported by Members, would want to see a lot of conditions applied to it – how would this be done? Would like to hear DP's professional view on whether a flood alleviation scheme could be introduced to reduce surface water run-off. The agent referred to a reduction of 40% but there is no reference to this in the officer report. Is also interested to hear officer comments about on-going maintenance of any flood alleviation scheme – who will be responsible, what will be involve, and what will be the cost?

**MP, in response:**

- Doesn't know where the inert materials will be coming from, but understands that it will be inert soil, and soil-forming and granite-forming materials. The Environment Agency have seen the application and not raised any concern. If planning permission is granted, some type of material would need an environmental permit, and CBC would need to give permission, which it would only do if the material was appropriate;
- To SW, no geological study has been carried out, but it could be requested if Members wish;
- To HM, there is a section about the environmental impact assessment in the report at para. 6.3, which states that the proposal is defined as a Schedule 2 development – a golf course in the AONB. The local authority had to screen the proposal for significant effects on the environment. The NPPG states that very few Schedule 2 developments require an EIA, and the local authority is satisfied that one is not required in this case;
- Para 6.2 of the report deals with HM's question as to whether CBC is the right authority to be considering this application. As the predominant purpose of the application is to form a 9-hole golf course, and not to dispose of waste materials, the local authority is the correct one to determine it;
- The lack of a legal agreement, however, is a county matter;
- To PB, as the recommendation is to refuse, conditions are not suggested, but if Members decided to permit the application, would be added following discussion with the Chair and Vice-Chair;
- To PB, regarding refusal reasons, if Members refuse in line with the officer recommendation, it would be inappropriate at a later stage to introduce other reasons for refusal.

**DP, in response:**

- The LLFA is concerned with the management of surface water, not with flood alleviation schemes;
- It has considered this development and the management of surface water it proposes. Mr Kendrick is not correct in saying that the existing run-off rate will be reduced by 40%; it is the future run-off rate that will be reduced;
- Mitigation will be required to manage any future impact of climate change over the next 100 years, and will need to attenuate sufficient volume of water to manage a 40% increase;
- If no development takes place, there will be no mitigation measures. If development takes place, there will be attenuation, and the immediate post-development situation will be kept the same.

**PB:** so this scheme will not reduce the current flow of water off the site?

**DP, in response:**

- It will control the run-off position post development to the existing rate.

**PB:** could the scheme be improved to *reduce* the current run-off?

**DP, in response:**

- From a practical point of view, yes it could, but the developer is not required to reduce the run-off. The primary aim of any flood alleviation scheme is to ensure that new

development won't increase the flood risk. The developer is not obliged to provide measures to improve the situation over and above its current position.

**PB:** but the developer could do so?

**DP, in response:**

- Yes, but there is no expectation that they should.

**KS:** the flood issue is the biggest concern about the application – is not getting adequate levels of reassurance from the officer report. The LLFA states that provision to avoid increase in flood risk will be 'broadly compliant', which makes her nervous, having seen videos on YouTube in which Sandy Lane has become a river. Water runs off the hill and if the landscape is to be re-profiled, needs reassurance that the flood risk will not increase. Is it reasonable to add this as a condition relating to the refusal reasons, to show that Members were concerned about flooding, which could get worse? Professional advice is that it could be managed, but doesn't understand what the measures will be to achieve this. Doesn't want to turn the application down on these grounds if the experts say it will be OK, but needs to understand how it will work.

**BF:** is pleased that the applicant has agreed to an archaeological survey of the site, and envisages other information regarding the site's history coming to light; the Romans lived in a settlement in this area – a grave was found there in 1939. Although this site is officially part of the AONB, a lot of so-called land around Cheltenham is in fact man-made, and this is too. Is on Planning Committee of Gloucestershire County Council, which gives permission to remove large quantities of gravel and stone from the AONB. These are working areas, farming areas, which only changed their status in the last 100 years. It is important to know if any archaeological remains are to be found on this site before 4.5m of material is placed on top – it should be mapped for history. Agrees with both the refusal reasons put forward by officers; Members should go with their recommendation.

**AL:** for clarification of the flood issue: if the application goes forward, the situation won't get worse; if the application doesn't go forward, the position re flooding is likely to deteriorate over the next 100 years? Can this be explained further?

