



CHEL TENHAM

BOROUGH COUNCIL

Notice of a meeting of Planning Committee

**Thursday, 22 June 2017
6.00 pm
Council Chamber - Municipal Offices**

Membership	
Councillors:	Garth Barnes (Chair), Bernard Fisher (Vice-Chair), Paul Baker, Mike Collins, Colin Hay, Karl Hobley, Adam Lillywhite, Helena McCloskey, Chris Nelson, Tony Oliver, Louis Savage, Diggory Seacome, Klara Sudbury, Pat Thornton and Simon Wheeler

The Council has a substitution process and any substitutions will be announced at the meeting

Agenda

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST**
3. **DECLARATIONS OF INDEPENDENT SITE VISITS**
4. **PUBLIC QUESTIONS**
5. **MINUTES OF LAST MEETING** (Pages 7 - 14)
6. **PLANNING/LISTED BUILDING/CONSERVATION AREA CONSENT/ADVERTISEMENT APPLICATIONS, APPLICATIONS FOR LAWFUL DEVELOPMENT CERTIFICATE AND TREE RELATED APPLICATIONS – SEE MAIN SCHEDULE**
 - a) **16/02205/FUL The Hayloft, The Reddings** (Pages 15 - 46)
 - b) **17/00365/FUL The Water Garden, Birchley Road** (Pages 47 - 212)
 - c) **17/00882/FUL 8 Bouncers Lane** (Pages 213 - 226)
 - d) **17/00386/FUL 8 Hartley Close** (Pages 227 - 252)
 - e) **17/00759/FUL Cheltenham Cemetery and** (Pages 253 - 264)

Crematorium

- f) **17/00670/LBC Neptune's Fountain, Promenade** (Pages 265 - 268)
- g) **17/00920/LBC Cenotaph, Promenade** (Pages 269 - 272)
- h) **17/00827/CACN 41 Church Road, Swindon Village** (Pages 273 - 282)
- i) **17/01097/CONF 30 Moorend Park Road** (Pages 283 - 286)

7. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION

Contact Officer: Judith Baker, Planning Committee Co-ordinator,
Email: builtenvironment@cheltenham.gov.uk

Planning Committee

25th May 2017

Present:

Members (12)

Councillors Barnes, Chair (GB); Fisher, Vice-Chair (BF); Baker (PB); Collins (MC); Lillywhite (AL); McCloskey (HM); Nelson (CN); Oliver (TO); Savage (LS); Thornton (PT); Wheeler (SW).

Substitutes: Councillor Chris Mason (CM)

Officers

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)
Victoria Harris, Planning Officer (VH)
Nick Jonathan, Legal Officer (NJ)

1. Apologies: Councillor Seacome.

Note: Councillor Savage apologised for only being able to attend the meeting for the first hour or so.

2. Declarations of interest

i. 17/00443/FUL 55A Beeches Road

- Councillor McCloskey – personal – the applicant is a close neighbour – will leave the Chamber
- Councillor Lillywhite – personal – the applicant is a friend – will leave the Chamber.

3. Declarations of independent site visits

- Councillor Mason has visited all the sites
- Councillor Baker visited Nos. 68 and 70 Sandy Lane.

4. Public Questions

There were none.

5. Minutes of last meeting

Resolved, that the minutes of the meeting held on 20th April 2016 be approved and signed as a correct record *with the following correction:*

- Councillor McCloskey is marked as being present at the meeting, whereas in fact she was not and had sent her apologies.

6. Planning applications

Application Number:	16/02197/FUL
Location:	68 Sandy Lane
Proposal:	Two-storey side extension, single storey front and rear extension, application of render and timber cladding and replacements windows and doors
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	3
Update Report:	Additional representation

MJC introduced the application, reminding Members that they deferred the previous scheme for a two-storey side and front extension and remodelling with render and cladding finish at March committee. The applicant has taken stock of the issues discussed – privacy, size, width, space between properties, and suggestion he discuss his proposal with the neighbours. In consultation with officers, a very different proposal has been generated which officers consider to be acceptable and are happy to recommend for approval. It is at Committee because the neighbour is a senior member of CBC staff.

Public Speaking:

SW: this doesn't very often happen – that a number of Committee requests for redesign and changes have all been taken on board. Is impressed that the applicant has made the changes in line with what Members said, and thanks them for the efforts they have gone to.

PB: must congratulate the applicant and architect for taking on board the detailed comments from neighbours and councillors. The proposal is well designed, but still very big – will therefore struggle to support it, as it is not subservient. Having said that, it works with the street scene and the size of the plot. On balance it is a better scheme, and a great example of an application being deferred and sent back, and then coming back to Committee much improved.

Vote on officer recommendation to permit

11 in support

0 in objection

1 abstention

PERMIT

Application Number:	17/00097/FUL
Location:	Gallagher Retail Park Tewkesbury Road Cheltenham
Proposal:	Planning permission to allow the erection of temporary Class A1/A3/A5 retail pop-up units within defined areas encompassing 276 sqm of the existing Gallagher Retail Park car park
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	0
Update Report:	None

VH introduced this proposal for a temporary three-year planning permission to site up to six temporary structures – non-permanent refreshment vans – in three areas of the car park. The number and type of van will vary and change over time – there are examples of the type of vehicle on the Committee wall – but visibility splays must be provided to the front. The units can operate as A1, A3 or A5 outlets

in line with the opening hours of the retail park. Environmental Health, Highways and neighbours have not raised any objections; the application is at Committee because the Parish Council has objected. The recommendation is to grant temporary planning permission for three years.

Public Speaking:

None.

Member debate:

MC: was on site visit on Tuesday, as it was important to look at this site in person rather than just on the plans. Would like a few answers to some questions. Would be more happy if this was a temporary application for the Christmas period – it would have novelty value – but the biggest concern is the fact that the applicant wants flexibility, for any number of uses. This will conflict with other businesses and offers on the retail park. Would be more happy if the units were different in the three areas. At the moment, cannot support the proposal.

BF: hears what MC is saying, but his main concern is loss of parking. Planning View took place on an ordinary Tuesday afternoon. Gallagher Retail Park has improved greatly over the years, and is now a popular destination. Parking for Sainsbury's and Whole Foods sometimes spills over onto the Gallagher Retail Park side. Parking spaces will be lost, both for the pop-up units and for the vendors' vehicles. Has been at Gallagher Retail Park when it is virtually impossible to find a parking space, especially around Christmas. The parking survey which accompanied the application was done in February – this is not typical – but for most of Saturday it was over 80% full, which is high for a car park. More and more, staff are unable to park on the site, and have no choice other than to park on residential streets nearby.

HM: would reiterate BF's comments. Twenty spaces will be lost for the three pop-up units; on Planning View – Tuesday lunchtime – the car park was very busy, and in fact more than 20 spaces will actually be lost – these areas will have fencing and barriers around them. Drivers won't want to park adjacent to the barriers due to lack of sight line, so at least another five spaces will be lost. Regarding the single unit by the road, on Planning View noted that the hatched line across the plan represents a fence, but there is also vegetation between the road and fence. According the site plan, this will be taken away. Is this the case? If not, what will happen there?

PB: is surprised that there are no objections from retailers – a lot of them provide food and drink. What is the resolution about toilets?

CM: can officers confirm that the uses are flexible but the spaces aren't? If this isn't the case, could the units be moved to different parts of the car park?

VH, in response:

- regarding the demand and impact on existing uses at Gallagher Retail Park, this is not a planning issue;
- to BF, regarding the two parking surveys, these confirmed that the Gallagher Retail Park car park was 90% full at two points on the Saturday, but across the Sainsbury and Whole Foods car parks, there were 146 spaces available at those times;
- to HM, the fencing will be retained within the area as shown, and the agent has confirmed that the landscaping will be retained;
- to PB, provision of toilets is not a planning consideration; it is covered by separate legislation.

GB: for confirmation, when the survey states that the car park was 90% full, there were still spaces in the Gallagher Retail Park car park in addition to those in Sainsbury's and Whole Foods's car parks?

VH, in response:

- the car park was 90% full at two peak times, but there were still 47 spaces and 45 spaces available respectively in that section of the car park.

SW: VH says the agent has confirmed that landscaping will be retained, but how will it be maintained? It is blocked off – how will any vehicle get in? What sort of goods will be sold by the units? Will it be just food and drink? The principle used when the retail park first opened was that it would sell bulky items only; is concerned that if we are now allowing a full range of non-bulky items to be sold in out of town sites, we will be losing protection for the town centre. Can officers specify what exactly can be sold by these units?

HM: shares SW's concerns. In relation to earlier comments, if the landscaping is going to remain, the surely the plan is wrong? Didn't understand the officer's comments.

BF: people who work in these units from start of business till close of business will need toilet facilities. It may not be a planning consideration but it is a hygiene consideration.

AL: is there are sustainable transport consideration for the loss of parking spaces?

MC: there is a licensing element to this application – it is separate but will come before the licensing committee in due course. Regarding the car parking issue, when the site is busy – Sainsbury's, Whole Foods and Gallagher Retail Park – people are told there is space at the end of what is a long, thin car park. Not everyone is guilty, but some people pull up and wait for a closer space to become available, wait for people coming back to their cars. When the car park is busy, this will lead to congestion and with it safety issues. This should be taken into account.

VH, in response:

- after Planning View, spoke to the agent who said that ideally they would like to retain the vegetation;
- to SW, regarding bulky goods, the site has undergone a number of changes in recent years, with increasingly varied goods on offer, sub-division of units and creation of additional units. The character of the retail park has changes, and the restriction to bulky goods no longer applies;
- regarding highway safety, a highways officer has looked at the application and not raised any objection; his only suggestion was to ensure visibility splays for pedestrians.

MJC, in response:

- VH is correct; permission was originally granted in 1989 for the sale of bulky goods only; this has since changed, starting with Boots in 1999, then Next, and subsequently many of the units picked off with separate planning permissions. The character of the retail park is very different; permission for the units is sought for A1, A3 and A5 use, though they will most likely be selling food and drink. This sort of unit can be seen at retail parks around the country;
- Regarding the parking issue and AL's question re sustainable transport considerations, these units won't generate additional traffic. They will reduce the number of car parking spaces but county highways officers are relatively relaxed about this – would worry if Members push for refusal on that point;
- VH is quite right that welfare facilities are not part of the planning process, but if Members so wish, an informative can be attached to the planning permission requiring the applicant to think about

toilet arrangements; this cannot be imposed through the planning system. It is likely that there will be some arrangement with the retailers, but this is not a planning matter.

HM: thanks to the officer for the further explanation about the landscaping and the applicant's intention to keep it. Would like to propose a condition to this effect if the application is approved.

AL: regarding sustainable transport, the units might not generate additional journeys, but they could increase the length of stay, thus increasing the requirement for car parking spaces. The traffic survey has recorded the car park as 90% at two points of the day – wishes this was the case at the weekends. With 20 less spaces there will be a lot of congestion and tail-backs. There should be some consideration for this; could more bike racks be installed, as the lifting of the bulky goods restriction means that people don't need a car to shop at the retail park.

PT: would just point out that these units will result in a loss of more than 20 spaces – more like 24-26 – and if the workers are going to need to park their own cars, it will be even more. Is this really the right thing in the right place?

GB: regarding the parking issue, officers have explained the situation – there is space to accommodate these units. Is not sure that we can go further down that particular route.

VH, in response:

- The loss of 20 spaces refers just to the site area.

AL: it may only mean the loss of 20 spaces, but what account has been taken of the extended stay for each car – the through-put will be longer.

VH, in response:

- The highways officer has assessed the proposal and has no objection to it.

SW: as far as parking is concerned, this is a commercial situation; if cars can't park, the retailers may lose business. If the owner of the site is OK with the proposal and the loss of 20 spaces, it's alright. Remains worried about the bulky goods – we have let go of a good clause to protect town centre business.

MJC, in response:

- This is a valid point, but part of the reason why the bulky goods clause has been relaxed is to do with the health of the High Street – it is performing well, which means that Gallagher Retail Park offer can be relaxed.

HM: can the officer comment on her proposal to include a condition to retain the landscaping?

VH, in response:

- This should be acceptable to the agent.

Vote on officer recommendation to permit temporary (three years) planning permission with additional condition re. retaining landscaping

8 in support

4 in objection

PERMIT

Application Number:	17/00304/FUL		
Location:	17 Norfolk Avenue Cheltenham Gloucestershire		
Proposal:	Erection of 2no. semi-detached three bed houses with detached garaging facilities		
View:	Yes		
Officer Recommendation:	Permit		
Committee Decision:	Permit		
Letters of Rep:	4	Update Report:	None

MP introduced the application as above. The proposal is in line with the existing property – scale, height, massing, materials all reflect the existing, and officers consider it an efficient use of the site. It will not harm neighbouring amenity, and there are no highway safety issues. It has been referred to Committee by Councillor Coleman, due to concerns from neighbours about over-development of the site.

Public Speaking:

None.

Member debate:

TO: this is a good development, which will make good use of the site. The only concern is that this is currently a leafy green wasteland which adds to the community. The proposal will mean trees coming down. 17 Norfolk Avenue access will go to the access for cars, a new drop kerb and the removal of a hedge. Would like a condition to put trees in somewhere.

SW: looking at the drawings, is concerned about what will happen to the area behind the garages – great if it becomes a garden and vegetable patch, but problems if it becomes a bramble patch. Realises that the application can't be refused on this, however.

MP, in response:

- To TO, re the drop kerb and hedge, the application proposed to use the existing access. There was a comment on planning view that a future applicant might want parking for the existing property which would mean widening the drop kerb;
- the trees officer has previously commented on this application, and didn't object to the removal of the trees but suggested general re-planting. There is a condition to cover this, but this could be made more specific to relate directly to trees, if Members wish;
- to SW, the space to the rear is expected to come as part of the landscaping scheme, which is concerned with all hard surfaces.

TO: would like the landscaping condition to refer specifically to increasing the number of trees.

MP, in response:

- can alter the condition to be more specific.

Vote on officer recommendation to permit, with amended landscaping condition

12 in support - unanimous

PERMIT

Councillors McCloskey and Lillywhite declared an interest in the following application, and therefore left the Chamber for the duration of this debate

Application Number:	17/00443/FUL
Location:	55A Beeches Road, Charlton Kings, Cheltenham
Proposal:	Insertion of two dormer windows and ten roof lights to create accommodation within the current roof space
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	5 Update Report:

MJC introduced the application for works to facilitate a loft conversion, as above. The recommendation is to permit. The application is at Planning Committee due to Parish Council objections regarding loss of neighbours' privacy.

Public Speaking:

Marcus Evans, of Evans Jones, in support

The application has generated a number of comments from local residents and the Parish Council, concerned about amenity levels of neighbouring properties. The officer recommendation is to permit. The proposal is for two dormer windows and roof lights to create accommodation in the roof space of 55A Beeches Road. The proposed roof light in the west-facing roof slope will be obscurely glazed, non-opening, and 1.7m above floor level. A condition is proposed to ensure these windows remain as such. The remaining rooflights will all be 1.7m above floor level – an important dimension as it ensures protection of neighbours' privacy and is consistent with requirements set out in the General Permitted Development Order. As such, there are no concerns that these windows will provide an outlook which will be harmful to the amenity of adjoining neighbours. The proposal complies with CP4 and the SPD for Residential Alterations and Extension. It has been designed to protect the amenities of adjoining residential properties, together with future occupiers of the dwelling. To conclude, there are no local plan or national policies which would support the refusal of planning permission. Urges the committee to support the officer recommendation and approve the application.

Member debate:

MC: this is a case which proves how invaluable Planning View is to get a proper understanding of the sites being considered. It is very interesting, a good use of the space. There are no problems from a planning point of view, and believes that the proposal won't cause the problems that the objectors think it will. The designer has mitigated any potential issues with use of obscure glazing. Is happy to support the proposal

Vote on officer recommendation to permit

10 in support

PERMIT

Application Number:	17/00691/FUL		
Location:	70 Sandy Lane Charlton Kings Cheltenham		
Proposal:	Proposed extension and refurbishment		
View:	Yes		
Officer Recommendation:	Permit		
Committee Decision:	Permit		
Letters of Rep:	3	Update Report:	None

MP introduced this householder application for the remodelling and extension of 70 Sandy Lane. It is at Committee because the applicant is a senior member of CBC staff. The scheme proposes a two-storey side extension and single-storey rear extension, alterations to the bay window at first floor level, and new grey fascia boards. The materials will alter the character of the building, but the extension will be subservient, and not have any impact on neighbouring amenity. As such, the recommendation is to permit.

Public Speaking:

None.

Member debate:

BF: likes the use of the two-colour brick, which tones down into the colour of the vale. Is a fan of brick-built buildings, and this is an excellent choice of brick – better than block and render.

Vote on officer recommendation to permit

12 in support – unanimous

PERMIT

APPLICATION NO: 16/02205/FUL	OFFICER: Mrs Emma Pickernell
DATE REGISTERED: 16th March 2017	DATE OF EXPIRY: 11th May 2017
WARD: Benhall/The Reddings	PARISH:
APPLICANT: M P Homes Ltd	
AGENT: SF Planning Limited	
LOCATION: The Hayloft, The Reddings, Cheltenham	
PROPOSAL:	Retention of works carried out; including those under planning permission reference 14/02249/FUL as well as the removal and replacement of elements of the original Hayloft building not covered by planning permission reference 14/02249/FUL and minor alterations to the approved scheme.

RECOMMENDATION: Permit



1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is on the south side of The Reddings, east of the junction with Badgeworth Road. The site is surrounded by open fields to the west and south and by residential properties to the north and east. The site is within the Greenbelt.
- 1.2 This application seeks to regularise the development which has taken place at the site and to grant consent to complete the building in accordance with the submitted plans to provide one dwelling.
- 1.3 There is a complex history to the site comprising a number of applications for additions and alterations to the original Hayloft, some of which required planning permission and some of which did not, by virtue of permitted development rights. There has also been consents for the demolition of the Hayloft and its replacement with a modern dwelling, its conversion to a care home, and its conversion into apartments. A full list of the relevant planning history is provided below.
- 1.4 The works which have taken place at the site comprise the erection of a number of extensions and new building elements and the replacement of pre-existing elements of the building. As such whilst the site has never been completely cleared, nothing remains of the original structure.
- 1.5 The resultant scheme, for which permission is now sought comprises a single dwelling with four bedrooms on the first floor and a guest room on the ground floor including dressing room and en-suite facilities. The living accommodation includes a variety of rooms arranged over the ground and lower ground floor levels.
- 1.6 The application is at committee at the request of Cllr Britter.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Greenbelt

Relevant Planning History:

85/01395/PF 22nd January 1985 REF

Outline application for the erection of a detached dwelling. Construction of a new vehicular and pedestrian access.

85/01396/PF 7th August 1985 REF

Outline application for the erection of a detached dwelling house. Construction of a new vehicular and pedestrian access.

86/01651/PF 16th April 1986 PER

Alterations to existing barn to provide a dwelling unit

01/01704/OUT 18th January 2002 PER

Outline application for the erection of 1 no. dwelling following demolition of existing dwelling and stables

08/00296/COU 18th April 2008 PER

Minor extensions and alterations and change of use to four apartments

09/00656/COU 17th July 2009 PER

Change of use from residential into an elderly peoples home, including extensions to the front and rear.

10/00372/CLPUD 5th May 2010 REFLPU
Erection of a garage and garden store

10/01800/CLPUD 4th February 2011 CERTPU
Alterations and extensions

11/00497/CLPUD 6th June 2011 WDN
Alterations and extensions

12/00318/TIME 26th April 2012 PER
Application to extend the time limit for implementation for 09/00656/COU for change of use from residential into an elderly peoples home, including extensions to the front and rear.

12/01271/FUL 16th October 2012 PER
Replacement dwelling following demolition of existing property

14/02249/FUL 3rd March 2015 PER
Extensions to dwelling (Part retrospective)

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 4 Safe and sustainable living

CP 7 Design

CO 6 Development in the green belt

CO 7 Rebuilding or replacement of dwellings in the green belt

CO 8 Extension of dwellings in the green belt

TP 1 Development and highway safety

TP 2 Highway Standards

TP 6 Parking provision in development

Supplementary Planning Guidance/Documents

Residential Alterations and Extensions (2008)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Ward Councillors

11th April 2017

I am writing to you as Borough Councillor for Benhall & The Reddings Ward, in which the above application has been made. Having received much feedback from local residents, I feel I must strongly support residents and express objection to this proposal.

I believe the current planning application is invalid because it is seeking retrospective permission for regularisation of further breaches of a planning permission (Ref: 14/02249/FUL) for 'Extensions to The Hayloft' - a permission that became null and void when The Hayloft was demolished.

The existing planning permission was granted on the expectation that the frontage wall would be retained. It is such a shame that this precipitate action has been taken without the

courtesy of either discussion with neighbours or following due process and seeking planning permission. One cannot help but think that the demolition of the wall was done to ensure that faced with such a fait accompli, retrospective planning permission could be more easily acquired.

As I understand it any construction of new buildings within the Green Belt are inappropriate, with limited exceptions but does include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. This proposal by reason of its sheer size, its overall floor area and in the absence of any very special circumstances would lead to an inappropriate form of development in the Green Belt, detrimental to its open, rural and undeveloped character.

In 2016 the Green Belt status within this area was upheld by two Planning Inspectorate appeals against refusal for permission to develop the land off Brock Close (15/00573/OUT) and at Pine lodge Hatherley Lane 16/00805/FUL Thus demonstrating the importance of maintaining a strong and robust policy to prevent urban sprawl, maintain the unique character of the area and reject inappropriate development.

There is considerable concern locally that the building is not what it purports to be. Unrealistically large rooms hint that this is a not a real plan and is just being used to justify keeping what has been built, as a form of development-by-stealth. A building of this size is completely out of scale with its neighbouring properties. Also the very unusual mix and layout of the proposed accommodation and its patent lack of architectural merit would make this speculative development a very unlikely commercial success for the developers as a single dwelling. Development-by-stealth hurts the local community.

The construction of this building is not the result of some misunderstanding or misinterpretation of the rules on the part of the developer. It is the result of a deliberate flagrant abuse of the planning system.

Currently policies confirm that any proposed development should be in keeping with the other properties & developments in the road. This is not a commercial landscape or a multiple occupancy landscape. This is a semi-rural landscape and any such developments should remain in keeping with the surroundings.

The application does not describe the impact of the new build on foul sewage services. Experience of many local residents is that foul sewage is over capacity. A building of that size will exacerbate a problem that already exists where the system back fills during heavy rain causing a flood of untreated sewage to those dwellings already on the system clearly creating considerable demand on the foul sewage system and so it is not appropriate for this application to proceed in its current state without discussing impact on services.

If this application is permitted then it sets a precedent for more conversions of houses to create further flats/bedsits totally out of keeping with the character of the area. This would send a message to other developers and residents alike that anything is possible without appropriate prior planning permission.

This application should be refused on a number of grounds;

- The design statement and justification contains much misinformation.
- It is totally detrimental to the notion of Community Cohesion as it has led directly to disputes and tensions that will only increase in the future.
- The proposal represents an inappropriate form of development within the Green Belt and in the absence of any special circumstances would by its inappropriateness

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have a harmful impact on the open, rural and undeveloped character of the Green Belt

- It is devoid of architectural merit or sensitivity, visual or otherwise, towards its surroundings, neighbours and Greenbelt location.
- The proposed development by reason of its size, depth, width, height and massing would have an unacceptably adverse impact on the amenities of the properties immediately adjacent to the site and the surrounding area by reason of overlooking, loss of privacy and visually overbearing impact.
- The Layout and Siting, both in itself and relation to adjoining building, spaces and views, is inappropriate and unsympathetic to the appearance and character of the local environment.
- Approval of this application would in effect be rewarding the developer for its systematic breaches of the planning process and disregard for the Green Belt and may well encourage similar actions by this and other like-minded developers in the future.
- The application does not describe the impact of the new build on foul sewage services. Local residents already experience problems with foul sewage system

I would urge members to consider the impact that this application has had upon residents in the locality. The importance of the Green Belt in prevent the urban sprawl of Cheltenham into Churchdown and ultimately Gloucester. I trust that as this planning application clearly does not meet planning guidelines that it will be refused.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	113
Total comments received	20
Number of objections	18
Number of supporting	1
General comment	1

5.1 The application was publicised by way of letters to 113 neighbouring properties and a site notice. The consultation process was re-run following receipt of revised plans. 20 representations have been received which relate to the following comments:

- Proposal is a new build in the green belt
- Concerns about basement and flooding
- Concerns that building is not genuinely a single dwelling and will be used as flats/bedsits
- Concern that removal of site from the Principal Urban Area will facilitate conversion
- Building is too large, much larger than original hayloft and is inappropriate development in the green belt
- Out of keeping with other properties in the road and the surroundings
- Highway danger

- Increase in noise and disturbance
- Concerns about retrospective nature of the application and the process
- Application is invalid as it doesn't acknowledge that the building was fully demolished
- Poor design
- Approval would set a precedent
- Loss of privacy from balconies
- Problems with foul sewage and drainage

6. OFFICER COMMENTS

6.1 Determining Issues

6.1.1 The key issues in determining this application are (i) the background and site history, including fall-back positions, (ii) design and layout, (iii) impact on the green belt, (iv) impact on neighbouring properties, (v) access and highways issues, (vi) Flood risk.

6.2 Background and site history, including fall-back position

6.2.1 As mentioned earlier in the report, there is a complex planning history to the site. The most relevant of these decisions are the two most recent decisions, 12/01271/FUL and 14/02249/FUL.

6.2.2 12/01271/FUL

6.2.3 This application was for "*Replacement Dwelling following demolition of existing property*". It was permitted on 16th October 2012 and was a 5 year consent; as such this is an extant consent which, subject to the discharging of conditions, could be implemented. This represents a 'fall-back position' for the applicants as it could still be implemented.

6.2.4 This scheme comprised a two storey flat roof dwelling in a modern style with 4 en-suite bedrooms at first floor and living accommodation on the ground floor. The approved plans will be available for members to view at the meeting.

6.2.5 14/02249/FUL

6.2.6 This application was for "*Extensions to dwelling (Part Retrospective)*". It was permitted on 3rd March 2015.

6.2.7 This application dealt with alterations to an earlier scheme (10/01800/CLPUD), which was for a certificate of lawfulness for two storey extensions to the front and rear and single storey extensions to the south side and rear. The amendments approved under 14/02249/FUL comprised:

- Infilling the south west corner at ground level between the southern and western extension
- The introduction of a basement level underneath the side extension on the south elevation

- Alterations of the ground floor roof line along the western elevation

- 6.2.8** It is this consent that the applicant has essentially been implementing in terms of form, mass, and scale but members are advised that technically the consent is no longer capable of being implemented as the original dwelling no longer exists. The decision however is distinctly relevant to the consideration of this application in that it is a relatively recent decision, which was considered to be of an acceptable design, to have an acceptable impact upon neighbouring properties and to be acceptable on flood risk grounds. The impact on the green belt in terms of openness was also deemed to be acceptable principally because the vast majority of the work that was proposed was permitted development.
- 6.2.9** In the interests of consistency, the differences between this application and that currently under consideration are relevant and will be considered below.

6.3 Design and layout

- 6.3.1** The differences between the previous 2014 approval as detailed above, are as follows:

- First floor, flat roof infill extension to eastern elevation (This has been reduced in size since the submission of the application)
- Flat roof over the extension on the northern elevation instead of previous pitched roof
- Provision of balcony on flat roof on west elevation
- Provision of fire escape in light well
- Alterations to fenestration on all elevations:
 - North elevation – replace single door with two windows on extension, additional windows at first floor
 - East elevation – alternative arrangement to entrance area comprising single door and window instead of double door and full height glazing. Removal of first floor windows. Side window in extension.
 - West Elevation – first floor windows changed to doors, removal of one ground floor window and enlargement of another. Double doors in side elevation of northern extension and two storey element.
 - South elevation – 6 windows of varying sizes to replace 4 approved.

- 6.3.2** The changes to the fenestration are considered to be relatively minor and do not, in themselves significantly alter the appearance of the dwelling, over and above how it would have appeared had it been constructed in accordance with the approved plans, as extensions to the The Hayloft.

- 6.3.3** The alterations to the extension on the north elevation have the most significant impact upon how the building appears in the street scene, however the previous extension was the same size so it is simply the roof form which differs (changing from a lean-to to a flat roof). Officers consider this element to be of an acceptable design which is still read as a subservient addition to the main building.

- 6.3.4** With respect of the first floor infill extension on the eastern elevation, glimpses of this may be possible from the street, however the amendments secured by officers mean that this

has now been set further back between the two wings of the building. As such Officers consider this element of the proposals to be acceptable.

- 6.3.5** The use of the flat roof as a balcony on the western elevation is considered to be acceptable in terms of design. The plans indicate a simple balcony balustrade which would not detract from the building.
- 6.3.6** The fire escape within the light well is simple in design and would not be widely seen from public vantage points. As such this element of the proposal is considered to be acceptable.
- 6.3.7** Therefore when assessed against the way the building would have appeared had the approved scheme been implemented in accordance with the 2014 approved plans, the proposals do not represent a significant change and are considered to be acceptable. When assessed against the fall-back position of the dwelling approved in 2012, the proposals are also considered to be acceptable. The resultant building has a similar footprint and overall height, although the approved scheme clearly has a markedly different modern aesthetic.
- 6.3.8** For these reasons the proposal is considered to be in accordance with policy CP7 of the Local Plan.

6.4 Impact on the green belt

- 6.4.1** The application site is in the Green Belt and therefore policies CO7 and CO8 are relevant.
- 6.4.2** Policy CO7 relates to rebuilding or replacement dwellings in the Green Belt and states that such developments will be permitted provided the number of replacement dwellings is no greater than the number to be demolished and the volume of the original building is not exceeded by more than 15% or 70 Cubic metres and there is no harm to the openness and visual amenity or, or encroachment upon the Green Belt.
- 6.4.3** The building has essentially been rebuilt albeit in sections and includes the volume permitted by previous extensions in 2014 (which themselves were based on a proposal for which the majority of works did not require planning permission). There is only a small increase in volume over and above that, which is provided by the first floor infill. Officers are satisfied that the proposals do not further impact upon the openness of the Green Belt. As such the proposals are not considered in conflict with this policy. (Note: Members are advised that whilst the policy refers to a 15% or 70 cubic metres tolerance, this was based on now superseded permitted development allowances. Permitted development in the green belt now allows for much larger additions and it is the new permitted development regime that the 2014 approval was based on.)
- 6.4.4** Policy CO8 relates to extensions to dwellings in the Green Belt. It states that the extension of a dwelling in the Green Belt will only be permitted where it is clearly subordinate in size to and consistent in character with the original building and does not detract from the openness of Green Belt. The extensions are of the same footprint as those previously approved and as such are not in conflict with this policy.
- 6.4.5** Paragraph 88 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. New buildings are inappropriate in the Green Belt, however exceptions to this include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original dwelling, and the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
- 6.4.6** In light of the approved applications that this site benefits from, it is difficult to argue that the proposal in its current form brings with it a level of harm greater to the green belt than that already approved. Whilst the applicant has perhaps got to this position in a disappointing

manner, the judgement has to relate to openness and impact on the green belt. In light of the site history, officers consider that it would be unreasonable to refuse planning permission for a development that would have the same impact on the green belt as that of an already consented scheme. Members are also advised that if planning permission is refused and this authority seeks to take enforcement action, then the likely request will be the demolition of the building; this is because the original 2014 consent is no longer capable of being implemented because the original building no longer exists to be extended. In light of this history, officers would advise that this sequence of events would likely fail the test of proportionality i.e. that the work necessary to remedy the situation would be disproportionate to the level of harm. This is perhaps a regrettable conclusion but it is important that the consequences of refusal are suitably outlined within this report.

- 6.4.7** As an aside from the above, some objections have made reference to proposed changes to the Principle Urban Area. The Principal Urban Area (PUA) marks the limits of Cheltenham's urban area, being conceptually the dividing line between built-up/urban areas (the settlement) and non-urban or rural areas (the countryside).
- 6.4.8** There is currently no adopted change to the PUA boundary in Cheltenham, and no adopted policy in relation to the designation, although the 2006 plan mentions the PUA in supporting text.
- 6.4.9** Emerging JCS policies direct new development to existing urban areas and Strategic Allocations. In order to apply these policies in the future it will be necessary to have an up-to-date, accurate boundary for Cheltenham's urban area.
- 6.4.10** Therefore the Cheltenham Plan is considering updates to the PUA boundary in the light of development which has taken place since the last plan. This work is at an early stage and carries little planning weight currently.
- 6.4.11** Consideration of the PUA boundary is wholly separate to the Green Belt status of the site.

6.5 Impact on neighbouring property

- 6.5.1** The application site has one direct neighbour, Cambria. When compared to the 2014 permission, the current proposal is considered to be an improvement in terms of neighbour amenity as there are no first floor windows proposed and the porch structure has less glazing. There is one additional window on the side elevation of the extension but this is further away from the boundary than the approved windows.
- 6.5.2** Therefore the proposal is considered to be in accordance with policy CP4 of the Local Plan.

6.6 Access and highway issues

- 6.6.1** The property benefits from a pre-existing access and driveway and this arrangement is unchanged.

6.7 Flood Risk

- 6.7.1** The proposal does not fall within Flood Zones 2 or 3 and does not meet the thresholds for requiring a Flood Risk Assessment. The building control process will ensure that the basement is appropriately constructed to guard against flooding. This element of the proposals is as permitted by the previous proposal.

6.8 Other considerations

- 6.8.1** There is some concern amongst objectors that there is a possibility that the building would be converted into flats in the future. This would require planning permission and as such

would have to be considered at such time as this may be sought. The current application must be considered as submitted and on its own merits.

7. CONCLUSION AND RECOMMENDATION

- 7.1 Whilst there is a complicated history to the site, and the way in which it has been developed to date is certainly disappointing, when compared to both approved schemes, it is not considered that the changes which are outlined above are harmful to the appearance of the building, or the wider area of the green belt. The impact on the openness of the green belt has not materially changed from the 2014 approval and therefore it is very difficult to articulate any harm when objectively assessed against the site history.
- 7.2 Officers acknowledge that the route to developing the building on site has not been in accordance with the approved schemes but despite this, the judgement has to relate to the impact on the green belt and the differences between the approved scheme and what now exists on the site. When making this judgement, the consequences of refusal also need to be factored in. If refused, the likely course of event will be the need to take enforcement action and it is the view of officers that the work necessary to remedy the situation (demolition) would be disproportionate to the level of harm when factoring in the site history.
- 7.3 As such the proposal is recommended for approval.

8. CONDITIONS / INFORMATIVES

- 1 The development hereby permitted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.
Reason: For the avoidance of doubt and in the interests of proper planning.
- 2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and/or re-enacting that order with or without modification), no extensions, garages, sheds, outbuildings, walls, fences or other built structures of any kind (other than those forming part of the development hereby permitted) shall be erected without express planning permission.
Reason: Any further extension or alteration requires further consideration to safeguard the amenities of the area, having regard to Policies CP4 and CP7 of the Cheltenham Borough Local Plan (adopted 2006).
- 3 Unless indicated on the approved plans, none of the flat roofs created as part of this proposal shall be used as a sitting out area, terrace or balcony unless previously agreed in writing by the Local Planning Authority.
Reason: In the interests of the amenities of neighbouring properties, in accordance with policy CP4 of the Local Plan.

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any

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problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

APPLICATION NO: 16/02205/FUL		OFFICER: Mrs Emma Pickernell	
DATE REGISTERED: 16th March 2017		DATE OF EXPIRY : 11th May 2017	
WARD: Benhall/The Reddings		PARISH:	
APPLICANT:	M P Homes Ltd		
LOCATION:	The Hayloft The Reddings Cheltenham		
PROPOSAL:	Retention of works carried out; including those under planning permission reference 14/02249/FUL as well as the removal and replacement of elements of the original Hayloft building not covered by planning permission reference 14/02249/FUL and minor alterations to the approved scheme.		

REPRESENTATIONS

Number of contributors	21
Number of objections	19
Number of representations	1
Number of supporting	1

Carobs
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 6th April 2017

To be clear the current structure is a new build on greenbelt with no planning permission which this application seeks to regularise. There have already been two stops placed on this construction by the planning department because of irregularities. Examination of earlier documents clearly states that one wall of the original Hayloft should remain standing but in fact has been demolished presumably with consent from the planning department. The newly created cellar allegedly approved by a planning officer, may be subject to flooding as the water table is high in this area. In fact the cellar of the adjacent house has a constant pump working in spite of being correctly tanked out.

The current plan has no defining features of a single dwelling and the ground floor has little fluency in design. The garden room is in the front of the structure where logically the dining and utility rooms should be. The first floor appears to be of concrete construction, which is a necessary safety issue for a multi-occupancy building. The installation of five bathrooms seems excessive for a single dwelling and if used simultaneously are likely to have an adverse effect on the houses opposite. There is no provision for extra land or a garage to be included with this house despite the magnificence of its amenities. According to the plan the main entrance is but a side door.

This is quite clearly destined to be a block of flats/bedsits to which the developer has already confessed, so is this another planning application of fiction or a stepping stone towards completion of their ultimate goal? We also question the developers statement that the building was constantly inspected by the planning department, but the department claimed it did not have the manpower to achieve this.

To facilitate the developer the "Principal Urban Area" Appendix F no 21 recommends the removal OF THIS SITE ONLY from green belt allowing a new application for multi occupancy which clearly has been the intention from day one. The removal of green belt status has no benefit for

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the community or local residents. It would appear that the developer has shown total disregard for the planning process and there is no reason why this building should be allowed to stand as, so far, no planning application submitted or retrospective has been adhered to. This sets a precedent for other similar builds and conversions of larger houses in the road to create further flats/bedsits which is totally out of keeping with the character of the area. This sends a message to other developers and residents alike that anything is possible without appropriate prior planning permission.

This has worrying connotations for the future of planning. This building is much larger than the original Hayloft (<http://www.zoopla.co.uk/property-history/the-hayloft/the-reddings/cheltenham/gl51-6rl/26704027>) and therefore this structure should be demolished and a single dwelling of recognisable construction should be built on the site as intended in the application dated June 2012.

Comments: 11th June 2017

Inspection of the list of applications will reveal that 16/02205/FUL dated March 20 2017 is the latest amendment to plans submitted and altered several times since 14/002249/FUL dated October 2010.

Simple calculation will reveal this debacle is in its seventh year.

Mrs Pickernell is the third planning officer since 2008 having been preceded by Miss Adams and Mrs Harris. Is this a poisoned chalice?

Further to our previous objections, it is noted that the title of the building is referred to as a "Proposed Development", yet again avoiding stating the true purpose of the completed building.

The current amendments are;

1. The deletion of two ensuite rooms means that Bedroom 1 which is the master bedroom will no longer have such a facility. This is unbelievable in such a well appointed house.
2. Flat roofs which could be built on at a later date.
3. The addition of a fire escape on the south elevation. Why?

The above items suggest that multi occupancy is the ultimate aim.

It is appreciated that the Planning Department is constantly under pressure, however had inspections taken place more frequently the current situation would have been avoided. It is therefore hoped that whatever the outcome, safeguards will be put in place to avoid any ambiguity.

All our previous objections of the 4/6/17 still stand.

Pserimos
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 26th March 2017

First I have little or no faith in this process, having been through a similar process whilst living at Manor Park and objecting to the Manor Farm Development. I'm fairly sure these comments either will not be read, or will be read and then duly ignored.

Second, I cannot open the documents attached to this application, so I am unable to review the specific details and comment accordingly. Perhaps the council will send me full details in the post

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so that I am given a fair chance to review them. I suspect nothing will arrive through my letter box though.

Either way, I will give my comments as follows:

- 1) This is Green Belt land - does this actually mean anything in today's society? It clearly seems to give little or no protection status to the land upon which this classification has been given. I object to any large scale development (anything exceeding a single private dwelling of maximum 2 storeys) occurring on this land.
- 2) Visual/ Character/ Environment - Any proposed development should be in keeping with the other properties & developments in this road. This is not a commercial landscape or a multiple occupancy landscape, this is a semi-rural landscape and any such developments should remain in keeping with the surroundings.
- 3) There is already heavy through traffic on this road during morning and evening rush hour periods. Any multi-occupancy type of development will further turn this semi-rural road into a heavy use road. It is already dangerous in places where vehicles routinely travel at 40+mph. Traffic calming is needed in the mid-section of the road.
- 4) Noise/ Disturbance - Any multi-occupancy development is likely to increase noise & disturbance within this quiet community.

PLEASE REMEMBER this is a semi-rural location, and it is not appropriate for a town centre style development to take place here.

PLEASE NOTE I am already concerned at the underhand way that this development seems to be progressing. Building work progressing prior to the appropriate planning consent demonstrates a non-compliant approach with clearly no regard for the area or community.

I understand there are now attempts to remove the green belt status of this land to enable the building work to progress. Again this appears VERY UNDERHAND, UNWARRANTED & POTENTIALLY ILLEGAL PROCESS.

PLEASE ENSURE A COMPLIANT, ROBUST, FAIR & TRANSPARENT PROCESS IS UNDERTAKEN AT ALL TIMES.

PLEASE GIVE PEOPLE FAITH THAT THIS PROCESS IS VAGUELY COMPLIANT!!!

Lynwood
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 10th April 2017

I object to this development. The proposed plans are for a 'single dwelling' which is vastly out of scale with the other dwellings in the road. The plans are not an extension or alterations of the Hayloft - the traditional old building of the Hayloft has been demolished. If this has been done without planning permission, it should be re-instated, so that the visual impact remains similar, rather than the visually unappealing elevations proposed.

The proposal is effectively for new build, which is not appropriate in greenbelt land. I do not feel it is appropriate to allow development to be approved retrospectively in this way, as it will indicate to developers that there is no requirement to adhere to planning permission.

The plans submitted seem so out of scale for a single dwelling in this area that it does give substance to local concern that this is not intended to be a single dwelling, but instead something easily converted to multi-occupancy. Combined with this there is the proposal within the

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Cheltenham Plan to include the site within the town's Principal Urban Area. I strongly object to this, as I see no reason whatsoever for changing the status of this site. This would remove the single dwelling restriction currently applicable to this Greenbelt site and allow this development to convert to a multi-unit development of flats or bed-sits. This would be quite inappropriate to the character of the area.

Penny House
6 The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 9th April 2017

I object to this proposal for the retention of what is a very substantial wholly new structure built without planning permission in the Green Belt.

Cheltenham Plan (Part One) Appendix F refers to the addition of a residential dwelling to the PUA at The Hayloft in The Reddings. Ref No. 21 on the interactive map. This Cheltenham Plan is to be used in combination with the Joint Core Strategy, which contained a Green Belt Assessment completed by Amec.

This assessment puts The Hayloft in designated Area 21 of the Green Belt, and red flagged it as having a significant contribution to the Green Belt, with the following recommendations:

"Critical to the separation of Cheltenham and Gloucester, being the original purpose of Green Belt designation. Critical to preventing ribbon development along the A40 and A46... These segments do not merit further consideration for release from the Green Belt at this stage"

With this recommendation by the JCS there is absolutely no justification for the approval of this application.

Furthermore, In relation to the protection of Green Belt land The National Planning Policy Framework (NPPF) Section 89 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include:

"the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces."

Anything else must be considered as 'Inappropriate Development' unless there are 'Exceptional Circumstances'.

Furthermore, the "Reason" given in Appendix F for its inclusion is as "Inclusion of residential dwelling". This is completely inaccurate since "The Hayloft" - the residential dwelling in question - was demolished and replaced by a substantial structure built on into the adjoining Green Belt without planning permission.

This new structure is illegal and offends against the Green Belt and the council has a duty to take action to have it removed and for the site to be reinstated. Indeed, Mr Levick, a Senior Planning Enforcement Officer, has stated unequivocally that the Hayloft itself has been demolished completely and replaced with this new structure.

Bearing in mind that this new build structure has been constructed on Green Belt land - additionally your own people in Customer Relations under an FOI request have pointed out that "The owners of the site were urged to stop work on site and secure it and make safe as there is no planning permission for the structure on the site."

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Additionally, the current planning application is invalid because it is seeking retrospective permission for regularisation of further breaches of a planning permission (Ref: 14/02249/FUL) for 'Extensions to The Hayloft' - a permission that became null and void when The Hayloft was demolished. The application should not have been validated by the Planning Department and the Planning Committee should therefore refuse permission for this reason alone.

The new building (the replacement building) is more than three times the size of the original building, which makes it 'Inappropriate Development' within the Green Belt.

There is considerable concern locally that the building is not what it purports to be. A building of this size is completely out of scale with its neighbours. The very unusual mix and layout of the proposed accommodation, and its patent lack of architectural merit, would make this speculative development a very unlikely commercial success for the developers as a single dwelling.

There is also real concern that a proposal within the Cheltenham Plan to include the site within the town's Principal Urban Area (a proposal with no public benefit whatsoever) would remove the single dwelling restriction currently applicable to this Green Belt site - effectively 'opening the door' to a multi-unit development of flats or bed-sits, which would be wholly inappropriate.

If this application is permitted then it sets a precedent for other similar builds and conversions of larger houses in the road to create further flats/bedsits totally out of keeping with the character of the area. This would send a message to other developers and residents alike that anything is possible without appropriate prior planning permission; that it is fine to build what you like in the area - Green Belt or not - without planning and then get retrospective permission even for new build - after all with a precedent as blatant as this anyone would have a strong case to do just that.

In summary the application for the retention of the new building should also be refused for the following reasons:

1. It is an illegal development, built without planning permission.
2. It is classified as 'Inappropriate Development' in the Green Belt under Section 89 of the NPPF.
3. Cheltenham Plan (Part One) Appendix F refers to The Hayloft as being in designated Area 21 of the Green Belt, and red flagged this area as playing a "significant contribution to the Green Belt".
4. CBC personnel already put a stop on this construction stating: "The owners of the site were urged to stop work on site and secure it and make safe as there is no planning permission for the structure on the site."
5. The application is devoid of architectural merit or sensitivity, visual or otherwise, towards its surroundings, neighbours and Green Belt location.
6. Approval of this application would in effect be rewarding the developer for its systematic breaches of the planning process and disregard for the Green Belt and may well encourage similar actions by this and other like-minded developers in the future.
7. Allowing the retention of this 'Inappropriate Development' in the Green Belt - a visually unattractive building of a scale and design that appears more suited to a multi-unit use than the single dwelling it purports to be - could well create a precedent for further developments of its type, leading to a serious decline in the character and quality of the neighbourhood.

The Hedgerows
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 8th April 2017

I object to this proposal for the retention of what is a very substantial wholly new structure built without planning permission in the Greenbelt.

In relation to the protection of Greenbelt land The National Planning Policy Framework (NPPF) Section 89 states that:

A local planning authority should regard the construction of new buildings as inappropriate in the Greenbelt. Exceptions to this include:

- The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

Anything else must be considered as 'Inappropriate Development' unless there are 'Exceptional Circumstances'.

The Council's Customer Relations Department has confirmed in writing that the original building (The Hayloft) has been demolished completely and replaced with a wholly new building, for which there is no planning permission. It is in effect an illegal structure.

The new building (the replacement building) is more than three times the size of the original building, which makes it 'Inappropriate Development' within the Greenbelt.

There is considerable concern locally that the building is not what it purports to be. A building of this size is completely out of scale with its neighbours. The very unusual mix and layout of the proposed accommodation, and its patent lack of architectural merit, would make this speculative development a very unlikely commercial success for the developers as a single dwelling.

There is also real concern that a proposal within the Cheltenham Plan to include the site within the town's Principal Urban Area (a proposal with no public benefit whatsoever) would remove the single dwelling restriction currently applicable to this Greenbelt site - effectively 'opening the door' to a multi-unit development of flats or bed-sits, which would be wholly inappropriate.

The construction of this building is not the result of some misunderstanding or misinterpretation of the rules on the part of the developer. It is the result of a deliberate flagrant abuse of the planning system.

The current planning application is invalid because it is seeking retrospective permission for regularisation of further breaches of a planning permission (Ref: 14/02249/FUL) for 'Extensions to The Hayloft' - a permission that became null and void when The Hayloft was demolished. The application should not have been validated by the Planning Department and the Planning Committee should therefore refuse permission for that reason alone.

However, the application for the retention of the new building should also be refused for the following additional reasons:

1. It is an illegal development, built without planning permission.
2. It is classified as 'Inappropriate Development' in the Greenbelt under Section 89 of the NPPF.

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3. It is devoid of architectural merit or sensitivity, visual or otherwise, towards its surroundings, neighbours and Greenbelt location.
4. Approval of this application would in effect be rewarding the developer for its systematic breaches of the planning process and disregard for the Greenbelt and may well encourage similar actions by this and other like-minded developers in the future.
5. Allowing the retention of this 'Inappropriate Development' in the Greenbelt - a visually unattractive building of a scale and design that appears more suited to a multi-unit use than the single dwelling it purports to be - could well create a precedent for further developments of its type, leading to a serious decline in the character and quality of the neighbourhood.

March House
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 10th April 2017

I object to the proposed development on the following grounds:

This is a green belt site and the scale of the development is completely inappropriate; the proposed building is almost twice as large as the existing building which has been demolished.

The building purports to be a single dwelling, which is hardly credible considering the size, number and layout of the rooms. The building work has already been stopped on two occasions because the work was not in accordance with the approved plans. I feel that it is inevitable that if approved, the developer will submit yet another planning application to convert the building into multiple flats or bad-sits, which would be totally unacceptable.

I and the other residents of the Reddings will feel totally let down by the Planning Department if our comments are disregarded and this development is approved by the Cheltenham BC Planning Committee.

Bethany House
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 10th April 2017

I object to this proposal for the retention of what is a new structure built without planning permission in the Green Belt.

I completely agree with the previous comments about the Cheltenham Plan (Part One) Appendix F, and the Joint Core Strategy, which contained a Green Belt Assessment completed by Amec.

This assessment put this location of the Green Belt, as a red flagged site it as having a significant contribution to the Green Belt, with the following recommendations:

"Critical to the separation of Cheltenham and Gloucester, being the original purpose of Green Belt designation. Critical to preventing ribbon development along the A40 and A46... These segments do not merit further consideration for release from the Green Belt at this stage"

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With this recommendation by the JCS there is absolutely no justification for the approval of this application.

This development also does not comply with the protection of Green Belt land according to The National Planning Policy Framework (NPPF) Section 89.

Council enforcement officers and customer relations officers have also stated that the Hayloft itself has been demolished completely and replaced with this new structure. This is why work has been halted on the site for so long.

As such the current planning application cannot be valid because it is seeking retrospective permission for regularisation of further breaches of a planning permission (Ref: 14/02249/FUL) for 'Extensions to The Hayloft'. As what is there at the moment does not comply with the first planning permission then there is nothing to regularise.

Folly House
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 8th April 2017
Background

In January 2015 we made the following comments.

"Because of the somewhat long and tortuous nature of the development and the general lack of up-to-date information we believe the developer should submit a concise statement giving the current proposals covering, appearance, construction, exact sizes, use of building, likely number of occupants, position within the plot, car parking, access arrangements and likely completion date.

With this information to hand it will be possible for planners and all interested parties to assess the proposals and make informed comments.

The building is in the greenbelt and there seems to be a definite element of planning creep with considerable incremental increase in size. The original idea was to contain the building within the footprint of the old building. It now appears to be over twice the size. When will it end? It was already a large building"

Process

It is disappointing that there is a lack of clarity, transparency and responsiveness and unfortunately requests for information from the planning department have gone unanswered.

Comments

Despite many letters and comments it is clear that no one has a clear view on what is the exact scale and scope of the development and what further development creep there might be. Answers requested in the earlier background paragraph are still relevant and have not yet been answered. The development creep is enormous and it begs the question, would all the agreements given in the previous submissions be correct and a simple test would be to determine if the application as currently stated would have been approved had it been applied for originally. We suspect not. Therefore in order to provide some clarity we believe the current application should be reviewed overall. Incremental increases, as in these situations, have unexpected consequences and frequently occur.

The development is out of scale and out of character in terms of the appearance with other properties in the vicinity. Architecturally the building has little merit.

The internal design is unusual and it appears more like a multi-unit development with communal living. The problem being this may increase the number of parked cars and cause difficulty with traffic as it is located on a bus route and the junction with Badgeworth Road.

3 Fairhaven Park
The Reddings
Cheltenham
Gloucestershire
GL51 6RW

Comments: 20th March 2017
Letter attached.

Iona
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 8th April 2017
I object to the application 16/02205/FUL

This building is totally inappropriate for The Reddings. This area of The Reddings is a rural area within the Green Belt, the application may state that it is a single dwelling but the residents in the area believe it to be a development by stealth. There have been numerous applications submitted for this site including an application for four apartments in 2008 a residential home for the elderly in 2009 and 2012. All of which have been permitted.

The developers have carried out work which was not covered by the previous planning application ie: removing parts of the existing building which I believe was done deliberately to avoid extra work and cost.

The original application 12/01271/FUL was granted with the restriction imposed in para 11: the roof area must not be used as a balcony or roof garden without further planning permission. Had this been applied for in the original application more residents may have objected.

I object to the roof being made flat and converted into a balcony because it will rob neighbours of their privacy. It may also distract motorists approaching the road junction of The Reddings with Badgeworth Road. This is already a dangerous junction, the scene of several accidents.

I refer to the application form para 11 Foul Sewage.
State how foul sewage is to be disposed of; Answer - unknown.
Are you proposing to connect to the existing drainage system; Answer - unknown

Surely before the building work started the decision of how it would be connected to the sewer should have been formalised. Also as the ground floor has been built this decision must have been made. Is this something else that has been done without planning consent?

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If this site is to be connected to the main sewage system it will exacerbate a problem that already exists where the system back fills during heavy rain causing a flood of untreated sewage to those dwellings already on the system. Severn Trent is aware of this problem.

This issue should be investigated before the building work recommences.

I believe this latest application is a way of getting a building on the site which can later be converted into something else.

If this application is permitted to proceed, I feel the Planning Committee should impose a restriction forbidding further changes to the property.

Comments: 25th May 2017

I wish to object to the proposal 16/02205/FUL and my existing objection dated 8th April 2017 still stands.

The developers have put in a Revised Covering Letter dated 10th May 2017, entered on the web site 18th May 2017.

In this letter under the heading: Background, location and proposed development, para 4, they state:

Some aspects of the works carried out vary slightly from the approved plans, and thus this application is submitted to regularize those works. In addition, during the carrying out of those works, it became apparent that a far more appropriate solution to the whole site would be to re-order what was the original dwelling which was looking out of place against the new extensions.

In para 5 they state:

Following the extensions to it being almost complete therefore, the decision was taken to repair what little remained of the original dwelling and finish that off in the new bricks to match the extensions that now surround it.

In para 6:

As well as the slight alteration to the location and size of some of the openings, the small front extension has also been finished in a different fashion. The Permitted Scheme had this finished in a mono-pitch sloping roof; the as built/proposed scheme has this finished in a flat roof behind a parapet. This too matches the other elements of the now extended dwelling and if anything has a lesser impact on the Green Belt than the Permitted Scheme.

The addition of the external fire escape indicates that this building is not going to be used as a private dwelling but I suspect it has been included to allow an easy change of use at a later stage.

The developer knew that the work they were carrying out did not comply with the existing planning permission but carried out the work regardless.

This shows that they have scant regard for the planning process, and think that they are above the law which governs planning permission.

It appears the developers made the decision to build what they wanted irrespective of any restrictions imposed by planning, and are now seeking retrospective planning permission to get whatever they wanted in the beginning. Therefore I feel this application should be rejected.

Tawnys Lodge
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 10th April 2017

We are writing to object to the proposal for the retention of what is a very substantial wholly new structure built without Planning Permission in the Green Belt.

It is an illegal development classified as 'inappropriate development' in the Green Belt under section 89 of the NPPF.

There is concern locally that the building is not what it purports to be. A building of this size is completely out of scale with its neighbours and believe would be more commercially viable to the developers for multiple occupancy i.e luxury flats and wonder if this could be their ultimate aim.

In addition there are real concerns regarding the disposal of foul sewage. During periods of severe heavy rainfall the main sewer back - fills and neighbours have been seriously affected by this. Any further development involving multiple occupancy will only increase the problem still further. I understand the Severn Trent Water Authority are aware of this problem.

The Applicant's proposal within the Cheltenham Plan to include this Site within the Town's Principal Urban Area (a proposal with no public benefit whatsoever) would remove the single dwelling restriction currently applicable to this Site effectively 'opening the door' to a multi - unit development which would be totally inappropriate. If granted, it would set a dangerous precedent to residents and other developers that any development is possible without appropriate Planning Permission whether land is located in the Green Belt or not. Furthermore, if retrospective Planning Permission was granted, this would 'open the flood gates' to further development on Green Belt Land in The Reddings.

Flowerdale House
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 5th April 2017

I am writing about the application to amend the permission already granted for the Hayloft.

The permission already granted is more than sufficient for this site and the amendments now proposed are relatively minor and should be approved subject to conditions as set out below:

1. The development must be completed within 24 months of permission being granted.
2. The proposal to exclude this property and the adjoining field from its current Green Belt status should be declined, as this sets a dangerous precedent for nearby property.
3. Provision should be made to provide sympathetic screening/ landscaping at the front and side of the property in keeping with the semi-rural nature of The Reddings.
4. Access from the adjoining field should cease once the development has been completed and the farm gate entrance and field should be re-instated
5. No further planning applications should be made on this site for at least 15 years in line with the local plan

Otherwise permission should be refused.

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The Reddings has suffered, and continues to do so, from several speculative planning applications (BMW site in Grovefield Way, B&Q, Asda, Pure Offices, Symphony Road development, Care Home at Arle Court and land off Brock Close to name a few). The Reddings is a semi-rural residential area on the edge of Cheltenham and is important in its position to prevent the urban sprawl of Cheltenham into Churchdown and ultimately Gloucester.

The road system in the area is already creaking under the strain of the existing developments and this will increase significantly once the BMW site is open for business.

The Green Belt status of the area was upheld by the Planning Inspectorate following the appeal against refusal for permission to develop the land off Brock Close (15/00573/OUT) and this decision is also appropriate to this property and adjacent field.

Glyndon
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 10th April 2017

I wish to register my strong opposition to the proposal for the retention for what is a new building within the green belt.

The current planning application is invalid because it is seeking retrospective permission for regularisation of further breaches of a planning permission (Ref: 14/02249/FUL) for 'Extensions to The Hayloft' - a permission that became null and void when The Hayloft was demolished.

The existing planning permission was granted on the expectation that the frontage wall would be retained. It is such a shame that this precipitate action has been taken without the courtesy of either discussion with neighbours or following due process and seeking planning permission. One cannot help but think that the demolition of the wall was done to ensure that faced with such a fait accompli, retrospective planning permission could be more easily acquired.

I believe that construction of new buildings within the Green belt are inappropriate, exceptions to this include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The proposal by reason of the overall floor area created and in the absence of any very special circumstances would lead to an inappropriate form of development in the Green Belt, detrimental to its open, rural and undeveloped character.

In 2016 the Green Belt status within this area was upheld by two Planning Inspectorate appeals against refusal for permission to develop the land off Brock Close (15/00573/OUT) and at Pine lodge Hatherley Lane 16/00805/FUL Thus demonstrating the importance of maintaining a strong and robust policy to prevent urban sprawl, maintain the unique character of the area and reject inappropriate development.

There is considerable concern locally that the building is not what it purports to be. Unrealistically large rooms hint that this is a not a real plan and is just being used to justify keeping what has been built, as a form of development-by-stealth. A building of this size is completely out of scale with its neighboring properties. Also the very unusual mix and layout of the proposed accommodation and its patent lack of architectural merit would make this speculative development a very unlikely commercial success for the developers as a single dwelling. Development-by-stealth hurts the local community.

The construction of this building is not the result of some misunderstanding or misinterpretation of the rules on the part of the developer. It is the result of a deliberate flagrant abuse of the planning system.

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Currently policies confirm that any proposed development should be in keeping with the other properties & developments in the road. This is not a commercial landscape or a multiple occupancy landscape. This is a semi-rural landscape and any such developments should remain in keeping with the surroundings.

The application does not describe the impact of the new build on foul sewage services. Experience of many local residents is that foul sewage is over capacity. A building of that size will exacerbate a problem that already exists where the system back fills during heavy rain causing a flood of untreated sewage to those dwellings already on the system clearly creating considerable demand on the foul sewage system and so it is not appropriate for this application to proceed in its current state without discussing impact on services.

If this application is permitted then it sets a precedent for more conversions of houses to create further flats/bedsits totally out of keeping with the character of the area. This would send a message to other developers and residents alike that anything is possible without appropriate prior planning permission.

This application should be refused on a number of grounds:

- The design statement and justification contains much misinformation.
- It is an inappropriate development in the Green Belt
- It is devoid of architectural merit or sensitivity, visual or otherwise, towards its surroundings, neighbours and Greenbelt location.
- Approval of this application would in effect be rewarding the developer for its systematic breaches of the planning process and disregard for the Green Belt and may well encourage similar actions by this and other like-minded developers in the future

Windermere
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 25th April 2017

This application should be approved to allow completion of building and landscaping.

I have viewed the previous applications for this site including a residential care home and a large house this current application appears no larger than the previous applications.

Foul drainage: The site is already connected to the sewerage system.

Storm water: My cellar has seen very little flooding in the last 3 years - an improvement.

The Hayloft prior to this redevelopment was for many years a dilapidated building in poor condition and needed some sort of rebuilding programme.

This part of The Reddings from Grovefield Way to Badgeworth Road has seen much development in the past.

Green Belt: Actually 72% of the residential properties along this road have been built in the last 35 years all of which have been developed on Green Belt Land (Termed Green Belt Infill) Several being characterless properties similar to what you would see on many local housing estates.

Quite hypocritical to be suggesting redevelopment of an existing plot is green belt infringement considering what has been built along this road since the early eighties.

We have also witnessed large extensions almost doubling the floor space of several local properties, Green belt infringement?

CBC - approve this application and let completion and landscaping improve the appearance of this road.

Cambria
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 7th April 2017

My objection is based upon the following points.

1. The developer has demolished The Hayloft and replaced it with a building twice the size of the original and is in excess of that allowed by greenbelt regulations. The existing building does not have planning permission as confirmed in writing by your customer relations department
2. The look of the building does not bear any relation to the modern building for which planning permission was given and is visually very unattractive
3. No assessment has been made for the possible effect the excavation of the basement might have on the water table and an existing problem with flooding as experienced by other basements in the area
4. The layout and number of rooms strongly suggest that this is not a single dwelling. A building of this design and size is far more likely to be flats or bedsits which are completely out of keeping with the area
5. The developers agent in his covering letter refers to " proposed amendments to the Permitted Scheme". How can this be so if the original building has been demolished

Comments: 31st May 2017

I object to this update of the proposed development and my objection of 7th April 2017 stands.

In addition

This site has been a building site for in excess of 5 years and a completed building built in line with approved planning permission is what is now required. Can the council appoint a building inspector to oversee the construction of the development is in line with the given permissions

Plan 21634/5 A does not accurately reflect the building as it is NOW . There are openings for further windows on the east elevation WHY as on plan 21634/4 A this is shown as a blank space what is the this area going to be?

Can a restriction be added to the planning approval that this building must be one residential unit and not a house of multiple occupancy?

2 The Grange
The Reddings
Cheltenham
GL51 6RL

Comments: 20th March 2017
Letter attached.

The Poplar
The Reddings
Cheltenham
Gloucestershire
GL51 6RY

Comments: 5th June 2017
Letter attached.

Sycamore Lodge
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 9th April 2017

We wish to strongly object to this application. Having lived opposite this site for the last few years we are familiar with its history and progress, having seen the emergence of this structure on a daily basis.. There cannot be any doubt that this is an entirely new structure, including the apparent removal of all elements of the Hayloft and the addition of a basement. This factor alone should prevent this application from being granted. A review of the latest plans also reveals an enormous single dwelling which suggests that there are firm plans in place to apply for change of use or otherwise convert the property into flats or bedsits as soon as the dust has settled. This is an unwarranted intrusion into precious greenbelt land and would set a bad precedent indeed.

We also have concerns about the practical consequences of the development proceeding. In particular what regard has been had to the impact of a development of this size on the drainage/flooding potential or on traffic levels and safety bearing in mind the proximity of the site to existing driveways, a blind junction leading to Badgeworth Lane and the inevitable increase in traffic with the introduction of the BMW site and further anticipated expansion.

Overall a development of this significance, whether it will remain a single dwelling or be converted to flats/bed sits is entirely out of character with the rest of this semi-rural area with very limited infrastructure.

4 The Grange
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 31st May 2017
I object to the plans reference 14/02249/FUL for the following reasons:

1. Inappropriate dwellings for a green belt field.
2. 13 bedsits is totally out of keeping with the surrounding properties.

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3. Increase in traffic and noise entering and leaving the property.
4. Increase in traffic down The Reddings, already dangerous levels of speeding traffic up and down the road. We were supposed to be getting traffic calming measures when Asda at Arle Court was built. They have never appeared, now the traffic levels and speeds are increasingly dangerous.
5. Drainage will be stretched beyond what it is able to cope with.
6. Dangerous junction will be even more dangerous with the increase of traffic to and from the site.
7. If this is allowed to go through further building on green belt land will no doubt follow, as it will change the character of the area.
8. The illegal destruction of the original character building on the site.
9. Further unauthorised building work on the site.
10. Hard paving for car parking will increase the surface water and possible risk of flooding.
11. Under the radar building approach to getting approval. What have they got to hide why keep changing the plans? Their disregard of the law so far should not be allowed to go unchallenged.
12. Destruction of important wildlife habitat.
13. Lack of respect of local residence who have chosen to live in this semi-rural location.

Woodways
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 9th April 2017

I wish to register my objection to the above planning application on the following grounds.

In essence:

- The real fear by residents that the final building will not be as per this application.
- The present sewage drainage problem will be increased.
- The flat roof will become a balcony.

Many residents believe that, once the building is erected, the internal layout will be altered and it will become a multi-dwelling property. Many of the rooms are large and excessive, making it by far the largest dwelling in the area and not in keeping.

There are no answers to the important questions regarding the disposal of foul sewage. If the intention is to connect to the existing drainage system, the present problem for residents of backfilling during heavy rain, will only be exacerbated. Severn Trent are acutely aware of this issue. It is a major concern that on the application form under the heading 'Foul Sewage', the disposal of said sewage has not even been considered by the developer. In the past the ancient ditches on the site helped with the drainage of the area. However, these ditches were filled in by the workmen on the site, creating added problems for us all.

The original application put a restriction on the use of the roof area for any other purpose, unless further planning permission was sought. The creation of a balcony or roof garden will mean that neighbouring houses will lose their privacy.

I feel the developer is trying to hoodwink the planning committee by using the latest application as a way to get a building on the site which will later be converted, making the large rooms into bed-sits or small flats.

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Parts of the original house have been demolished by the developer without permission. Is the planning committee going to ignore developers who flout the rules? This constitutes a new build.

I believe the planning committee should make a stand and impose a restriction which does not allow any further changes to the property.

Stanhope
The Reddings
Cheltenham
Gloucestershire
GL51 6RL

Comments: 9th April 2017

I wish to register my objection to the above application on the following grounds:

- Foul sewage and flooding: The application does not describe the impact of the new build on foul sewage services. Local residents already experience problems with foul sewage system, and with drainage. Experience of many local residents is that foul sewage is over capacity. A building of that size will clearly create considerable demand on the foul sewage system, and so it is not appropriate for this application to proceed in its current state, without discussing impact on services.
- The developers have, in the past, not been able to describe a plan for the building they wish to build. Numerous applications have been needed to get to this point, and the current building-in-progress is not consistent with previous applications (hence a retrospective planning application). The application should not proceed until the planning authority have worked out how to get the developers to describe what will actually get built.
- Unrealistically large rooms hints that this is a not a real plan, and is just being used to justify keeping what has been built, as a form of development-by-stealth. Development-by-stealth hurts the local community, because planning factors such as draining, foul-sewage and access cannot be properly taken into account in the planning process. The planning authority has a duty to local residents to ensure that a realistic plan is made available for inspection, so that local residents can understand the full impact of the new build.
- The property would appear unrealistically large to fit in with the local area: 4000 sq. ft. by my reckoning of the plans.
- Rooms are unrealistically large, e.g. 3m x 3m cloak room, and the energy efficiency of the property will be extremely poor.

Re: "The Haystack/Orchard area"

CHELTENHAM

GL51 6RW

19.3.17

Dear Sir,

Regarding 'The Haystack'; 'The Reddings', it is with some concern I learn that this site may, at some time, be included in the urban area of Cheltenham.

As I understand, this property has been the subject of several planning proposals, and building alterations which do not always bear a resemblance, and that the 'site' cannot now be returned to its original appearance.

As such, it is worrying what final appearance and usage will result, and that this could lead to further urban dwelling development, possibly encroaching on green belt.

Please tread with care and consideration for this rural area and its residents, both human and wild.

Yours faithfully

The Grange,
The Reddings,
Clattenham

Re: The Hayleff - The Reddings GL51 6RL.
16-3-17.

Dear Sir/Madam

It has been brought to our attention that The Hayleff ^{site} could be included in the Clattenham urban area.

As long term residents of The Reddings (over 30 years) this has always been a semi-rural area. Over the years there has been a lot of damage done to our area, but in recent times in a very surreptitious way.

It is a disgrace that these builders are allowed to ride rough shod over everyone in their efforts to get their way. Now it appears that they are attempting to get in by the back door. They should not be allowed to get away with it.

Yours faithfully,

[Redacted signature]

To Tracey Lewis & Martin: Planning Officers

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THE HAYBOFT, THE REDUCTIONS, 451 6RL PLANNING

We would like to ~~you~~ ^{like to} read ~~the~~ ^{the} points we make showing our objections/concern to the above development.

* Total overall area built has no bearing on original footprint - building by stealth.

* 31 bedsits (not high end apartments) would mean many vehicles. Is the access route now on the adjacent field to be given permanent status for parking? Road junction & bus stop suggests safety risk.

* Freedom of Information. Letters from the Council to neighbours over last 5/7yrs have been spasmodic. Decisions made & retrospective planning over the years have been made - by whom? Could we be informed directly of any updates please.

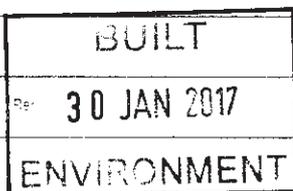
Much appreciated.

The Poplar (opposite site)

* N.B. When developer first took over the original "farm gate" entrance leading to the field adjacent, things were altered. Widening this access point, they filled in ancient working ditches either side. The High Water Table in this area leaves real, already proved, flooding risk.

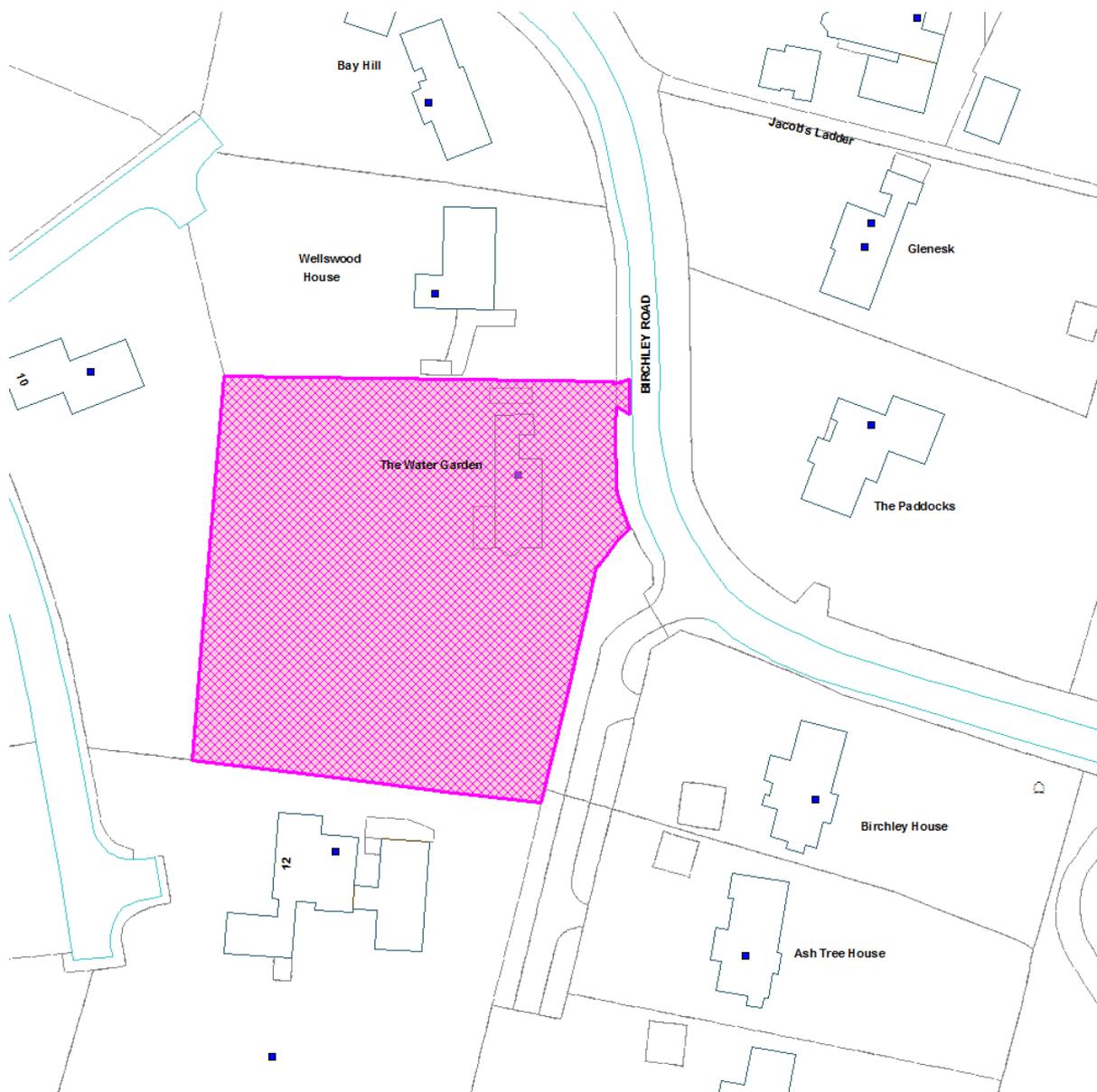
* The fact that some neighbours have been approached directly by builder to request "approval" so that the roof can go on before bad weather has only emphasised our real objections.

* Acknowledgement of this letter & addressing some of these issues would be much appreciated.



APPLICATION NO: 17/00365/FUL	OFFICER: Mr Ben Hawkes
DATE REGISTERED: 22nd February 2017	DATE OF EXPIRY: 19th April 2017
WARD: Battledown	PARISH: Charlton Kings
APPLICANT:	Boo Homes Limited
AGENT:	Brodie Planning Associates Ltd
LOCATION:	The Water Garden, Birchley Road, Cheltenham
PROPOSAL:	Demolition of existing building and garage and replacement with two new detached dwellings

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to a detached property known as 'The Water Garden' located in a residential area on Birchley Road and located within the Battledown Estate.
- 1.2 The applicant is seeking planning permission for the demolition of the existing building and garage and its replacement with two new detached dwellings, garages and associated landscaping.
- 1.3 The application has been called to planning committee at the request of Councillor Babbage due to the level of local interest in the application.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport safeguarding over 15m
Residents Associations

Relevant Planning History:

16/02185/PREAPP 9th January 2017 CLO

Erection of two new dwellings following the demolition of Existing dwelling

88/01353/PF 27th October 1988 PER

Erection Of Extension

91/00079/PF 21st February 1991 PER

Erection Of House And Garage With Access Drive From Battledown Drive In Accordance With The Revised Plans Received On 25th January 1991 And The Additional Drawing

08/01710/CLPUD 14th January 2009 WDN

APPLICATION WITHDRAWN BY SUBMISSION OF 09/00031/FUL 14.01.2009

Proposed ancillary buildings to enclose hydrotherapy pool

09/00031/FUL 24th February 2009 PER

Proposed ancillary buildings to enclose hydrotherapy pool

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 1 Sustainable development
CP 3 Sustainable environment
CP 4 Safe and sustainable living
CP 7 Design
GE 5 Protection and replacement of trees
GE 6 Trees and development
TP 1 Development and highway safety

Supplementary Planning Guidance/Documents

Development on garden land and infill sites in Cheltenham (2009)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Parish Council

8th March 2017

Objection: In our view the Battledown Estate is akin to our three Conservation Areas, in that it requires and benefits from special protection. One of our planning policies states that we 'seek to maintain the unique character and feel of Charlton Kings, particularly in the St Mary's, Bafford and Cudnall Street conservation areas' and we seek to do so for Battledown Estate.

Nationally, the status of the degree of protection afforded by deeds of covenant is uncertain and from time to time is tested in the courts. Locally, according to Appendix 3 (page 51) of Cheltenham Borough Council's own Local Development Framework, Supplementary Planning Document (SPD) of June 2009, the special nature of Battledown is recognised as follows: 'This area comprises large individual properties set into their own grounds climbing up the escarpment to the east away from town. There is much mature landscaping. The area benefits from a covenant which means that garden land is not subject to sub-division and intensification here'. The document is sub-titled 'Development of Garden Land and Infill Sites in Cheltenham'. This acceptance that the estate is 'special' and benefits from a covenant is clearly relevant to this application; in other words the Deed of Covenant of 1859 should be taken into account.

We believe that this proposal is equivalent to back garden development, in the sense that it looks to build two houses on a plot where there is currently only one. Another of our policies states that we resist back garden development when it is inappropriate and impacts adversely on the overall environment of Charlton Kings. In addition, Plot 60, which The Water Garden forms part of, is already 'full' according to the Deed of Covenant which permits only a certain number of houses per acreage. We understand that the Battledown Trustees have had this confirmed by an Estate Surveyor and a QC.

In conclusion, permitting this application would be detrimental to the unique ambience and character of Battledown Estate.

For the reasons stated above and given the strength of feeling in the community with over 45 letters of objection, we ask that the application goes before the Borough Council Planning Committee.

Parish Council

18th April 2017

Objection: The revisions here do not affect our earlier decision to object to this application. Rather than repeat the words here, I refer you to our Objection submitted on 9th March 2017; these comments still stand in their entirety and we repeat our request that this application goes before the Borough Council Planning Committee.

Architects Panel

13th April 2017

Design Concept:

The panel had no objection to the principle of this development. A similar scheme was reviewed by the panel at Pre-App stage.

Design Detail:

The design submitted is very similar to the Pre-App proposal. The main design change being the change to the roof where the earlier mansard roof profile has been replaced with a vertical clad recessed top floor, which the panel thought was a design improvement. Slight changes to the site layout also improved the scheme.

Some panel members were not convinced by some of the architectural detailing, particularly the rear elevation, and it was felt that the scheme could have been explained better with three dimensional views and drawings that showed the scheme in context. Concerns were raised about the chimney proportions and it was felt they could be more integrated with the roof.

The panel felt that the additional accommodation over the garage to Plot 2 should be omitted so the two buildings read more like villas with generous gaps between the properties.

Recommendation:

Support subject to omission of Plot 2 apartment over garage and elevation refinements.

Land Drainage Officer

29th March 2017

I have quickly reviewed the information submitted with this planning application, and can see no reference at all to the management of surface water generated by the existing or proposed developments. As such I am unable to comment further.

I would expect the application to present a drainage strategy that included reference to the existing drainage arrangement, the proposed arrangement demonstrating betterment and the application of SuDS where appropriate.

Tree Officer - 16th March 2017

The Tree section has reservations about this proposal as it currently stands.

There are concerns regarding trees which appear to be under neighbouring ownership but which will have a big influence on the overall living experience of any new occupants of the more southerly plot.

Trees 24, 25, 26, 30, 32, 34 are all large evergreen, coniferous trees which will cast year-round shade on the adjacent property (as demonstrated by the Shade Analysis drawing WGDNSH-Feb 17). Any new occupier has no right to demand the reduction of height of these 3rd party trees and as such, given the extent of shade anticipated, should the tree owner not agree to significant height reduction, a formal High Hedge complaint to this council would be more than likely. This is a relatively handsome line of trees and the removal of their tops following negotiation with the owner or as a consequence of a High Hedge complaint will reduce their amenity.

One solution to this may be to move the dwelling northward and attach the garage to the south of the dwelling. This would:

- 1) reduce shade onto the dwelling,
- 2) Move the dwelling away from the Root protection Area of the trees (it is currently placed on the very edge of this RPA),
- 3) Make the development as a whole more symmetrical.

However, unless T34 is reduced in height, a significant proportion of the proposed rear garden will be in shade for much of the day-again leading to pressure to prune.

Whilst this is a delightful garden with a sense of faded grandeur, the trees within are not of exceptional quality individually. The off site pine (T3) is a magnificent tree but is not considered to be under threat as a result of this application. However, it is important that underground service runs are submitted and agreed prior to determination. No service runs should run within the RPA of this tree or any other on or off site tree.

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Please could a pre-commencement site meeting be conditioned in any planning permission.

Whilst the trees marked for removal are not of high quality, a development such as this is an opportunity to plant new trees with a view to the future. Currently only one tree (no species details available) is marked to be planted on the Proposed Site Layout drawing no 5516/P/11. This is insufficient in terms of maintaining the rich arboreal nature of this part of Battledown. Please could an upgraded plan showing the location of all trees to be planted as well as their size, species, planting pit etc be submitted and agreed prior to determination.

Given comments in para 5.7 of the Arb report, please ensure all foundations are of appropriate size/depth/design to take account of potential subsidence/heave as a result of tree root activity.

Battledown Trustees

16th March 2017

27th March 2017

10th April 2017

24th April 2017

28th April 2017

See Appendix 1.

GCC Highways Planning Liaison Officer

20th March 2017

I refer to the above planning application received on 17th March 2017.

With regards to the above site; under our Highway's Standing advice criteria we do not need to be consulted on this application and this can be dealt with by yourselves with the aid of our guidance.

If you have any queries please do not hesitate to contact me.

GCC Highways Planning Liaison Officer

27th March 2017

I will require that the applicant undertakes a speed survey in accordance with DMRB TA22/81 and then demonstrates on plan the required visibility splays commensurate with the recorded 85th percentile wet weather speeds from a point 2.4m back from the carriageway edge along the centre line of the access. Gradient should be considered when calculated the required visibility splays.

GCC Highways Planning Liaison Officer

7th April 2017

I refer to the above planning application received on the 14th March 2017 with submitted plans:

The Water Garden Access Appraisal Note Issue 01
5516/P/13 - Proposed Site Layout - Existing/Proposed Analysis,
5516/P/01 Rev A - Site Location Plan,
5516/P/10 Rev B - Existing Site Layout,
Planning Statement,
Application Form,

Design and Access Statement.

Birchley Road is an un-adopted privately maintainable highway in the Battledown area of Cheltenham. Although Birchley Road is privately maintained, it is un-gated and therefore access can be gained by all people and will therefore be regarded as highway. The Highway Authority will therefore provide comments to the Local Planning Authority in order to fulfil its duty as a statutory consultee and to be a competent Highway Authority.

Access:

The site currently benefits from an existing access off of Birchley Road suitable for a single working.

The access is to be widened to allow two-way working in accordance with the Local Design Guidance.

Visibility:

The proposed development would result in an increase in vehicular movements entering and egressing the site access. The access would therefore be required to provide adequate levels of visibility onto Birchley Road.

Birchley Road is subject to a 30mph speed limit and would require visibility splays of 2.4m back from the carriageway edge along the centre line of the access to a point 54m to the nearside carriageway edge in either direction.

The required visibility of 54m is not achievable to the left from the site access to the nearside carriageway edge.

The achievable visibility to the left is approximately 27m to the nearside carriageway edge.

The Water Garden Access Appraisal Note Issue 01 received on the 7th April details the site access and achievable visibility.