**HM:** has two further concerns. Firstly, is this proposal a major development? Planning says no, Cotswold Conservation Board says yes. Secondly, the transport plan states that inert material will be brought to the site down Charlton Hill; this is falling away and in a bad state, particularly for vehicles travelling down the hill; 31 lorries a day up and down the hill will have a negative impact here. Has emailed the highways officer for his views on this but had no reply to date. Is very concerned about the state of the road.

**PB:** is obviously not anti-sport, and has sympathy with the chairmen of sports clubs trying to raise money, and knows that golf clubs in particular are going through a tough time and need to increase their revenue. Supports the principle behind this scheme; the club has been going for 94 years and is a significant part of the town's sports heritage. Also congratulates the club for withdrawing the previous scheme and coming back with something more reasonable. However, has to represent the residents of Charlton Park, who are concerned about flood risk, not for the next 100 years but for the next 10-15 years. There was significant flooding in June this year, and the issue remains a significant one. This scheme doesn't do what it should – it misses the opportunity to make things better for local residents right now. The revenue raised from the scheme will mean £500k to the golf club – how much of that is likely to be spent on flood alleviation? This is a significant opportunity for the golf club to benefit the community and deliver a scheme which actually reduces the water flow off the site.

The Local Plan policy UI2 requires new development to 'reduce quantities or rate of surface water run-off'. That rule should be applied to this application to address residents' worries. It is a huge opportunity to support the local community - it has suffered from horrendous

flooding which is only likely to get worse. The LLFA has provided its expert opinion, but experts are sometimes right and sometimes wrong. There is so much information in the report from people who know we shouldn't accept the flood scheme as it is presented – clever, articulate arguments. As ward councillors, we want more detail: what materials will be used, what are the implications? Unlike the Southfield scheme on the land adjacent, this isn't a scheme to help prevent the golf club from flooding – it is allowing someone to drop 100k tonnes of material in the AONB with no end product, and should be refused. And how serious is the golf club about this scheme? If he were involved, would he be waxing lyrical about the benefit to the town, its young people etc. Not one member of the golf club has written in support of the scheme; there has been no mention of its benefits. It is being proposed to bring £500k revenue – end of story. A better scheme is needed. This should be refused, noting that the big issue for local residents is the risk of further flooding.

**CH:** would like advice. The agent has said the applicant will be happy with a deferral to allow for an archaeological dig to take place; what are the consequences of deferral over refusal? If the application is refused, we have got to be clear about the grounds for refusal. Deferral will allow the applicant to do further work. If this is the outcome, the applicant should also be more explicit about the benefits to youngsters and sport in the town, and about how water run-off will be reduced. They need to explore that controls of inert materials may be possible. Clay? What sorts of controls would the golf club have over what type of inert materials come in? Could this be conditioned or an informative? It might make a difference regarding water attenuation. A geological survey is OK if the purpose is clear, but whether it will inform us of anything is dubious.

As an aside, we're concerned about the amount of land needed for house-building for the JCS etc, but if each local authority lost one golf course the problem would solve the problem round the country.

**MP, in response:**

- To HM, regarding major development in the AONB, this is covered in the report, and the view taken is that this proposal does not constitute a major development in the AONB. Is there any particular point of this that HM would like clarified?

**HM:** the Cotswold Conservation Board says different.

**MJC, in response:**

- There is no definition of what is major and what not – each proposal has to be considered on its own merits. In considering the impact on the AONB, the Cotswold Conservation Board has someone whose remit and overriding purpose is to look after the AONB. CBC's own landscape architect is not making comments in that regard. Both say that in the long term there will be no impact on the AONB, and it is therefore not considered to be a major development. It will be busy for 18 months, but ultimately there will be no perceivable difference.

**MP, in response:**

- To HM's question about the Charlton Hill, highways officers have provided detailed responses and asked that all traffic approaches from the south. They have looked at likely trip generation and don't feel that the impact will be significant. They are aware that heavy goods vehicles will be engaged in the work but have raised no objections;
- To PB, a lot of his questions need to be answered by DP, but with regard to Local Plan Policy UI2, as set out in the report, this seeks to prevent the development of increased run-off. There is a difference in policy between development and re-development.

**PB:** is this proposal development or re-development?

**MP, in response:**

- Officers have looked at it as development.