The Highway Authority does not agree with the Transport Consultants notion, stated within the Access Appraisal

Note Issue 01, that a precedent has been set in the use of table 7.1 and figure 7.16 for obtaining visibility for a new access as a result of a proposed access in Nailsworth. The use of table 7.1/fig7.16 was to be used as a cross reference with a 12 hour manual count to overcome a site specific scenario which restricted the safe installation of a 7 day ATC count and to overcome the low number of readings that could be recorded. Table 7.1/fig7.16 was not to be used in isolation as is the case here; moreover Birchley Road is different in context and does not have the same constraints when laying ATC tubes. Furthermore, each individual application is assessed on their own merits and therefore a precedent is unable to be set in planning, and using a means that was tailored specifically to address the constraints of one site that is in no way connected or relatable to Birchley Road is not accepted by the Highway Authority.

The Highway Authority have previously said that the use of Table 7.1 and Figure 7.16 will not be supportive for this application as the nature of the highway is different and not conducive of the urban streets in which the evidence was gathered and documented in TRL Report 661. Birchley Road may be contained within the defined boundary of Cheltenham, but the street is very different in appearance to an urban street given its lack of footways and presence of grass verges and hedgerows.

The reason stated in Appendix A of the Access Appraisal Note Issue 01 that as a result of the level of objections to the application, the trustees may not allow the applicant to lay an ATC is an assumption and is therefore anecdotal. The Highway Authority will therefore still

require that an ATC speed survey is undertaken in accordance with DMRB TA22/81 in order to obtain the 85th percentile speed of traffic on Birchley Road.

Trip Generation:

The single existing dwelling would generate approximately 5 daily two-way vehicle trips with 1 trip occurring per peak hour.

The proposed development will increase the number of dwellings to two, which would generate approximately 10 two-way daily trips with 2 occurring per peak hour. The development would therefore result in the intensification of use of a substandard access as a result of insufficient visibility to the left.

I recommend that this application be refused on highway grounds for the following reason(s):-

Insufficient information has been submitted to demonstrate that suitable visibility splays can be provided commensurate with the speeds of traffic on Birchley Road.

Therefore, the proposed development fails to provide safe and suitable access and minimise conflict between pedestrians, cyclists and vehicles contrary to Section 4 of the National Planning Policy Framework.

More favourable consideration may be given if: -

Visibility splays are provided on plan commensurate with the 85th percentile wet weather speeds of traffic on Birchley Road as determined by a speed survey undertaken in accordance with DMRB TA22/81.

Statement of Due Regard

Consideration has been given as to whether any inequality and community impact will be created by the transport and highway impacts of the proposed development. It is considered that no inequality is caused to those people who had previously utilised those sections of the existing transport network that are likely to be impacted on by the proposed development.

It is considered that the following protected groups will not be affected by the transport impacts of the proposed development: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, other groups (such as long term unemployed), social-economically deprived groups, community cohesion, and human rights.

Yours

GCC Highways Planning Liaison Officer

7th June 2017

I refer to the above planning application for which additional information was submitted to the Highway Authority in order to overcome a Highway's recommendation of refusal submitted to the Local Planning Authority on the 7th April 2017.

The additional submitted information was in the form a Technical Note (TN02 + TN03) and provides speed survey information and access appraisal.

The Highway Objection dated 7th April 2017 centred on the access not being able to provide adequate visibility splays based upon the deemed to satisfy standards of 54m for a 30mph speed limit in the absence of a speed survey.

Visibility:

The applicant has since undertaken a speed survey in the form of a Manual Radar survey. This is the best available means of obtaining speed survey data in this location currently. The survey was undertaken on Tuesday 25th April 2017. Tuesday is regarded as a neutral day and is acceptable for such survey. The survey recorded speeds over a 12 hour period, however to accord with best practice the speeds recorded in free flow conditions (10am-12pm & 2pm-4pm) are considered appropriate establishing the 85th percentile wet weather speeds of traffic on Birchley Road.

The speed survey recorded an 85th percentile speed of 22.7mph for southbound traffic and 23.25mph for northbound traffic. To determine the required visibility splays, Manual for Streets 1 visibility parameters would be used as the highway is not a bus route and does not feature 5% HGV traffic.

Visibility splays are determined on the 85th percentile wet weather speeds of traffic on the highway. The speed survey was undertaken in dry conditions during the free flow periods, therefore a wet weather reduction of approximately 2.5mph can be applied. This results in an 85th percentile wet weather speed of 20.2mph for southbound traffic. Using Manual for Streets parameters with a +10.5% gradient applied as vehicles are travelling uphill, the required visibility splays would be 2.4m x 21m emerging and 24m forward for vehicles travelling towards the access on Birchley Road.

The required visibility splays would involve a mature hedgerow to be cut back. To negate this and avoid any potential damage to the hedgerow, Dwg SK04 has demonstrated a 2.0m (x-distance) set back and measured the (y-distance) 300mm in from the carriageway edge. The reasons for the reduction in set back and off-set of 300mm are acceptable and are justifiable in accordance with Manual for Streets 7.7.7 and Manual for Streets 2 10.5.3 guidance.

The submitted speed survey and technical drawing SK04 has demonstrated that the required visibility splays commensurate with the recorded 85th percentile wet weather speeds are achievable.

I am aware that the survey vehicle was positioned in an incorrect driveway for a period of time. However as per national speed survey guidance within DMRB TA22/81, only the free flow conditions have been assessed.

Therefore the survey data has not been compromised by the incorrect positioning of the survey vehicle.

The speed radar method would involve the survey vehicle being parked in the access to The Watergarden. The National guidance paragraph 5.2.1 states that speed radar surveys can be set up on verges, unused entrances (as is the case here during this survey period) or at the beginning of a layby. The installation should be as inconspicuous as possible. I believe the survey vehicle was positioned as best it could have been and that the speeds recorded at the extent of the splay would not have been materially influenced by the presence of the speed radar.

The Speed survey has been undertaken in accordance with DMRB TA22/81 with no evidence submitted refuting the legitimacy of the speeds recorded or demonstrating that vehicle speeds are greater than what is surveyed.

There is no empirical evidence to suggest that the speeds recorded are not representable.

Access Design:

The proposed development is to increase the number of dwellings from 1 to 2, this would therefore require a shared access and driveway. Dwg 5516/P/13 Rev A has demonstrated

proposed widening to the access to accommodate two-way working, according with the local design guidance.

The access improvements would involve works to the verges; the verges are under the ownership of the Trustee's who have formally objected to any works occurring on the verges. From a Highways perspective and in planning terms, according to the DCLG's Material Consideration advice sheet, private issues between neighbours e.g. land/boundary disputes, damage to property, private rights of access, covenants, ancient or other rights to lights are non-material considerations. However, access is a material consideration and the means of providing a shared two-way working access would involve works to the verges, verges that are out of applicant control. Any forthcoming condition would therefore be deemed unreasonable and may potentially lead to implementable planning permission.

Therefore, the current access arrangement and likely harm of a single width access would need to be assessed.

The single width access may result in a vehicle waiting on Birchley Road for another vehicle to egress the site before they are able to turn right or left in. In order to negate harm to road users, sufficient forward visibility would be required for vehicles approaching the access to see another waiting to turn and safely slow or stop comfortably. The Forward visibility for vehicles travelling southbound are 24m whilst the forward visibility for northbound vehicles is 27m with a -10.5% gradients applied due to vehicles travelling downhill.

Drawing SK03 has demonstrated the achievable forward visibility for vehicles approaching the access.

Southbound traffic has in excess of the required forward visibility with 46m available. Northbound traffic has 38m forward visibility. The approaching vehicle has approximately 27.9m of forward visibility to a car positioned on Birchley Road waiting to right turn into the site. The achievable levels of forward visibility are in excess of what is required commensurate with the 85th percentile wet weather speeds of traffic. Therefore, there is no evidence to suggest a car waiting to turn into the site access while another egresses the site will cause any detrimental highway safety concern. It has been demonstrated that the current access would be sufficient to accommodate the associated movements of two residential dwellings.

I have been made aware by local residents that incidents have occurred previously on Birchley Road, with a photo submitted showing a vehicle in a ditch, although the cause of this incident is unknown. It appears that Birchley Road has been upgraded in recent years to include anti-skid surfacing, wooden bollards protecting properties installed and upgrades to signage and lining have occurred with a recommended speed limit of 20mph.

The Highway Authority does not regard damage only incidents in Personal Injury Collision reviews. This is because these incidents are not reported to the police and therefore no exact details of the incident are ascertained. The police reports determine the causation factor that attributed to the collision. As these are not recorded incidents there is no empirical evidence, which could be reasonably defended at appeal, to suggest that they were as a result of the Highway and its layout or caused by vehicles entering or egressing from private accesses.

In the absence of any empirical evidence refuting the findings of the speed survey and given that the access can provide in excess of the required emerging and forward visibility, the additional submitted information is sufficient to address the initial refusal reason recommended by The Highway Authority.

Therefore, I recommend that no Highway objection be raised.

Statement of Due Regard

Consideration has been given as to whether any inequality and community impact will be created by the transport and highway impacts of the proposed development. It is considered that no inequality is caused to those people who had previously utilised those sections of the existing transport network that are likely to be impacted on by the proposed development.

It is considered that the following protected groups will not be affected by the transport impacts of the proposed development: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, other groups (such as long term unemployed), social-economically deprived groups, community cohesion, and human rights.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	8
Total comments received	94
Number of objections	94
Number of supporting	0
General comment	0

- 5.1** 8 letters were sent to neighbouring properties, 94 letters of objection have been received.
- 5.2** Many of the objections raise similar points and whilst not limited to, these have been have been highlighted below:
- Breach of Battledown Covenant
 - Number, size and scale of dwellings
 - Design and character
 - Over development
 - Access and highway safety implications
 - Surface water drainage
 - Loss of privacy and overbearing impact
 - Visual impact

6. OFFICER COMMENTS

6.1 Determining Issues

6.2 The main considerations of this application are the principle of the development, the design and layout, impact on neighbouring amenity, highway safety and impact on existing trees.

6.3 Principle of development

- 6.4 Cheltenham Borough Council is currently unable to demonstrate a 5 year housing supply at present and are relying on the adoption of the JCS to resolve this matter. Paragraph 49 of the National Planning Policy Framework states that at its heart is a presumption in favour of sustainable development.
- 6.5 Where housing policies are not considered to be up-to-date, the NPPF is quite clear that development proposals should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole, or specific NPPF policies indicate that development should be restricted.
- 6.6 The application site is located within the built up area of Cheltenham in a highly sustainable location and therefore the principle of developing this site for housing is acceptable, subject to all other material considerations set out below.

6.7 The site and its context

- 6.8 The application site is approximately 0.36 hectares in size and is accessed via Birchley Road, which is an unadopted privately maintained road within the Battledown area of Cheltenham. The site consists of a two storey dwelling and an attached garage located within the north east of the site facing on to Birchley Road and is set within a generous sloping plot. The site shares its boundaries with other residential properties within the estate.
- 6.9 Generally the Battledown estate consists of a wide variety and style of properties but are generally detached buildings and set within large plots. The Battledown estate benefits from a mature landscape with mature trees forming boundaries between properties and giving the estate its identity.

6.10 The Battledown estate covenant

- 6.11 The Battledown estate is made up of approximately 180 properties and has been managed by the Battledown Trustees for over 150 years. Properties within this area are constrained by the 1859 Deed of Covenants. Within the deed there are a number of covenants that land owners are required to abide by. The covenant specifically referred to by interested parties as relevant for this application is:

'No person is to build on lots of land more houses than in proportion of one house to each half an acre of land'. (Note: ½ acre = 0.2ha).

- 6.12 Whilst officers acknowledge that this deed of covenant exists, it is not a material consideration for this application and is a legal matter to be dealt with between the land owner and the Battledown Trustees. It is therefore not a reason to withhold planning permission. That said, for permission to be granted, the proposal needs to respond successfully to its context. It is this matter that the report will now focus upon.

6.13 Design and layout

- 6.14 Local plan policy CP7 relating to design requires all new development to be of a high standard of architectural design and to complement and respect neighbouring development and the character of the locality.
- 6.15 As set out in paragraph 6.9, the Battledown estate is generally characterised by large detached properties set within generous plots providing an element of space between buildings, it is this context that the proposal should respond to. Whilst officers acknowledge the scale of the proposed new dwellings to be large, the size of the plot and the site layout allows the new dwellings to sit comfortably in their context and will respect the existing pattern of development in the Battledown Estate.

- 6.16** Guidance set out within paragraph 56 of the NPPF advises that *'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'*. Paragraphs 59 and 60 emphasise that the use of design policies *'should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height etc'* and *'should not attempt to impose architectural styles or particular tastes and should not stifle innovation.'*
- 6.17** The architect's panel raise no objection to the principle of the development and have acknowledged that design aspects and site layouts have been improved; these improvements are highlighted as the change to the roof form from a mansard roof profile to a vertically clad recessed top floor, as well as slight site layout changes. Further revisions were suggested relating to the detailing of the rear elevation and the chimney proportions. A further comment was that the accommodation over the garage of plot 2 should be omitted. Officers have sought further revisions to the scheme, including the omission of the accommodation above the garage of plot 2 which has now been removed from the proposal.
- 6.18** Concerns have been raised locally with regard to the visual impact of the proposal. It is accepted that the new dwellings will have a greater presence in the street scene than the existing building; however the site will remain heavily screened by the mature landscaping and trees in front of the application site, therefore reducing its impact. Although the presence of the new dwellings will be felt in the street scene it is not considered that there will be an unacceptable impact on its surroundings.
- 6.19** It is clear from the volume of comments received that local residents do not like the scheme in terms of its size, scale and design, however following the submission of the revised plans which have addressed some of the concerns raised by architects panel at pre-application and application stage officers consider the proposal to be of an acceptable scale, quality and design.
- 6.20** The proposed sub-division and site layout for the two proposed dwellings provides suitable access, parking and generous private amenity spaces. The proposed layout is considered to be acceptable and appropriate for its context and would represent an effective and efficient use of the land.
- 6.21** Officers consider the proposed development to be successful in responding to the local character and being compliant with Cheltenham's adopted 'Garden Land for a number of reasons. The key reasons include the position of the dwellings within the plot, the space around the properties and the allocation of land per dwelling. The proposed dwellings are positioned some 20 metres back from Birchley Road allowing a generous amount of space in front of the proposed dwellings. The submission of revised plans with the omission of the annexes above the garages allows for gaps between the buildings enabling a greater perception of space about the scheme. The generous size plots also accords with neighbouring developments allowing the proposal to sit comfortably with the existing pattern of development. The site layout has been carefully designed to make best use of the space available and by using the existing landscaping and trees as a natural screen.
- 6.22** The proposed development is considered to be compliant with local plan policy CP7, guidance set out within the NPPF and within the 'Development on garden land and infill sites in Cheltenham' Supplementary Planning Document.
- 6.23 Impact on neighbouring property**
- 6.24** Local plan policy CP4 relating to neighbouring amenity seeks for new development to protect the amenity of adjoining land users and the locality, with specific reference to loss of light, loss of outlook and loss of privacy.

- 6.25** In terms of loss of light and loss of privacy it is the immediate land user of 'Wellswood House' that will be most affected. In terms of loss of light to this neighbour, the building closest to the shared boundary will be the garage of plot 1, with the main bulk of the house approximately 11.5 metres away from the boundary. Whilst officers appreciate the garage position is located further into the site than that of the existing garage building it is not considered that there will be any unacceptable loss of light or overbearing impact to this or any other neighbouring land user due to its position within the plot and the distance away from any neighbouring properties.
- 6.26** In terms of a loss of privacy, the only likely property to be affected would again be 'Wellswood House'. Given the distance of the property to the side boundary and a condition having been suggested for the ground floor side elevation window to be obscurely glazed it is not considered that the proposal will result in any unacceptable loss of privacy.
- 6.27** It is acknowledged that this development will undoubtedly be visible from the surrounding residential properties and locality. It is not however considered that any such impact would warrant a refusal of planning permission; the relationships between the buildings are by no means cramped and are contextually appropriate.
- 6.28** The proposal is considered to be compliant with local plan policy CP4 and guidance set out within the NPPF.
- 6.29 Access and highway issues**
- 6.30** Concerns have been raised in a number of objections received by local residents in regard to highway safety. Concerns relate to the increase in the number of cars that will use the access on to Birchley Road and the suitability of the access to accommodate two dwellings. Due to the level of concern and the close proximity of the site access to the bend, detailed comments have been sought from the highway authority.
- 6.31** Comments were received from the highway authority which requested further information and a speed survey. The speed survey has since been submitted and further comments have been received.
- 6.32** Through the consultation process it has been brought to the applicant's attention that in order to widen the existing access, permission would need to be obtained from the Battledown trustees as the land owners. It is clear that permission will not be given by the trustees to widen the access in order to facilitate use by two dwellings. With this in mind the proposal has been amended and the highway authority has considered this application based on the existing access and its acceptability to serve two new dwellings.
- 6.33** Following receipt of the speed survey and in light of the existing access being used, the highways authority raise no objection to the proposed access arrangements and are happy the required visibility splays can be suitably achieved.
- 6.34** The proposal is considered to be compliant with local plan policy TP1 in terms of highway safety.
- 6.35 Trees**
- 6.36** The tree officer has provided a detailed response to this application. Whilst no objection has been raised, conditions have been suggested for the protection of existing trees in and out of the site. These are considered to be necessary and reasonable.
- 6.37** A condition has also been suggested for the submission of a landscaping plan in order to achieve a suitable level of planting and soft landscaping to complement its setting within the Battledown estate.

6.38 Other considerations

- 6.39** Due to concerns raised locally with regard to surface water runoff and potential drainage issues as a result of the proposed development and given the gradient of the site, the land drainage engineer has been consulted and has provided a formal comment.
- 6.40** Further details have been requested requiring the submission of a drainage strategy. The strategy should provide details of the existing drainage management, the proposed arrangement demonstrating betterment and the application of a SuDS scheme where appropriate.
- 6.41** Officers are happy that a suitable solution can be achieved and therefore a condition has been added for these details to be submitted and approved in writing prior to the commencement of works.

7. CONCLUSION AND RECOMMENDATION

- 7.1** Overall, officers consider that following the submission of revised plans and additional information, the proposal of two new dwellings on the site is acceptable. The application is considered to be compliant with local plan policies and guidance set out within the NPPF and our 'Development on garden land and infill sites in Cheltenham' Supplementary Planning Document.
- 7.2** Officers are mindful of the advice contained within the NPPF relating to a presumption in favour of sustainable development and the implications of not being able to demonstrate a 5 year supply of housing. In light of this advice, members are advised that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal.
- 7.3** Having taken in to account all of the above, officer recommendation is that planning permission be granted, subject to the conditions set out below.

8. CONDITIONS / INFORMATIVES

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 No development shall commence on site unless details of a surface water drainage scheme, which shall incorporate Sustainable Urban Drainage System (SUDS) principles, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme for implementation of the works; and proposals for maintenance and management. The development shall not be carried out unless in accordance with the approved surface water drainage scheme.

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Reason: To ensure sustainable drainage of the development, having regard to Policy UI3 of the Cheltenham Borough Local Plan (2006). Approval is required upfront because the design of the drainage is an integral part of the development and its acceptability.

- 4 Prior to the implementation of any landscaping, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences, other boundary treatment and finished ground levels; details of the hard surface treatment of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to include [species, size, position and method of planting of all new trees and shrubs]; and a programme of implementation.

All hard and/or soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details [delete if not appropriate].

Reason: In the interests of the character and appearance of the area, having regard to Policies CP1 and CP7 of the Cheltenham Borough Local Plan (adopted 2006). Approval is required upfront because the landscaping is an integral part of the development and its acceptability.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and/or re-enacting that order), the ground floor side elevation window to serve the kitchen in plot 1; shall at all times be glazed with obscure glass to at least Pilkington Level 3 (or equivalent).

Reason: To safeguard the privacy of adjacent properties having regard to Policies CP4 of the Cheltenham Borough Local Plan (adopted 2006).

- 6 No demolition or construction shall commence on site until a demolition/construction management plans has been submitted to and approved in writing by the Local Planning Authority. The demolition/construction plan shall include measures to control noise, dust, vibration and other nuisance during the demolition/construction phase. No demolition or construction shall be carried out unless in accordance with the approved demolition/construction plan.

Reason: To safeguard the amenities of the area, having regard to Policy CP4 of the Cheltenham Borough Local Plan (adopted 2006). This information is necessary before work starts for the same reason.

- 7 All service runs shall fall outside the Root Protection Area(s) of any tree within the site or outside of the site, as shown on the approved drawings, unless otherwise first agreed in writing by the Local Planning Authority. Any such works shall be carried out in accordance with the National Joint Utilities Group; Volume 4 (2007) (or any standard that reproduces or replaces this standard).

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Reason: To safeguard existing tree(s) in the interests of visual amenity, having regard to Policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006). Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 8 The works hereby approved shall not be carried out unless in accordance with the approved Tree Protection Plan. The measures set out in the Tree Protection Plan shall remain in place until the completion of the construction.

Reason: To safeguard existing tree(s) in the interests of visual amenity, having regard to Policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006).

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, the authority sought revisions to improve the design;

Following these negotiations, the application now constitutes sustainable development and has therefore been approved in a timely manner.

APPLICATION NO: 17/00365/FUL	OFFICER: Mr Ben Hawkes
DATE REGISTERED: 22nd February 2017	DATE OF EXPIRY : 19th April 2017
WARD: Battledown	PARISH: CHARLK
APPLICANT:	Boo Homes Limited
LOCATION:	The Water Garden, Birchley Road, Cheltenham
PROPOSAL:	Demolition of existing building and garage and replacement with two new detached dwellings

Appendix 1

Representations from the Battledown Estate Trustees

24th March, 2017

E : planning@battledown.co.uk

T : 01242 513 611

Cheltenham Borough Council

Planning Department

Attn : Mr Ben Hawkes Planning Officer

Dear Mr Hawkes :

Ref Application dated 22 February : 17/00365/FUL : The Water Gardens

On behalf of the **Trustees of the Battledown Estate**, I am writing further to my original 'consultee comment' of 15th March 2017 concerning the above planning application.

The enclosed booklet has recently been passed to the Trustees (*original is available if you are unable to locate a copy in your files*). It is referenced in a number of the 'Objections' submitted concerning this application, as now shown on your web-pages, including that dated 9 March 2017 by the owner of Carlton House, 4 Battledown Drive, which is located in 'Plot 2' as specified in the enclosed booklet, nearby to The Water Gardens.

The Trustees believe that the Planning Committee may find this booklet to be of great assistance when engaged in their deliberations concerning the merits or otherwise of this application. The booklet, published by Cheltenham Borough Council itself in (July or August) 1975, demonstrates clearly to the Planning Committee why the existence of the Battledown Estate's 1859 Deed of Covenants and its various provisions should rightly be taken into consideration when determining the outcome of this application. The Trustees have referred extensively to this Deed in their original 'consultee comment', as have approximately 90 other residents of the Battledown Estate when submitting their Objections.

As may be seen, the contents of this booklet refer to the sale of house-plots which are located just to the north-west of The Water Gardens house-plot (known as Highfields in 1975), adjacent to a new cul-de-sac road, subsequently named Battledown Drive. Some of these house-plots are on original Battledown Estate land and some are directly adjacent to it and/or lie across the original boundary of the Estate.

It is evident that Cheltenham Borough Council is not only the vendor of the various house-plots but is also concerned to ensure that the purchasers are fully aware of the 1859 Deed and that those purchasers know that they must abide by its provisions. There is no reason to think that such concerns on the part of CBC should have changed in the intervening years and CBC has certainly not advised either the Trustees or any other residents to the contrary.

It may be helpful to the Planning Department Officers and the Planning Committee if the following specific points are drawn to their attention :

1. The vendor is Cheltenham Borough Council and it is definitively stated by CBC that there are stringent controls over development on the Battledown Estate, that all developments **have to be approved by the Estate Surveyor** and that these controls protect and maintain the high standards of the Estate.
2. The Battledown annual acreage Rate applies to these properties, the funds generated from which are used for the upkeep of the Estate roads etc.
3. Normal planning permission will, of course, be required from CBC **but also** plans will in addition **have to be approved by the Trustees of the Battledown Estate**.
4. It is specifically stated by CBC that these properties are being sold subject to the covenants and conditions contained in the 1859 Deed
5. Plans and drawings must be previously approved in writing by the Trustees, as well as by the Vendor (i.e. CBC).

When taken either individually or together, the above five points provide evidence that the Battledown Estate's 1859 Deed of Covenants is a highly relevant and important document to Cheltenham Borough Council when it is considering any plans for housing development on land within the Battledown Estate.

The Trustees therefore respectfully request that their objection to The Water Gardens planning application, on the grounds that it would breach the provisions of the 1859 Deed, is both relevant and valid as an eminently sound reason for the application to be refused.

With thanks for your kind attention to this matter.

Yours sincerely,



Roger Willbourn

For and on behalf of the Trustees of The Battledown Estate

Enc.

CHELTENHAM BOROUGH COUNCIL

OFFER FOR SALE

BUILDING PLOTS

AT

BATTLE DOWN

CHELTENHAM

BATTLEDOWN BUILDING PLOTS FOR SALE

Cheltenham Borough Council offer for sale by tender

4 Individual Building Plots

off Battledown Approach, Battledown, Cheltenham.

Battledown is situated approximately 1 mile from the Town centre and is considered one of the best residential areas in this Spa Town. Rarely do building plots come up for sale at Battledown and these give an opportunity for the development of houses to a Purchaser's individual requirements.

Battledown is a private estate dating back to the 1800's. There are stringent controls over development, all of which has to be approved by the Surveyor to the Estate. This maintains the high standards of the estate and thus protects the estate and each inhabitant.

The site, which is on rising ground, is just off the south side of Battledown Approach, close to its junction with Stanley Road and Birchley Road. All main services including a new road have been laid to the site and the plots are ready for immediate development, subject to the normal consents.

PARTICULARS OF SALE

I. DETAILS OF INDIVIDUAL PLOTS.

Plot 1

Net area of plot - approx. 0.44 acres
 Gross area of plot for Battledown Rate - approx. 0.510 acres
 Frontage to estate road - approx. 145 feet

This plot is subject to a Wayleave in favour of Midlands Electricity Board for an underground cable running along the boundary between plots 1 & 2. This agreement is for 21 years from 17th October, 1974, on payment of 20p per annum.

The Purchaser will be responsible for the erection and maintenance of a boundary fence between Plots 1 and 2 and also will take over the section of the boundary fence between this plot and the proposed playing fields and be responsible for the maintenance of this fence. The Purchaser will be responsible for all other boundary fences to this plot.

Plot 2

Net area of plot - approx. 0.41 acres
 Gross area of plot - approx. 0.48 acres
 Minimum area for Battledown Rate - 0.5 acres
 Frontage to estate Road - approx. 120 feet

The Purchaser will be responsible for maintenance of the fence already in existence between this plot and the proposed playing fields and also will be required to erect and maintain a fence between this plot and the plot on the Southern side.

Plot 3

Net area of plot - approx. 0.33 acres
 Gross area of plot - approx. 0.48 acres
 Minimum area for Battledown Rate - 0.5 acres
 Frontage to Estate Road - approx. 180 feet
 Return frontage to cul-de-sac - approx. 140 feet

The Purchaser will be responsible for the erection and maintenance of a fence between this plot and plot 4.

Plot 4

Net area of plot - approx. 0.49 acres

Gross area of plot for Battledown Rate - approx. 0.647 acres

Frontage to Estate Road - approx. 80 feet

The Purchaser will be responsible for maintenance of existing hedge between this plot and Battledown Approach and also for the erection and maintenance of a fence between this plot and the plot on the Eastern side.

2. TENURE.

Freehold.

3. PLANNING PERMISSION.

A copy of the outline planning permission can be inspected at the Borough Valuer's Department. Purchasers must arrange for detailed approval including landscaping for the individual plot. Plans will also have to be approved by the Trustees of the Battledown Estate and the Borough Valuer.

4. SERVICES.

Drainage, water, gas and electricity have been laid to the site. Plans can be inspected at the Borough Engineer's Department. Reciprocal drainage easements will be granted as necessary and Purchasers will be responsible for the costs of connection to the main sewer.

The Purchaser will be responsible for ensuring that the reinstatement of all service trenches in the carriageway are carried out in accordance with specifications accepted by the Association of Gloucestershire Engineers and Surveyors. Purchasers should ensure that any quotation which they receive from Statutory Undertakers allows for the carrying out of this work. Any work which the Council have to carry out to bring trench reinstatements up to the specification may be charged to the Purchaser.

5. CARRIAGEWAY SURFACING, KERBS, FOOTPATHS, VERGES AND LIGHTING.

When all dwellings are completed and services connected the Council will carry out the final surfacing of the carriageway, the construction of the footpaths and verges and the erection and servicing of the street lighting. On completion of these works subsequent maintenance and repair of the estate road will be the responsibility of the Trustees of the Battledown Estate but the Council will be responsible for the maintenance of the street lighting.

The Council reserve the right to carry out the work in one operation and no guarantee is given that portions of the work will be

carried out as and when plots are developed. No alterations are to be made by Purchasers to any part of the estate road except in so far as it is necessary to open up the carriageway for the provision of services.

Each Purchaser will be responsible for making a temporary vehicular access to his plot for the purpose of developing the site and on completion to serve the dwelling and will be responsible for any damage to kerbs, channels, etc. during the erection of the dwelling.

Arrangements have been made for Purchasers to have the benefit of a right of way at all times and for all purposes over the road and footpaths on the Battledown Estate.

6. RATES.

In addition to the Borough Council Rate Purchasers will also be liable for the payment of the Battledown Rate. In the current year the Battledown Rate is £25 per acre and is levied equally on developed or undeveloped land.

7. LOCAL AUTHORITY.

Cheltenham Borough Council, P.O. Box 12, Municipal Offices, Promenade, Cheltenham, GLOS. GL50 1PP. Telephone Cheltenham 21333.

8. VIEWING.

The Plots may be inspected at any time.

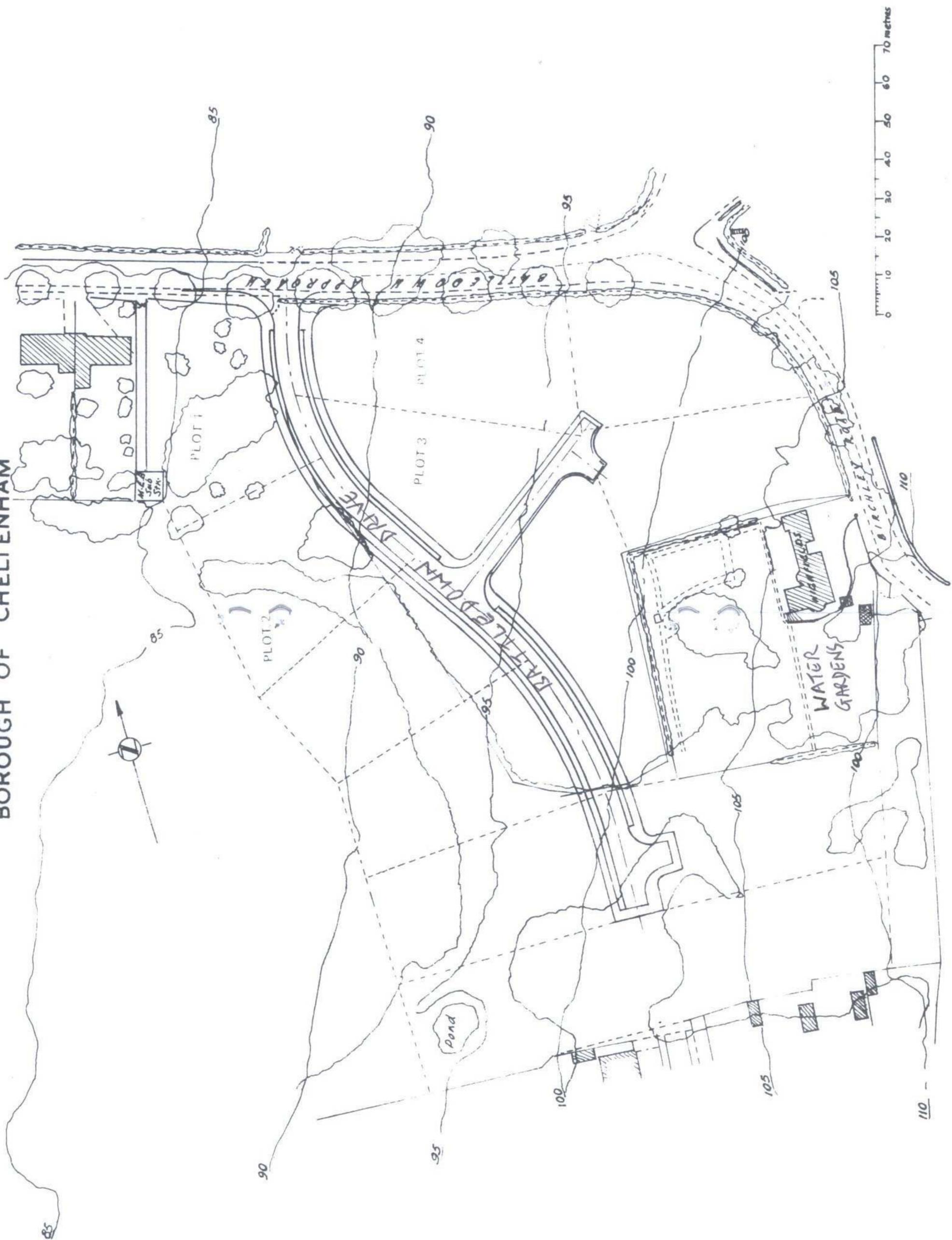
9. POSSESSION.

Vacant Possession will be given on completion.

10. SALE.

Offers for the Plots must be submitted to the Borough Valuer in writing on or before Noon on Monday, 15th September, 1975, in a plain sealed envelope which should bear the words "Offer for Plot". The envelope should not bear any name or mark indicating the sender. The Council do not bind themselves to accept the highest or any offer. It is intended that no purchaser may purchase more than one plot, but

BOROUGH OF CHELTENHAM



purchasers may make alternative tenders for any or all plots. Only tenders from prospective Owner/Occupiers will be considered.

These particulars are prepared with all due care for the convenience of intending Purchasers but their accuracy is not guaranteed nor do they form nor shall be deemed to form part of any Contract.

SPECIAL CONDITIONS OF SALE

1. The property will be sold subject to The Law Society's Conditions of Sale (1973 Revision) so far as they are not varied or inconsistent with these Special Conditions.
2. The Vendor is Cheltenham Borough Council.
3. The Vendor's Solicitor is B.N.Wynn, Esq., Town Clerk & Chief Executive, Municipal Offices, Promenade, Cheltenham, Glos. GL50 1PP. Telephone Cheltenham 21333.
4. Completion of the sale will take place four weeks after the formal letter accepting a successful tender is posted or earlier by arrangement and shall be at the office of the Vendor's Solicitor.
5. The Vendor will sell as beneficial owner.
6. The property is sold subject to:-
 - (a) all matters appearing in the particulars and (whether stated in the particulars or not) to all outgoing easements and rights in the nature of easements affecting the same and without any obligations on the part of the Vendor to define the same and no objection or requisition shall be made in respect thereof.

(b) and with the benefit of the covenants and stipulations contained in a Memorandum of Agreement dated the 12th day of November 1874 and made between The Reverend Arthur Armitage of the one part and Charles Winstone of the other part so far as the same are still subsisting and capable of taking effect. (The whereabouts of the original Memorandum of Agreement is unknown and the Vendor does not possess an examined copy. The Purchaser shall not raise any requisition or objection thereto and will not be required to enter into a covenant of indemnity regarding the covenants and stipulations contained in the Memorandum of Agreement.

(c) the covenants and conditions contained in a Deed of Regulation dated the 2nd day of December 1859 and relating to the Battledown Estate so far as the provisions of such Deed relate to or affect any part of the land to be sold

(d) and with the benefit of the covenants rights and conditions contained in a Deed dated the 18th day of June 1975 and made between Eva Laura Frances Allpress James Probert Pearson Charles Hugh Massey Dobell and Leslie Thomas Palmer Banbury of the one part (hereinafter referred to as "the Trustees") and the Vendor of the other part so far as the provisions of such Deed relate to or affect any part of the land to be sold (but with the exception of sub Clauses (1) and (2) of Clause 2 to such Deed which relate to the initial construction of the roads and footpaths and to the payment of a lump sum for the future maintenance thereof)

(e) (in the case of Plot 1 only) a Wayleave Agreement dated the 17th day of October 1974 in favour of the Midlands Electricity Board

7. The Purchaser of any plot shall in the conveyance covenant with the Vendor for the benefit and protection of the land remaining in the ownership of the Vendor adjoining the plots to be sold and also for the benefit and protection of the other plots to be sold:-

(a) to within one year from the date of the conveyance or such other period or periods as the Vendor shall in its discretion agree in writing and in accordance with plans drawings and specifications previously approved in writing by the Vendor and the Trustees

to commence the building of one dwellinghouse together with a properly laid out and landscaped garden such building to be completed within two years from the date of the conveyance but subject to the right of the Vendor to extend the period as aforesaid

(b) to erect and thereafter maintain to the satisfaction of the Borough Valuer a fence the height type and materials of which must first be approved by the Borough Valuer along those boundaries of the particular plot which are indicated in the Particulars

8. The conveyance to the Purchaser will contain a right of pre-emption in favour of the Vendor which may be exercised if the covenants set out in Clause 7 (a) above are not complied with. If the right is exercised the purchase price payable by the Vendor will be the lesser of the original sale price and the market value at the date of such exercise.
9. The conveyance to the Purchaser shall contain a clause preventing the Purchaser from selling the plot before completion of the building unless he previously offers the plot back to the Vendor at the original sale price and that offer is refused.
10. In the event of any inconsistency between the information contained in the Particulars of Sale and these Special Conditions the latter shall prevail.

CHELTENHAM BOROUGH COUNCIL

FORM OF TENDER

To:- The Town Clerk of Cheltenham.

I,

of

.....

.....

.....

make the following (alternative) offer(s) for the land in Battledown which the Council is seeking to sell.

It is understood that these offers are on the basis of and subject to the Conditions of Sale set out in the Sale Particulars published by the Borough Valuer's Department.

Plot 1 £.....

Plot 2 £.....

Plot 3 £.....

Plot 4 £.....

Signed ;

Date;

My Solicitor is

.....

.....

I understand that the Council is not bound to accept the highest or any offer.



10th April, 2017

E : planning@battledown.co.uk

T : 0124 [REDACTED]

Gloucestershire County Council
 Shire Hall, Gloucester, GL1 2TH
 Attn : David Simmons Esq. Development Coordinator

Dear Mr Simmons :

Ref Planning Application dated 22 February : 17/00356/FUL : The Water Gardens

On behalf of the Trustees of the Battledown Estate, I am writing further to the **Access Appraisal Note CTP - 17 - 218** dated April 2017, submitted by Cotswold Transport Planning ['CTP'] in relation to the above-mentioned planning application for The Water Gardens, which was published on the Cheltenham Borough Council Planning Application Documents web-page on 7th April 2017.

I wish to bring to the attention of the Gloucestershire County Council Development Coordinator that much of the information and data in that Appraisal Note has been based on invalid assumptions and the conclusions drawn by Mr Michael Glaze of CTP are, therefore, **incorrect**.

It is necessary for the Trustees to comment on the CTP Note because it relates to land within the ownership of the Trustees. This letter should allow the CTP Note to be reviewed with due consideration of the relevant physical features, in particular that in several cases the proposed splays mentioned in the Note rely on sight-lines over land which the applicant neither owns nor over which he has any rights.

Please note the following, which we hope will be of assistance to both yourself and the Cheltenham Borough Council Planning Committee in its deliberations :

1. Gloucestershire County Council ['GCC'] has specified that the requirement for visibility splays must take account of both speed and gradient. The proposed site access is on a steep hill and it is not apparent from the report that the gradient has been taken into account.
2. Implicit in the report is that the intensification of use would be 100% (increase from one house to two). However the existing house is quite modest whereas the two proposed new houses are both significantly larger. On the basis of the number of bedrooms and therefore the number of intended occupants and therefore the intensification of use of the access, the potential increase is actually 200% (increase from max 8 occupants to max 24 occupants).

3. GCC has said that it does not support the idea that Birchley Road be considered an urban street for the purpose of establishing the method of establishing the visibility splays. CTP disputes this by saying that Battledown is a housing estate. The Trustees would contend that Battledown is not a housing estate in the normally understood sense of the word but a collection of individual houses originally established in a rural location, which has retained much of its initial rural character due to the existence of the Covenants limiting development, as set out on the founding trust Deed for Battledown of 1859. These characteristics include a very high level of arboreal landscape and, of particular relevance to highway safety, an absence of any paved footpaths adjacent to the roads. Consequently all pedestrians have little option but to walk in the road. This can be observed on any day, when one can see people walking (and running) around the Estate roads.

4. CTP acknowledge in their report (page 3) that Birchley Road is a "windy road and relatively narrow width".

5. The report states at "Highway Safety" that there have been no recorded personal injury collisions nearby within the last 5 years. Whilst this may be accepted at face value, there have, however, been a significant number of accidents on this short stretch of road, some of which have resulted in minor injuries, and it is only a matter of luck that no serious injuries have taken place (*please see attached list of some recent accidents and two photos*). The applicants proposed intensification of use will clearly add to that risk. The gradient and narrowness makes this a very dangerous section of road especially in the winter and at night. The Trustees have done what is possible to reduce traffic speeds by (i) installing speed humps (ii) applying a skid-resistant surface to the road and (iii) installing verge-posts with light-reflectors -- but regrettably all these measures are of limited effect in the era of large 4x4s. Notwithstanding the installation of the above safety features, at some considerable cost to the residents, vehicle speeds estimated at 30 mph or so are still common, much to the disappointment of the Trustees.

6. Drawing SK01 shows the proposed vision splay to the south encroaching significantly on two sections of land which are not owned by the applicant and over which the applicant has no rights and no control. These are shown coloured blue on the plan. Consequently the drawing demonstrates that there are NOT junction visibility splays of either 2.4m x 54m to the south or of 2.4m x 17m to the south.

7. Drawing SK02 shows the proposed visibility splay to the north encroaching significantly on land which is not owned by the applicant and over which the applicant has no rights and no control. This is shown coloured blue on the plan. Consequently the drawing demonstrates that there is NOT a junction visibility splay of 2.4m x 27m to the north.

8. Similarly Drawing SK04 shows that the proposed visibility splay to the north, based on a relaxed "X" distance of 2m, also encroaches significantly on land which is not owned by the applicant and over which the applicant has no rights and no control. This demonstrates that there is NOT a junction visibility splay of 2m x 21m to the north.

9. All of the visibility splays proposed by the applicant on drawings SK01, 02 and 04 are compromised by established road-side features over which the applicant has no influence.

10. Marked on Drawing SK02A is the extent of the visibility splay to the north and to the south which can be achieved based on an "X" distance of 2.4m utilising land which, although not owned by the applicant, is the maximum extent of the land over which the applicant as owner of The Water Gardens is believed to have rights. This results in splays which are very considerably reduced from those proposed by CPT and underlines the fact that any intensification of use of this access onto this particularly dangerous part of Birchley Road represents an increased road safety risk which the Trustees can definitely not endorse.

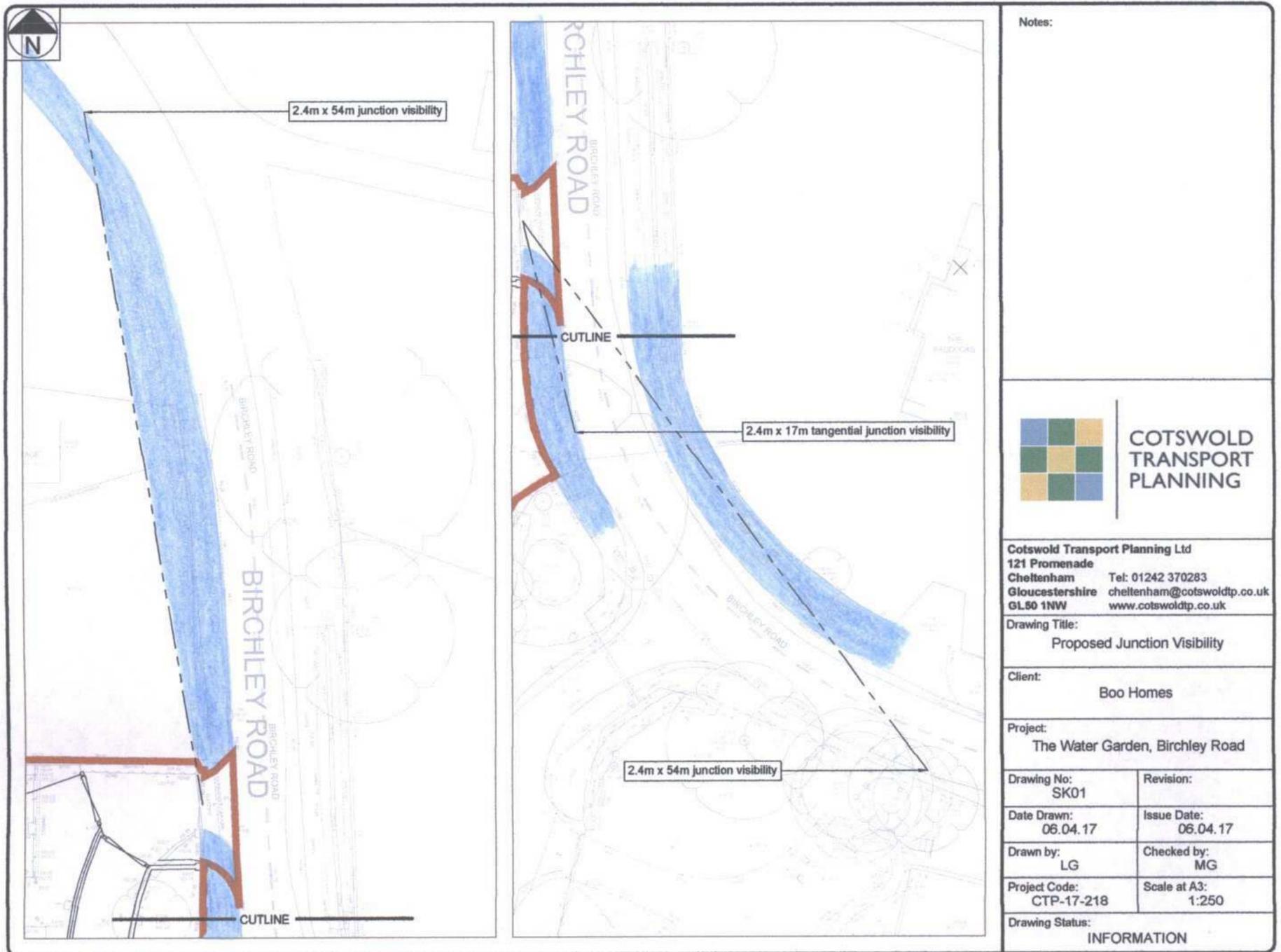
Yours sincerely,



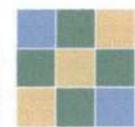
For and on behalf of the Trustees of The Battledown Estate

cc : Mr Ben Hawkes : Planning Officer : Cheltenham Borough Council

Enc:



Notes:



**COTSWOLD
TRANSPORT
PLANNING**

Cotswold Transport Planning Ltd
121 Promenade
Cheltenham Gloucestershire GL50 1NW
Tel: 01242 370283
cheltenham@cotswoldtp.co.uk
www.cotswoldtp.co.uk

Drawing Title:
Proposed Junction Visibility

Client:
Boo Homes

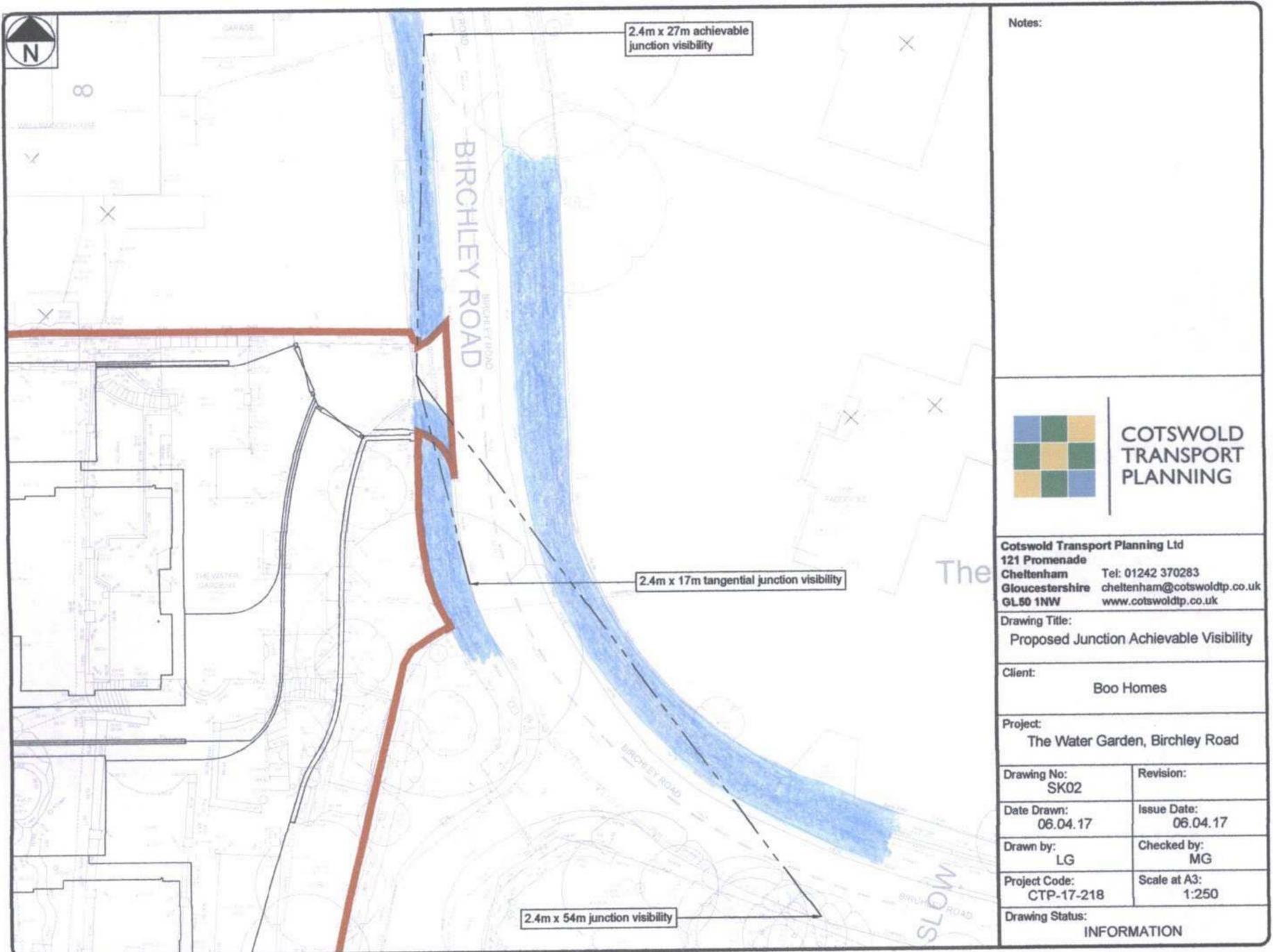
Project:
The Water Garden, Birchley Road

Drawing No: SK01	Revision:
Date Drawn: 06.04.17	Issue Date: 06.04.17

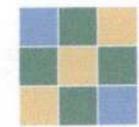
Drawn by: LG	Checked by: MG
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Project Code: CTP-17-218	Scale at A3: 1:250
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Drawing Status:
INFORMATION



Notes:



**COTSWOLD
TRANSPORT
PLANNING**

Cotswold Transport Planning Ltd
121 Promenade
Cheltenham Gloucestershire GL50 1NW
Tel: 01242 370283
cheltenham@cotswoldtp.co.uk
www.cotswoldtp.co.uk

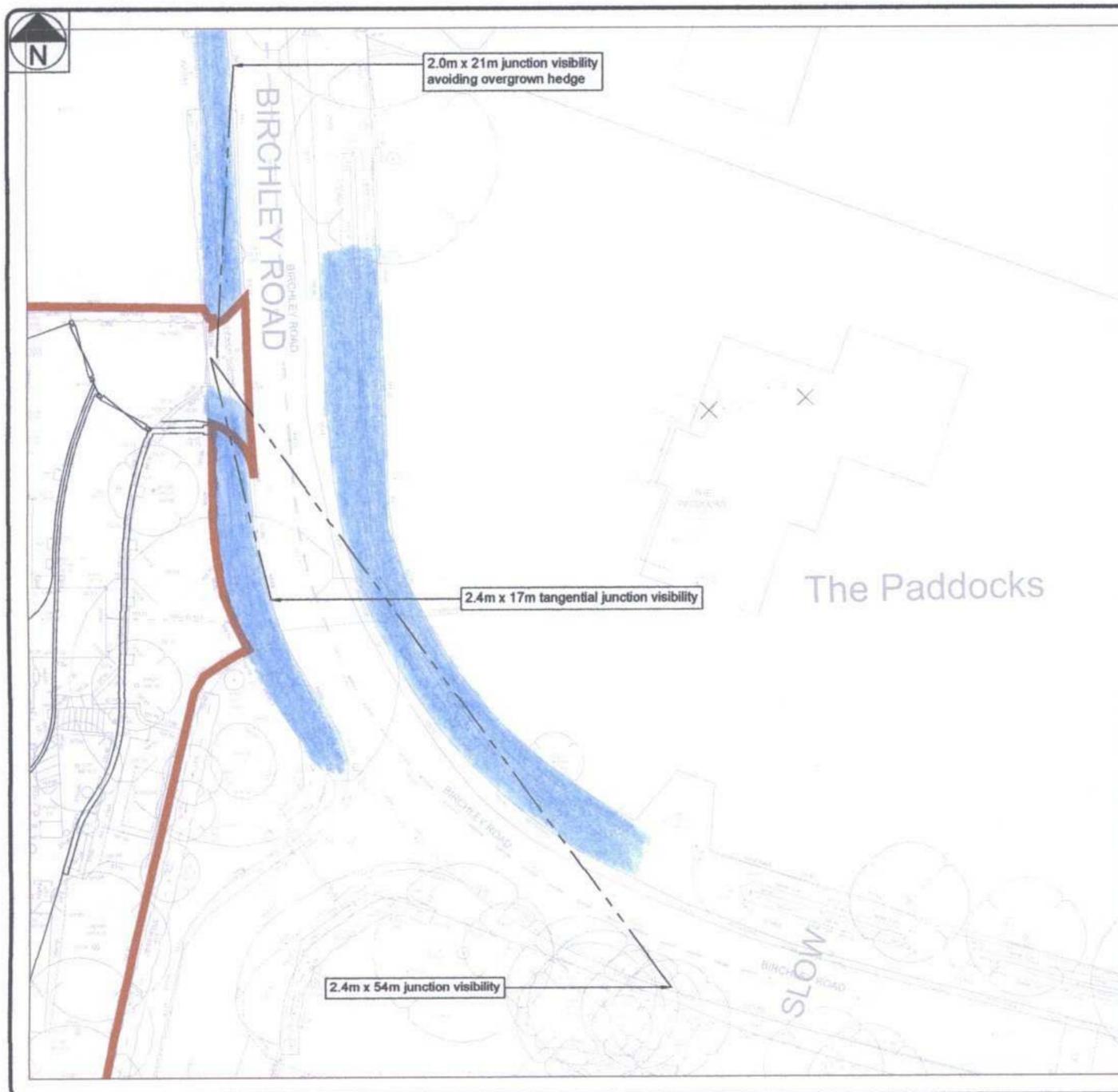
Drawing Title:
Proposed Junction Achievable Visibility

Client:
Boo Homes

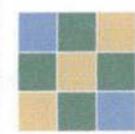
Project:
The Water Garden, Birchley Road

Drawing No: SK02	Revision:
Date Drawn: 06.04.17	Issue Date: 06.04.17
Drawn by: LG	Checked by: MG
Project Code: CTP-17-218	Scale at A3: 1:250

Drawing Status:
INFORMATION



Notes:



**COTSWOLD
TRANSPORT
PLANNING**

Cotswold Transport Planning Ltd
121 Promenade
Cheltenham Gloucestershire GL50 1NW
Tel: 01242 370283
cheltenham@cotswoldtp.co.uk
www.cotswoldtp.co.uk

Drawing Title:
Proposed Junction Visibility

Client:
Boo Homes

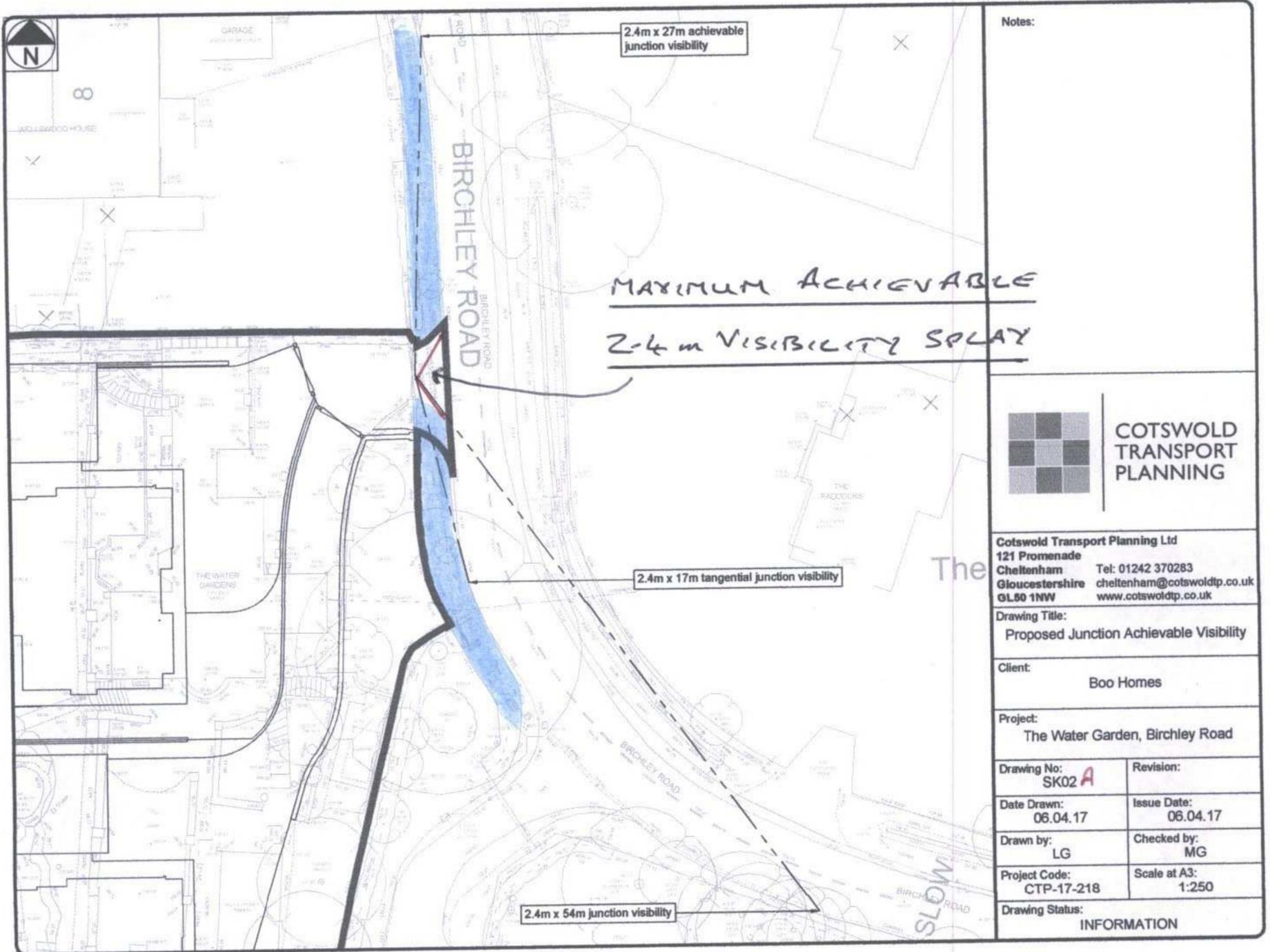
Project:
The Water Garden, Birchley Road

Drawing No: SK04	Revision:
Date Drawn: 06.04.17	Issue Date: 06.04.17

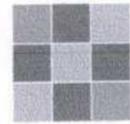
Drawn by: LG	Checked by: MG
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Project Code: CTP-17-218	Scale at A3: 1:250
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Drawing Status:
INFORMATION



Notes:



**COTSWOLD
TRANSPORT
PLANNING**

Cotswold Transport Planning Ltd
121 Promenade
Cheltenham Gloucestershire GL50 1NW
Tel: 01242 370283
cheltenham@cotswoldtp.co.uk
www.cotswoldtp.co.uk

Drawing Title:
Proposed Junction Achievable Visibility

Client:
Boo Homes

Project:
The Water Garden, Birchley Road

Drawing No: SK02 A	Revision:
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Date Drawn: 06.04.17	Issue Date: 06.04.17
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Drawn by: LG	Checked by: MG
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Project Code: CTP-17-218	Scale at A3: 1:250
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Drawing Status:
INFORMATION

Enclosure :

This is a non-comprehensive catalogue of accidents that have taken place on or adjacent to this corner of Birchley Road in recent years :

- 1 Car ran into The Water Gardens wall. Wall partially demolished including gate-post; the top ball on the left-hand gate-post has never been replaced.
- 2 Car written off when it hit silver birch to north of The Water Gardens entrance. Car was wedged between silver birch tree and Wellwood House hedge.
- 3 Car lost control and demolished Wellwood House sign, then running through hedge, down driveway and almost reaching front door of Wellwood House. (**photo** attached of damage at that time).
- 4 Car lost control going downhill, ending up in Wellwood House hedge facing uphill. Hedge is still struggling to recover.
- 5 Vehicle ran through hedge to the north of Wellwood House entrance. Driver left scene.
- 6 Car hit young silver birch to the north of Wellwood House entrance. Tree pushed in to Wellwood House hedge.
- 7 Car travelling downhill lost control and landed in The Paddocks ditch, opposite the entrance to The Water Gardens (**photo** attached)
- 8 Car overturned in The Paddocks ditch at night.
- 9 Car going **uphill** lost control and ran through fence into Birchley House gardens.
- 10 Cyclist going downhill hit a car parked outside The Water Gardens.
- 11 Micro-scooter user lost control on the corner and was injured.





BATTLEDOWN
ESTATE
1859

BUILT

Recd 24 APR 2017

ENVIRONMENT

E : planning@battledown.co.uk

T : 01242 513 611

20th April, 2017

Cheltenham Borough Council
Planning Department
Promenade, Cheltenham GL50 1PP
Attn : Ben Hawkes Esq.
Planning Officer

Dear Mr Hawkes :

Ref Planning Application dated 22 February : 17/00356/FUL : The Water Gardens

The Trustees of the Battledown Estate note the Revised Plans for the above application, as posted/published on the relevant page of CBC Planning Department's web-site and as mentioned in your letter of 10th April to many local residents. Thank you for your e-mail of Thursday 13th April, in which you confirmed that all Objections already received are still relevant and will form part of the consideration of this application.

As you correctly observed, the Revisions submitted are not significant and do not address any of the substantive concerns raised within the 'Objections' already lodged by over 90 local residents. However, whilst all the above is noted with appreciation, the Trustees wish to bring to the attention of the Planning Officers and the Planning Committee two further matters in particular that may assist them in their deliberations.

Firstly, please note that the Applicant, Boo Homes Ltd (BHL), has still made no comment or revision to its plans in order to take into account the fact that BHL does not own all the land delineated in the applicant's drawings. Specifically, we note that the applicant's plans show that the driveway entrance to his property will be widened by up to 50% above its present size. As you and your colleagues will be aware from our previous submission dated 16th March, the verges of Birchley Road are owned by the Trustees; therefore the applicant has no right to widen his access driveway over the verges without the permission of the Trustees. This permission has **not** been requested and will **not** be granted if it facilitates in any way the potential construction of two separate properties on The Water Gardens house-plot, as this would be in breach of the terms of the Deed of Covenants, which the Trustees have a duty and responsibility to uphold -- in the interests of all residents of the Battledown Estate.

Secondly, as the CBC Planning Officers and Committee are well aware, one of the Trustees' primary objections to this proposed development is that it would be in breach of the 1859 Deed of Covenants. Therefore, in this context we note with appreciation that the provisions of these Covenants have very recently been taken into consideration by CBC Planning Officers in an evaluation of another proposed property development on land situated within the Battledown Estate. The application by Savignac Developments to build three houses on 'The Bredons' house-plot and adjoining land off Harp Hill (ref 17/00015/FUL) was recently the subject of a 'Permit' recommendation in the Delegated Officer's Report (Mrs Lucy White). The Trustees are pleased to note that in section 6.28 of her Report and Permit Recommendation dated 12th April 2017, Mrs White made specific mention of the Battledown 1859 Deed of Covenants and the fact that Cheltenham Borough Council has "taken the pragmatic approach" of accepting the provisions of the Deed and their influence on the planning / development possibilities on this site --- and stated that the Council has therefore issued its recommendation in compliance with the provisions of the Deed. This pragmatic and considered approach to a very recent development application on the Battledown Estate is greatly appreciated by the Trustees and we hope that a similarly pragmatic and considered approach will be followed with regards to The Water Gardens, in the interests of all current and future Battledown residents, together with the wider Cheltenham population.

In this context, it is also worth noting that 'The Bredons' development consisted of demolishing one house and building more than one property in its place. The reason that the Trustees were, and are, able to support that application (and yet oppose The Water Gardens application) is simply because the former does not breach the housing density limitations of the Covenants, whereas the latter most certainly does.

Thank you for your kind attention.

Yours sincerely,



Roger Willbourn

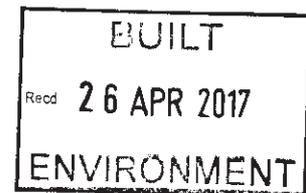
For and on behalf of the Trustees of The Battledown Estate

E : planning@battledown.co.uk

T : [REDACTED]

25th April, 2017

Cheltenham Borough Council
Planning Department
Promenade, Cheltenham GL50 1PP
Attn : Ben Hawkes Esq.
Planning Officer



Dear Mr Hawkes :

Ref Planning Application dated 22 February : 17/00356/FUL : The Water Gardens

We understand that the existence of private covenants, and the provisions contained therein, are conventionally not matters of concern to the planning officers at Cheltenham Borough Council [CBC]. CBC will be aware, however, that one of the primary reasons why the Trustees, together with over 90 other residents of the Battledown Estate, object so strongly to the above application is because it would, if permitted, be a very serious breach of the 1859 Deed of Covenants. It is the continuing compliance with the provisions of these Covenants by all residents that has maintained the Battledown Estate for over 150 years as a unique heritage district of which all Cheltenham's residents can be proud.

The Trustees have therefore brought to the attention of the Planning Officers a number of past occasions on which the provisions of the Covenants have been deliberately and positively taken into account by **Cheltenham Borough Council** when considering development and building works on land within the Battledown Estate; these include instances from 1975 through until 2017 and are referenced in our original 'Objection' submission dated 15th March and our further letters dated 24th March and 20th April 2017.

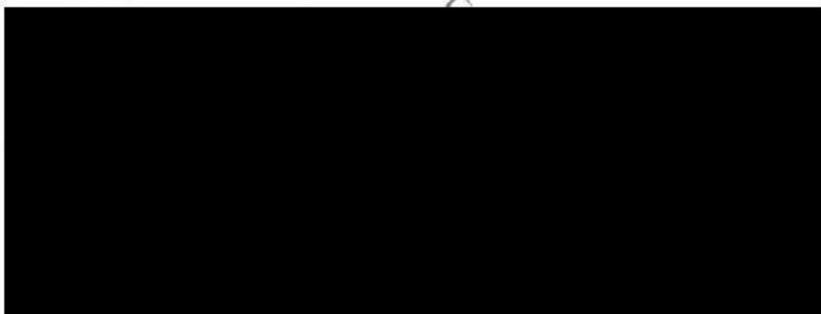
Today, however, a further instance of CBC including compliance with the provisions of the 1859 Deed of Covenants **as a condition in its own requirements** for building works on the Estate has been brought to the Trustees' attention and we attach it hereto. We believe this additional precedent will be of considerable assistance to the planning officers and committee when reaching a decision on this current application, 17/00356/FUL.

We are enclosing the documents concerning this particular instance; they are a Conveyance of a property from Cheltenham Borough Council to a private owner, plus its associated Land Registry Charges and Schedules register. We have highlighted for ease of reference those sections which clearly demonstrate the requirement by **Cheltenham Borough Council** that the developer and future owner(s) of a property on the Estate abide by the provisions of the 1859 Deed of Covenants, **including the necessity of obtaining approval from the Trustees and/or the Estate Surveyor.** This particular property was Plot 5, Battledown Approach, which became 8 Battledown Drive which became Wellswood House. This plot lies entirely within Original Lot 60 of the Battledown Estate, the same Original Battledown Lot in which The Water Gardens sits and, indeed, it is the house-plot directly adjacent to The Water Gardens.

As you are aware, in the case of 'The Water Gardens' both the Estate Surveyor and the Trustees have advised that the applicant's development proposals are in breach of the Covenants and are, therefore, unacceptable. This information has been repeatedly conveyed to the applicant. So, in line with CBC's previous upholding of the provisions of the 1859 Deed of Covenants, we sincerely request that CBC maintains its earlier position on related issues by refusing permission for this applicant's development proposal.

We trust that these documents will be of assistance to CBC and we thank you for your kind attention.

Yours sincerely,

A large black rectangular redaction box covering the signature area of the letter.

For and on behalf of the Trustees of The Battledown Estate

Enc.

DATED 21st July 1976

9

CHELtenham BOROUGH COUNCIL

-- to --

MR. AND MRS. B. BABBAGE

Conveyance

-- of --

Plot 5, Battledown Approach,
Battledown, Cheltenham in the
County of Gloucester

Messrs. Keith & Co.,
5 Imperial Square,
Cheltenham,
Glos.
GL50 1PB

For Sealing - Min No 3.
Policy + Finance 20.4.76
Council 26.4.76.

26 JUL 1976

LONDON, N.E. 26.

SHAW & SHAW LTD.
SHAWAY HOUSE,
LONDON, N.E. 26.**Chris Conveyance**is made the *Twenty-first* day of*July*One Thousand Nine Hundred and Seventy Six BETWEEN

CHELTENHAM BOROUGH COUNCIL of Municipal Offices Promenade Cheltenham in Gloucestershire (hereinafter called "the Vendor") of the one part and BRIAN BABBAGE and MARIAN BABBAGE his Wife both of "Lynworth" Leckhampton Hill Cheltenham aforesaid (hereinafter called "the Purchasers") of the other part

W H E R E A S :-

(1) The Vendor is seised (inter alia) of the property hereinafter described for an estate in fee simple absolute in possession subject only as hereinafter mentioned and otherwise free from incumbrances

(2) The Vendor has agreed with the Purchasers for the sale to them of the said property for the like estate at the price of Ten Thousand Five Hundred Pounds AND IT HAS BEEN AGREED that the same shall be vested in them as joint tenants in manner hereinafter appearing

NOW THIS DEED WITNESSETH as follows:-

1. IN consideration of the sum of Ten Thousand Five Hundred Pounds paid by the Purchasers to the Vendor (the receipt whereof the Vendor hereby acknowledges) the Vendor as Beneficial Owner hereby conveys unto the Purchasers ALL THAT the property described in the First Schedule hereto together with the benefit of the rights of way and drainage mentioned in the Second Schedule hereto AND EXCEPT AND RESERVED unto the Vendor the rights set out in Part II of the Third Schedule hereto TO HOLD the same unto the Purchasers in fee simple as joint tenants SUBJECT TO and with the benefit of the rights easements covenants conditions and other matters contained or referred to in the Fourth Schedule hereto AND SUBJECT TO the covenants on the part of the Purchasers hereinafter contained AND SUBJECT ALSO to the conditions and other matters set out in Part III of the Third Schedule hereto
2. FOR the benefit and protection of the lands comprised in the Vendor's Battledown Approach Building Estate shown edged green on the said plan annexed hereto or any part or parts thereof other than the land hereby conveyed so as to bind the land hereby conveyed into whosoever hands the same may come the Purchasers hereby jointly and severally covenant with the Vendor that they the Purchasers and those deriving title under them will at all times hereafter observe and perform the restrictions and stipulations set out in Part I of the Third Schedule hereto but so that neither of the Purchasers nor those deriving title under them shall be liable for a breach of the said restrictions and stipulations so far as they are negative in character which may occur on or in respect of the land hereby conveyed or any part or parts thereof after he she or they shall have parted with all interest therein

3. IT IS HEREBY DECLARED that the Trustees for the time being of this Deed shall have full power to sell mortgage charge lease or otherwise dispose of all or any part of the said property with all the powers in that behalf of an Absolute Owner

4. THE Vendor hereby acknowledges the right of the Purchasers to the production of the documents specified in the Fifth Schedule hereto (the possession of which are retained by the Vendor) and to delivery of copies thereof and undertakes with the Purchasers for the safe custody of the said documents

5. IT IS HEREBY CERTIFIED that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds Fifteen Thousand Pounds

IN WITNESS whereof the Vendor has caused its common seal to be hereunto affixed and the Purchasers have set their hands and seals the day and year first before written

THE FIRST SCHEDULE before referred to

(the property)

ALL THAT piece or parcel of land containing an area of 0.44 of an acre or thereabouts and situate and known as Plot 5 Battledown Approach Battledown Cheltenham in the County of Gloucester which said land is for the purpose of identification shown edged red on the plan annexed hereto

THE SECOND SCHEDULE before referred to

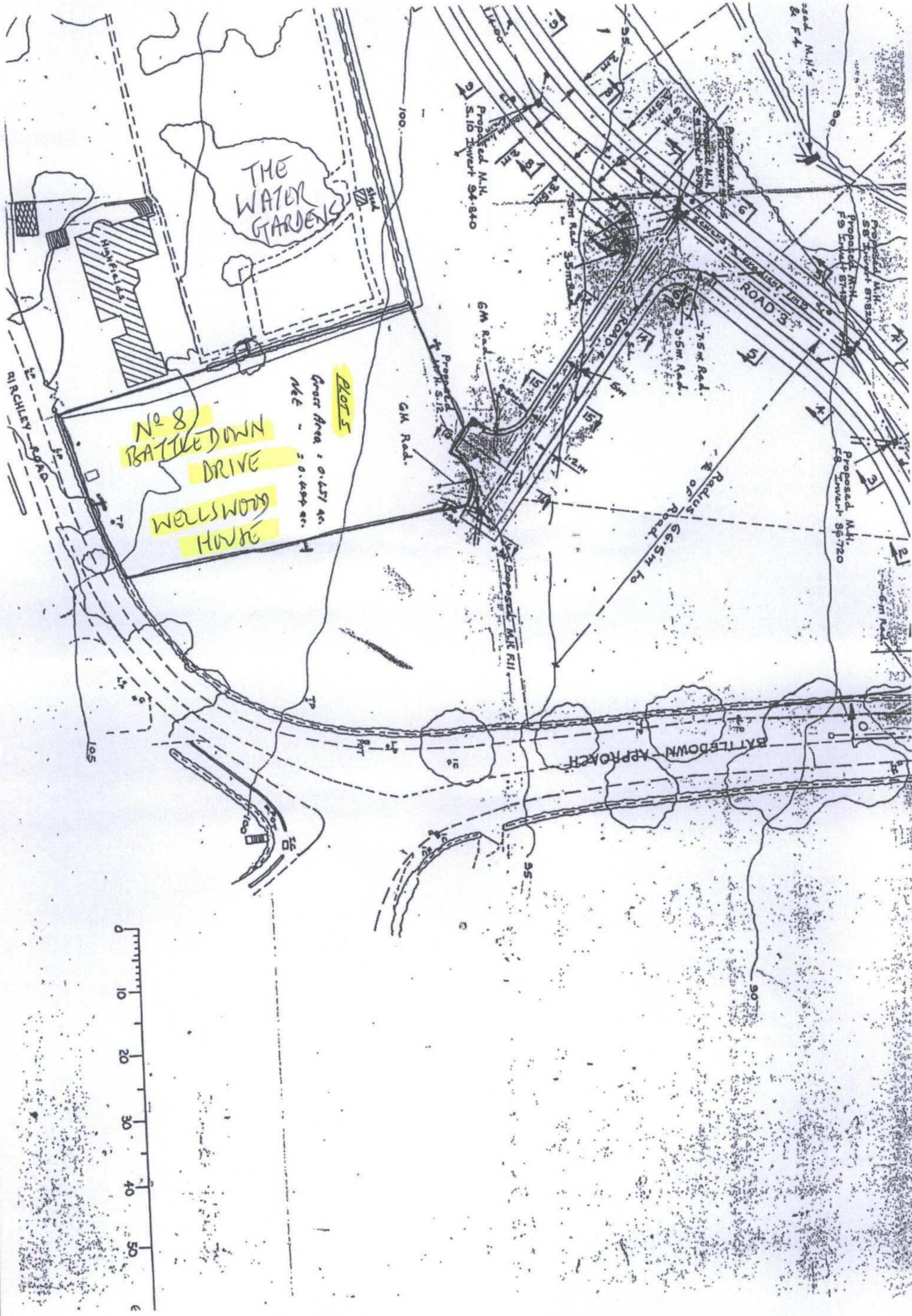
(rights granted)

1. A right of way at all times and for all purposes over the roads and footpaths as more particularly contained in a Deed of Grant and covenant dated the 18th day of June 1975 and made between the Trustees of the Battledown Estate of the one part and the Vendor of the other part
2. The right to connect (at the Purchasers expense) into the main sewers or drains situate in the adjoining highway and the right in common with any other person or persons having the like right to use the existing sewers and drains situate under any of the adjoining or neighbouring Plots shown on the said plan annexed hereto the Purchasers being responsible for the costs of reinstating all necessary excavations made to the adjoining land footpaths and roads for the purpose of connecting their property to the main sewers such reinstatement to be carried out in accordance with specifications accepted by the Association of Gloucestershire Engineers and Surveyors

THE THIRD SCHEDULE before referred to

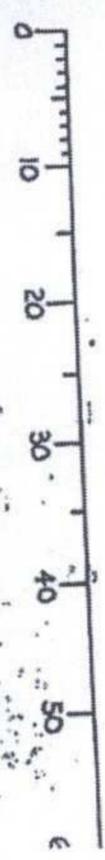
PART I (restrictions and stipulations)

1. To maintain in good condition and properly trimmed the existing hedge situate between the land hereby conveyed and Birchley Road and to maintain



PLOT 5
 Gross Area = 0.657 ha.
 Net = 0.424 ha.

No 8 BATTLEDOWN DRIVE
WELLSWOOD HOUSE



the fence on the same boundary

2. Within one year from the date hereof or such other period or periods as the Vendor shall in its discretion agree in writing to commence the building of one dwellinghouse with garages and necessary outbuildings together with a properly laid out and landscaped garden on the said land all such work to be completed within two years from the date hereof but subject to the right of the Vendor to extend the period as aforesaid

3. No building shall be erected on the said land which shall not be in accordance with plans drawings and specifications which shall have been approved in writing by the Vendor and the Trustees of the Battledown Estate

4. No trade or business shall be carried on upon the said land or any part thereof and no act or thing shall be done or suffered thereon which shall be a nuisance or annoyance to the owners or occupiers of any of the lands forming part of the said building estate

5. Not to damage alter or build over the drains or sewers serving the said property

PART II (Rights except and reserved)

1. Full right of entry at all reasonable times for the purpose of inspecting repairing and replacing the said drains and sewers serving the property whenever necessary subject to the making good of damage so caused

2. The right to modify waive or release any of the restrictions or stipulations mentioned in Part I of this Schedule in relation to adjoining or neighbouring land whether imposed or entered into before or at the same time as or after this Conveyance and whether they are the same as the restrictions and stipulations set out in Part I of this Schedule or not and notwithstanding that such adjoining or neighbouring lands forms part of the said building estate including any restrictions and stipulations which may become binding on the Vendor by virtue of this deed and the right to modify waive or release hereby reserved shall be exercisable by the Vendor and those deriving title under it to the said building estate or any part or parts thereof except that in the case of those so deriving title by conveyance on sale the said right shall be exercisable only by those to whom it is expressly assigned

PART III (conditions and other matters)

1.(a) In the event of the Purchasers failing to either commence building in accordance with approved plans within one year from the date hereof or such other period or periods as agreed in

by writing/the Vendor shall have the option of re-purchasing the unincumbered fee simple of the land hereby conveyed such option to be exercised within a period of three months from the date that the Purchasers either fail to commence building or fail to complete all building work by giving notice in writing to that effect and if it is not so exercised the Purchasers shall hold the said land free from their covenant

(b) In the event of the above option being exercised the price to be paid by the Vendor will be the lesser of the original sale price to the Purchasers and the market value at the date of such exercise and in default of agreement the price shall be fixed by the valuation of a qualified valuer to be agreed upon by the parties or in default of agreement to be appointed by the President for the time being of the Royal Institution of Chartered Surveyors and the cost of such valuation shall be paid equally by the parties hereto

2.(a) The Purchasers shall not sell the said land or any part thereof at any time prior to the completion of the building works unless the Purchasers shall have first notified the Vendor of the proposed sale and offered to sell the said land to the Vendor on the terms hereinafter contained and the Vendor has refused such offer or has failed to accept it within two months after it is made

(b) If the Vendor shall accept such offer before the expiration of the said period of two months the Purchasers shall sell the said land to the Vendor upon the following terms and conditions:-

(i) The purchase price shall be in the sum of Ten Thousand Five Hundred Pounds

(ii) The sale shall be completed and the amount of the purchase money paid within six weeks after such acceptance in writing as aforesaid

(c) Any notification or offer under this covenant shall be made by the Purchasers in writing and sent by recorded delivery service addressed to the Town Clerk and Chief Executive of Cheltenham at his office at the Municipal Offices Cheltenham or left for him there and any acceptance by the Vendor shall be well and sufficiently made if under the hand of the said Town Clerk and Chief Executive and sent by recorded delivery service addressed to the Purchasers at their last known address or left for them there and any such offer or acceptance shall be deemed to have been made at the time of delivery

THE FOURTH SCHEDULE before referred to

(rights easements covenants conditions and other matters)

1. The right of the owner or occupier for the time being of the adjoining property known as "Highfield" Birchley Road Battledown aforesaid to use the existing foul water sewer shown by a yellow line on the said plan annexed hereto with full right of entry at all reasonable times for the purpose of inspecting repairing and replacing the said sewer whenever necessary subject to the making good of any damage so caused

2. To the following matters and to all outgoing easements and rights in the nature of easements affecting the property hereby conveyed so far as the same are still subsisting and capable of taking effect:-

(i) the covenants and stipulations contained in a Memorandum of Agreement dated the 12th day of November 1874 and made between the Reverend Arthur Armitage of the one part and Charles Winstone of the other part

(ii) the covenants and conditions contained in a Deed of Regulation dated the 2nd day of December 1859 relating to the Battledown Estate

(iii) the covenants rights and conditions contained in the said Deed of Grant and Covenant dated the 18th day of June 1975 (but excepting sub-clauses (1) and (2) of Clause 2 of the said Deed)

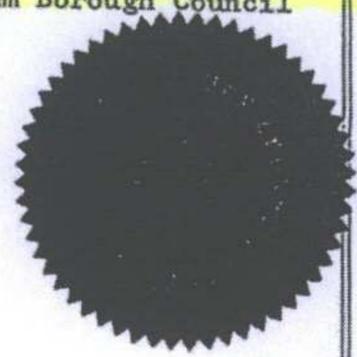
THE FIFTH SCHEDULE before referred to

(Deeds and Documents)

<u>Date</u>	<u>Document</u>	<u>Parties</u>
20.7.1962	CONVEYANCE	Webb Brothers Limited (1) Charles Edmund Clerke Burton Alec Nevile Birkmyre Christopher Vincent Smith (2) Cheltenham Corporation (3)
18.6.1975	DEED OF GRANT AND COVENANT	Trustees of the Battledown Estate (1) Cheltenham Borough Council (2)

THE COMMON SEAL OF CHELTENHAM)
BOROUGH COUNCIL was hereunto)
affixed in the presence of:)

SIGNED SEALED AND DELIVERED)
by the said BRIAN BABBAGE)
in the presence of:-)



[Redacted signature area]

[Redacted signature area]

SIGNED SEALED AND DELIVERED)
by the said MARIAN BABBAGE)
in the presence of:-)

[REDACTED]

[REDACTED]



Witness
Abraham

OFFICE COPY

This office copy shows the entries subsisting on the register on 4 JUNE 1997.
 This date must be quoted as the 'search from date' in any official search application based on this copy.
 Under s.113 of the Land Registration Act 1925 this copy is admissible in evidence to the same extent as the original.
 Issued on 5 June 1997 by HM Land Registry. This title is administered by the GLOUCESTER District Land Registry.