**PB:** the NPPF Paragraph 100 states that new development should reduce the impact of flooding.

**DP, in response:**

- Regarding water run-off, must stress the point that his role is to ensure that any development doesn't increase the flood risk. Is satisfied that this scheme won't;
- LLFA officers consider the proposal is 'broadly compliant' – this is based on calculations of existing run-off, calculations of post-development run-off, and assessment of the catchment. The swale at the bottom will act as an attenuation basin of sufficient scale and defined capacity to attenuate surface water. These key considerations have all been addressed, and details such as the indicative route for channels from the attenuation basin to existing water course are still to be provided will be addressed in conditions;
- Regarding the detail of the engineering design – actual outputs are all identical, agreed, and officers are satisfied the proposal will not increase the flood risk;
- inert fill will be used, as as officers do not know what the drainage capacity of those materials will be, they have considered the existing site with its moderate drainage capacity and also a worst case scenario; they are satisfied that there will be sufficient capacity to deal with increased rainfall in the future;
- the application has fully met requirements, and is 'broadly compliant' though detail is still needed. Regarding performance, all key considerations have been met.

**MJC, in response:**

- CH asked about the consequences of deferral over refusal. The officer recommendation is to refuse on two grounds; the applicant has suggested a deferral to allow time for an archaeological survey, in the hope that this will secure planning permission – but officers are not hearing from debate that that will happen. If Members are uncomfortable about the flooding issue, they can vote to add it as an additional refusal reason. This isn't what the applicant wants to happen, but if it does, more work will be needed;
- Regarding the inert materials and where they come from, all matters are covered by an environmental permit provided by the Environment Agency. For Members' comfort, we could say we want to know what these are, as well as the EA; must be led by the EA here;
- On the flooding issue, and whether this scheme is development or re-development: this is development under Policy UI2 – and must therefore seek to avoid increasing the run-off rate;
- When brownfield land is redeveloped, the concept is that run-off should be equal to greenfield land; here we have a greenfield site, attenuating to certain level, and have to ensure it won't be any worse, post development;
- If the application is refused on flood grounds, this is dangerous territory; the LLFA has considered the proposal – it scrutinises drainage issues on major applications now, rather than the local authority. Its advice is helpful, stating that the application ticks all the boxes. It states that there is still some work to do but this is a standard approach;
- Any outstanding issues would be covered by conditions, and these would not be discharged until DP and his team are happy;
- If the application is refused, CBC will be going against its professional advice. As Members know, this is likely to mean that costs would be incurred at an Appeal, and the reasonableness of the decision would be questioned; DP has given sensible advice and Members should take it.

**GB:** three Members are wanting to speak. This is an important subject and a good debate, but would ask Members only speak if they wish to add something new, not to repeat what has already been said.

**KS:** with reference to HM's comments on the condition of the main road, it's a good thing that the inert material won't be brought to the site via Sandy Lane. It is worrying that Highways officers have no objection to the proposed route. There is subsidence in the area – a lot of movement over a long period of time. We need specific comments from Highways

officers regarding the condition of the road, not about road safety. Could we make it a condition that if the condition of the road gets significantly worse as a result of traffic associated with this development, the applicant will have to pay the bill for its repair?

**PB:** disagrees with officers - this proposal is *redevelopment* not development. That is the whole point, and why it should be used to make the flood risk better. Why does the NPPF say what it says? Would like this to be added as a refusal reason.

**CH:** to MJC's earlier response about the Environment Agency - what exactly will the EA look at? If inert material is to be used, will be inert or not? This is important in relation to the drainage qualities of material. If CBC looks at it, officers and Members can be satisfied with the findings, but outside professional advice is different. Can we be sure that the proposal complies with SUDS for development, and will make the drainage situation better than it has been? There is a difference here, and still an argument as to whether this scheme should be classed as new development or redevelopment? CBC should look at it as well – this should be a condition

**DP, in response:**

- SUDS is very pertinent here – scheme will provide for attenuating excess water that runs off development, including increased rainfall due to climate change. In doing so, it will reduce flood risk in future, and provide resilience against climate change;
- It will make the situation better and provide betterment over a lifetime. A key principle of sustainable drainage is that it has to be sustainable through climate change.