Edition date : 13 March 1996

TITLE NUMBER : GR177692

Entry No.	A. PROPERTY REGISTER containing the description of the registered land and the estate comprised in the Title				
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">COUNTY</td> <td style="width: 50%; text-align: center;">DISTRICT</td> </tr> <tr> <td style="text-align: center;">GLOUCESTERSHIRE</td> <td style="text-align: center;">CHELTENHAM</td> </tr> </table>	COUNTY	DISTRICT	GLOUCESTERSHIRE	CHELTENHAM
COUNTY	DISTRICT				
GLOUCESTERSHIRE	CHELTENHAM				
1.	(27 February 1996) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 8 Battledown Drive, Battledown, Cheltenham, (GL52 6RX).				
2.	(27 February 1996) The land has the benefit of the rights granted by but is subject to the rights reserved by the Conveyance dated 21 July 1976 referred to in the Charges Register.				
	NOTE:-The rights of way granted by the Deed of Grant dated 18 June 1975 referred to are over Battledown Drive.				

Entry No.	B. PROPRIETORSHIP REGISTER stating nature of the Title, name, address and description of the proprietor of the land and any entries affecting the right of disposing thereof TITLE ABSOLUTE
1.	(27 February 1996) Proprietor: DAVID WILLIAM PRITCHARD and MARGARET ANN PRITCHARD both of 8 Battledown Drive, Battledown, Cheltenham, Glos., GL52 6RX.
2.	(27 February 1996) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.
3.	(27 February 1996) RESTRICTION: Except under an order of the registrar no disposition by the proprietor of the land is to be registered without the consent of the proprietor of the Charge dated 26 January 1996 in favour of Lloyds Bank PLC referred to in the Charges Register.

Entry No.	C. CHARGES REGISTER containing charges, incumbrances etc, adversely affecting the land and registered dealings therewith
1.	(27 February 1996) The land in this title is with other land unknown subject to two perpetual yearly rentcharges of £10 and £10 created by a Deed dated in or about the 8th year of the reign of King Charles I under the hand and seal of Dame Mary Morrison. No other particulars of the rent charges were produced on first registration.
2.	(27 February 1996) A Deed of Mutual Covenant dated 2 December 1859 and made between (1) Somerset Tibbs and others and (2) the several persons whose names were contained in the schedule thereto contains covenants and

Continued on the next page

WELLS WOOD
 HOUSE •
 LOCATED
 ENTIRELY
 WITHIN
 THE
 BATTLEDOWN
 ESTATE •

OFFICE COPY

This office copy shows the entries subsisting on the register on 4 JUNE 1997. This date must be quoted as the 'search from date' in any official search application based on this copy. Under s.113 of the Land Registration Act 1925 this copy is admissible in evidence to the same extent as the original. Issued on 5 June 1997 by HM Land Registry. This title is administered by the GLOUCESTER District Land Registry.

TITLE NUMBER : GR177692

Entry No.	C. CHARGES REGISTER (continued)
	provisions relating to the regulation of the Battledown Estate. <i>NOTE:-Copy in Certificate. Copy filed.</i>
3.	(13 March 1996) A Deed dated 18 June 1975 made between (1) Eva Laura Frances Allpress and others (Trustees) and (2) Cheltenham Borough Council (Grantee) contains covenants details of which are set out in the schedule of restrictive covenants hereto.
4.	(27 February 1996) A Conveyance of the land in this title dated 21 July 1976 made between (1) Cheltenham Borough Council and (2) Brian Babbage and Marian Babbage contains restrictive covenants. <i>NOTE: Copy in Certificate.</i>
5.	(27 February 1996) REGISTERED CHARGE dated 26 January 1996 to secure the moneys including the further advances therein mentioned.
6.	(27 February 1996) Proprietor: LLOYDS BANK PLC (Co. Regn. No. 2065) Dept. No. 9187 Bristol Regional Securities Centre, P.O. Box 853, Unit 8, City Business Park, Easton Road, Bristol BS99 5HZ.

Item No.	SCHEDULE OF RESTRICTIVE COVENANTS
1.	<p>The following are details of the covenants contained in the Deed dated 18 June 1975 referred to in the Charges Register:-</p> <p>THE Grantee hereby COVENANTS with the Trustees (which expression shall in this Deed include the Trustees from time to time of the Deed of Regulation) as follows:-</p> <p>(5) That not more than seven dwellinghouses (with the usual outbuildings) shall be erected on the said land of the Grantee shown edged in red on the said plan without the prior written consent of the Trustees and that no trade or business shall ever be carried on thereon or in any of such dwellinghouses and that every such dwellinghouse shall be used and enjoyed as a private dwellinghouse only</p> <p>(6) That no such dwellinghouse or outbuilding shall be erected until lay-out and detailed plans and drawings thereof have been approved by the Trustees or their Surveyor on their behalf.</p> <p><i>NOTE:-</i>The land in this title forms no part of the land edged red referred to.</p>

Continued on the next page

Page 100 COPY

This office copy shows the entries subsisting on the register on 4 JUNE 1997.
This date must be quoted as the 'search from date' in any official search application based on this copy.
Under s.113 of the Land Registration Act 1925 this copy is admissible in evidence to the same extent as the original.
Issued on 5 June 1997 by HM Land Registry. This title is administered by the GLOUCESTER District Land Registry.

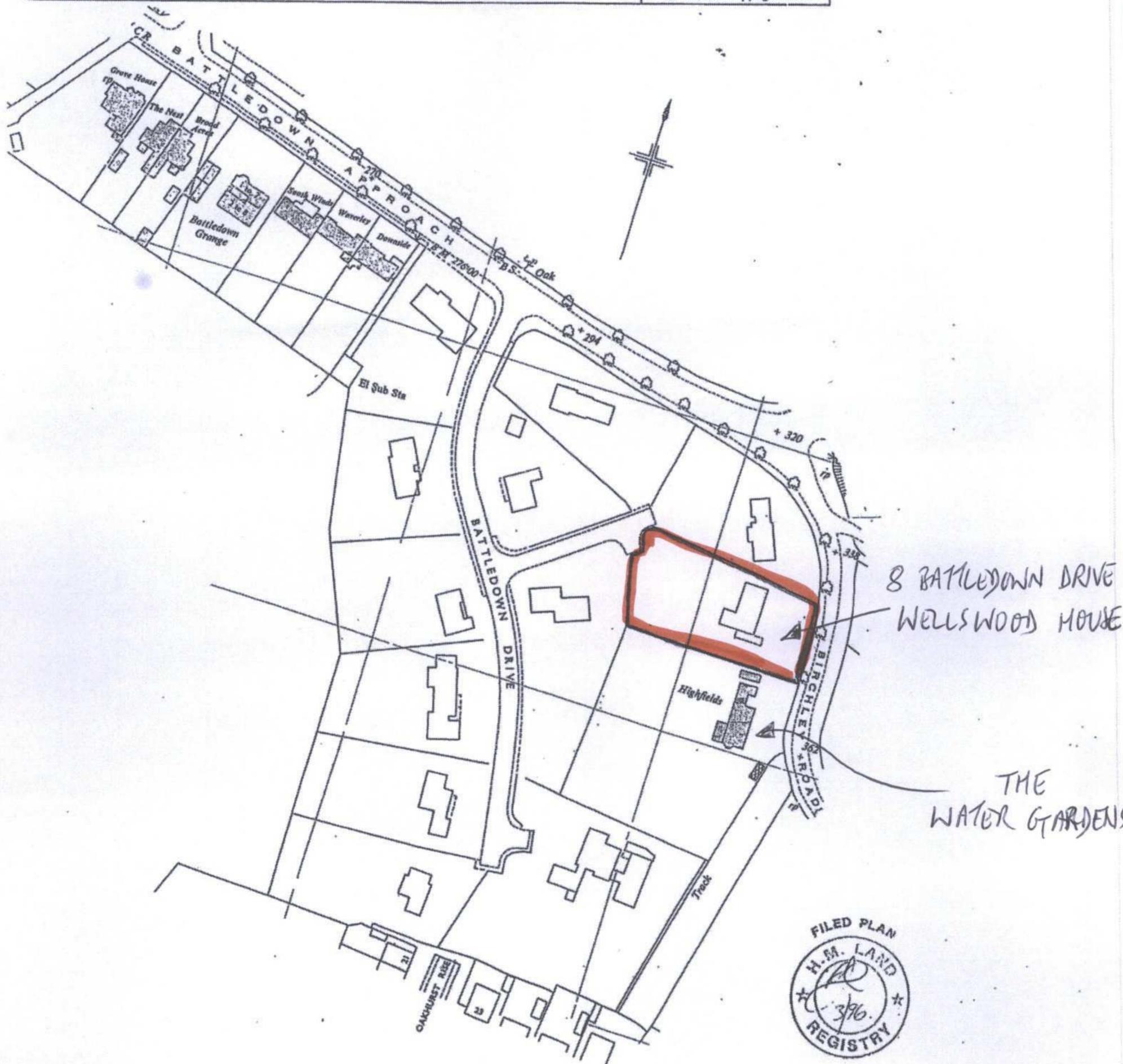
TITLE NUMBER : GR177692

**** END OF REGISTER ****

NOTE : A date at the beginning of an entry is the date on which the entry was made in the Register.

This OFFICE COPY shows the state of the title plan on 4 June 1997
 Under s.113 of the Land Registration Act 1925 this copy is admissible in evidence to the same extent as the original.
 This Office Copy of the title plan may be subject to minor distortions in scale.
 Issued on 5 June 1997 by H.M. Land Registry. This title is administered by the Gloucester District Land Registry.
 Crown Copyright All rights reserved.

H.M. LAND REGISTRY		TITLE NUMBER	
		GR 177692	
ORDNANCE SURVEY PLAN REFERENCE	SO 9621	SECTION J	Scale 1/1250
COUNTY GLOUCESTERSHIRE	DISTRICT CHELTENHAM	© Crown copyright 1978	



E : planning@battledown.co.uk
[REDACTED]

15th May, 2017

Gloucestershire County Council
Shire Hall, Gloucester, GL1 2TH
Attn : **David Simmons Esq.** Development Coordinator

Dear Mr Simmons :

Ref Planning Application dated 22 February : 17/00356/FUL : The Water Gardens

We refer to the various documents published on the CBC Planning website on 11 May 2017 concerning the above application, in particular the 'Access appraisal note' CTP-17-218 dated April 2017 and the 'Addendum to access appraisal' note issue 02 dated May 2017.

In this connection, the Trustees wish to bring the following matters to the attention of both Glos County Council and the CBC Planning Officers, as we believe these factors will be helpful to them when the various interested parties are considering the above Application.

1. As I said in my letter to yourself dated 10th April 2017, the location of this site access is an accident black spot. That there may not be any "recorded personal injury collisions" on the CrashMap database is irrelevant, because the risk is evident from the data that we as Trustees hold and it is merely due to good fortune and the Trustees' efforts to reduce this risk that, so far, no serious injuries or death have occurred. CTP have acknowledged that Birchley Road is at this point a "windy road of relatively narrow width". I have already provided you with a list of the accidents which have taken place recently, together with photographs, and I would ask you to look at those items again. The Trustees have, at some considerable expense, addressed this risk and the continuing danger by installing speed humps, applying a skid-resistant surface to the road and installing verge posts with light reflectors. It cannot be right, therefore, to add to the existing risk by intensifying the use of this access.

2.
 - 2.1. CTP's report seeks to rely on traffic data which it has already admitted is inaccurate due to the method of its collection (see CTP's email of the 29th March 2017). The existence of a parked car will have the effect of slowing the traffic and, having observed the 360TSL survey vehicle on site on the 25th April, I can confirm that that is likely to have been the case. When the vehicle was not located in entirely the wrong place (*see 2.2 below*), it was parked in the driveway to The Water Gardens as though it was about to emerge onto the road. It thereby represented a potential hazard to which drivers will have reacted instinctively. This was exacerbated by the fact that the vehicle's bonnet protruded out onto the road adding to the perceived risk.

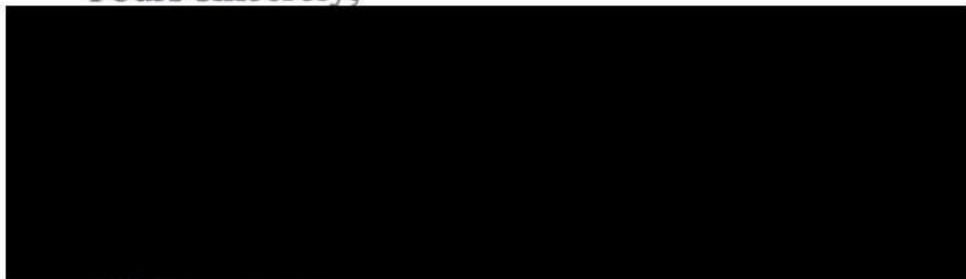
2.2. As mentioned above, for part of the day the vehicle was collecting data from entirely the wrong location (Wellswood House). This continued until the house owner instructed the 360TSL driver to remove his car from the Wellswood House driveway.

2.3. The traffic-speed data cannot therefore be relied upon as the basis for making reliable judgments regarding the suitability of the visibility splays or for any other purpose associated with the application.

3. The visibility splay to the north shown on Drawing SK04 can only be drawn by relaxing the usual criteria, both by moving the X point forwards by 400mm and by offsetting the other end of it by 300mm away from the edge of the highway. This is unsafe, in view of the traffic speeds most likely being higher in practice than the speeds recorded by the unreliable measuring exercise conducted by 360TSL on behalf of CTP.
4. The visibility splays to the north and to the south shown on the drawings submitted to GCC are already compromised by established features/planting etc. and are on land which the applicant does **not** own and over which he has **no** control. Consequently, the applicant cannot remove any such impediments to visibility and cannot ensure that there are no new features and/or planting in the future.
5. Since the traffic speed data is inaccurate, it is unsafe to relax the vision splay criteria to the north in order to facilitate single-access working.
6. GCC have required that the drawings demonstrate that single-access working does not cause a danger to traffic from the south. The addendum fails to address this at all. This is of particular concern to us as Trustees because most of the accidents which have occurred have been caused by vehicles approaching this accident black spot from that direction. This approach from the south is downhill and around a tight bend to the right. An unexpected stationary vehicle in the road will increase the accident risk, which the Trustees most certainly can not endorse.

We trust that these observations will be of assistance to both yourselves and CBC and we thank you for your kind attention.

Yours sincerely,

A large black rectangular redaction box covering the signature of the sender.

For and on behalf of the Trustees of The Battledown Estate

cc : Mr Ben Hawkes : Planning Officer : Cheltenham Borough Council

E : planning@battledown.co.uk

T : [REDACTED]

24th May, 2017

Gloucestershire County Council
 Shire Hall,
 Gloucester, GL1 2TH
Attn : David Simmons Esq.
 Principal Development Coordinator

Dear Mr Simmons :

Ref Planning Application dated 22 February : 17/00356/FUL : The Water Gardens

I refer to the various documents published on the CBC Planning website on 22 May 2017 concerning the above application, in particular the e-mails from Michael Glaze of Cotswold Transport Planning [CTP] and the correspondence from Paul Castle of 360TSL Ltd, both dated 19th May 2017.

With reference to the above, the Trustees wish to bring the following matters to the attention of both Glos. County Council and the CBC Planning Officers, as we believe these factors will be helpful to them when the various interested parties are considering the above Application.

From the documents posted on the CBC website, it is apparent that you have asked for clarification as to the methods used to measure speeds in Birchley Road, resulting in the production of data which has been used by CTP to inform two reports and an addendum relating to highways issues, as part of the planning process for the above property. You have received a statement prepared by the traffic surveyor, Paul Castle of 360 TSL Limited, in support of the survey data and contending that the data is sufficiently accurate -- but unfortunately the statement contains comments within it which are materially incorrect. Consequently it is incumbent upon me as Trustee of the Battledown Estate to draw these matters to your attention, and to the attention of CBC, so that you can properly consider the reports.

In this context, please be aware of the following :-

1. 360 TSL is not independent. There are two reasons for this. Firstly, it is in its commercial interests to minimise any defects in its data collection methodology when these are questioned by its client. Secondly its client is a planning applicant and the survey was commissioned by the applicant in order to support the application and thus implicitly preferring a certain outcome.

2. Mr Glaze says in his email to you of the 19th May that "the Trustees did not allow us to undertake an ATC..." This is **incorrect** in that the Trustees have neither granted nor refused permission. The Trustees were asked by BPA (Wendy Hopkins) in her emails of the 5th and 13th April, whether speed survey equipment could be installed in Birchley Road. I replied to BPA by email on 13th April, at which time I undertook to convene a meeting of the Trustees and stated that " in order for the Trustees to be fully informed of the proposal so that they can give proper consideration to the request, we shall need to know what type of monitoring equipment BPA wishes to use, given that certain correspondence we have seen indicates that such installation of certain types of speed survey equipment could be unsafe in this location." I have **not** received any reply to this request and so the Trustees are still awaiting this information in order that they can give the matter proper consideration.

3. Furthermore, with reference to Mr Castle's statement of the 19th May :-
 - 3.1. Mr Castle admits that for some time the vehicle was parked in the wrong location and that the data is flawed for that period. This was not revealed in the report and calls into question what other aspects of the data collection exercise are flawed but which he does not wish to disclose.

 - 3.2. Mr Castle says that the vehicle was collecting data from the wrong driveway from 7.00am till 7.30am. You will have seen the email from Mr Hartley, (the owner of Wellswood House) dated the 22nd May. Mr Hartley states that when he left for work at about 7.20am on that morning, which is when Mr Castle says that the survey vehicle was parked on Mr Hartley's drive, there was no vehicle there. Clearly the survey vehicle was **not** where Mr Castle says it was between 7.00am and 7.30am. Furthermore, you will have seen the photograph of the survey vehicle at Wellswood House taken at 7.59am. It would appear that Mr Castle does not know for what period the vehicle was wrongly placed and therefore what data is flawed. If he is mistaken in respect of these simple facts, then what else is he mistaken about ?

 - 3.3. As the survey vehicle was not at Wellswood House nor at The Water Gardens when the report says it was, then where has the data for the period of absence in the survey report come from? Was it simply manufactured? I know that Mr Glaze says in his email that speeds during this period were not used in the assessment but this was not disclosed in the report. Also, if these speeds were not used, what was the purpose of purporting to having collected them?

 - 3.4. GCC has requested a speed survey over a period of 12 hours. It is now clear that a 12 hour survey was not conducted -- but the report misleadingly says that it was.

 - 3.5. Mr Castle says that the survey vehicle did not protrude onto the carriageway. However he also says that the speed camera equipment was located within the vehicle and that the enumerator had an unrestricted view. These statements are inconsistent. For the vehicle to be positioned on the driveway of The Water Gardens such that the occupant has an unrestricted view, it must have been positioned sufficiently far forwards for the front of it to be overhanging the carriageway.

- 3.6. The survey vehicle was not inconspicuous. It was a relatively large white four-door estate-car parked in the entrance to The Water Gardens and facing forward towards the road as though it was about to emerge. As I said in my letter to you of the 15th May, the survey vehicle represented a perceived hazard to other road users and so inevitably will have influenced their speeds at this location. This effect was admitted by Mr Glaze in his email to you of the 29th March, when he acknowledged that a survey vehicle "in this location.....would be likely to influence traffic speeds and would not represent free flow traffic conditions."

Given the circumstances outlined above, there are serious concerns over the manner in which the speed survey has been conducted and hence the accuracy and validity of the data collected from the survey on 25th April. I am also very concerned at the obvious inaccuracies in the details that have been given to you, in reply to your legitimate request for clarification.

I trust that these observations will be of assistance to both yourselves and CBC and thank you for your kind attention.

Yours sincerely,

A large black rectangular redaction box covering the signature and name of the sender.

For and on behalf of the Trustees of The Battledown Estate

- cc : Mr Ben Hawkes : Planning Officer : Cheltenham Borough Council

APPLICATION NO: 17/00365/FUL		OFFICER: Mr Ben Hawkes	
DATE REGISTERED: 22nd February 2017		DATE OF EXPIRY : 19th April 2017	
WARD: Battledown		PARISH: CHARLK	
APPLICANT:	Boo Homes Limited		
LOCATION:	The Water Garden, Birchley Road, Cheltenham		
PROPOSAL:	Demolition of existing building and garage and replacement with two new detached dwellings		

REPRESENTATIONS

Number of contributors	94
Number of objections	93
Number of representations	0
Number of supporting	0

Windrush
 Oakley Road
 Cheltenham
 Gloucestershire
 GL52 6NZ

Comments: 13th March 2017

This application is in breach of the Deed of Covenant held by the Trustees of Battledown Estate, which states the regulations that have to be complied with regarding housing density.

The application must be rejected on these grounds alone.

Skyview House
 Birchley Road
 Cheltenham
 Gloucestershire
 GL52 6NX

Comments: 27th February 2017

every person who has purchased a property on the battle down estate , where this house lies, is legally bound by the battle down covenants.

this planning application to build two houses is in breach of these covenants. further more the developer is aware that the proposed development is in breach.

the correct legal interpretation of the wording in the Seventh Covenant, which is on elf the covenants that this proposal breaches, is that each Original Lot of the Estate may have built on it no more than one house per half-an-acre area of that Original Lot. So (for example) a two acre Original Lot could have four houses built on it. An Original Lot of 1.75 acres could have three houses built upon it, and so on

Original Lot 60 (within which The Water Gardens sits) had an area of 3.75 acres and it already has seven houses built upon it. So clearly the Covenants prohibit any additional house being built thereon.

Page 108

The trust of battldown informs me that the developer has been made aware of this on numerous occasions but he has decided to ignore there advice and there prohibition of any additional house on his house-plot.

Its a little worrying that the documents submitted to the planning dept state that the developer is in negotiation, when the trusties have made it very clear that no negotiations are taking place and the covenants are there to stop this sort of thing.

The developer has been told that this application is in breach and thats that. There is no negotiation. The developers have just chosen to ignore the trusties. Which is worrying in itself.

I'm all for improving housing stock but the one thing that makes Battledown special is that houses are not crowded together and such this covenant is important to maintain in order for this special area to be maintained and not lost to over development of this kind. for this reason i strongly object.

The Paddocks
Birchley Road
Cheltenham
Gloucestershire
GL52 6NX

Comments: 14th March 2017

My family own and occupy The Paddocks on Birchley Road which is directly opposite and East of The Water Gardens. We have lived here for over 30 years enjoying the proximity of the town of Cheltenham together with the relatively tranquil nature of a private estate where housing density has been controlled to generally maintain the ambiance of the locality, the Battledown Estate.

The proposed plan for the replacement of the current single building, The Water Gardens, by two new detached buildings gives me cause to lodge the following comments.

Traffic

Birchley Road serves as one of the main ungated access roads to the Battledown Estate. Vehicular visitors, contractors as well as many Estate property owners all use Birchley Road. Horse riders and pedestrians of all ages commonly use Birchley Road even though there is no footpath on Birchley Road including none on the boundary of The Water Gardens whose access is proposed to be and always has been close to a sharp bend located on a steep hill. The increase in traffic generated by the occupants of an additional dwelling will increase the potential for accidents. During the last few years, we have witnessed several accidents with vehicles colliding in the vicinity of the access to The Water Gardens. This has caused damage to The Water Gardens wall as well as fences and the grass verge of our property. On more than one occasion we have helped remove people and vehicles from the ditch running alongside our property and directly opposite the Water Gardens entrance.

This particular development, in itself, may or may not have a significant effect on the use of the road but as I have described under Amenity below, the disregarding of the 1859 Deed of Covenant will create the probability of wholesale addition to the number of properties on the Battledown Estate.

My concern is should a second home be built on this plot it is inevitable that this will break the Deed of Covenant which controls the density of the estate and thereby set a precedent that many more houses will be built, thereby increasing traffic flow on Birchley Road and increasing the potential for road traffic accidents substantially.

Privacy

Our family home currently enjoys a decent level of privacy from The Water Gardens as the current design of The Water Gardens property does from our property. The proposed eastern elevation shown on the plan 5516/P/81 shows three double windows on the upper level of each building which will look directly into our family home and that of our neighbours. Currently there is only one obscured bathroom window 3 to 4 metres lower than the three window areas on the proposed plans for plot 1. By contrast, there are 10 windows on the combined second and third floors of each of the two buildings.

The proposed number of windows on this elevation gives my family concern in respect of our privacy. The drawing 5516/P/84 shows clearly this intrusion into our privacy. The uppermost point of the three sets of double windows on Plot 1 is above the current ridge of the roof and the whole of the three windows on Plot 2 are above the current roof ridge of The Water Gardens. The higher roof ridge, in itself, has a significant impact on the skyline for properties adjacent to The Water Gardens and with the addition of a second even higher building (the proposed Plot 2) both buildings combined will have an overbearing impact on surrounding properties.

Amenity

We moved on to the Battledown Estate in the 1980s due largely to its semi-rural aspect close to the town centre. Whilst there have been many developments on the Estate, the unique environment regulated by the 1859 Deed of Covenant has been maintained to ensure that a proliferation of building stock does not take place. To maintain this environment, all properties on the Estate pay an Estate rate in addition to the General Council rate. We have paid these additional rates for over 30 years in the belief that the environment, the privacy and the general amenity will be available to our family now and in the future, as it has been for the past 30 years. Whilst we do not object to the modernisation of the housing stock on the Estate it is imperative that the conditions of the Deed of Covenant are not flagrantly disregarded as we believe it will start a trend which will in time completely alter the uniqueness of this historic Cheltenham estate in respect of visual impact, noise, privacy, green space and create an increase in traffic within the Battledown Estate area.

In 1859 Cheltenham people had the foresight to understand these potential issues. They were not alone in recognising the unique quality of Cheltenham housing areas which are instrumental in attracting and retaining business owners and organisation leaders. It is these people that help generate the economic activity Cheltenham must endeavour to maintain. Cheltenham Borough Council's current Local Plan highlights the requirement to encourage economic activity and maintains the objectives of conserving historic areas and safeguarding attractive landscapes.

I am therefore asking that planning permission is not granted because of the concerns I have described above.

Comments: 25th April 2017

Thank you for the opportunity to provide additional comment to the revision of the planning application 17/00365/FUL. The revisions are minor and my original objections as expressed in my letter of 12th March still stand.

I would like to extend my point regarding privacy as I am extremely concerned by the windows proposed on Plot 1 which extend to near the height of the proposed ridge. This proposed ridge is higher than the current ridge height and these windows will overlook my property, looking down into my garden and patio area but more importantly directly into the bedrooms. I request that windows and balconies on the Plot's Eastern elevation are fitted with opaque glass to provide privacy to my family.

I am therefore objecting to planning permission being granted due to the concerns I have raised.

Birchley House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 6th March 2017

Letter attached.

Ash Tree House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 9th March 2017

I strongly object to this planning application for the following reasons;

The proposed development is clearly in breach of the Battledown Estate Deed of Covenant. In addition to the legal ramifications, the existence of the covenants should be considered as part of the planning decision and not viewed as a separate matter. The Cheltenham Borough Councils (CBC) Local Plan sets out numerous objectives and policies. Those objectives include "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23). Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets...". Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..."and "safeguarding attractive landscape". Hence, the covenants are relevant and directly support the aims of the Local plan and its policies.

The scale of the proposed buildings is out of character with the immediate environment. I consider the scale, height and mass of proposed development to be visually overbearing and obtrusive. This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. The proposed houses do not compliment or respect the neighbouring properties. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the two storey house which is to be demolished, and also much higher than any of the other houses within the row of which they would form a part. This is demonstrated by the variance in the ridge height of both neighbouring properties (both directly to the North and South) which have a ridge height level of circa 103, and the contrast is clearly illustrated in the latest materials added online 'Site sections f-f as proposed with existing house outline dotted a3'. Therefore, the scale and mass of the proposed buildings do not ensure that adjoining and future residential amenities are safeguarded from loss of light, over-looking and over-bearing. The proposal therefore does not with the requirements of CP4, CP7, Policy GE3, and paragraph 17 of the NPPF.

The plot is situated on a difficult corner of Birchley Road where they have been traffic accidents in recent years. The access is difficult and this application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems, which is contrary to both; Policy CP4b - "Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level", and Policy TP1 - "Development will not be permitted where it would endanger highway safety, directly or indirectly by....increasing the use of an existing access...."

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With regards to the above concerns it is respectfully requested that planning permission for the above development be refused.

Comments: 20th April 2017

Thank you for your letter of 10 April 2017. My original objection stands as per below.

Further, it is interesting to read comments from the GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017)

"Access:

The site currently benefits from an existing access off of Birchley Road suitable for a single working.

The access is to be widened to allow two-way working in accordance with the Local Design Guidance."

It should be noted that the access cannot be widened without the approval of the Trustees since the verges are owned by the Battledown Estate, not the property owner.

Also, the scale of the proposed buildings remains out of character with the immediate environment. I consider the scale, height and mass of proposed development to be visually overbearing and obtrusive. This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. The proposed dwellings do not compliment or respect the neighbouring properties;

- i) The ridge height of the existing Water Gardens dwelling @ 107.68
- ii) Ridge heights of Plot 2 and Plot 1 are still not listed on any of the submitted materials, which would allow the reader to consider how these plots will contrast within the row of which they would form a part - both properties directly to the north and south have a ridge height level of circa @ 103.00
- iii) It is likely that the new plots would be similar in height to the building heights of Birchley House @ 117.66 and The Paddocks @ 112.75 , which form the row of properties behind (to the east) and include our property - Ash Tree House.

I can only surmise that these figures are intentionally omitted given the contentious nature of the size and mass of these proposed buildings...

With regards to the above concerns and in addition to my previous comments, it is respectfully requested that planning permission for the above development be refused.

Comments: 5th June 2017

Thank you for your letter of 16 May 2017. My original objection(s) stands as per below.

Further, a number of comments specifically on the change in the proposed access and traffic survey results;

As the existing single working access cannot be widened to "allow two-way working in accordance with the Local Design Guidance" (as per previous comment from GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017)), which implies this current access is now undesirable from a planning perspective to support additional dwellings on the plot.

Single working access to support additional dwellings would also inevitably create a 'one in / one out' situation, and mean that vehicle(s) would have to be stopping/stationary on Birchley Road, at

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a point which has been well documented as being on a steep tight bend. In my opinion, this is potentially dangerous and likely to result in increased traffic incidents.

Regards the traffic survey, I strongly concur with the latest objection letter from the Battledown Trustees (Comment Date: Sat 27 May 2017);

- The assessment vehicle (white BMW) was initially parked in the wrong driveway until after 8am,
- The assessment vehicle when parked in The Water Gardens driveway was sufficiently forward to have its 'nose' overhanging the carriageway. This positioning also made it appear to oncoming traffic that the vehicle was exiting from the property as it emerged from the driveway, and therefore would have affected the traffic speeds of approaching vehicles on Birchley Road,
- The assessment vehicle was actually parked out on the downhill side of the carriageway facing uphill against the traffic flow above The Water Gardens entrance (closer to the bend) between 15:45 and 16:00, to allow for an online shopping delivery (Tesco's) to the tenants residing in The Water Gardens property. During unloading, the delivery van was parked in the road across the driveway entrance also facing uphill against traffic on the downhill side of the carriageway. Again, this would have affected the traffic speeds of approaching vehicles in both direction on Birchley Road.

Given these circumstances and the location of this single working access point on Birchley Road, it is questionable as to the validity of the traffic data submitted and would also be dangerous for CBC to allow intensification in use of the existing single working access ('one in/one out') to The Water Garden to potentially serve 3x the number of vehicle movements than at present.

With regards to the above concerns and in addition to my previous comments, it is respectfully requested that planning permission for the above development be refused.

Wellswood House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 5th March 2017

I object to the proposed development on a number of grounds. The proposed development is in breach of the Battledown Estate Deed of Covenant and if the application is approved it will result in a huge loss of amenity to all of the houses on the Battledown Estate.

In addition, I consider the scale, height and mass of proposed development to be visually overbearing and obtrusive. As the next door neighbour below The Water Gardens, the proposed development will tower over our house taking away our privacy and amenity.

I also consider that an increased number of vehicles using the access on to Birchley Road will significantly reduce the safety of the Estate - we have had 3 vehicles crashing into our hedge in the last few years.

I have read through the reports that have been filed by the developer in support of the application and set out below where I think they are mistaken. I have also carried out some research into the developer and his funder which is summarised below as I think it is relevant to show that they knew about the Deed of Covenant prior to the purchase of The Water Gardens. Despite this knowledge and discussions with the Estate's solicitors, Boo Homes has chosen to go ahead with

the application in full knowledge that it is in breach of the Deed of Covenant and that a breach of this magnitude will result in a huge loss of amenity to the residents of the Battledown Estate.

From documents filed at Companies House it appears that The Water Gardens is owned by Boo Homes Limited (No 06385457). Boo Homes Limited appears to be owned and controlled by Alexander John Stuart Scott and Jillian Charlotte Scott who are the only directors.

Boo Homes Limited has four outstanding registered charges. Two of these (063854570004 and 063854570003) are over The Water Gardens and are in Favour of CAA Property Limited (No 08705623).

Companies House states that two people, [REDACTED] and [REDACTED] have significant control over CAA Property Limited.

[REDACTED] and [REDACTED] live on The Battledown Estate and from details filed at Companies House it appears that [REDACTED] and Christopher John Adey also live on the Battledown Estate. [REDACTED]

When purchasing property on the Battledown Estate the owners are bound by the Battledown Estate Deed of Covenant. As residents of the Battledown Estate all of the above four people are bound by the Deed of Covenant. The owners of Boo Homes Limited, who were already living on the Estate, would have known about the Deed of Covenant prior to purchasing The Water Gardens. In addition, it is my understanding that the previous owners of The Water Gardens told [REDACTED] that the Deed of Covenant only allowed for one house to be built on the plot.

In my opinion Boo Homes Limited is attempting to break the Deed of Covenant for the sole purpose of making a profit for its shareholders, [REDACTED] and [REDACTED]. [REDACTED]

The design & access statement supporting the application states:

'Principle Objectives:

It has been our aim to provide a scheme that meets the specific requirements of the client's brief, including:

- *Providing new homes that directly respond to the existing surrounding built form and topography, and the residential & Battledown Estate setting.*
- *Maximising the potential for the site.*

Behind every scheme we design is the principle objective to create a pleasant, attractive and sustainable development for the local area including existing and prospective residents and to meet National and Local Planning Policies.'

In my opinion, the scheme fails to meet this objective as the proposed development is in breach of the Battledown Estate Deed of Covenant.

The design and access statement goes on to say that:

'Although certain aspects of the original Deed content have overtime lost relevance, many remain material for their original purpose in ensuring the standards, nature and quality of the Estate are maintained.'

The building of two houses on the Water Gardens plot is in breach of the Deed.

The design and access statement goes on to say that:

'The Estate remains and is considered a desirable place to live due to the retained semi-rural character established at its inception, and protected since through the regulation of the actions of residents through the Deed.'

The building of two houses on The Water Gardens Plot would breach the Deed of Covenant making the Estate a less desirable place to live.

The design and access statement goes on to say that:

'Battledown Consultation:

Ongoing consultations/negotiations regarding the proposals are currently underway with the trustees of the Battledown Estate with regards to the requirements in meeting the Estate's Deed of Covenants and Regulations and with their immediate neighbours.'

My understanding is that there are NO ongoing consultations/negotiations with the Trustees of the Battledown Estate and as the occupier of a neighbouring property I can confirm that there are NO ongoing consultations/negotiations with me.

The design and access statement goes on to say that:

'The layout of this scheme has arisen through the combination of the site constraints and consultations described in section 2, and our established principles for development. These principles include the following:

- Reaction to the sites location, surroundings and setting.*
- Acknowledgement and appropriate response to surrounding boundaries.*
- Reaction to existing landscaping identified for retention.*
- Arrangement between public and private space.*
- Integration of the scheme within the existing setting of both residential and landscape.*
- Appropriate scale of building within an environment.*
- Appropriate and safe movement of people both vehicular and pedestrian on and off site.'*

The proposed properties will use the existing access from The Water Gardens to Birchley Road. This is appropriate for a single dwelling but not for two (and certainly not for two of this size). The entrance is just below a downhill corner which, on the basis that 3 separate vehicles have ended up in my hedge (I live in the property below and next door to the Water Gardens) in the last few years, I consider to be dangerous. Two houses of this size with the number of vehicles shown on the plans will only increase the risk of an accident.

The proposed scheme does not integrate well with the existing setting - in addition to breaching the Deed of Covenant, the proposed properties are overbearing and will result in a significant loss of amenity to a lot of people.

The scale of the proposed buildings is out of character with the immediate environment.

The movement of people both vehicular and pedestrian on and off site is already difficult, increasing the amount of traffic is not appropriate and is likely to be unsafe.

The design and access statement goes on to say that:

'The proposed unit locations sited back from the main road within the overall site, can be clearly seen to reflect the existing typical relationships of built form to boundary both immediately surrounding the site and within the wider context across the Battledown Estate.'

The proposed houses are not being built on the existing building line of The Water Gardens. They are being pushed back from the road and will tower over my property which is below and to the north of The Water Gardens.

The scale and design of the properties are such that they will be overbearing result in a considerable loss of amenity.

The design and access statement goes on to say that:

'The lower height and mass of the proposed garage unit to Plot 1 is also located to the northern boundary to reduce the impact of the scheme upon the neighbouring property to the north'.

I live in the neighbouring property to the north. The height and mass of the proposed garage unit to Plot 1 together with the height and mass of the house will have a major impact on us. The proposals are overbearing and will significantly reduce our ability to enjoy our home and garden.

The design and access statement provides the authors' 'Summary of Relevant Regulations' from the Battledown Estate Deed of Covenant.

There is far more to the Deed than is listed in design and access statement however the proposal is in breach of the 'Summary of Relevant Regulations' as follows:

- All Residents, their heirs, appointees and assigns, are legally bound by the Deed of Covenants when purchasing a Battledown house. This proposal is in breach of the Deed.
- No person is to build on the lots of land more houses than in proportion of one house to each half acre of land. The Water Gardens sits in lot 60 which is approximately 3.7 acres. Seven houses have already been built on lot 60 so no more can be built under the Deed.
- Houses will normally be required to stand 40 feet from the edge of the verges. The proposed houses will stand a lot further than 40 feet from the edge of the verge.
- Any change of access involving the crossing of the verges requires approval. The proposed widening of the access does not have approval.

The Planning Statement produced by Brodie Planning Associates states that one of the relevant saved policies of the existing local plan is:

- CP 4 - 'Safe and sustainable living', supports development where it would not cause unacceptable harm to the amenity of adjoining land users and the locality.

The proposed development is in breach of the Battledown Estate Deed of Covenant and as such it does not meet the above policy. Residents of the Estate will suffer unacceptable harm to their amenity if the Deed is breached. In addition, the poor access to the site may not result in safe living.

The Planning Statement also sets out what Brodie Planning Associates consider to be the main issues in relation to the proposed development and their interpretation as to whether these considerations have been met.

- Principle of Development - There is currently only one dwelling on the site. There is no basis for two dwellings on the site.
- Site Layout and Design - The proposed dwellings are overbearing and in many people's view completely inappropriate for these reasons, the proposals do NOT accord with Local Plan Policy CP7 and paragraph 17 and section 7 of the NPPF.
- Residential Amenity - The proposed buildings are in breach of the Battledown Estate Deed of Covenant and are overbearing meaning that the adjoining and future residential amenities will NOT be safeguarded from loss of light, over-looking and over-bearing. The proposal therefore does NOT accord with the requirements of CP4 and paragraph 17 of the NPPF.

The Conclusion of the Planning Statement produced by Brodie Planning Associates states that the following benefits will accrue from the proposed development:

- environmental - enhancement to both the site and the surrounding area through the removal of a building with little architectural merit and the introduction of attractive high quality buildings that reinforce the sense of place within the immediate and wider context of the site - This is subjective and a matter of opinion. Many people disagree.
- economic / social - the construction of two new dwellings will help to support the local economy and employment - This will only have a minor impact on the local economy and employment but it will have a major negative impact on the residents of the Battledown Estate due to the huge loss of amenity if the Trust Deed is breached.
- economic / social - the construction of an additional new dwelling will provide a modest windfall contribution to the District's 5-year housing land supply - Surely one new home will not make a real difference to achieving the 5-year housing land supply!

Comments: 23rd April 2017

Thank you for your letter of 10th April 2017 indicating changes made to planning application 17/00365/FUL. These changes are minor and do not do anything to address the issues and concerns set out in my first objection.