**AL:** regarding refusal or deferral, if the application is refused for the two reasons suggested by officers, these will be the only refusal reasons we can use in the future. If the application is deferred, does that also restrict the grounds for refusal at a later date? If so, the applicant will presumably be hoping for a refusal as the flood attenuation issue would then be resolved – only the archaeological survey and S106 agreement would be required for a resubmitted application to stand a good chance of being permitted.

**HM:** agrees with AL. We should defer to give the application the opportunity to address the refusal reasons, and give Highways officers the opportunity to discuss the state of the road with Amey.

**SW:** is still concerned that a geological study should be done. Officers will say that the applicant's agent is here and has heard the debate and concerns raised by Members. Would like a condition that it be done by the next time the application comes forward – the cost should not be too great. Without knowing what is underneath the site, considers any proposal here a non-goer.

**MJC, in response:**

- Officers have recommended refusal on two grounds – lack of an archaeological study and lack of a legal agreement. The possibility of deferral has been brought up by the applicant; PB has moved to refuse on flooding issue as well as the reasons put forward by officers;
- If the proposal is deferred without bottoming out the flood issue, this will be a big risk. The applicant is looking for Members to be OK with all issues before doing the archaeological survey;
- PB has moved to refuse on the flood issue; Members therefore need to vote on officer recommendation first, then vote on PB's move to refuse on flood grounds; then vote on the move to defer. NJ will guide Members further.

**KS:** thought the process was to take the vote on deferral before the vote on the motion.

**GB:** a deferral won't resolve the flooding issue. Need to vote on whether to add this to the officer recommendation.

**NJ, in response:**

- From a legal point of view, cannot support the flood issue as a refusal reason. Members have received expert advice from the LLFA, and it could be seen as unreasonable to use the flood issue as a reason to refuse the application, given that expert advice.. It may also have costs implications at any subsequent appeal if perceived as unreasonable.

**GB:** are Members happy to vote now? This is a serious matter and they have had a good discussion.

**Vote on adding flood issues to the refusal reasons proposed by officers**

4 in support

6 in objection

2 abstentions

**NOT CARRIED**

**PT:** are we going to ask for a geological survey as well as an archaeological one?

**GB:** we can add this as another refusal reason.

**Vote on adding requirement for geological survey to refusal reasons**

3 in support

6 in objection

3 abstentions

**NOT CARRIED**

**Vote on officer recommendation to refuse on two grounds: archaeological study and S106 agreement**

9 in support

2 in objection

1 abstention

**REFUSE**

**CH:** as an aside, suggested that, in view of issues raised today, Members would benefit from some training hydrology, flood alleviation etc. They need to be better informed to achieve better understanding of the issues.

**MJC:** confirmed that this will be part of next year's training schedule.

**74. 16/01577/FUL 83 Hewlett Road**

**Councillor Savage left the Chamber before the beginning of the next agenda item**

Application Number: **16/01577/FUL**

Location: **83 Hewlett Road, Cheltenham**

Proposal: **Alterations and extensions to the building and conversion to provide 7 additional flats and ground floor retail unit**

View: **Yes**

Officer Recommendation: **Permit**

Committee Decision: **Permit**

Letters of Rep: **29** Update Report: i. **Officer comments circulated by email on Tuesday evening**  
ii. **Memorandum of understanding between the Fairview Community Association and the**



developer
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**EP** introduced the application as above, reminding Members that an application for 10 flats was refused earlier this year, on the grounds of over-development and loss of community asset. Since then, the applicant has had discussions with the Fairview Community Association and reached a good compromise in this application, in line with policy requirements as outlined in the report. The officer recommendation is therefore to permit.

**Public Speaking:**

**Mr Colin Ballard, of Fairview Community Association, in support**

Speaks as a representation of FCA, a growing group of local people who believe that national and local government policy give people a say in shaping their local environment. The previous application was refused in February due to the loss of a valued local asset – the pub and associated function room – which would be detrimental to the Fairview Community. The FCA has subsequently worked with the developer to develop this space, which now includes a community facility. During this time a Special Interest Group has emerged, independent of the FCA, with several proposals to use the space based on what the local community wants and can deliver. The group is still working on its business plans, but initial ideas indicated that the community space will be part retail, part food, with an area for classes and a working hub. The group needs stipulation that the space is for the local community rather than solely private or commercial activity, and has agreed a Memorandum of Understanding with the developer to demonstrate both parties' commitment to this collaboration. The delivery of a community facility is still at an early stage, but Members should consider these very positive achievements since February. If the Special Interest Group is unable to proceed for any reason, the FCA will want the space to continue as a community facility and would work with appropriate partners to achieve this. Consequently, the FCA supports this proposal.

**Councillor Jordan, ward councillor**

Attended Planning Committee in February and addressed Members with a number of concerns about the previous application on this site, primarily the loss of the pub as a community space, in an area where very few such spaces exist; and secondly concerns about parking. The building is empty and deteriorating and needs to be brought back into use. Parking remains an issue for many residents, made worse by the County Council's parking schemes in Pittville – he is assured that the County will look at this again in the new year. The biggest issue, however, is the community space, and the developer has taken a responsible attitude towards this. The FCA has carried out detailed survey work and established the need for a community space in this part of town and this is an opportunity to achieve it; a separate group is looking to establish a community interest company, and everything is moving in a positive direction. It is still early days, but granting of planning permission will move things forward. There are no objections to the flats themselves from local residents; the bigger and wider issue – parking – is on-going, and shouldn't be allowed to block this otherwise good proposal. Thanks to the owner for taking the establishment of ground floor community space on board. No planning permission is perfect, but is happy to support this one.

**Member debate:**

**CH:** at the risk of sounding churlish, would have preferred the building to remain a public house, but realises this is not going to happen. What has come out of this negotiation is very useful, with the shared retail/community space for FCA or the Special Interest Group to use. The outcome is very interesting and a similar process should be followed elsewhere in town where similar issues may arise – a good model of what can be done when communities and developers work together. Parking is clearly still an issue, and although the number of flats has been reduced, there will still be nine new residential dwellings here which will require parking space. Councillor Jordan has stated that the County Council is going to look at parking schemes; suggests that the public house would have had a loading/no parking

area outside – will this still be needed. Notwithstanding, this is a really good outcome. The space will be well used. Is fully in support.

**KS:** there are no conditions attached regarding the use of the community space. if the Special Interest Group doesn't work, will the space be used solely for commercial purposes? This is a worry.

**EP, in response:**

- The use class for the ground floor will be A1 retail, and we cannot control the end user. However, negotiations have resulted in the Memorandum of Understanding, included in today's update. If community use of the space doesn't progress, it will still have A1 use, and an alternative retailer will be able to use the space.

**HM:** in consequence of this, can an informative be added, stating that any future owner will welcome community use of the ground floor space?

**EP, in response:**

- Yes, it can.

**Vote on officer recommendation to permit**

11 in support - unanimous

**PERMIT**

**75. 16/01756/CONDIT Travis Perkins, Brook Road**

Application Number: **16/01756/CONDIT**

Location: **Travis Perkins Brook Road Cheltenham**

**DEFERRED**

**76. 16/01794/FUL 1 Sandford Court, Humphris Place**

Application Number: **16/01794/FUL**

Location: **1 Sandford Court, Humphris Place, Cheltenham**

Proposal: **Erection of two trellis fence panels adjacent to patio (retrospective)**

View:

Officer Recommendation: **Permit**

Committee Decision: **Permit**

Letters of Rep: **31** Update Report: **None**

**GD** introduced the application as above, for the retention of two fence panels in these communal gardens. It is at committee at the request of Councillor Sudbury in view of a number of objections from neighbours.

**Public Speaking:**

**Mr Eddie Vickers, Thirlestaine Steering Group, in objection**

Thanked Members for listening to the views of the great number of responsible owners who adhere to the leasehold and estate regulations and consequently object to this application. Thirlestaine is a historic site, and its character and heritage should be maintained to a high degree as such, with any additions complementing the environment. These should avoid

unacceptable intrusion of the open spaces at ground level and loss of visual amenity which form an integral part of the development. The fence panels reduce the intended design view and effectively close down the common garden area, creating an area for the private use of 1 Sandford Court, giving the impression of being exclusive and restricted. Planning officers may consider that the trellis fencing doesn't impinge significantly on the open space, but owners are concerned that permission for this fencing will give a signal to other residents to erect similar fencing or structures which will impede access and encroach on the common open space. The officer report considers whether this is a test case with regard to Estate Regulations, with wide repercussions in the future, though this is not a planning issue. Residents therefore ask the Council to consider its duty of care to other owners by turning down this retrospective planning application. Any structures within the curtilage of the Grade II listed building has to have planning permission, but these fence panels have been erected without regard to this, giving the impression of a private and exclusive garden, deterring people from entering and enjoying the open spaces.