I would like to reiterate all of the points made in my earlier objection and add the following new objections:

On 10th April 2017 the applicant submitted a site layout indicative drainage sketch. This shows a proposal for foul water from both proposed properties to run across my land. THE APPLICANT DOES NOT HAVE THE RIGHT TO DO THIS. A conveyance between Cheltenham Borough Council and the purchaser of the land that I now own dated 21 July 1976 states "the right of the owner or occupier of the adjoining property known as 'Highfield' (now The Water Gardens) to use the existing foul water system". The applicant therefor has the right to use the existing foul water system that runs across my property for one of the proposed houses but not for the second - There is NO ENHANCED right for foul water from a second property/additional properties to run through my land. I therefore OBJECT to the plans on this basis.

The GCC Highways Planning Liaison Officer recommends that the application IS REFUSED on highway grounds because "the proposed development fails to provide safe and suitable access and minimise conflict between pedestrians, cyclists and vehicles CONTRARY TO Section 4 of the National Planning Policy Framework". The applicant plans to broaden the existing entrance/exit to the site - This is Battledown land and the applicant cannot simply make the entrance/exit wider without the permission of the Estate. Consequently, the visibility splays shown on the planning application CANNOT BE ACHIEVED.

Allowing a two home development on the site would put all Birchley Road users in unacceptable danger from traffic pulling out of the redeveloped site. I would like to draw attention to the list of recent accidents just outside the Water Gardens listed in the letter from the Battledown Trustees dated 10 April 2017 which includes some photographs.

The applicant has failed to provide drawings showing how much higher the proposed new properties will be in relation to the adjacent properties. It should be noted that the application moves to buildings substantially further back from the road and because of the large slope this means that both properties will be in a position whereby they tower over my property to such an extent that they will be oppressive, take away my privacy, block out the sun and take away my amenity.

Ash Tree House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 15th March 2017

I strongly object to this planning application due to the following;

I am an immediate neighbour to the east of the proposed development and would lose significant amenity should the development be allowed. This application seeks to impose on the owners of those properties that neighbour the proposed development site a form of development which is overbearing and inappropriately large. The proposals are unsympathetic to the nature and scale of the surrounding properties. It is clear that the quality of life for those who live near to the site will be adversely affected in many ways.

In particular, the granting of this consent could lead to the destruction of the Battledown Estate as an attractive feature of Cheltenham. The Battledown Estate is a unique and important asset for the town and its inhabitants. It is unique as it is the sole remaining Victorian estate which is governed by its founding Charter, (a Deed of Covenant), and it is important to Cheltenham because it complements the town's regency heritage of fine buildings, green spaces and mature trees. This is indeed acknowledged by CBCs own Local Plan and The Cheltenham Local Development Framework.

The developer assumes that the entrance on to Birchley Road can be widened, presumably for ease of access, but does not own this land. The verges are owned by the Battledown Estate and therefore the residents of the Estate. Amending the access across the verge would require approval of the Trustees, who may not be inclined to agree given the circumstances. The existing access is difficult given the plot is situated on a tight inclined corner of Birchley Road which is a well-known accident blackspot in recent years. This application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems.

The scale of the proposed buildings is out of character with the immediate environment. I consider the scale, height and mass of proposed development to be visually overbearing and obtrusive. Due to the topography the outlook from Ash Tree House is primarily to the west across the intended site. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the existing two storey house which it is proposed be demolished and also higher than any of the other houses within the row of which they would form a part. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. If two houses were built the combined width of the new development would also represent a very significant loss of outlook from my property and from that of my neighbours. As adjoining landowners there would be a significant loss of amenity arising from these current proposals.

The proposed four storey dwellings are disproportionate in their height when compared all the surrounding properties. Based on the most recent document submitted by the developer (8 March 2017), site section F-F, shows the height of the proposed dwellings versus the existing house. The ridge height of the existing Water Gardens property is 107.68, and the Plot 2 'super' garage is of a similar height with the actual Plot 2 main dwelling an extra storey and a half higher (no ridge height details provided in submitted materials online). Indeed, both plots are over two storeys higher than the direct neighbouring properties to both the north and south which both have a ridge height of 103.00. This is clearly massive on scale resembling a block of flats (each of over 6100+sqft) which would dominate the existing locality and be out of character with the immediate neighbouring properties.

With regards to the above concerns it is respectfully requested that planning permission for the above development be refused.

Comments: 24th April 2017

Thank you for your letter of 10 April 2017. The minor revisions here do not affect my earlier decision to object to this application.

Further, it is interesting to read comments from the GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017)

"I recommend that this application be refused on highway grounds for the following reason(s):-

..... the proposed development fails to provide safe and suitable access and minimise conflict between pedestrians, cyclists and vehicles contrary to Section 4 of the National Planning Policy Framework."

"Access:

The site currently benefits from an existing access off of Birchley Road suitable for a single working.

The access is to be widened to allow two-way working in accordance with the Local Design Guidance."

It should be noted that the access cannot be widened without the approval of the Trustees since the verges are owned by the Battledown Estate, not the property owner.

Also, the [revised] design of the proposed new houses is not in keeping with the existing surrounding dwellings. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. The elevation with four storeys is indicative of a block of flats and the design is totally unsympathetic and insensitive. I have not been able to ascertain the proposed ridge heights on Plot 1 and Plot 2 which is not listed anywhere in the materials online, however, the four storey houses would be very significantly higher than the two storey house which is to be demolished and do not compliment or respect the neighbouring properties:

- i) The ridge height of the existing Water Gardens dwelling @ 107.68
- ii) Ridge heights of Plot 2 and Plot 1 are still not listed on any of the submitted materials, which would allow the reader to consider how these plots will contrast within the row of which they would form a part - both properties directly to the north and south have a ridge height level of circa @ 103.00
- iii) It is likely that the new plots would be similar in height to the building heights of Birchley House @ 117.66 and The Paddocks @ 112.75 , which form the row of properties behind (to the east) and include our property - Ash Tree House.

I can only surmise that these figures are intentionally omitted given the contentious nature of the size and mass of these proposed buildings.

With regards to the above concerns and in addition to my previous comments, it is respectfully requested that planning permission for the above development be refused.

Comments: 5th June 2017

Thank you for your letter of 16 May 2017. The revised plans to the proposed access do not change my original objection(s) and these still stand.

In my opinion, the revised plans actually make this planning application worse on safety grounds. I would highlight the previous comments made by the GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017), such that "I recommend that this application be refused on highway grounds" whose advice was actually based on the enlarged access plans. As the current single working access now cannot be widened to "allow two-way working in accordance with the Local Design Guidance" this must imply that the new revised plans are worse and that the

existing access is now undesirable from a planning perspective to support additional dwellings on the plot.

Intensification of the single working access to support additional dwellings would also inevitably create a 'one in / one out' situation, and mean that vehicle(s) would have to be stopping/stationary on Birchley Road, at a point which has been well documented as being on a steep tight bend. This is dangerous and likely to result in increased incidents at a known traffic blackspot.

With regards to the traffic survey results which have been published, I totally agree with and fully support the commentary in the latest objection letter from the Battledown Trustees (Comment Date: Sat 27 May 2017), since we also observed:

- the assessment vehicle (white BMW) initially parked in the wrong driveway until after 8am,
- when the assessment vehicle was parked in The Water Gardens driveway it was parked sufficiently forward to have its 'nose' overhanging the carriageway. This positioning made it appear to oncoming traffic (myself included) that the vehicle was exiting from the property as it emerged from the driveway, and therefore would have affected the traffic speeds of all approaching vehicles on Birchley Road,
- we also noticed that the assessment vehicle was actually parked out on the downhill side of the carriageway facing uphill against the traffic flow above The Water Gardens entrance (closer to the bend) between 15:45 and 16:00, to allow for an online shopping delivery (Tesco's) to the tenants residing in The Water Gardens property. During unloading, the delivery van was parked in the road across the driveway entrance also facing uphill against traffic on the downhill side of the carriageway. Again, this would have affected the traffic speeds of approaching vehicles in both direction on Birchley Road.

Given these circumstances and the location of this single working access point on Birchley Road, it is questionable as to the validity of the traffic data submitted and would also be dangerous for CBC to allow intensification in use of the existing single working access 'one in/one out' scenario to The Water Garden to serve 3x the number of vehicle movements (based on two larger dwellings than the single current size property at present).

I would be grateful if the council would take these comments and my previous objections into consideration when deciding this application, and it is respectfully requested that planning permission for the above development be refused.

Challoners
Oakley Road
Cheltenham
Gloucestershire
GL52 6PA

Comments: 15th March 2017

In recent times with the escalation of property prices there has been a spate of demolition / new build on Battledown Estate which, although allowable by Estate covenants, has in some cases not been in keeping with the existing built environment.

Now, however, I understand that a developer has bought the above property with the intention of demolition and replacement by 2 dwellings in contravention of covenants restricting housing density. I believe the plan is to obtain planning permission from yourselves and subsequently to commence legal challenge against the Battledown Estate covenant which precludes such action.

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The Estate at present runs very smoothly due to the management of the Trustees and compliance by residents with the various covenants set up with the establishment of the Estate. If the developer is successful in overturning this covenant it will provide a precedent for residents / developers to ignore the covenants which underpin the very nature of the Estate. This would result in a loss of the total character of the Estate which provides a rare amenity for both residents and the Town as a whole.

I would strongly urge you to refuse permission for this "garden grab".

Fieldway
Ashley Road
Cheltenham
Gloucestershire
GL52 6NU

Comments: 2nd March 2017

I am voicing my objection to the planned proposal to develop the site currently occupied by The Water Garden on Birchley Road.

My objection is based up on the great and knowing disregard by the developer of the estate's 1859 deed of covenanted and its serious contravention should this application go ahead.

The estate is a unique place to live, its properties span a great range of periods and architectural styles but with one predominant protective constraint - the low density and individuality of development protected by the common deed of covenants.

Should this application go ahead there is a great danger that the unique character of the estate would be compromised by its precedence in disregarding the original covenants limit on development density and other important areas by speculative developers capitalising on the very thing that they would be destroying. Density is peaking and the original covenant, designed to protect the estates housing density must be observed.

I am not adverse to development, I openly encourage it. But I'm also a resident of the estate who has enjoyed the diversity of aesthetic, the low density of housing and above all respects the covenant and the environment this document has created and protected for the last 157 years.

I wish the estate continuing development and architectural iteration but to be bound by the covenant, not apparent greed. I wish to enjoy the estate for many years, to develop my own property, within the respected requirements of the covenant and the locality to my family's needs and to live here for years to come enjoying the uniqueness of the estate as many residents have done and many aspire to do.

I fear compromising the covenant would set dangerous precedent, a feeling felt by many residents. Undermining its importance would likely lead to a greatly increased development rate on the estate and at a much higher densities and potentially unimaginative derivatives of the same design, destroying the unique character and individuality of the estate and ultimately its loss.

Comments: 2nd June 2017

With reference to amendments made to the application as highlighted in writing by CBC.

My original objections still stand.

Meadow View
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 12th March 2017

This application cannot be taken in isolation. If this is permitted, it will open the floodgates to similar applications which will ruin the unique essentially Victorian development of the Battledown Estate. This would surely contravene the Council's stated policy of conserving Cheltenham's historical heritage.

I frequently travel down Birchley Road, as not a pedestrian and car driver - this property is located on a steeply sloping and sharp bend, even with recent improvements the road can still be slippery and there have been a number of accidents in this location. Any increase to traffic will be dangerous.

Risk of flooding- the property is called The Water Gardens - is there a clue here? Water can be seen pouring down Birchley Road, after heavy or prolonged rainfall. Increasing the density of housing will mean less green areas to absorb rainfall through natural means, with consequences for neighbouring properties.

Hillcrest
Birchley Road
Cheltenham
Gloucestershire
GL52 6NX

Comments: 13th March 2017

I write to object to the application referred to above - the demolition of existing buildings and replacement with two new detached dwellings at The Water Gardens, Birchley Road, Cheltenham.

I am the owner of and live at Hillcrest, Birchley Road.

I understand that this application is an unusual case because I believe many local residents will object to the construction of two houses on the site because this is not 'allowed' according to the covenants of the Battledown estate. One house being demolished and being replaced by another on the same site is not an issue in the main but the application for two new houses on this site changes everything for the whole estate. Certainly we on the state will fight it all the way because once the covenants are broken this may very well open the flood gates to more of the same and then slowly but surely an historic piece of Cheltenham will eventually disappear.

I personally do not object to new houses in the right place and there are still many brown field and even green field sites where new houses can be erected without threatening the destruction of an historic part of Cheltenham. I believe that CBC has an obligation to assist in the protection of sustainable development. In this case, I do not believe that granting this developer permission to build two houses on this site will help to maintain one of Cheltenham's finest heritage assets. Granting such permission will not be beneficial in the long term and will more than likely be to the detriment of Battledown, and therefore to Cheltenham also. This developer seeks to break the covenants for his own personal gain and in doing so would almost certainly bring about the collapse of the Battledown Estate as we know it. Cheltenham would be poorer for that.

I understand CBC has its own guidelines to follow and it would appear that this application flies in the face of CP1 - Sustainable development, CP3 - Sustainable Environment, CP4a and CP4b - Safe and Sustainable Living.

Cheltenham has a well-deserved reputation for being a beautiful Regency town on the edge of the Cotswolds. Many people live and work here because they love the beauty of the town and nearly everyone hates change. Change however for the long-term good is understandable but change whereby it destroys what is already beautiful and which is unnecessary is akin to vandalism. I believe it is the responsibility of CBC to look after the long-term interests of development and sustainability in the residential areas of Cheltenham and in that respect consent for this application should be refused.

Outwoods
Ashley Road
Cheltenham
Gloucestershire
GL52 6QJ

Comments: 2nd March 2017

- Providing new homes that directly respond to the existing surrounding built form and topography, and the residential & Battledown Estate setting

This is the first principle objective stated in the planning application yet it also states the size of the site is <0.9 acre. It would therefore seem impossible to divide the site in 2 and end up with 2 plots over 0.5 of an acre - this is a fundamental part of the Battledown estate setting .

The corner the plot is situated is difficult access and safety may well be an issue

Whilst my last point remains I would not object if a single dwelling was built to replace existing so long as adequate safety on the road could be ensured during the building work.

Moondarra
Beechwood Close
Battledown
Cheltenham
GL52 6QQ

Comments: 8th March 2017

The Water Garden has asked for planning permission to build extra houses.

I live on Battledown and object to the plans .

4 Beechwood Close
Cheltenham
Gloucestershire
GL52 6QQ

Comments: 8th March 2017

We understand that an application has been submitted for the erection of 2 houses on the site of the above-mentioned property.

As you will probably be aware, under the terms of the Battledown Trust each property must stand in half an acre but the proposed development seeks to ignore this.

The purpose of this email is to urge that the application is rejected because Battledown is an area of Cheltenham that is distinctive, adds to the attraction of the town and fulfils a need for

accommodation of this type. The area with its trust provisions is not unique nationally but is rare and this, in itself, is we believe, of value..

We urge, therefore, that the proposed development is disallowed in favour of a proposal which would be in keeping with the site's surroundings.

Comments: 13th April 2017

With reference to your letter dated 10th April concerning revised proposals for the development of the above-mentioned property, it is still intended to build two properties in an area of the town where great efforts have been made to preserve the practice of building no more than one property per half acre.

To permit this development would eventually spoil an area of Cheltenham which is almost unique and we urge the planning committee to consider this and, we believe, its benefit to the town.

May House
Oakley Road
Cheltenham
Gloucestershire
GL52 6PA

Comments: 13th March 2017

I wish to object to the planning proposal 17/00365/FUL for the following reasons.

1. It is a breach of the Covenant of the Battledown Estate
2. The proposed new dwellings are not in keeping with surrounding area, being four storey buildings which would have a detrimental impact to the immediate neighbours and Battledown Estate as a whole
3. I think it would have serious safety implications for road users during construction, with ongoing impact on road safety on an already well known accident hotspot.
4. The developers demonstrate, with their disregard for the covenant and the size of their proposed new building, that they are totally unsympathetic to the local neighbourhood and the planning regulations of Cheltenham as a whole. The development has no significant impact on housing in the Cheltenham area and is obviously purely based on the developers desire to make money.

Battledown View
Oakley Road
Cheltenham
Gloucestershire
GL52 6PA

Comments: 14th March 2017

I am writing to express my concerns about the development of additional dwellings in the lot area surrounding Water Gardens in Battledown Area, Cheltenham.

I hope the council will consider the objections from myself and the other residents.

Newhaven
Ashley Road
Cheltenham
Gloucestershire
GL52 6PG

Comments: 3rd March 2017

The Trustees of Battledown Estate have informed us of the attempt to break the Deed of Covenant of the Estate with the application to build two houses on the site of the Watergardens in Birchley Road, to which we strongly object.

Timberley
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 2nd March 2017

I do not particularly like the modern style of houses that appear to crop up nowadays, however if that's how people wish to have their new house designed then that's their choice.

What the issue is with this application is that the proposal is trying to ride roughshod over a deed of covenant that has been in place for approximately 150 years. This covenant ensures that the estate retains its unique character.

The covenant quite clearly states that each dwelling MUST be situated in a plot of no less than half an acre, this application details that the 2 proposed dwellings will both sit in a joint plot of 0.361 hectares which by my reckoning amounts to 0.892 acres, this clearly does not meet the criteria.

If planning is permitted for this application it will mean that the line in the sand has been moved and then when the next similar application is submitted it might well be moved again. This will clearly dilute and over time negate the whole deed of covenant.

I bought a residence on the estate as I enjoy the setting, the individuality of each plot and the reassurance that it will be continued protected by these historic deeds of covenant.

The planners should abide by the covenant (which residents will have been made aware of if their legal conveyancer has done their job properly) and reject this application.

Comments: 12th April 2017

Further to my original comment, I note that the new plans do not include any more land area for the plot, the plan for 2 is therefore still therefore against the ethos of the original covenant (each plot should be no less than half an acre) and it is an actual breach of it as the original lot has already been divided up.

The actual plans will also have a very negative effect on the view as you walk down Birchley road across Cheltenham.

Please reject this application.

Comments: 22nd May 2017

There have been many objections to this planning application, most have been made by residents from the Battledown estate. There have also been reasons for the refusal of the planning application put forward by the Battledown trustees.

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The persons submitting the application do not seem to care about the wishes of the other residents or the breaching of the covenant, this for them is purely about money.

I like to think that the planners who will decide this application will take notice of the wishes of 99.9% of the residents and reject it.

When I bought my house on the estate it was a privilege to be part of something very unique, I believe that if this application gets through this may be the end of Battledown as it exists today and for what....greed?.

This application will definitely impinge on the daily lives of the other houses in the immediate vicinity and for me it will have a detrimental effect on the view I enjoy as I walk down Birchley Road.

In the unlikely event that this application is endorsed by CBC I suspect that there will be appeals by the proposers.

I hope that the planners at CBC will reject this and the trustees will do everything in their power to enforce the covenant should it be required .

Fermain
Ashley Road
Cheltenham
Gloucestershire
GL52 6PG

Comments: 3rd March 2017

We are residents of the Battledown estate and have been for over 4 years. What attracted us is what attracts every person who lives here and that is the unique ambience of the area created by the amount of greenery and that the homes are individual and well spaced apart, giving breathing room to each home.

When you purchase a home on the Battledown estate you are made fully aware of the Deed of Covenants. These covenants are in fact what attracts people here, in that they are purchasing a home that will be protected by these covenants and that their homes will stay as they are, as they want them. And that other homes on the estate will follow the same covenants.

However adding 2 houses to this plot contravenes the Deed of Covenants that we all follow and therefore cannot be allowed to be approved.

If this 2 house planning application is given approval to go ahead this covenant will therefore be worthless and open up the estate to be over developed wherever possible. I urge the council to reject this application on the grounds that the covenant should be maintained. Therefore even if the owners of this property came back with a more modest 2 house application, this should also be rejected. Only one house can be built where this property currently is.

I understand that the owners of this property are aware that this application contravenes the current Deed of Covenant and therefore have decided to ignore them.

Comments: 14th April 2017

Many thanks for your letter of 10th April 2017. However, as is being noted, the revised application does not address the issue, that being 2 properties on a plot that only allows 1 property. Therefore our original objection still stands. As will everyone who has already objected.

Ash Tree House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 10th March 2017

I strongly object to this planning application because;

Battledown Estate is one of only two extant Victorian Estates remaining in England and is an asset to Cheltenham. The proposed development is in breach of the Battledown Estate Deed of Covenant. The existence of such covenant should be considered as part of the planning decision and not viewed as a separate matter. The Cheltenham Borough Councils (CBC) Local Plan sets out numerous objectives and policies, including "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23). Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets...". Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..."and "safeguarding attractive landscape". Hence, the Estate covenants are material considerations in planning terms as they directly support the aims of the Local plan and its policies. You, as Director of Planning in Cheltenham, will be more than aware that such a breach of covenant would destroy the uniqueness of this age old Estate and indeed a part of Cheltenham's historical significance and heritage.

The proposal would have a detrimental impact upon the character and appearance of the local landscape. It does not represent sustainable development within the context of paragraph 14 of the National Planning Policy Framework (NPPF) and is contrary to section 11 of this said document, and also to requirements of CP4, CP7, and policy GE3 of the Cheltenham Borough Local Plan.

Replacing the existing single 2 storey dwelling with two extensive 4 storey properties (each of over 6100sqft) would be overbearing and would dominate the existing locality. The scale of the proposed buildings is simply out of character with the immediate environment. This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. The proposed houses do not compliment or respect the neighbouring properties. The drawing 'Site Section H-H' highlights the hypocrisy and disregard shown by the developers towards the neighbouring properties, such that a reduction in the height of the eastern boundary hedge would allow the new Plot 2 dwelling to enjoy views across Cheltenham, yet the new building itself would completely block the same views for the existing properties to the west of the site - namely Birchley House and Ash Tree House.

The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the two storey house which is to be demolished, and also much higher than any of the other houses within the row of which they would form a part. This is demonstrated by the variance in the ridge height of both neighbouring properties (both directly to the North and South) which have a ridge height level of circa 103, and the contrast is clearly illustrated in the latest materials added online 'Site sections f-f as proposed with existing house outline dotted a3'. Therefore, the scale and mass of the proposed buildings do not ensure that adjoining and future residential amenities are safeguarded from loss of light, over-looking and over-bearing. The proposal therefore does not with the requirements of CP4, CP7, Policy GE3, and paragraph 17 of the NPPF.

The existing access is difficult given the plot is situated on a sharp corner of Birchley Road where they have been traffic accidents in recent years, and this application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems. This is contrary to both; Policy CP4b - "Development will be permitted only where it would not result in levels of

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traffic to and from the site attaining an environmentally unacceptable level", and Policy TP1 - "Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access...."

This planning application has now already been unanimously rejected by Charlton Kings Parish Planning Committee, they cited "Development on Garden Land and infill Sites in Cheltenham - Supplementary Planning Document June 2009" in which Annexe 3 specifically mentions Battledown.

In summary, this proposal would demonstrably harm the amenities enjoyed by local residents, in particular valuable green space, privacy and the right to enjoy a quiet and safe residential environment. I would be grateful if the council would take my objections into consideration when deciding this application.

Comments: 21st April 2017

Thank you for your letter of 10 April 2017. My original objection stands as per below.

The scale of the proposed buildings remains out of character with the immediate environment. Replacing the existing single 2 storey dwelling with two extensive 4 storey properties (each of over 6100sqft) would be overbearing and would dominate the existing locality. This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. The proposed dwellings do not compliment or respect the neighbouring properties;

- i) The ridge height of the existing Water Gardens dwelling @ 107.68
- ii) Ridge heights of Plot 2 and Plot 1 are still not listed on any of the submitted materials, which would allow the reader to consider how these plots will contrast within the row of which they would form a part - both properties directly to the north and south have a ridge height level of circa @ 103.00
- iii) It is likely that the new plots would be similar in height to the building heights of Birchley House @ 117.66 and The Paddocks @ 112.75 , which form the row of properties behind (to the east) and include our property - Ash Tree House.

Furthermore, it is interesting to read comments from the GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017)

"Access:

The site currently benefits from an existing access off of Birchley Road suitable for a single working.

The access is to be widened to allow two-way working in accordance with the Local Design Guidance."

It should be noted that the access cannot be widened without the approval of the Trustees since the verges are owned by the Battledown Estate, not the property owner.

With regards to the above concerns and in addition to my previous comments, it is respectfully requested that planning permission for the above development be refused.

Cherry Court
Ashley Road
Cheltenham
Gloucestershire
GL52 6PJ

Comments: 13th March 2017

We wish to Object on the following grounds:

Legal constraints:

Permission from the trustees of Battledown Estate has not be gained.

Density.

The intention of constructing two large dwellings is not in accordance with the restrictive covenants of the estate. This is however essentially a civil matter but should also be of a consideration under the Planning process so as to protect the unique environment of the estate and what this means for the town. In order for Cheltenham town to compete both Nationally and internationally it is imperative that it offers a full spectrum of housing opportunities to incoming residents so as to support the town in its commercial and social activities. Part of this residential mix is the exceptional architectural housing which Battledown Estate is uniquely placed to deliver, evidenced by recent successful single dwelling regeneration schemes such as Cherry Court, Sky View House and Wenbans. This uniqueness is enshrined in the one dwelling per half and acre principal and it seems sensible that the planning process upholds this so as to protect the valuable asset the estate brings to the town.

Form and Function.

The height, scale and mass of the scheme let alone the overlooking issues and the unimaginative design of the development seem to be poorly considered.

Traffic Management.

A single dwelling development would allow for parking on site to facilitate safe development on a steep busy corner as opposed to the two dwelling current proposal.

Clevelands
Ashley Road
Battledown
Cheltenham
GL52 6PG

Comments: 10th March 2017

Letter attached.

Comments: 19th May 2017

Letter attached. .

Oakley Lodge
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 6th March 2017

We are writing to object to the planning application to demolish the property The Water Gardens on Birchley Road, Battledown and replace it with two dwellings (Planning Ref: 17/00365/FUL).

The Battledown Deed of Covenants

As you will no doubt be aware, in 1859 the original Trustees of the Battledown Estate drew up a Deed of Covenants and Regulations to create the legal infrastructure which would shape and perpetuate the Estate.

The restrictions of the Deed of Covenants are not particularly onerous and most residents readily accept that it is precisely their existence which has made Battledown the attractive place that it is today.

All Residents, their heirs, appointees and assigns, are legally bound by the Deed of Covenants when purchasing a Battledown house. The current owner of The Water Gardens (Boo Homes) is we are told, quite aware of the existence of the Deed of Covenants, both as a result of the purchase of the property and because the Directors of Boo Homes are themselves residents on the Battledown Estate.

A clear breach of the Deed of Covenants

This proposal is in clear breach of the Deed of Covenants. The Deed states that no person is to build on the lots of land more houses than in the proportion of one house to each half acre of land. The Water Gardens sits in Lot 60 which is approximately 3.7 acres. Seven houses have already been built on Lot 60 so no more houses can be built on this plot under the terms of the Deed. Replacing the existing single property with two properties would take the total number of houses on Plot 60 to eight. The construction of two houses on the Water Gardens plot would thus be in direct and flagrant breach of the Deed.

Our objection

We strongly object to this proposal as it is in clear breach of the Deed of Covenants. Moreover, if allowed, this application would set a precedent which would inevitably open the floodgates to more development and the potential destruction of the ambience of the entire Estate. This would be to the detriment not only of Battledown residents, but of the many Cheltenham citizens and visitors who make daily use of the Estate, for relaxation and exercise, enjoying the quiet roads and leafy and green environment of the Battledown area.

We therefore strongly urge you to reject this application.

Likely future legal action

Should the Council grant planning permission for this application we expect the Trustees of the Battledown Estate to take legal action to enforce the terms of the Deed of Covenants to prevent this development taking place. We would fully support the Trustees in taking such action. Again, we strongly urge the Council to reject this application for the reasons given above and to avoid the need for costly and unnecessary legal action.

[name and address supplied]
Battledown
Cheltenham
GL52 6NZ

Comments: 8th March 2017

I am a resident of the Battledown Estate and have lived here for approximately 9 years. I have been made aware of the above referenced application to build 2 houses on the site at Waterside where previously there was one.

I understand from the Battledown trustees that the developer has been advised that this development would be a significant breach of the covenants that govern the estate and by which all residents agree to abide. In particular the development would breach the covenant pertaining to permitted housing density. I would like to add my opinion that if the development were to go ahead then it would appear to go against the covenants of the estate.

You might also appreciate that Battledown is a unique part of Cheltenham that has managed to preserve its own particular character for over 150 years. It would be a shame if developers were allowed to move in and start garden grabbing, as has been seen in so many other areas of the country, most often with significant detriment to the local environment.

I therefore object to this application and would urge you to consider the preservation of the "Character of Battledown" and the opinion of the trustees.

Please could you remove my address if this letter is to be made available in public and online.

Oakhurst
Oakley Rd
Cheltenham
GL526NZ

Comments: 8th March 2017

I am writing to object to the above planning permission application which is to demolish the exiting property, Water Gardens, and to erect two dwellings on Birchley Rd in Battledown.

This is a very serious breach of the Battledown Deed of Covenants which states that the house plot is on the Original Lot 60, which is approx 3.75 acres in size and permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

The applicants are fully aware of the Deed of Covenant as they have lived here for a number of years and it has the potential to destroy this current environment, They also confirmed to the Trustees that it was important that they complied strictly with the terms of the Deed.

Unfortunately, it would appear that the applicant did not conduct adequate Due Diligence on these matters before purchasing The Water Gardens, but that is not the fault of the Trustees. Had they approached the Trustees before purchasing the property, they could have very quickly advised them of the true state of affairs. Their lack of lack of attention to detail meant that they initially believed there were currently only six houses on Original Lot 60).

Should the applicant receive planning permission and be allowed to proceed with its Two House scheme at The Water Gardens, then this would effectively drive a coach & horses through the governing Covenants to the ultimate detriment of ALL residents throughout the Estate. Once the terms of the Seventh Covenant have been successfully breached by one developer, then it will be almost impossible for the Trustees to prevent them being breached once again. This will lead to house plots being bought up throughout the Estate by avaricious developers who will build additional houses on these plots with relative impunity -- and it won't just be a case of one extra house, it may well be two, three or four extra houses. So, not only will our beautiful Estate be turned into one huge building site but also it will eventually mean the destruction of that special environment that has stood the test of time for over 150 years. This current environment benefits not only all the Estate residents but the hundreds of other Cheltenham citizens who daily make use of our estate for exercise and relaxation -- dog-walkers, cyclists, runners and other people who just wish to walk and enjoy the quiet roads and the leafy, green environment up here on Battledown Hill.

Ravenswood
Stanley Road
Cheltenham
Gloucestershire
GL52 6PB

Comments: 8th March 2017

I am writing to raise objections to the above application. The main objections relate to the following aspects of the application .

- 1) The application is proposing to build two very substantial dwellings each being in excess of 6000sq feet in a relatively small plot of land. This overdevelopment of the plot is out of keeping with the construct of Battledown estate and contravenes the Battledown Deed of Covenants .
- 2) The plot is situated on a difficult corner of Birchley Road where they have been traffic accidents in recent years. The access is difficult. The application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems .

The application states that the building of two properties on a site would help alleviate current housing shortages within Cheltenham but I would contest that this would make any difference and is not the main reason for wanting to have two properties .

Also the applicants are already home owners on the estate and like all other owners would be fully aware of the Deed of Covenant when purchasing a property in Battledown

Hawthorns
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 8th March 2017
Letter attached.

Comments: 24th April 2017
Letter attached.

Carlton House
4 Battledown Drive
Cheltenham
GL52 6RX

Comments: 9th March 2017

As a family and residents of Battledown Estate we feel that we need to object to this development, on the grounds that the individual plot size of the other dwellings in the immediate area, consequentially the large footprint of the houses constitutes an over development of the site. The sighting of these houses, being 3./ 4. Storey, seriously effects the view of other nearby houses.

Although not strictly a planning matter, when we purchased plot 3 number 4 from Cheltenham Borough Council, we were informed by their sales brochure that the property would be subject to the Battledown Rate, and that I would be responsible for maintaining those things listed and upholding the values contained in the Battledown Covenant, which I subsequently obtained.

Cheltenham Borough Council Engineer & Surveyors Department supervised the setting out of the roads and the provision of services, setting out and marking the requisite plots all within the criteria of the Battledown Covenant with the intension that the future maintenance of the highway would be the responsibility of Battledown Trustee's. (Your drawing is marked W. S. Wadsworth, B. Sc, F.I. Mun Eng. Borough Engineer & Surveyor. Cheltenham B.C. It is dated April 1997)

Cheltenham Borough Council's sales brochure for these plots. Entitled, "Cheltenham Borough Council offer for sale building plots for sale at Battledown" implies that the Council had control of all of the land, I am informed that part of which formed a part of the original lot 60 of the Battledown Covenant. We must assume that the council were fully aware of the restrictions

placed upon that land by the Covenant and they set out to satisfy this in the drawing prepared for the trustee's and others by the Borough Engineer & Surveyor. For those that are familiar and have copies of the two documents it becomes apparent that the , Cheltenham Borough Council Engineering and the Borough Valuers' Departments must have agreed with the Trustee's the principals of design and set about designing six of the plots covering the land area contained in lot 60. The seventh plot that makes up the quota for lot 60 is "The Water Gardens"

We believe that all the above sets out the basis of an agreement between Cheltenham B.C., the Trustee's (As Battledown Estate as they are referred to in the Conveyance of my property) and the freeholders of Battledown Drive that we would be purchasing a plot on Battledown under the terms of the covenant.

If your committee approve this scheme, by implication you are refusing to recognise the agreement negotiated by your own Council, Battledown Trustee's and estate freeholders. This would put the Trust to a great deal of expense in taking action in the Courts. It would also have the long term effect of encouraging others to seek planning permission to force the estate to act in a way that may possibly bankrupt the estate in the longer term.

To approve this development would have serious consequences for the Estate. This is a unique development, alongside residents live Deer, Squirrels, badger and fox that all roam free and bird life which include Bullfinches, tree creepers and also many differing types of thrush and tit all thrive in this unique environment, the reason is its of low density housing, (2 per acre), We urge you to stand by your agreements to protect this unique part of Cheltenham by refusing this application.

Comments: 21st April 2017

Letter attached.

High Roding
Beechwood Close
Cheltenham
Gloucestershire
GL52 6QQ

Comments: 15th March 2017

I would like to object to this planning application.

I am one of the residents of the Battledown estate and moved to the estate about 3 years ago only due to unique environment, green space, less housing density and low vehicular traffic which has been preserved over many decades by strict adherence to the estate regulations.

We pay additional annual rate to the estate in addition to the council tax to maintain the unique character of estate.

This application is in breach of the Deed of Covenant held by the Trustees of Battledown Estate, which states the regulations that have to be complied with regarding housing density.

This application should be rejected.

Glenwhittan
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 16th March 2017

We write to object to the proposed development of The Water Gardens plot, on the grounds that it would infringe the Battledown Estate covenants. It would also set an undesirable precedent which could lead to over-development of a privately maintained Victoria estate.

Baedalas Tun
Ashley Road
Cheltenham
Gloucestershire
GL52 6PJ

Comments: 16th March 2017

I am proudly a long term resident of Battledown since I was a small girl and am increasingly worried that developers are continuing to attempt to flout the Battledown covenant which requires each house to stand in half an acre of land. It would be very upsetting if they are allowed to have their way.

For more than 150 years residents have happily lived here abiding by the rules of the estate. It is one of the the nicest areas to live in Cheltenham and would be very spoilt if developers set about blatantly disobeying the rules for monetary gain. It would pave the way for other unscrupulous people to follow suit and would be a dreadful shame for Cheltenham.

Battledown is a beautiful estate - many of the old poorly-built sixties houses are being knocked down and rebuilt to the highest standard. But one bad planning decision could ultimately lead to its decline. I do think that the many people who already live here should have a voice.

Comments: 25th April 2017

Thank you for your letter of 10th April regarding this planning application.

In response I would like to reiterate the comments I made previously and I strongly agree with all those made by my neighbours and fellow residents of the Estate.

I have a particular passion about the history of this most unique Victorian estate; I have even named my house after it - Baedala's Tun - the Anglo Saxon name from which Battledown has evolved.

One of my favourite views would be at risk if it were to go ahead - that is seeing the sunset as I drive from the postbox down towards The Water Garden.

I'm worried that a larger house in this location would be an eyesore and two houses even more so.

Please do not allow this most unpopular and antagonistic development to go ahead.

Hillview House
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 2nd March 2017

The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

The Oaks
Harp Hill
Charlton Kings
Cheltenham
Gloucestershire
GL52 6PR

Comments: 6th March 2017

I have been made aware of a recent planning application for Water Gardens on Birchley Road.

Water Gardens changed hands last year and the new owner/developer has filed a planning application with CBC (17/00365/FUL) to demolish the existing property and erect two new dwellings. The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

By proceeding to seek CBC approval it appears that the developer is not prepared to observe the necessary provisions of the Covenants and intends to flout legal obligations which are the same obligations by which all property owners on the Estate are bound - and have been since 1859.

The Battledown Estate has been preserved as a unique environment for over 150 years by the provisions of the 1859 Deed of Covenants. For most residents, this unique sylvan environment with its low-density housing is one of the primary reasons why they purchased a property on the Estate. Within the Deed, the Seventh Covenant determines the maximum permitted density of housing. This ensures that no more properties than one house per half-acre on aggregate are built on each of the Original Lots. It is the overall maximum number of properties built on the Original Lot compared to the total area of the Lot that is specified by the Deed of Covenants (not the individual property plot size).

Independent of this, the recent increases in road traffic, the destruction of surrounding roads due to excess use are dramatic, with trucks using them is just one other small example of where over building and population in the area is destroying the unique reason why Cheltenham is Cheltenham. I urge you to drive Harp Hill and see the destruction, pot holes, and damage to property that is occurring. I myself have had a gate destroyed, a drive destroyed by trucks running over them, reversing into them. It is extraordinary that so much planning has been allowed, the ridiculous decision to build on the old GCHQ property has not even started to impact as the properties (hideous design, again how was it allowed) are only being completed. Greenway lane is also falling apart due to dramatic traffic increases. It will not be long before someone is killed on Harp Hill, walkers have to take refuge on the ridges in front of houses. I have seen numerous near misses and traffic is often speeding. It is not acceptable to increase housing with a disregard for the infrastructure.

I do not believe CBC should be encouraging overbuilding on the Battledown estate. The area is in crisis .

9 Battledown Drive
Cheltenham
Gloucestershire
GL52 6RX

Comments: 6th March 2017

I would like to express strong objection to the proposed planning application at the Water Gardens, Birchley road. This proposal is in breach of the Battledown estate deed of covenant. Part of the reason we bought a house here was because of the unique environment this covenant exists to protect. If this planning application is accepted then a precedent would be created that allows for unlimited expansion. The trustees have objected rightly and I am sure would fight any application that ignores this . However it would seem a waste of taxpayers/council money if this had to go to court. I would respectfully hope that the covenant is respected.

Springfield
Battledown Drive
Cheltenham
Gloucestershire
GL52 6RX

Comments: 3rd March 2017

As a resident and owner of a property in Battledown Drive I object most strongly to the above proposal as it is in breach of the 1859 Deed of Covenant which specifies the number of houses that can be lawfully constructed on each of the original plots.

I would point out that when I purchased the plot of land in Battledown Drive from the CBC it was stressed, that after purchase, the plot would adopted into the Battledown Private Estate and be subject to the same deed of covenant as all other properties on said estate. This promise was the single most important reason for my purchase of the plot.

If the CBC is now considering giving planning permission for the construction of two houses on the above plot, which they are obviously aware is in breach of Battledown rules and would force the Trustees into a legal battle, then I consider this to be a breach of trust and compromises the main reason I bought a plot on the Battledown Estate namely the unique environment which has become part of Cheltenham's heritage. This would indeed be a sad day for the town. I sincerely hope you will think very hard before embarking on this course.

Ashley Rise
Ashley Road
Cheltenham
Gloucestershire
GL52 6NU

Comments: 3rd March 2017

We have been forwarded an email from friends who live on the estate that the builder who is intending to build two homes at the above address and in the process ignore the Covenant which states that all property must have a minimum of half an acre and has applied for planning permission to erect two houses with less than half an acre for each house.

As a resident on Battledown I strongly object to the builder contesting a Covenant that has been in place for many years and it makes his actions totally unacceptable since I gather he originally accepted the terms of the Covenant We as residents have all excepted the terms and conditions of Battledown estate when we purchased our properties and therefore a developer who at the

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end of the day is only out to make money from the land should be obliged to adhere to the terms of the estate which have been in place since the estate was formed.

Glendower
Oakley Road
Cheltenham
Gloucestershire
GL52 6PA

Comments: 15th March 2017

The proposed plan for the replacement of a current single building by 2 new detached buildings is a concern.

Access from this property is onto a private Road owned by the trustees.

The size of the intended new detached buildings is such that there will be several vehicles and I would question whether there is sufficient space for parking and turning within the site and for visitors. The verges are also owned by the trustees. There is no right to park on the private roadway. The impact of increased traffic to and from this plot in the situation where it is is a concern. The property is on a bend and an incline. Access is for 1 plot not 2. The owners of the road and verges are the trustees who have the benefit of a covenant that states this plot is for a single dwelling only.

The infrastructure was designed for a defined number of properties. The continual development on this estate has caused issues with the natural springs. Birchley Road already suffers from running spring water which is lethal in winter time. The impact of this development needs to be considered with reference to the underground springs and how this may impact elsewhere within the estate.

The overriding point is that the owners are fully aware there is a covenant on the title regarding this being only one property within the grounds. The covenant is not open to interpretation. It is clear what it means. For these reasons planning should be refused

Birchley House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 13th March 2017

Letter attached.

Field House
Ashley Road
Cheltenham
Gloucestershire
GL52 6PH

Comments: 16th March 2017

Letter attached.

Wellswood House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 16th March 2017

Letter attached.

Comments: 23rd April 2017

Thank you for your letter of 10th April 2017 indicating changes made to planning application 17/00365/FUL. I would like to reiterate my strong objection to the Planning Application made for two houses following the demolition of the Water Gardens.