**Mr Jonathan Porter, agent, in support**

Speaking on behalf of the applicant, apologises for the retrospective nature of this application – the owner did not realise that planning permission was required, and is grateful for the opportunity to rectify this honest mistake. The officer report sets out the case well. Berkeley Homes gave permission for the fencing, and the estate managers have approved them. The fencing is a trellis between two patios, and takes the place of a hedge which could have grown to a similar height. It provides privacy in the short term. It is in a discreet corner of the garden and doesn't detract from the garden as a whole or impede movement. The officer report states that it is difficult to quantify the level of loss or any significant harm to the neighbouring residents. Supports the officer recommendation. Regarding the concern about precedent, any future proposals would need planning permission and each would be judged on its own merits.

**Member debate:**

**PB:** is sad that this application for a piece of trellis fencing has had to come to Planning Committee. The landowners and management committee have given their agreement. This isn't a planning matter. Supports the officer recommendation.

**BF:** saw this on Planning View; the only reason why planning permission is required is because the site is within the curtilage of a listed building. The photo shows gates big enough to get a mower through. It is ridiculous that Planning Committee is being asked to make a decision on private property with its own management scheme, in a private residential enclave. It is a decision for the management committee and the people who live there.

**KS:** this might seem straightforward at first glance, but there is some background to consider. These dwellings share a communal area which has sparked a lot of controversy from residents of the block. The fencing and gate has provided an entirely different communal space to what they were originally expecting to have. These are very important issues for planning – the communal use of an area, how it looks on site for those who live there. The rest of the communal area is shared. This should be refused on Local Plan policies CP4 and CP7, due to the impact on the look of the communal area and the effect on the occupier of the other flats who cannot use this part of the garden. The gardens are for everybody, and this is a fundamental flaw in the original application. The issue isn't the listed building but about how to create communities which can live successfully together. Everyone is paying maintenance for the communal gardens, but one resident has fenced off part of it and other residents cannot therefore use it. This is a high density, high quality development, and shouldn't have communal areas as an afterthought. It is not clearly defined. If private patios are to be allowed, this should be established at the outset; later additions aren't helpful in fostering communal gardens. The application should be refused.

**PT:** what about the fence and gates to the side? Are they included in this application or a separate issue?

**GD, in response:**

- The gates are part of the original development. The application is for the trellis fence only.

**DS:** there appears to be a dichotomy here: the gardens are communal yet the paved areas are for the sole use of those whose doors open on to them? Considers the trellis to be acceptable, screening the applicant's patio from the one next door, and the issue should be sorted out by the management. Will vote with the officer recommendation.

**SW:** has sympathy with the views put forward by KS, and would like to see this garden as fully open plan, but is it within the Planning Committee's gift to say this?

**BF:** we are determining this application simply because it falls within the curtilage of a listed building., yet the gates are fairly recent, not part of the original application, and there was no planning application for them.

**GD, in response:**

- The gates were part of the original development in 2012. The fencing needs planning permission because it is within the curtilage of a listed building. Any future changes will also need planning permission for the same reason.

**MJC, in response:**

- Regulations say that any means of enclosure within the curtilage of a listed building needs planning permission. The trellis fence falls into this category. The access gates are part of the original application;
- Members are being asked to consider whether the gates are appropriate and what their impact will be.

**GB:** KS has proposed refusal on Policies CP4 and CP7, due to harm to the open space and harm to the amenity and quality of life of other residents. Will vote on officer recommendation first.

**Vote on officer recommendation to permit**

8 in support

2 in objection

1 abstention

**PERMIT**

**CH:** we should learn from this when considering applications in the future. The application was for communal gardens, with appropriate landscaping, and an application such as this will always be viewed as 'spoiling' the communal aspect of the garden. This is an important point. Patios are generally private, but these are difficult to close off. Developers should bear this in mind.

**KS:** agrees. It should be at the forefront and made quite clear when developers are selling plots.

## **77. 16/01909/FUL 53 Beeches Road**

**Councillors McCloskey and Lillywhite left the Chamber before the beginning of the following agenda item**

Application Number:	<b>16/01909/FUL</b>
Location:	<b>53 Beeches Road, Charlton Kings, Cheltenham</b>
Proposal:	<b>Single storey side and rear extension - (Revised Scheme - part retrospective)</b>
View:	
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>1</b>
Update Report:	<b>None</b>

**CS** introduced the application as above. The property is a semi-detached bungalow, and the proposed works as given. Works have already started on the previous proposal; the current application will have the same footprint as the previous. The application is at Planning Committee at the request of Councillor McCloskey and because the Parish Council has objected.

#### **Public Speaking:**

##### **Mr Robert Banbury, neighbour, in objection**

Owns the two properties next door to the application site, and is objecting because the part-built extension will look ugly, overbearing and out of scale; it uses inappropriate materials and will spoil the street scene. There is no need for it, as the property benefits from a valid permission granted in 2015. Did not object to that scheme, which had a pitched roof and matching brickwork. Beeches Road is a well-maintained and desirable place to live, with many extensions in keeping with the look of the street. Conditions were attached to the previous application to ensure that this extension would also do so, but several of these conditions have been ignored, with concrete blockwork used and a flat roof built as if permission for these had been granted. The applicants have continued with this regardless, because it is cheaper. If they had changed their plans and resubmitted new drawings before starting the work, it could all have been done legitimately, but instead the process has been undermined, and the applicant has assumed this violation will be fixed with a retrospective planning permission. This is not how planning permissions should work, seeking to legitimise unauthorised work. This extension will be out of keeping with Beeches Road, and therefore respectfully requests that it be refused.

#### **Member debate:**

**PB:** has huge sympathy with the view put forward by the speaker, but there are no planning grounds on which this application can be refused.

**BF:** went on Planning View and saw the work done so far; the applicant has obviously decided to proceed at his own risk, which could be seen as foolish. Feels that a pitched roof extension on a bungalow can be overbearing and a flat roof sometimes looks better – less of a mass of tiles. The render may be overdone, but is good for insulation and more easily maintained. The extension is of its time – a 21<sup>st</sup> century extension. Will support the officer recommendation.

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

9 in support – unanimous

**PERMIT**

### **78. 16/02012/FUL & LBC Lypiatt Lodge, Lypiatt Road**

Application Number:	<b>16/02012/FUL and LBC</b>
Location:	<b>Lypiatt Lodge, Lypiatt Road, Cheltenham</b>
Proposal:	<b>16/02012/FUL: Part two storey, part single storey rear extension to form new</b>

dining room on the ground floor with extended kitchen over (revised scheme following refusal of planning permission ref. 16/00499/FUL)  
**16/02012/LBC: Part two storey, part single storey rear extension to form new dining room on the ground floor with extended kitchen over together with internal refurbishment works and upgrading (revised scheme following refusal of listed building consent ref. 16/00499/LBC)**

View: **Yes**

Officer Recommendation: **Permit / Grant**

Committee Decision: **Permit / Grant**

Letters of Rep: **0** **Update Report: None**

**MP** introduced the application as above, a Grade II listed building in a conservation area. Planning permission and listed building consent was refused by Members in July, following a previous deferral for further negotiations. Officers are satisfied that all Members' concerns have been met in this new application, and have brought the application to Committee at their own discretion to allow Members to vote on it.

#### **Public Speaking:**

None.

#### **Member debate:**

**BF:** is glad the previous application was refused – this is a lot better. The Romeo and Juliet balcony has gone, as has the conservatory half way up the house. All credit must go to officers who have worked hard to get something more acceptable.

**GB:** it is appropriate to acknowledge the officers' professionalism on advice given in good faith. Members' concerns have resulted in the right outcome.

**CH:** doesn't necessarily agree. The previous application had more to offer residents.

**GB:** this application is a compromise which suits everyone.

**DS:** asked on Tuesday at Planning View about the glazing bars on the windows. Are the diagrams as they will be? They looked modern – more than four bars per window

#### **MP, in response:**

- The plans are as shown on the Planning View bus – the proposal has not changed.

**DS:** had asked previously that the windows be changed.

#### **MP, in response:**

- Only one window has not changed – the casement. More appropriate windows have been secured in some but not all cases.

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

11 in support – unanimous

**PERMIT**

*The meeting ended at 8.10pm.*

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

*The meeting ended at 8.10pm.*