In particular I would like to highlight the following:

The applicant submitted a site layout indicative drainage sketch on 10 April 2017. This shows a proposal for foul water from both properties to run across my land. A conveyance between Cheltenham Borough Council and the purchaser of the land that I now own dated 21 July 1976 states "the right of the owner or occupier of the adjoining property known as 'Highfield' (now The Water Gardens) to use the existing foul water system". There is no enhanced right for foul water from a second property/additional properties to run through my land. I therefore object to the plans on this basis.

The GCC Highways Planning Liaison Officer recommends that the application be refused on highway grounds because "the proposed development fails to provide safe and suitable access and minimise conflict between pedestrians, cyclists and vehicles contrary to Section 4 of the National Planning Policy Framework". This objection is based on the visibility splays shown on the planning application which cannot be achieved as the applicant has no rights over Battledown land. Allowing a two home development on the site would put all Birchley Road users in unacceptable danger from traffic pulling out of the redeveloped site. I would like to draw attention to the list of recent accidents just outside the Water Gardens listed in the letter from the Battledown Trustees dated 10 April 2017 which includes some photographs.

Whilst the kitchen window which looks directly in to my bedroom has been altered on the revised plan to obscure glass, the snug window, rear staircase window and the proposed terrace on the lower ground floor sitting just above my pool will destroy the privacy and my enjoyment of my property.

For completeness I include below my original objection:

Planning Application at The Water Gardens, Birchley Road. Ref 17/00365/FUL

I strongly object to the Planning Application made for two houses following demolition of The Water Gardens, your reference Ref 17/00365/FUL. I am an immediate neighbour to the north of the proposed development and would lose significant amenity should the development be allowed.

Loss of light and overshadowing

The most recent document submitted by the developer (8 March 2017), site section F-F, shows the height of the proposed house on plot 1 as being slightly taller than the existing house. However, the new house will sit further back on the plot; it will be downhill and will therefore actually tower over my property. It will cut out all the southerly light to my property in the winter and over my pool until late afternoon /evening even in the summer. This would greatly reduce my enjoyment of my property.

Further, as the new garage of plot 1 will sit very close to the boundary at what appears to be the same height as my upper floor I will lose light in two of the most used rooms in my property, the lounge and the largest bedroom.

Overlooking and loss of privacy

The proposed terrace of plot 1, although on the lower ground floor, would I believe sit just above my pool, taking away the privacy I currently enjoy whilst using the pool.

The kitchen window to the north and large rear staircase window in the plot 1 house would look directly in to my largest bedroom window and downwards in to both my lounge and glass roofed conservatory. This is an unacceptable loss of privacy.

Design materials and appearance

A previous objector described the design as "Russia in the 1970's". I agree. The frontage of the properties has a commercial feel. The northern elevation of plot 1, facing my property, is shown as comprising five different building materials. It has an industrial look and is very unattractive.

Layout and density

The existing house on The Water Gardens plot has a large floor area and is two storeys. In order to site 2 houses on the plot the developer proposes reducing the floor area and building properties that are four storeys high. This is a much higher density of building and hard standing than currently exists on the plot and beyond that allowed by the Battledown Estate covenants.

The infrastructure in Battledown is struggling to support recent development. Extreme weather conditions are already testing the drainage/sewerage systems and the roads deteriorating with overuse by construction traffic. Increasing the housing density will aggravate these problems.

Access

Although The Water Gardens plot is 0.361 hectares in size its position allows for only one access point on a sharp and steep bend. Adding another house to the plot doubles the risk of a serious accident. In recent years three vehicles have breached my hedging (after shot of one attached), another hit the wall of The Water Gardens, and two vehicles (photo of one incident attached) have been pulled from the ditch opposite my property. One vehicle hit the fencing on the outside of Birchley House, both a cyclist and micro-scooter rider have lost control coming downhill and been injured. More vehicles using this entrance can only increase the risk of accidents and injury.

The developer assumes that the access can be widened, presumably for safety purposes, but does not own this land. It is owned by the Battledown Estate and therefore the residents of the Estate. Amending the access across the verge would require approval of the Trustees, who may not choose to grant it. If this were the case, then I believe that allowing the development of two houses on the plot would pose a great danger to traffic and pedestrians.

Serious breach of the Terms of the Deed of Covenants of The Battledown Estate

My property and The Water Gardens sit within the Original Lot 60 of The Battledown Estate, which is approx. 3.75 acres in size. The Deed of Covenants permit only seven houses to be built on this Original Lot and it is, therefore, full. If the Water Gardens is demolished it can be replaced with just one property under the Trust Deed.

When purchasing a property on the Estate buyers are made aware of their legal duty under the Covenants, which are the same obligations for all members of the Battledown community. There are no exceptions for developers.

Of the 16 properties in Birchley Road, Skyview House (formerly Glenesk) was demolished and the rebuild completed last year. The demolition and rebuild of Kerry mead, has just received planning permission; despite being a very modern build there were no objections. The Battledown community accept the cycle of change and improvement to properties but a challenge to the rules we all observe after legally accepting these is underhand.

In conclusion

Descending Battledown Hill via Birchley Road, residents and visitors alike enjoy a fantastic vista across Cheltenham to the Black Mountains. To allow the development of two such domineering properties on this plot, merely for the financial advantage of a developer and their financial backer, will take this from future generations. An important part of the Battledown heritage will be lost and the properties will have an adverse effect on the visual amenity of the area as a whole.

I urge the developer to withdraw these plans. They miss an opportunity to make best use of a very private and attractive plot. Building a single low level house taking in the views and utilising the aspect of the plot including the reinstatement of the ponds could result in a stunning home commanding a premium. This could be newsworthy for the right reason and not for a challenge to a Deed put in place to secure the amenity of the majority.

Comments: 5th June 2017

Thank you for your letter of 16 May. I note that a new fowl drainage plan has been submitted. This continues to show the fowl drains for both proposed properties running over my land. There is no legal right of enhancement for the fowl drain of more than one property to cross my land therefore I strongly object to the plans submitted. In addition, I fully support the comments made today by the owner of Ash Tree House in respect of the access and validity of the traffic survey undertaken in support of the application.

The Court House
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 3rd March 2017

I have just read an e-mail regarding the application by the owners of the above property to demolish the property and build two new houses in its place. The motive is, presumably, profit.

It appears that the owners, on purchasing the property, fully understood and accepted the existing deed of covenant which expressly forbids this.

I would urge your department to reject this application on the grounds that a legal agreement already exists nullifying it. Furthermore allowing the application is likely to involve C.B.C. in embarrassing and costly legal action for no purpose.

Comments: 20th April 2017

In reply to your letter of the 10th April and in reiteration of my earlier comment.

The property in question : The Water Gardens has been purchased by a Battledown resident who was perfectly well acquainted with the covenant restricting development. Either he or his solicitor may have not conducted searches properly leading to the expectation that the property could be developed to incorporate another property on this site. It cannot. If the searches were conducted properly then the assumption may have been that the covenant could be ignored. It cannot.

The Flower House
Stanley Road
Cheltenham
Gloucestershire
GL52 6PD

Comments: 3rd March 2017

We would hereby register our objection to the above planning application.

The Headlands
Stanley Road
Cheltenham
Gloucestershire
GL52 6QD

Comments: 3rd March 2017

I wish to object strongly to the above planning application, both as a resident, former Trustee of the Battledown Estate and Chairman of the Charlton Kings Local History Society. It is not simply whether the developers wish to build one or two houses on the site, though the fact that they have the intention of disregarding a density of housing Covenant which they and all residents of the 186 houses on the Estate agreed to when purchasing, without any regard for the disastrous effect on the future of the Estate, is contemptible. There is a wider dimension involved.

The Estate is more than just an environmentally attractive and historic asset to the housing stock of the Town; it is historically and geographically part of Cheltenham's Victorian heritage, a legacy which the Town relies on to present itself as an attractive place to live. Battledown survived when most other private estates have not and it is historically unique in that respect. Over 158 years its Deed of Covenants has preserved "Rus in Urbe", the Country in the Town. Its trees, gardens and simple green-verged roads and ditches providing the semi-rural ambience which gives it its attractive character. Its slow development has produced a wide variety of houses. It straddles the Cotswold AONB, incorporates The Camp, a scheduled Ancient Monument and provides a part of the hill rim which surrounds the town. It is fully open to the public and currently much used by runners, walkers, horse riders and cyclists.

All this is at stake. I cannot believe our Councillors would allow it be lost.

Comments: 18th April 2017

This attempt to ignore the covenanted limitation of this site to one house only, accepted by the owner on purchasing the house as well as by the other 185 houses, renders any views on the building plans per se irrelevant.

However, I wish to point out that when Battledown Drive was built off Battledown Approach, the lower right hand side of the road was on Council land and the left side was on Battledown Estate land. The Council insisted in their sales publication that all their houses on the right hand side had to be covenanted individually to the Deed of Covenants of the Estate, as they were and are. It would be extraordinary if the Council changed its position on proper observance of the Deed of Covenants; if it did so, it would create a precedent which would lead to the end of the what is a historical and geographical legacy of the sort which Cheltenham relies upon to be seen as an attractive place to live. I think that would be shameful.

I write as a resident, former Trustee and Historian of the Estate.

Newlands
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 3rd March 2017

My family and I recently moved to Newlands, Battledown and am extremely concerned about the above proposal as it is in breach of the 1859 Deed of Covenant which specifies the number of houses that can be lawfully constructed on each of the original plots.

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We would not have bought this property had we known otherwise.

The CBC are obviously aware this is in breach of Battledown rules and would force the Trustees into a legal battle, and we consider this to be a breach of trust and nothing we knew anything about when moving to Battledown just before Christmas.

We cannot quite believe this is happening and feel this is our worst nightmare coming true.

Springhill
Stanley Road
Cheltenham
GL52 6QD

Comments: 3rd March 2017

I write to object to the proposed development of two houses on the site of Water Gardens, Birchley road. (17/00365/full)

The main reason for my objection is that the density would breach the guidelines of the Battledown Trust, which have been in existence since 1859.

Whilst these guidelines may not be capable of being used as a planning guideline in themselves, they have ensured that Battledown maintains its present character, which presumably Cheltenham values for numerous reasons

These include a low density and spacious setting and the provision of high value houses required for existing and newly arrived executives.

I would therefore wish the application be turned down on the basis that the density proposed would set a bad precedent. Approval would mean that an increased density could not be resisted in the future and so the Estate's character would change to the detriment of Cheltenham.

Birchley House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 14th March 2017

Letter attached.

Bay Hill
6 Battledown Drive
Cheltenham
Gloucestershire
GL52 6RX

Comments: 12th March 2017

I strongly object to the above planning application.

My primary objection to the proposed development of The water gardens, is that the proposal for 2 dwellings constitutes a material breach of The Battledown Estate Deed of Covenants, in that it will increase the density of housing on Lot No: 60 of The Battledown Estate. Such a breach of The deed of Covenant would set a dangerous precedent.

Steepholme
Stanley Road
Cheltenham
Gloucestershire
GL52 6PF

Comments: 12th March 2017

I wish to object to this planning application because it seems to violate covenants protecting Battledown Estate from over development.

Chestnut House
Ashley Road
Cheltenham
Gloucestershire
GL52 6PH

Comments: 10th March 2017

I understand that the Water Gardens, Birchley Road owner/developer has filed a planning application with CBC (17/00365/FUL) to demolish the existing property and erect two new dwellings. The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

I am informed that the Trustees have advised the developers of this fact many times during the past five months and made them fully aware that any such two-house development would seriously breach the terms of the Deed of Covenants and therefore cannot be permitted.

By proceeding to seek CBC approval it appears that the developer is not prepared to observe the necessary provisions of the Covenants and intends to flout his legal obligations (despite earlier advising the Trustees to the contrary), which are the same obligations by which all property owners on the Estate are bound - and have been since 1859.

This is a serious and flagrant breach of the Covenants' terms and as such I object to this proposed development.

Overdale House
Ashley Road
Cheltenham
Gloucestershire
GL52 6NU

Comments: 14th March 2017

THE ISSUE:

CBC Planning Dept Ref. No: 17/00365/FUL | Received: Tue 21 Feb 2017 | Validated: Wed 22 Feb 2017 | Status: Pending Consideration. Namely: Proposed demolition of existing building and garage and replacement with two new detached dwellings at 'The Water Garden' in Birchley Road, Battledown, Cheltenham Gloucestershire GL52 6NY

Reference A: Cheltenham Borough Local Plan Second Review 1991 - 2011 - Adopted by Council 29 June 2006, adoption notice published 10 July 2006

Reference B: Cheltenham Local Development Framework - Development on Garden Land and Infill Sites in Cheltenham - Supplementary Planning Document June 2009

Reference C: Cheltenham Borough Council offer for sale of building plots for sale at Battledown April 1997

Reference D: Battledown Covenant 1859
Objections to Granting of Planning Permission:

1. Reference A Cheltenham Borough Local Plan Second Review 1991 - 2011 which was published in July 2006 remains in force until JCS and Local Plans are approved has sections where this application seems to be at odds.

SUSTAINABLE COMMUNITIES:

3.5 The Government recognises the important role of the planning system in delivering sustainable communities. In particular, Government guidance promotes: - provision for the nation's needs for new homes and other buildings, whilst respecting environmental objectives such as the conservation of cultural heritage and important physical features. Concentration of development in order to minimise the need to travel (The Water Gardens site entrance is set on the bend of a steep descending private road which has a history of vehicle incidents. The Trustees have installed anti-skid road surface and verge posts to prevent such accidents but these continue. Another additional house with an expected increase in traffic will exasperate an already difficult situation .It also has no access to public transport)

3.19 The Government considers the historic environment to be a central part of the country's heritage and national identity, which contributes to the quality of life and economic prosperity. Battledown Estate with its 179 housing stock dating back to the 1870's is such a heritage site. Also see Reference B&C.

3.20 Effective protection for all aspects of the country's historic environment is fundamental to the Government's policies for environmental stewardship, with particular emphasis on protecting conservation areas, listed buildings and open space. (There are several individual listed houses on estate as well the whole being a unique historic 158 year old record of Cheltenham's history)

3.51 The Council's housing strategy aims to ensure the provision of affordable and well-maintained public and private housing in Cheltenham to meet assessed housing needs, and to encourage balanced, mixed tenure communities and 3.53 The Council will continue to pursue all opportunities to secure additional affordable housing through the planning system. (The size and design of these two proposed houses - 5-6000 Sq Ft indicate a selling price in excess of £2 million each. They will not contribute affordable availability to 90+% of citizens in Cheltenham)

LOCAL PLAN OBJECTIVES:

The proposed development appears to conflict with several of the Objectives within the Local Plan.

O2 to achieve a high standard of design in new development and - O9 to conserve and enhance the setting of Cheltenham the design for the two proposed properties is extremely modernistic, of such a size as to overfill the grounds, involves removing greenery and at 4 storey's, situated on the slopes of Battledown Estate, it towers over the current lower properties in Battledown Drive and will be visible to Cheltenham town as it is half way up the escarpment behind Battledown and the protected Hewletts Camp site.

O11 to conserve and improve Cheltenham's architectural, townscape and historical heritage - The existing Water Gardens property blends into the natural landscape, is constructed of red

brick and an interesting 1970's style. The proposed double development conflicts with 011 as it does not improve the town's architectural stock or landscape to the east and Cotswold escarpment.

O12 to conserve and improve Cheltenham's landscape character and green environment - by building a second home of the site the landscape will be greatly altered and the present green environment destroyed.

O22 to meet housing requirements, including the need for affordable housing - the construction of two extremely large properties that will be sold for over £2M does not in any way contribute to affordable housing. The Water Gardens was sold to the developer for over £1.3M therefore any replacement would be expected to give a large return.

PRINCIPLES OF SUSTAINABLE DEVELOPMENT

The proposed overdevelopment of the site does not conform to the principle of sustainable development, namely:

- conserving green space and trees
- safeguarding attractive landscape
- incorporating trees and other landscape features into development
- reducing the need to travel, especially by car i.e. there is no public transport, it is on a dangerous descending bend in a narrow road.
- providing facilities to encourage walking, cycling and the use of public transport or making provision for parking that will not encourage use of the private car
- minimising the risk of flooding i.e. in building two such large properties, the water runoff to housing below will increase as the ability for ground soaking is diminished

SUSTAINABLE ENVIRONMENT:

- Development will be permitted only where it would:
 - (a) not harm the setting of Cheltenham including views into or out of areas of acknowledged importance
 - (b) not harm landscape character
 - (c) conserve or enhance the best of the built and natural environments of Battledown .
 - (d) minimise the risk of flooding

The proposed development does not meet any of these criteria.

SAFE AND SUSTAINABLE LIVING :

- Development will be permitted only where it would:
 - (a) not cause unacceptable harm to the amenity of adjoining land users.
 - (b) not result in levels of traffic to and from the site attaining an environmentally unacceptable level;

The proposed development does not meet any of these criteria.

SUSTAINABLE TRANSPORT:

- Development will be permitted only where it is located and designed so as to:
 - (a) minimise the need to travel;
 - (b) provide adequate accessibility to the site for vehicles,
 - (c) encourage walking, cycling and public transport and discourage use of the private car

The proposed development does not meet any of these criteria.

DESIGN:

- Development will only be permitted where it:
 - (a) complements and respects neighbouring development and the character of the locality and/or landscape

The proposed development does not meet this criteria.

PRINCIPLES OF URBAN DESIGN:

- This should reflect existing topography, landscape and ecology
- utilise a hierarchy of building form and design to reflect the use and importance of buildings
- create areas of hard and soft landscaping continuity

The proposed development does not meet these principles

Reference B: The Cheltenham Local Development Framework - Development on Garden Land and Infill Sites in Cheltenham - Supplementary Planning Document June 2009

In this Framework paper accepted by the Cheltenham Borough Council ,the Battledown Covenant is documented in Appendix 3 (page 51) where the special nature of Battledown is recognised as follows:

- (a) This area comprises large individual properties set into their own grounds climbing up the escarpment to the east away from town. There is much mature landscaping.
- (b) The area benefits from a covenant which means that garden land is not subject to subdivision and intensification here.
- (c) This acceptance that the estate is special and benefits from a covenant is clearly relevant to the Planning Committee's decision process. Therefore the Deed of Covenant of 1859 should be taken into account.

The same document has recommendations concerning to back garden development in the sense that it looks to build two houses on a plot where there is currently only one. The policy states that the CBC Planning authorities should resist back garden development when it is inappropriate and impacts adversely on the overall environment. Plot 60 within which The Water Garden forms part of, is already full according to the Deed of Covenant which permits only a certain number of houses per acreage.

Reference C: Cheltenham Borough Council offer for sale of building plots for sale at Battledown . The Cheltenham Borough Council Engineer & Surveyors Department supervised the setting out of the roads and the provision of infrastructure services on Battledown Drive then set out and marked those plots all within the criteria of the Battledown Covenant with the intention that the future maintenance of the highway would be the responsibility of Battledown Trustee's. The Council also acknowledge the Covenant as the Battledown Estate and Trustee's were referred to in the Conveyance of the properties. The Council then issued a sales brochure for these plots. This was entitled, "Cheltenham Borough Council offer for sale building plots for sale at Battledown.

Reference D:

As the Council have acknowledged the Battledown Estates Covenant in both Ref B & C it is relevant to have any potential planning impacts reviewed in parallel with normal planning considerations.

If your committee approve this scheme, by implication you are refusing to recognise the agreement negotiated by your own Council, Battledown Trustee's and estate freeholders. This would put the Trust to a great deal of expense in taking action in the Courts. It would also have the long term effect of encouraging others to seek planning permission to force the estate to act in a way that may possibly bankrupt the estate in the longer term.

Ref D BACKGROUND:

The Water Gardens site is within the private Battledown Estate in Cheltenham where Trustees are appointed to oversee and manage day-to-day affairs on behalf of its residents. During the entirety of the nineteenth century and the early part of the twentieth century, a series of complex land transactions centred on the hill known as Battledown, led to the creation of the Battledown

Estate. The Estate was formally established in 1859 as a location for "first class residences" and was originally laid out in strict accordance with plans produced in 1858 by Mr Henry Dangerfield, the first architect and surveyor appointed by the original Trustees.

The purchasers of the original lots on the Estate signed the original 1858 Trust Deed thus binding them, their heirs, appointees and assigns in perpetuity to its terms and conditions. This Deed entitled "Re the Battledown Estate in the Parish of Charlton Kings in the County of Gloucester - Deed of Covenants and Regulations for the future enjoyment of the same Estate" contains the original Estate map and various covenants.

The Trustees are responsible for administering the Deed of Covenant and Regulations. Over the past 158 years they have encouraged the development of high quality houses sited on relatively large plots within an Estate that retains a semi-rural character. Their aim is to maintain the character of the Estate and allow developments and alterations to properties that are compliant with these concepts.

In order to manage the terms of the Covenant the Trustees own the four miles of Estate roads and most verges and are responsible for their maintenance, drain and leaf clearance in Autumn, gritting through the winter months and the maintenance of the trees on the verges. None of which are funded by the Council

All house-owners have to obtain the agreement of the Trustees for any new buildings or alterations to existing buildings. The main criterion is that these should be consistent with the Covenant, i.e. satisfy the number of houses per original Lot, which effectively means that there shall not be more than two houses to an acre in each lot. Thus some houses may have more the half an acre and others less but overall the Lot shall have the number of houses which add up to the total Lot acreage The Trustees levy an Annual Rate based on acreage to fund the maintenance of the common areas, legal fees and charges made by professional advisors, etc.

As a result of this management over 158 years the results of strict control over development and early town planning are plain to see throughout the Estate. Grand, but individually designed properties including Grade II listed original villas, coach houses and early manor houses stand in spacious grounds on the side of a tree covered hill. Within the estate a mix of design exist from the 1860's through to 21st century designs, but all currently comply with the original Covenant.

As a result of this the Battledown Estate is now one of the premier residential areas of Cheltenham - an accolade acknowledged in the Cheltenham Town Plan some thirty years ago. It is also the only surviving Victorian private estate in Gloucestershire and one of very few in the whole country. The Estate is not currently a designated conservation area, but given its origins, history and present character, the residents would like to see the estate treated in a similar way to other Regency and Victorian areas of Cheltenham.

Ref D: THE PROBLEM:

The Water Gardens in Birchley Road has recently changed hands and the new owner/developer has filed a planning application with Cheltenham Borough Council, (17/00365/FUL) to demolish the existing property and erect two new very large modern design dwellings. The house-plot is of approx 0.9 of an acre and lies on Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants therefore permits only seven (7) houses to be built on this Original Lot and there are already seven houses on this Original Lot.

The Battledown Estate Trustees have advised the developers of this fact on multiple occasions during the past five months and made them fully aware on many occasions that any such Two House development would seriously breach the terms of the Deed of Covenants and therefore cannot be permitted.

If the 1859 Covenant is breached the Trustee's ability to maintain Battledown Estates is removed and it sets a precedence for other developers to construct high density housing on the estate. In order to achieve this large areas of existing trees and greenery will be removed and half way up the Cotswold escarpment a mass of housing will be exposed which overlooks Cheltenham from the east. A unique heritage area of Cheltenham will therefore be lost.

In conclusion the Charlton Kings Parish Council have already turned down the application for the following reasons:

In our view the Battledown Estate is akin to our three Conservation Areas, in that it requires and benefits from special protection. One of our planning policies states that we seek to maintain the unique character and feel of Charlton Kings, particularly in the St Mary's, Bafford and Cudnall Street conservation areas and we seek to do so for Battledown Estate.

Nationally, the status of the degree of protection afforded by deeds of covenant is uncertain and from time to time is tested in the courts. Locally, according to Appendix 3 (page 51) of Cheltenham Borough Council's own Local Development Framework, Supplementary Planning Document (SPD) of June 2009, the special nature of Battledown is recognised as follows: This area comprises large individual properties set into their own grounds climbing up the escarpment to the east away from town. There is much mature landscaping. The area benefits from a covenant which means that garden land is not subject to sub-division and intensification here. The document is sub-titled Development of Garden Land and Infill Sites in Cheltenham. This acceptance that the estate is special and benefits from a covenant is clearly relevant to this application; in other words the Deed of Covenant of 1859 should be taken into account.

We believe that this proposal is equivalent to back garden development, in the sense that it looks to build two houses on a plot where there is currently only one. Another of our policies states that we resist back garden development when it is inappropriate and impacts adversely on the overall environment of Charlton Kings. In addition, Plot 60, which The Water Garden forms part of, is already full according to the Deed of Covenant which permits only a certain number of houses per acreage.

CONSERVATION AREAS: 5.5 Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on the local Council to designate as conservation areas any 'areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance'. Section 72 of the Act requires the Council to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas in the exercise of their planning functions. The Act also places upon the Council a duty to review its area from time to time to consider whether any parts or further parts of the area should be designated as conservation areas.

Given all the References above I strongly object to the granting of planning permission for two properties to be erected on this site and recommend the Cheltenham Borough Council should consider listing Battledown Estate as a Conservation area which represents a unique heritage of the Spa town.

Toynnton
Ashley Road
Cheltenham
Gloucestershire
GL52 6PH

Comments: 6th March 2017

We would like to raise an objection to the proposed planning application ref 17/00365/FUL relating to the proposal for the demolition of Water Gardens and the erection of two houses within the plot. The covenants under which Battledown estate is protected have existed for over 150

years and exist for the protection and to preserve the integrity of the estate for all the residents, and not for the benefit of a single developer. The estate has existed since 1859 and as I understand it is the last remaining private Victorian estate to do so within Cheltenham. The reason this has occurred is in no small part due to the strict covenants that exist and that all the residents have adhered to throughout its 150+ year existence. Entitling a developer to breach these covenants sets a dangerous precedent that could likely jeopardise the long term future of the unique environment and would ultimately result in a loss for the town.

The developer has clearly been aware of these covenants and had chosen to disregard them.

We would urge CBC to reject the planning application based on the Deed of Covenants formed in 1859 that clearly outlines under the seventh covenant the maximum permitted density of housing which planning application 17/00365/FUL is in breach of.

Holly Hill House
Oakley Road
Battledown
Cheltenham

Comments: 6th March 2017

We are the resident owners of Holly Hill House in Oakley Rd, Battledown, Cheltenham. This is regarding the planning application for new development in Water Gardens estate.

We bought our house and moved few months ago so remember very well all the rules new owners agree with before purchasing house here in Battledown. As we all know Mr. Roger Willbourn is the trustee of our estate representing the interests of the residents and other people visiting, enjoying our area now and in the future. Therefore, we express our support with his judgement and actions as per the existing Deed of Covenants. We also kindly ask you to support us in following the accepted rules. If anyone doesn't agree with the rules (which they accepted in first place) then they first need to change the rules and then act as per new rules. But we are strongly object any actions which are ignoring existing rules and order.

Shawford
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 6th March 2017

Letter attached.

Shawford
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 6th March 2017

Letter attached.

Shawford
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 6th March 2017
Letter attached.

Shawford
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 6th March 2017
Letter attached.

Rosemere House
Stanley Road
Cheltenham
Gloucestershire
GL52 6PB

Comments: 8th March 2017

I have been made aware of the above referenced application in respect of a proposed development in respect of 'The Water Gardens' on Battledown Estate. I am not directly affected by this proposal but as a resident of the Estate I would like to set down my thoughts as to why this development should not be approved.

While the Deed of Covenants that covers the Estate forbids this development, as this is something that may not be directly relevant to the planning approval process I would respectfully ask the committee to bear in mind the following:

- While this application is for only one additional house on Battledown it would likely lead to very many existing residents, seeing a breakdown in the Deed of Covenants, looking to realise the potential of their half acre plots. While some existing residents would not take advantage of such a windfall now (based on the current realistic price of a modern 4/5 bedroom house on what would be a quarter acre plot this windfall would likely be a seven figure sum and indeed could be more if an existing plot is of such a shape that more than two houses could be built) others would and the prospect of what could be in a few years time of another 100 or more houses being built on the Estate is not unrealistic and is something I suggest the Planning Committee would not be happy with.
- Following from the above, the roads in the Estate are not able to accommodate the extra traffic that a number of new houses would bring; in addition the access roads are insufficient and of the four access roads two pass by schools and the danger to schoolchildren of much extra traffic on narrow roads, particularly at setting down time and collection time, do not bear thinking about.
- Battledown Estate is one of only two extant Victorian Estates remaining in England and is an asset to Cheltenham; it would be a great loss to the town if this area which has been there since 1859 was to be lost .

- The site of The Water Gardens is approached by a piece of adverse camber road where in the past, particularly during times of ice and snow, vehicles have left the road. Even one extra house at this point would be unwelcome and would undoubtedly lead to more accidents, hopefully not fatal. The short stretch of road surface on this bend has been specially treated to alleviate the issue but it remains a nasty bend.

I trust the above will be helpful in assessing this planning application

Charlton Manor
Ashley Road
Cheltenham
Gloucestershire
GL52 6NS

Comments: 8th March 2017

The local development framework document entitled "Development on Garden Land and Infill Sites in Cheltenham, Supplementary Planning Document of June 2009" states that Battledown properties should not be subject to sub division or intensification.

To agree to this proposal would put the Battledown covenant at risk; that opens the whole historic estate up to further development and sub division, and runs counter to obligations to protect local amenity and the unique nature of Battledown's character.

Furthermore there is unique and exceptional wildlife throughout this part of Charlton Kings including bats and owls. The pressure to increase footprint of built environment on each of the Battledown lots is diminishing the quality of wildlife habitats and the existence of 'wildlife corridors' through which our protected species can forage. It would be disappointing to lose yet more green space to over development of lots.

And finally, there are both subsidence and flooding risks materialising on Battledown; the former is due to over-development and breaches of weight limits on the local roads, the latter due to stresses and strains of extreme weather events and inadequate Victorian drainage and sewerage systems. While this isn't the fault of any one developer, the cumulative effect is putting pressure on the whole estate.

For the above reasons and others captured more eloquently by other objections provided by local residents, I request that the council reject the application.

Comments: 12th April 2017

Thank you for your letter of 10th April.

Original objection stands; this is in breach of the Battledown covenant.

In addition, the revised access lays claim to the verge, which is owned by the Battledown estate, not the property owner.

This is a dangerous corner with a reverse camber on the road and has been the site of multiple accidents in recent winters due to ice formation from poor drainage. I've been off the road here myself despite the traction of a 4x4, and the silver birch tree that used to be to the side of the Winter Gardens gate was scarred by multiple vehicles leaving the road.

Ashley House
Ashley Road
Cheltenham
Gloucestershire
GL52 6QE

Comments: 9th March 2017

I object to this planning application on the following grounds:

1. Policy CP1 Sustainable Development of Cheltenham Borough's Local Plan sets out the principles of sustainable development, which include conserving historic areas and safeguarding attractive landscape.

With the knowledge that in the trustees' view this application breaches the governing "Deed of Covenants and Regulations as to the Future Enjoyment of the Battledown Estate" (covering close to 200 properties), there simply cannot be any certainty that the sustainable development principle will be met. I will explain. There is a real risk, perhaps on a technicality, that the trustees fail to legally defend the density provisions of the ancient 1859 Deed. This will inevitably lead to a domino effect of further inappropriate developments; thereby ensuring an ignominious end for a jewel amongst Cheltenham's Victorian heritagewhich is open to the public and used daily by walkers, runners, cyclists and horse riders. Cheltenham has long relied upon the unique character of this legacy to present itself as an attractive place to live. Frankly, with all this at stake it is very difficult to comprehend that the planning authorities would do other than refuse this planning application on this ground alone.

2. Policy CP3 Sustainable Environment states that development will only be permitted where it would conserve or enhance the best of the built or natural environments.

Best is defined as "a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site or locally". Indeed, the applicant's own planning statement makes much emphasis of the attractive features of the Battledown Estate.

For the reason cited above regarding adherence to Policy CP1, there is an associated question mark (and therefore ground for refusal) over the certainty that the sustainable environment principle under Policy CP3 will be met.

3. Policy CP4b Safe and Sustainable Living and Development and Highway Safety (TP1) states that "Development will only be permitted where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level." Policy TP1 provides that "Development will not be permitted where it would endanger highway safety, directly or indirectly byincreasing the use of an existing access...."

A very significant increase in resident and regular delivery vehicles is guaranteed if a four bedroom house is replaced by two 6 bedroom houses. As the proposed entrance for both properties sits very close to a bend on a steep road that is well known for accidents, compliance with Policy CP4b and TP1 is not achieved.

4. Policy CP7 and Development within extensive gardens (GE3)

Policy CP 7 states that "Development will only be permitted where it.... adequately reflects principles of urban design and...compliments and respects neighbouring development..."

Policy GE3 states that " In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site."

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It is clear from the plans submitted that the proposed 6,000sq ft+ four storey houses and integral "super garages" with living space above are enormous and (to the writer's eye) resemble blocks of flats. They do not in any way compliment and respect neighbouring development. Further, given their bulk and mass, they will have a visually overbearing impact on surrounding properties. Compliance with policies CP7 and GE3 has therefore not been achieved.

In conclusion, on the basis that this planning application fails to comply with Policies CP1, CP3, CP4b and CP 7 along with TP1 and GE3, I would ask the Council to refuse this application.

Oakwood
Stanley Road
Cheltenham
Gloucestershire
GL52 6PF

Comments: 20th March 2017

We would like to strongly object to the planning application 17/00365/FUL for the the demolition of the Water Gardens and replacement with 2 dwellings. Due to the simple fact it breaches the 1859 Deed of Covenants, that all residence are aware of before buying a property on the Battledown Estate.

Kerrymead (owner)
Birchley Road
Cheltenham
Gloucestershire
GL52 6NX

Comments: 2nd March 2017

I would like to object to the following application - CBC (17/00365/FUL). It is against the terms of the covenant of the Battledown Estate to have higher density housing on each plot and I understand that 2 houses are proposed to be developed on the plot.

Highlands
Ashley Road
Cheltenham
Gloucestershire
GL52 6PG

Comments: 2nd March 2017

We are residents of the Battledown estate and we strongly object to this proposed development as it is in breach of the estate covenant.

11 Battledown Drive
Cheltenham
Gloucestershire
GL52 6RX

Comments: 2nd March 2017

As a property owner of 11 Battledown Drive, Cheltenham, GL52 6RX, I am writing to object the planning application of Water Gardens, CBC (17/00365/FUL), which apply to demolish the existing property and erect two new dwellings. This will seriously breach the terms of the Deed of Covenants and therefore cannot be accepted at all. The reason for me to purchase my home is

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largely because of its low building density, which clearly stated in Deed and I believe most of residents in our area will not want to see people ignore the rule which was in place since 1859.

Please kindly consider the interests in majority favor and don't approve the application.

Tall Timbers
Ashley Road
Cheltenham
Gloucestershire
GL52 6NS

Comments: 2nd March 2017

I have recently become aware of the planning application numbered CBC (17/00365/FUL). I am not a close neighbour of the proposed development but I am a beneficiary of the Battledown Trust. I understand that Boo Homes, the planning applicants, are well aware that the application that they have made is a flagrant breach of the terms of the Battledown Trust. If the application goes ahead it will contravene the terms of the Trust and will therefore threaten the benefits that I receive under the terms of that trust.

Clearly I reserve the rights to seek recompense from Boo Homes for any damage that I might suffer because of their breach of our Trust deed. However, I would also encourage Cheltenham Borough Council to reject this application because of its breach of a Trust that has helped to preserve some of the unique character of the wider Cheltenham estate.

Battledown Court
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 2nd March 2017

As a homeowner on the estate I would like to register very strong objection to this application.

The Council would have no right to contravene, or authorise contravention of, the legally binding Covenant which has regulated all properties on the Battledown Estate since 1859.

I believe this is a significant legal issue with significant adverse legal implications for the Council.

Tor
Ashley Road
Cheltenham
Gloucestershire
GL52 6NS

Comments: 2nd March 2017

I am writing to object to the above planning application, I am a resident of battledown and as you may be aware the estate id governed by a deed of trust which only allows houses to be built in a half acre of land.

The developer is intending to flout the trust and proceed with planning despite the objections of the trustees.

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Battledown is a unique area and should planning be granted the it would likely open the flood gate and encourage more builders to try to purchase houses in Battledown and build more houses on each plot.

It is likely that if planning is granted the trustees will have to fund a legal battle needlessly.

Karadys
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 2nd March 2017

As residents of Battledown Estate, we would like to bring to your attention an instance of severe breach of the Battledown Estate Deed of Covenant.

After assuring the Battledown Committee there would be one house built to replace the existing building, it seems the developers concerned have decided to ignore the Deed of Covenant and build two houses, thus creating a precedence for further breaches.

You, as Director of Planning in Cheltenham, will be more than aware that such a breach of covenant would destroy the uniqueness of this age old Estate and indeed a part of Cheltenham's historical significance and heritage.

We therefore wish to express our sincere thanks, And, trusting your judgement in this matter, Our kindest regards.

Falcon's Crest
Stanley Road
Cheltenham
GL52 6QD

Comments: 2nd March 2017

One of the Battledown trustees has informed residents of this plan to ignore a key element of the trust deed for the estate, i.e. to restrict the number of houses that can be built per acre.

There is little doubt that Battledown retains a lovely ambience because of the lack of crowding. I have no doubt that it could prove very costly for us to mount a legal fight against this plan. If lost, then the nature and character of Battledown is likely to change dramatically within a few years, as I would expect there to be a flood of new applications.

I very much hope you will take this into account in your decision making. If you were simply to reject the application, because it falls foul of our local trust deed, I have no doubt that this would save a great deal of time, effort and money.

I have no doubt that you are repeatedly subjected to NIMBY requests. I recognise that my email may fall within this category. But there are very few areas within Cheltenham that enjoy the character of Battledown. It would be a great shame if this was lost.

Woodlands
Oakley Road
Cheltenham
Gloucestershire
GL52 6PA

Comments: 2nd March 2017

The above mentioned planning application has recently been brought to my attention.

My wife and I as owners of Woodlands, Oakley Rd, Battledown, hereby formally record our very strong objection to this planning application which flies in the face of the covenants established for Battledown estate over our 150 year history.

One of the primary reasons for our decision (22 years ago) to buy and live in Battledown were the strong covenants protecting the estate from any and all developments which do not meet the 'rules' as established by generations of previous owners/caretakers of this precious part of our Town.

I sincerely hope that you and your committee will reject this application.

Hillview House
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments: 2nd March 2017

I have been made aware of plans to demolish and replace with two dwellings the property 'The Watergardens' Battledown.

I would like to object to this based on the precedent it could set. It is against the deed of covenant we all signed up to on purchasing property on the estate. A point no doubt the developers are aware of but clearly not stated in any application. They are breaching the covenant in increasing the number of properties allowed on an original lot. It will open the floodgates to more development and destruction of the ambience of the entire estate.

Beechwood
Ashley Road
Cheltenham
Gloucestershire
GL52 6PG

Comments: 2nd March 2017

We are writing to strongly object to the above planning application.

We have lived on the Battledown estate for nearly 14 years. The title in respect of the property, as lodged with HM Land Registry, clearly shows the charge relating to the 1859 Deed of Covenant and a full transcript of this covenant was passed to us by our solicitor prior to the purchase. Any other diligent solicitor would likewise do the same and, even if the transcript was not passed to the current owners of the Water Gardens, they would have been advised of the covenant at the very least and it would have been foolhardy of them not to appraise themselves of the full details given the significant price presumably paid for the property.

Battledown Estate was originally sold off in lots and one of the clauses of the covenant is that any sub-division of the original lot size can only happen if the average plot size of all the resultant

plots remain at least half an acre. The important word here is "average" so, on original lot 60 (on which Water Gardens is situated) which is about 3.7 acres, the current seven houses have an average plot size of 0.53 acres and sub-division has reached the maximum under the 1859 Covenant. The construction of two houses on the Water Garden plot, therefore, would be in direct and flagrant breach of the covenant as the average plot size would then fall to 0.46 acres.

The granting of planning permission for this development would set a precedent that would make it extremely difficult for the Trustees of Battledown to resist a similar breach in the future. In a short space of time, an area of Cheltenham which has preserved much of its character since the mid 1850's would be destroyed along with the semi rural ambiance contained therein.

We would also draw your attention to the fact that the specific online "application summary" shows a "constraints" section under which "Residents' Associations" is shown as a constraint in this particular case. Clearly this relates to the Battledown Trust, of which the 1859 Covenant forms the basis, so the fact that this is recognised by the planning department would indicate that due consideration has to be given to the covenant when ruling on this application.

Finally, we would confirm that we have no objection to the building of a single replacement dwelling on the plot.

1 The Willows
Oakley Road
Cheltenham
Gloucestershire
GL52 6PA

Comments: 5th March 2017

I object to the proposal to build two properties on the above site. The proposal is to build 2 six-bedroom houses, each in excess of 6000 sq ft. This is overdevelopment of the plot, particularly given that due to the natural constraints of the site the properties must be positioned side by side and share access onto Birchley Road. The properties will directly overlook 10 Battledown Drive with a consequent loss of amenity for that property. The southern of the two proposed dwellings, by virtue of its position, is likely to have very little direct sunlight until evening. On the basis of modern patterns of car ownership, a substantial 6 bedroom house is likely to be supported by at least 4 vehicles, meaning that it is likely that a minimum of 8 vehicles will be seeking access to Birchley Road on a difficult corner. This will be dangerous.

I would have no objection to a proposal to erect one of these dwellings on the plot.

Finally, although it is not really a planning issue, I would observe that since the plot on which the current property is situated is but one plot of a number comprising 'Lot 60' for the purpose of calculating the number of properties that can be erected in compliance with the covenants contained in the Battledown Deed of trust (which the developers acknowledge is binding upon them), it must be necessary to consider the interests of the owners of land comprising Lot 60 as a whole, not simply the interests of the current owners of The Water Garden, in deciding whether this is an acceptable development. In other words, the developers are not entitled unilaterally to decide that their plot and their plot alone should have the benefit of any additional development at the expense of the other Lot 60 owners.

Birchley House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 10th March 2017

Letter attached.

Montrose
Stanley Road
Cheltenham
Gloucestershire
GL52 6QD

Comments: 12th March 2017

We strongly object to this planning application.

When buying a house on the Battledown Estate one is made very aware, prior to buying, of the restrictive covenants in place which protect this estate and which have done so for over 150 years. Battledown is not in the best area of Cheltenham, but people here choose to buy into a lifestyle where over development is not permitted and therefore traffic is kept to a minimum. This historic estate is well known throughout Gloucestershire and needs to be preserved. The essence of Battledown must be maintained. The minimum 1/2 acre per house must be adhered to and 2 houses built on this plot is not in keeping with the surrounding area.

Once again, we strongly object to 2 houses being built on this single house plot.

Coversdown
Birchley Road
Cheltenham
GL526NY

Comments: 9th March 2017

As a resident of Battledown Estate, I would like to object to the above proposal on a various grounds.

1. Breach of the Battledown Covenant of 1859

Water Gardens changed hands last year and the new owner/developer has filed a planning application with CBC (17/00365/FUL) to demolish the existing property and erect two new dwellings. The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

The Trustees have advised the developers of this fact many times during the past five months and made them fully aware that any such two-house development would seriously breach the terms of the Deed of Covenants and therefore cannot be permitted. The Trustees' position is based upon the Estate Surveyor's independent analysis and detailed professional legal advice.

By proceeding to seek CBC approval it appears that the developer is not prepared to observe the necessary provisions of the Covenants and intends to flout his legal obligations (despite earlier advising the Trustees to the contrary), which are the same obligations by which all property owners on the Estate are bound - and have been since 1859.

The Battledown Estate has been preserved as a unique environment for over 150 years by the provisions of the 1859 Deed of Covenants. For most residents, this unique sylvan environment with its low-density housing is one of the primary reasons why they purchased a property on the Estate. Within the Deed, the Seventh Covenant determines the maximum permitted density of housing. This ensures that no more properties than one house per half-acre on aggregate are built on each of the Original Lots. It is the overall maximum number of properties built on the Original Lot compared to the total area of the Lot that is specified by the Deed of Covenants (not the individual property plot size).

When we purchased our house in 1998, we were advised by the council and the Trustees of Battledown, that any planning applications we may wish to consider in the future would have to comply not only with the CBC planning regulations but also to the Battledown Covenant of 1859. It is beyond belief that the Planning Department would therefore entertain such a proposal as above which they are fully aware is in contravention of the Covenant.

This is potentially one of the most serious cases of a flagrant breach of the Covenants' terms since the Estate was founded in 1859. If the application is approved it could set a dangerous precedent for further such developments on the other 70 or so Original Lots on the Estate. In turn this could mean that the whole ambience of our unique environment could be destroyed.

2. Height and Size of proposed buildings.

I have not been able to ascertain the proposed ridge heights on Plot 1 and Plot 2 which is not listed anywhere in the materials online. The maximum ridge height on both adjacent properties to the North and South [both] have a ridge height level of only circa 103.0., and it's my belief that the proposed development is significantly higher. It is clear from the plans submitted that the proposed 6,000sq ft+ four storey houses and integral "super garages" with living space above are enormous and (to the writer's eye) resemble blocks of flats. They do not in any way compliment and respect neighbouring development. Further, given their bulk and mass, they will have a visually overbearing impact on surrounding properties. Compliance with policies CP7 and GE3 has therefore not been achieved.

In conclusion, on the basis that this planning application fails to comply with a number of policies, I would ask the Council to refuse this application.

Comments: 18th April 2017

As this revised plan does not address my original objection, i once again wish to object to the revised plan. My reasons for objecting are restated for easy reference.

"As a resident of Battledown Estate, I would like to object to the above proposal on a various grounds.

1. Breach of the Battledown Covenant of 1859

Water Gardens changed hands last year and the new owner/developer has filed a planning application with CBC (17/00365/FUL) to demolish the existing property and erect two new dwellings. The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

The Trustees have advised the developers of this fact many times during the past five months and made them fully aware that any such two-house development would seriously breach the terms of the Deed of Covenants and therefore cannot be permitted. The Trustees' position is based upon the Estate Surveyor's independent analysis and detailed professional legal advice.

By proceeding to seek CBC approval it appears that the developer is not prepared to observe the necessary provisions of the Covenants and intends to flout his legal obligations (despite earlier advising the Trustees to the contrary), which are the same obligations by which all property owners on the Estate are bound - and have been since 1859.

The Battledown Estate has been preserved as a unique environment for over 150 years by the provisions of the 1859 Deed of Covenants. For most residents, this unique sylvan environment with its low-density housing is one of the primary reasons why they purchased a property on the Estate. Within the Deed, the Seventh Covenant determines the maximum permitted density of housing. This ensures that no more properties than one house per half-acre on aggregate are built on each of the Original Lots. It is the overall maximum number of properties built on the

Original Lot compared to the total area of the Lot that is specified by the Deed of Covenants (not the individual property plot size).

When we purchased our house in 1998, we were advised by the council and the Trustees of Battledown, that any planning applications we may wish to consider in the future would have to comply not only with the CBC planning regulations but also to the Battledown Covenant of 1859. It is beyond belief that the Planning Department would therefore entertain such a proposal as above which they are fully aware is in contravention of the Covenant.

This is potentially one of the most serious cases of a flagrant breach of the Covenants' terms since the Estate was founded in 1859. If the application is approved it could set a dangerous precedent for further such developments on the other 70 or so Original Lots on the Estate. In turn this could mean that the whole ambience of our unique environment could be destroyed.

2. Height and Size of proposed buildings.

I have not been able to ascertain the proposed ridge heights on Plot 1 and Plot 2 which is not listed anywhere in the materials online. The maximum ridge height on both adjacent properties to the North and South [both] have a ridge height level of only circa 103.0., and it's my belief that the proposed development is significantly higher. It is clear from the plans submitted that the proposed 6,000sq ft+ four storey houses and integral "super garages" with living space above are enormous and (to the writer's eye) resemble blocks of flats. They do not in any way compliment and respect neighbouring development. Further, given their bulk and mass, they will have a visually overbearing impact on surrounding properties. Compliance with policies CP7 and GE3 has therefore not been achieved.

In conclusion, on the basis that this planning application fails to comply with a number of policies, I would ask the Council to refuse this application."

Inches
Birchley Road
Cheltenham
Gloucestershire
GL52 6NX

Comments: 9th March 2017

We strongly object to the above planning application on the grounds that it is a blatant contravention of the Battledown covenant for seemingly no other reason than the purpose of financial gain. To allow two houses to be built on the existing site would be out of keeping with the surrounding properties, where there is currently only one house per half acre. In no way would it be possible to argue that the proposed development is in keeping with the immediate neighbourhood.

Every owner of a property in Battledown is made aware of the covenant upon purchase of the property and this is a flagrant attempt to flout the rules that everyone else adheres to.

The site is also on a dangerous bend in the road where there have been numerous accidents in recent times. A large number of pedestrians, not just Battledown residents, use the road for dog walking, and running, where traffic coming up and down the hill have to pull into the middle of the road almost on a blind corner to overtake those on foot, so any increased traffic coming out of the site, would be an added danger.

We trust that the above application will not be permitted.

Fremington
Ashley Road
Cheltenham
Gloucestershire
GL52 6NS

Comments: 13th March 2017

When I moved to Cheltenham 25 years ago I chose to live on the Battledown Estate because of its sylvan environment and low density housing protected by covenants. I am pleased to say that this has been maintained over the years. The vast majority of developments have been carried out within the rules of the covenants and one attempt to breach the covenants some years ago did not receive planning approval.

Therefore I strongly object to the proposal to demolish the Water Gardens and replace one property with two houses mainly because it breaches the Battledown Estate covenant related to property density.

The Proposal to replace one property with two does not meet the test of sustainable development under CP1 and CP2 of Cheltenham Borough Local Plan. If approved, it would cause significant and irreversible harm to the setting of Cheltenham and to valued landscapes.

The Battledown Estate is unique as the only Victorian Estate in England to have retained its original characteristics. This is due to an unbroken line of Trustees who have, over more than 150 years, enforced the original covenants despite numerous attempts by developers to breach them. The Trustees have worked closely with CBC on many occasions and it is through such joint efforts that the character of the area has been conserved for future generations. Public rights of way along the verges and public footpaths ensure that many non-residents also enjoy these benefits.

Although the covenants themselves do not bar planning approval, CBC acknowledges its part in conserving the environment. The damage created by allowing the sub-division of this plot, and the addition of a second property would have a major impact on the immediate surroundings as well as setting a precedent that would make further such proposals difficult to resist.

Runsell House
Ashley Road
Cheltenham
Gloucestershire
GL52 6QE

Comments: 12th April 2017

Thank you for your letter dated 10th April informing me of the submission of revised plans for the said development. Having reviewed these plans I do not believe the revisions materially affect my objection submitted as : Runsell House Ashley Road Cheltenham Gloucestershire GL52 6QE (Objects)Comment submitted date: Sat 11 Mar 2017. I wish therefore for that objection to stand and that you take it into account when coming to your decision on the revised plans.

Comments: 11th March 2017

We have lived on the Battledown Estate for over 25 years and have witnessed a steady stream of developments on the Estate. Given the age and nature of the original in-fill development the incentive to "upgrade" certain properties is understandable. So far these developments, whilst very intrusive during their construction, have largely complied with a covenant governing development on the Estate and we have not objected. There are two such developments in progress on Ashley Road close to where we live and a third has been completed recently.

The applicants for the proposed development are fully aware of that covenant and so is CBC who state in their Supplementary Planning Document (SPD) - Development on Garden Land and Infill

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Sites in Cheltenham: "Battledown- This area comprises large individual properties set into their own grounds climbing up the escarpment to the east away from the town. There is much mature landscaping. The area benefits from a covenant which means that garden land is not subject to sub-division and intensification here"

The Trustees of the Estate have determined that the proposed development breaches that covenant. A fact known to and wilfully ignored by the applicants. If planning permission is granted it would erode the benefits recognised above by CBC and set a precedent for further such development. That would destroy the distinctive character of the Estate to the detriment of its current residents and to Cheltenham in general.

We are aware of the very large number of residents who have also objected on these grounds so we will not pursue these arguments further and rely on others' more detailed comments. We will note simply that, if planning permission is granted, the matter of the covenant breach will almost certainly be put before a court.

Over and above the legal standing of the covenant the proposed development would appear to contravene a number of the principles for approval set out in the SPD. Below we cite a series of examples with reference to a selection of questions from Box 7 on pages 20 and 21 of that document. This is by no means exhaustive but, to us, is sufficient to demonstrate that planning permission should not be granted.

Questions C1 to C3: The scale and prominence of the proposed development is much greater than that of the surrounding properties and its appearance would detract from the local character and distinctiveness of the Estate. It would have a negative impact on the landscape setting and would affect the views of the neighbouring properties.

Question C8: The proposed development would constitute a major road safety hazard during construction due to its siting by and access on to a tight bend on a steep slope. This has been the site of numerous accidents despite the Estate acting to mitigate, as far as possible, the risks at this bend by means of speed bumps before it, prominent road markings and a high friction road surface. Beyond construction, the size of the development would lead to a significant increase in domestic vehicle movements into and out of the development. These would exacerbate the road safety issues and increase the general traffic volume on the Estate roads to the detriment of the amenity of its existing residents.

Questions C9 and C10: The scale, height and massing of the proposed development would not complement the existing development and would significantly detract from the distinctive character of the area.

Question A1: We will leave it to residents from the neighbouring properties to comment in detail on the expected significant impact on them. From our perspective it is the detriment to the overall distinctive character of the Estate that concerns us, together with the precedent allowing its construction would set for further such development and thereby the eventual destruction of that distinctive character.

Question AP4: See the comments in relation to question C8 above.

In conclusion we object to planning permission being granted for this development. We believe there are both legal (the covenant) and planning reasons why this development should not go ahead and trust that CBC will take these fully into account when making its determination.

Comments: 12th April 2017

Thank you for your letter dated 10th April informing me of the submission of revised plans for the said development. Having reviewed these plans I do not believe the revisions materially affect my objection submitted as : Runsell House Ashley Road Cheltenham Gloucestershire GL52 6QE

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(Objects)Comment submitted date: Sat 11 Mar 2017. I wish therefore for that objection to stand and that you take it into account when coming to your decision on the revised plans.

Greenacre
Stanley Road
Cheltenham
Gloucestershire
GL52 6QD

Comments: 13th March 2017

I am writing in reference to the above planning permission application. I am a resident of Battledown Estate, on Stanley Road. We love living in this part of town. A huge 'pull' to the area relates to the density of housing and we very much value the Deed of Covenants that applies to the Estate, which limits this housing density to what is considered reasonable to maintain a lack of overcrowding.

We are very concerned about the proposed planning application. If permission is granted for this application, it will represent of blatant breach of the covenant. In itself this will be a real shame, but more importantly it will start a precedent that will allow future similar such applications to be granted - which in turn will gradually but surely affect the whole estate. We are very much opposed to such a proposal and find it important to raise our concerns and objections to the proposed plans.

We very much hope that our concerns will be taken into account and acted upon when consideration is made by the Council towards this particular application.

High Croft
Oakley Road
Battledown
Cheltenham

Comments: 3rd March 2017

I write in my private capacity as a resident of High Croft, Oakley Road, Battledown. I have lived in my house on the Battledown Estate ("the Estate") since 1989 and have practised as a lawyer both in Cheltenham and London during this period of my local residence.

One of the primary reasons for purchasing our property ,as our family home and for choosing to educate our three children locally, when I re-located my professional career from Clifford Chance , London to Wiggin in Cheltenham, was to be able to enjoy the privilege of the lower-density housing on the Estate which is integral to the area.

I understood that this concept was protected by a combination of the Estate's 1859 Deed of Covenants , which all residents of the Estate voluntarily agree to sign up to on first occupation , and , since 1948 onwards , the planning policies for the local area and the associated planning regime for which your Council are responsible for upholding and enforcing.

I believe that this dual regime and its synergy of approach has helped to preserve a unique environment for in excess of 150 years not only for Estate residents , like myself and my family, but also for the multitude of other citizens of or visitors to our area in Cheltenham all of whom make regular, and in some cases daily, use of the Estate , including for relaxation and exercise purposes , allowing everyone to enjoy the quiet roads and the leafy and green environment of the Battledown area.

I understand that the applicant company is owned by or otherwise connected with a resident or residents of the Estate and so he/she/they will have signed up to the said Deed of Covenants

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when becoming an occupier of an Estate property. If so, I find it difficult to comprehend why he/she/they would submit such a planning application for this proposed two-house scheme on the above site which, as they will personally know, is so clearly a flagrant breach of the density of dwelling provisions contained within the said Deed of Covenants which must be preserved by the Battledown Trustees for the continued benefit of the developer's co-residents and everyone else using the Estate.

For similar reasons, on any reasonable planning analysis, this application constitutes "over-development" of the site, and therefore, if this planning (or any similar) application is allowed by the Council and if a two-house development were to proceed on this part of the Estate, in my view, the Council will be responsible for condoning the potential detriment which will be caused thereby to all residents of the Estate as well as to hundreds of other people from throughout the local area both now or in the future.

In summary, I consider this application both vexatious and bad-neighbourly and object to it in the strongest terms.

I implore the Council to use all of its planning powers to support the long-standing integrity and established ambience of the Estate and to refuse this planning application.

Please also note, for the record, that :-

- 1) regardless of the dwelling's re-design, the present proposed form of which I do not consider appropriate for the Estate and therefore for the Council to permit, I consider that any two-house scheme on this property would be unacceptable. To grant planning consent for this or any alternative form of such intense development of this application site would create an adverse planning precedent. Also, it would be detrimental to the residents of the Estate as well as to the wider people living within and to the heritage of Cheltenham.
- 2) I have grave concerns about the adverse impact of this two-house development proposal, or any similar scheme, on the visual and other amenities of the subject property.
- 3) There must be real health and safety concerns regarding any intensification of use allowed in respect of the current or any modified access to and from this application site on to Birchley Road and in particular at such a point so close to the already dangerous bend in the configuration of that Estate Road.

Therefore, my objections, as set out in this communication, will stand against this or any future two-house scheme, whatever its modified size or appearance might be, in respect of this property.

Please acknowledge safe receipt of this communication and confirm that my objections are duly noted and will be taken into account by the Local Planning Authority prior to any decision being made on this application.

Comments: 18th April 2017

I have received your letter of 10 April notifying me of the revised proposal for the above development, for which many thanks.

Having now reviewed these proposed changes to this scheme, I confirm that all of my objections, as set out in my communication of 3 March which is captured below, remain as stated therein and which are therefore deemed repeated by me.

For all of these reasons, I continue to object to this two-house scheme on this site.

Comments: 19th May 2017

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Thank you for your letter of 16 May notifying me of the further revisions (including the supporting plans and changes relating to access) to the above application.

Having reviewed all this information on-line , I confirm that I maintain my previous objection to this proposed development on safety grounds .

Also , I confirm , for the avoidance of doubt , that all of my original objections to this two-house scheme remain and for the various reasons I have set out in my previous communications.

I therefore ask the Council to reject it.

Oak Magna
Stanley Road
Cheltenham
Gloucestershire
GL52 6PF

Comments: 7th March 2017

We would like to express our sincerest objection against the abovementioned planning application from the current owners of Water Gardens to erect two new dwellings in place of the existing property.

This would be in conspicuous violation of the 1859 Deed of Covenants, the terms of which we, as property owners of The Battledown Estate, are not only bound to observe, but hold in the highest of regards. The Deed has preserved the Estate in pristine condition since its foundation. I believe I speak for most of us when I describe the Estate as an extraordinary neighbourhood - a unique, picturesque, sylvan environment. The Seventh Covenant fortifies each property's privacy, and thus ensures the privacy of its inhabitants.

Violation of this Covenant, and indeed the Deed itself in any way, would be a disappointing and dangerous precedent for further such developments on the Estate. I will not partake in the defiling of my home, of our home, by remaining reticent.

Thank you for your time, your consideration is sincerely appreciated.

Pedwardine
Oakley Road
Cheltenham
Gloucestershire
GL52 6PA

Comments: 3rd March 2017

When I purchased my property in Battledown I was advised by my solicitor of the obligations under the Covenants relating to the estate and proceeded with the purchase confident that all owners would be similarly bound.

In submitting this application it appears that the owner of the property in question wishes to be exempt from those obligations.

If this development goes ahead it will damage the current environment of the Estate and may open the floodgates to significant future densification which the local infrastructure and access cannot support.

2 Battledown Drive
Cheltenham
Gloucestershire
GL52 6RX

Comments: 7th March 2017

I object to the above planning application that is pending your decision.

My principal objection is that the plan to build two dwellings on the current 'The Water Gardens' plot would constitute a material breach of the 1859 Battledown Estate Deed of Covenants in that it will increase the density of housing on the Battledown 'Lot 60' site beyond permitted limits.

Such a breach would set a dangerous precedent. If this plan is approved it could be reasonably expected that other similar schemes would follow and, over time, the heritage of Battledown, Cheltenham's last surviving private estate from the 19th century would be eradicated.

To preserve the unique environment and the treasured, airy domestic ambience of Battledown (which is enjoyed not just by residents, but numerous others too for recreational purposes - running, cycling, walking etc.), I request that you reject this and any other plans that may be forthcoming for the development of two dwellings on this site.

Subordinate to the above point please also consider the following which seek to note where the existing Council Core Planning Policy, as I understand it, is significantly challenged by this proposal:

- 1) The pictures that have been provided do not seem to include details of the scale (in particular the height) of the proposed new dwellings relative to the existing property. Depending on this there is the potential for this scheme to be breaching the existing privacy of other properties (including my own) in the near vicinity.
- 2) Even without scales included, I would imagine that replacing the existing single 2 floor dwelling with a couple of extensive 4 floor properties would be overbearing and would dominate the existing locality.
- 3) The proposed industrial scale 'Russia in the 1970s' look of this development is completely out of keeping with the character of the existing Water Gardens property and other properties nearby.
- 4) Whilst the existing properties in the area seek to passively blend in with the natural leafy environment of Battledown this effort seeks to quite brashly place a stand out scar on the local environment.

I would be most grateful if you would give consideration to the above points when making your decision on this matter and I would respectfully request that, having done so, you refuse this application.

Southern Lawn
Ashley Road
Cheltenham
Gloucestershire
GL52 6NU

Comments: 12th March 2017

I object to the proposal to demolish the house known as Water Gardens and replace one dwelling with two houses on the following grounds:

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The Proposal to replace one dwelling with two dwellings does not meet the test of sustainable development under CP1 and CP2 of Cheltenham Borough Local Plan. If approved, it would cause significant and irreversible harm to the setting of Cheltenham and to valued landscapes.

The Battledown Estate is unique as the only Victorian Estate in England to have retained its original characteristics. This is due to the unbroken line of Trustees who have, over 157 years, enforced the original covenants despite numerous attempts by developers to breach them.

The trustees have worked closely with Cheltenham Borough Council on many occasions and it is through such joint efforts that the character of the area has been conserved for future generations. Public rights of way along the verges and public footpaths ensure that many non-residents also enjoy these benefits.

The covenants specify, amongst other matters, a low density of housing. This has resulted in a unique pattern of housing and a visual "greenness" which has been explicitly valued on many occasions not only by CBC but also by other environmentally aware bodies.

For example, CBC states in the Local Development Framework. Development on Garden Land and Infill Sites in Cheltenham. Supplementary Planning Document. June 2009. Appendix 2: "Battledown - This area comprises large individual properties set into their own grounds climbing up the escarpment to the east away from the town. There is much mature landscaping. The area benefits from a covenant which means that garden land is not subject to sub-division and intensification here."

Although the covenants themselves are no bar to planning approval, the Council explicitly acknowledges their part in conserving the environment. The damage created by allowing the sub-division of this plot, and the intensification of an additional dwelling would have a major impact on the immediate surroundings as well as setting a precedent that would make further such proposals difficult to resist.

I have read the other objections on the Council website, and many are both well-argued and well-informed. Whilst supporting most of what has been said elsewhere, in particular, I wish to repeat the comments registered by:

Wellswood House (5 March) challenging the Design and Access Statement, which claims that consultation with neighbours and the Battledown Estate have taken place and are ongoing. I believe these claims to be untrue.

The Headlands (3 March) concerning the historical and locational value of the Battledown Estate. Which "straddles the Cotswold AONB, incorporates The Camp, a scheduled Ancient Monument and provides a part of the hill rim which surrounds the town. It is fully open to the public and currently much used by runners, walkers, horse riders and cyclists."

Birchley House (Letter 3 March) which refers in detail to planning Strategy and Policy.

I ask the Council to consider this application in its wider context and to refuse permission to the developer for the second dwelling. There would be no objection to a request to demolish and replace or to renovate the existing single dwelling.

Comments: 21st April 2017

The revised plans offer no improvement upon the previous plans in terms of the objections already submitted.

Neighbours and consultees, including the Parish Council on 9 March 2017, have made clear that the proposed development - by breaching specific density guidelines - would have a disproportionately negative impact upon the local environment.

Ash Tree House
Birchley Road
Cheltenham
Gloucestershire
GL52 6NY

Comments: 11th March 2017

I strongly object to this planning application due to the following;

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique as it is the sole remaining Victorian estate which is governed by its founding Charter, (a Deed of Covenant or Trust), and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees. This proposed development is in breach of the Battledown Estate Deed of Covenant. The existence of such covenant should be considered as part of the planning decision and not viewed as a separate matter. This planning application has now already been unanimously rejected by Charlton Kings Parish Planning Committee, and they also support the view "that the Estate is 'special' and benefits from a covenant is clearly relevant to this application; in other words the Deed of Covenant of 1859 should be taken into account"

The Cheltenham Borough Councils (CBC) Local Plan sets out numerous objectives and policies, including "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23). Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets...". Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..."and "safeguarding attractive landscape". Hence, the Estate covenants are material considerations in planning terms as they directly support the aims of the Local plan and its policies.

You, as Director of Planning in Cheltenham, will be more than aware that such a breach of covenant would destroy the uniqueness of this age old Estate and indeed a part of Cheltenham's historical significance and heritage. The proposal would have a detrimental impact upon the character and appearance of the local landscape. It does not represent sustainable development within the context of paragraph 14 of the National Planning Policy Framework (NPPF) and is contrary to section 11 of this said document, and also to requirements of CP4, CP7, and policy GE3 of the Cheltenham Borough Local Plan.

The specific design of the proposed new houses is neither in keeping with the existing surrounding dwellings. The elevation with four storeys is indicative of a block of flats and the design is totally unsympathetic and insensitive. I have not been able to ascertain the proposed ridge heights on Plot 1 and Plot 2 which is not listed anywhere in the materials online, however, the four storey houses would be very significantly higher than the two storey house which is to be demolished and would also be much higher than any of the other houses within the row of which they would form a part. The maximum ridge height on both adjacent properties to the North and South [both] have a ridge height level of only circa 103.0. It is clear from the plans submitted that the proposed 6,100+sqft four storey houses and integral "super garages" with living space above are enormous and resemble blocks of flats. They do not in any way compliment and respect neighbouring properties.

This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. Policy CP4a provides that "Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality." In this context amenity includes loss of outlook and separately loss of privacy. The drawing 'Site Section H-H' highlights the hypocrisy and blatant disregard shown by the developers towards the neighbouring properties, such that a planned reduction in the height of

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the eastern boundary hedge would allow the new dwellings to enjoy views across Cheltenham, yet the new buildings themselves would completely block the same current views for the existing properties to the west of the site - namely Birchley House and Ash Tree House. Further, given their bulk and mass, they will have a visually overbearing impact on surrounding properties. Therefore, compliance with policies CP7 and GE3 has not been achieved.

Similarly the four storey buildings are shown to have bedroom windows overlooking my property and those of my neighbours. Although those overlooking windows will be more than 21 metres away, in the context of the open aspect of this site and the topography the loss of privacy would be very significant. In these circumstances, the minimum distances should be disapplied.

This application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems as the existing access is difficult given the plot is situated on a steep bend of Birchley Road where they have been traffic accidents in recent years. This is contrary to both; Policy CP4b - "Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level", and Policy TP1 - "Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access...."

I would be grateful if the council would take my objections into consideration when deciding this application and it is respectfully requested that planning permission for the above development be refused.

Comments: 23rd April 2017

Thank you for your letter dated 10 April 2017.

Having reviewed these new plans I do not believe the revisions materially affect my objection submitted previously.

The proposed 6,100+sqft four storey houses are [still] enormous and resemble blocks of flats. They do not in any way compliment and respect neighbouring properties.

I would be grateful if the council would take my previous objections into consideration when deciding this application and it is respectfully requested that planning permission for the above development be refused.

The Uplands
Stanley Road
Cheltenham
Gloucestershire
GL52 6PF

Comments: 14th March 2017

As residents living in Battledown (since 2014, and we plan to stay at least another 20 years) our attention has been drawn to the proposal of the relatively new owners of The Water Gardens, Birchley Road, to demolish one large residence, and replace it with two brand new properties.

We would like to lodge our strong opposition to this plan, as it breaches the Deed of Covenants, in terms of maximum property numbers per lot, which all Battledown residents have, and continue to, abide by since they were first introduced over 150 years ago.

In addition, the property in question is not in need of anything other than redecoration/renovation, to suit personal tastes. It is certainly NOT a small, tired or old/run down building, and as such, we also feel that, aside from our key concern above, this proposal also poses a detrimental

environmental impact, in planning to demolish a large modern home unnecessarily, and seemingly purely for financial gain.

Thank you for your kind attention.

Comments: 15th March 2017

I wanted to add a couple of quick points to my wife's note (attached) to the planning department;

- (1) One key factor in our decision to buy on the Battledown estate was the specific protection around future development 'intensity' contained in the Estate Deed of Covenants

This was, and is, very important to us and resulted in us making a significant emotional and financial commitment to living on the Estate and in Cheltenham

- (2) I don't have knowledge of development volumes and intensity in Cheltenham - appears to be a lot going on which is positive for the town. However, in this case I would urge the Council to additionally consider the potential legal costs which may result in contesting the principles and legal position of the Estate Deed - I assume ultimately with both residents and Trustees if it came to that

From my experience this can be protracted and difficult resulting in material opportunity cost - with minimal overall benefit to the Towns wider development initiatives

I would ask that the council officials, exercising their powers as elected representatives, to please carefully and critically review this request (as usual)

Avalon
Stanley Road
Cheltenham
Gloucestershire
GL52 6PB

Comments: 14th March 2017

I should like to object to the planning application regarding the above property on many grounds but particularly because it will increase vehicular traffic on this really dangerous bend, which is a notorious 'black-spot'. In fact, special surfacing has already been applied in this area to increase tyre grip in inclement weather. Even so, over the years there have been many accidents at this point of the estate.

Obviously, increased usage will exacerbate the problem.

Cobham Court
Beechwood Close
Battledown
GL52 6QQ

Comments: 14th March 2017

I would like to object to the building of extra houses on water garden.

Little Ashley
Ashley Road
Cheltenham
Gloucestershire
GL52 6QE

Comments: 14th March 2017

Concerning the Water Gardens development application by BHL. As residents at the Battledown estate conscious of the existing traffic hazards from traffic along Battledown approach we express concern in relation to a potential increase in motor traffic if road access between the new estate and Battledown Approach is permitted. Considerable risks are attached to an increase in traffic past the primary school situated on Battledown approach.

Greenacre
Stanley Road
Cheltenham
Gloucestershire
GL52 6QD

Comments: 23rd April 2017

I am writing in reference to the above planning permission application.

We have been living in Battledown for 7 years now and love the peace and tranquility of the neighbourhood. We love living in this part of town and actively looked to live here because of the density of housing. We very much value the Deed of Covenants that applies to the Estate, which limits this housing density to what is considered reasonable to maintain a lack of overcrowding.

We are very concerned about the proposed planning application. If permission is granted for this application, it will represent of blatant breach of the covenant. In itself this will be a real shame, but more importantly it will start a precedent that will allow future similar such applications to be granted - which in turn will gradually but surely affect the whole estate. We are very much opposed to such a proposal and find it important to raise our concerns and objections to the proposed plans.

We very much hope that our concerns will be taken into account and acted upon when consideration is made by the Council towards this particular application.

Tanglin
Oakley Road
Cheltenham
Gloucestershire
GL52 6NZ

Comments:
NONE GIVEN

Falcons Crest
Stanley Road
Cheltenham
Gloucestershire
GL52 6QD

Comments: 13th April 2017

I have objected before by email. The revised plans do not resolve the key difficulty, which is that the owner plans to flout the trust deed.

Lisvane
Oakley Road
Cheltenham
Gloucestershire
GL52 6PA

Comments:

Letter attached.

Birchley House, Birchley Road, Battledown, Cheltenham,

Glos GL52 6NY

Telephone: [REDACTED]

To Cheltenham Borough Council
Planning Department
P.O. Box 12
Municipal Offices
Promenade
Cheltenham
GL50-1PP

For the attention of Mr Ben Hawkes

6th March 2017

Planning Ref:-17/00365/FUL

Dear Sir

Proposal; Demolition of existing building and garage and replacement with two new detached dwellings at The Water Gardens, Birchley Road Cheltenham

1. Introduction

I am the owner of Birchley House, Birchley Road, the property which immediately abuts the eastern boundary of the proposed development site. I have lived at this property for almost 14 years.

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique because as far as I am aware it is the sole remaining Victorian estate which is governed by its founding Charter, (a Deed of Covenant or Trust), and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees.

2. Planning Strategy and Policy

Government has published a national sustainable development strategy. In that strategy "Sustainable Development" means "A better quality of life", the object of which is to ensure "a better quality of life for everyone, now and for future generations to come, through...effective protection of the environment..."

The Government guidance also states that it considers the historic environment to be a central part of the country's heritage and national identity which contributes to the quality of life and economic

activity. It says that effective protection for ALL aspects of the country's historic environment is fundamental to the Government's policies for environmental stewardship.

In 1999 Cheltenham Borough Council commissioned a report entitled "Cheltenham: Its Economy and Future". That report concluded that the economic success of the town is the product of its "total heritage---its history and environmental quality..." and its recommendation was that "the cultivation of this total approach must be maintained". Based on this report CBC published an Economic Development and Regeneration Strategy which established five strategic priorities for the town, the one of relevance to this objection being "a quality approach to the town".

Against this background CBC has produced its Local Plan. Various statutory provisions require that planning applications are determined in accordance with the Local Plan. The Local Plan sets out numerous objectives and policies which are informed by the Government's guidance and CBC's own research. Those objectives include "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23).

Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets..." Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..." and "safeguarding attractive landscape".

3. The Planning Statement and Sustainable Development (CP1)

The Planning Statement which has been lodged by the applicant admits at Para 1.8 that "The area (i.e. Battledown estate) is characterised by large houses in large plots which is the dominant typology of the Battledown Estate and along with its mature landscape setting gives the area its identity....its landscaped setting does positively contribute to the local character".

The applicant also states correctly at para 1.8 of his Planning Statement that "to preserve the founding green and spacious principles of this residential estate a legal deed (i.e. the Deed of Covenant to which I have referred above) restricts owners and any successors in title to a number of conditions including the density and character of new residential development". The applicant has prefaced the above comment by saying that this is not a planning matter but in the context of what I have set out in the paragraphs above that is not correct. That is because this proposed development is for two houses to replace the one which he proposes to demolish. The trustees' professional advice from both surveyors and solicitors is that the construction of two houses on the site would breach the density obligation in the governing deed. If the planning consent is granted then the trustees of the Battledown Estate will be obliged by the duties of their office as trustees to take appropriate steps, possibly including litigation, to enforce the deed to prevent the building works from taking place. However, there can never be absolute certainty in litigation and so if the result is that the construction does eventually take place then the precedent will have been set and it is inevitable that there will be intense pressure for the similar development of many of the other houses on the Battledown Estate which the trustees will be powerless to prevent and one of Cheltenham's heritage assets will be lost for ever.

If CBC were minded to grant this application then the resulting damage to Cheltenham's attractiveness to all of its inhabitants, and to Battledown in particular, would be severe. Current and future generations would not be able to enjoy the amenity of its mature landscaped setting and the CBC objectives and policies in its Local Plan and Government guidance would have been cast aside. On this basis therefore this planning application does not constitute sustainable development.

Therefore the presumption which would otherwise apply in favour of granting the application cannot apply and so I would request that this application be refused.

4. The Planning Statement and Sustainable Environment (CP3)

The Local plan includes a policy for sustainable environment (CP3). The aim is stated to be “to protect and enhance the built and natural environments...” It continues “...A high quality environment can help the towns economy” and further the CBC will “...control () any negative impacts of development on landscape, buildings and wildlife.” In furtherance of these aims CP3 provides that “Development will be permitted only where it would...conserve or enhance the best of the built or natural environments”. “Best” is defined as “a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site OR LOCALLY”(my emphasis).

The area of the Battledown Estate is a feature of Cheltenham’s environment which by the applicants own planning statement is described as “an attractive rural leafy setting within proximity to Cheltenham town”. Furthermore, “its mature landscape setting gives the area its identity.” And further “its landscaped setting does positively contribute to local character”.

It is clear that granting consent for two houses on this site for the reasons explained at 3 above could possibly/likely lead to the destruction of the Battledown Estate as originally conceived and subsequently preserved by the trustees over the generations for the benefit of the residents and also for the town. Consequently granting consent is not consistent with the CBCs policy CP3 and should be refused.

5. Safe and Sustainable Living (CP4a)

Policy CP4a provides that “Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality.” In this context amenity includes loss of outlook and separately loss of privacy.

Loss of Outlook---Due to the topography the outlook from Birchley House is primarily to the west across the intended site. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the two storey house which is to be demolished and also higher than any of the other houses within the row of which they would form a part. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. If two houses were built the combined width of the new development would also represent a very significant loss of outlook from my property and from that of my neighbours. As adjoining landowners there would be a significant loss of amenity arising from these current proposals.

Loss of Privacy---Similarly the four storey buildings are shown to have bedroom windows overlooking my property and those of my neighbours. Although those overlooking windows will be more than 21 metres away, in the context of the open aspect of this site and the topography the loss of privacy would be very significant. In the circumstances the minimum distances should be disappplied.

For both of these reasons policy CP4a has not been complied with and so the application should be refused.

6. Safe and sustainable Living (CP4b) and Development and Highway Safety (TP1)

Policy CP4b provides that “Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level”

Policy TP1 provides that “Development will not be permitted where it would endanger highway safety, directly or indirectly by....increasing the use of an existing access....”

The point at which the existing house joins the highway is very near to a bend. The road at this point is quite steep. This section of road is particularly dangerous. There have been numerous accidents on this bend. I have had a car go through my fence in to my garden. There have been numerous instances of cars hitting the walls and trees which line the road at this point and indeed going into the ditch on this bend. The trustees have done what they can to make the situation safer but there is little more that they can do.

The maximum number of occupants for which the existing house has been built is 8 (i.e. four double bedrooms). If the proposed new houses were built then the maximum number of occupants would be 24 (i.e. 12 double bedrooms). It is to be expected therefore that the number of vehicle movements to and from the new premises would be three times greater than at present and so the risk associated with that would also be significantly greater.

For this reason policies CP4b and TP1 have not been complied with and the application should be refused.

7. Design (CP7) and Development within extensive gardens (GE3)

Policy CP7 provides that “Development will only be permitted where it....adequately reflects principals of urban design and ...compliments and respects neighbouring development...” It is a principle of urban design in the Local Plan to “retain...skylines...”

Policy GE 3 provides that “In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site...”

As stated at 5 above the proposed four storey dwellings are disproportionate in their height when compared to the other houses in the row of which these two are intended to form part. The ridge line will be significantly higher than that of the house which is to be demolished (although the applicant has chosen not draw attention to this by including this detail on the submitted drawings). The proposed dwellings are also very much higher than the rooves of the dwellings which are on either side (north and south) particularly the house to the north and there are great concerns as to the restriction of sunlight to that property particularly during the winter. The proposed houses do not compliment or respect the neighbouring properties in these various respects.

Also the houses which are proposed are inappropriate to those which are nearby due to their mass and bulk. The properties would have a visually overbearing impact on the premises around them and as such would be intrusive.

It is clear therefore that policies CP7 and GE3 have not been complied with and therefore the application should be refused.

8. Private Green Space (GE2)

The Local Plan states that green space is “undeveloped land, not necessarily provided for formal recreation or public amenity, which makes a positive visual and environmental contribution to the town...” which includes “...private gardens...” Green space is acknowledged in the Plan as having “worth for townscape environmental wildlife and recreational values”. The townscape is defined in the Local plan as “the positive features of a place which create a special identity for a given area”. Outside of the conservation area “green space is just as important to the local townscape and character and is as highly valued by residents.” “...green space contributes to an urban environment...by creating lower densities of development it can reduce levels of activity in an area, thereby contributing to a more peaceful and relaxed ambiance, a benefit...in...residential areas”. “Human life, health and wellbeing depend on a healthy natural environment.” “Green spaces are essential in providing habitats for a wide range of flora and fauna.”

In paragraph 6.23 of the Local Plan relating to private green space it states that such gardens “are often considered by owners to be a valuable resource; a financial resources which may be realised through development....Developments of this nature can be to the detriment of the townscape and environmental value of green space.”

Against this background the Local Plan establishes the policy (GE2) that “The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted.” Note 2 to this policy provides that “the fact that a site is the most cost effective development option for the applicant is not justification for an exception to policy GE2”

The green space of this site is an integral part of the green space provided by the Battledown Estate to the townscape of Cheltenham. Battledown Hill is an attractive wooded feature which can be seen from many vantage points around the town and from the surrounding countryside. Clearly the Battledown Estate makes a significant townscape and environmental contribution to the town and so granting this consent would be in breach of this policy and it should be refused.

9. Conclusion

This application seeks to impose on the owners of those properties that neighbour the proposed development site a form of development which is overbearing and inappropriately large. The proposals are unsympathetic to the nature and scale of the surrounding properties. It is clear that the quality of life for those who live near to the site will be adversely affected in many ways. In particular the granting of this consent could lead to the destruction of the Battledown Estate as an attractive feature of the town and that would be much to be regretted. I have explained that whereas that would not normally be considered a planning matter it is a planning matter in this instance because the application if granted would be detrimental to the survival of the Battledown Estate and so does not satisfy the requirements for sustainable development. Furthermore, as I have demonstrated, this application does not comply with many of the Council’s Local Plan policies and so I would strongly urge CBC to refuse this application.

Please be aware that this is not a case of “NIMBYism”. The officers will be aware that there have been numerous applications for planning consent on the Battledown Estate. Some of those attract a few objections but there are some which attract no objections at all. This application however is of a different order, it is not supported by the Battledown trustees, and is highly insensitive to the neighbouring residents. I would remind the Council that, as I have said at 2 above, the Government

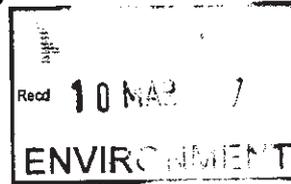
is seeking to promote sustainable development being a better quality of life for everyone, now and for future generations and that cannot be achieved by granting this application.

10. Referral to committee

If this application is to be referred to the Councillors for a decision then please note that I would like to address the meeting of the committee at which this application is to be decided and would you therefore please let me know in due course the date that that meeting is to be held

Yours faithfully,

A solid black rectangular box used to redact the signature of the sender.



Cleavelands
Ashley Road
Battledown
Cheltenham
GL52 6PG

Thursday, 2 March 2017

Ms Tracy Crews
Director of Planning
Cheltenham Borough Council
The Promenade
Cheltenham

Dear Ms Crews

Re: Planning application 17/00365/FUL
The Water Gardens
Birchley Road
Battledown
Cheltenham

It has recently come to my attention that the above planning application is applying to divide this plot in two thus creating two separate dwellings.

My understanding regarding properties in the Battledown Estate is that each property has approx. half an acre per plot, by allowing this development it subsequently reduces this to two plots per half acre.

There are many properties within the Battledown Estate that could very easily be sub divided into smaller plots each with less than half an acre.

The negative outcome of allowing such an application is that it would set a precedent for such developments, increase traffic flow set against an area with few if no pathways to walk on.

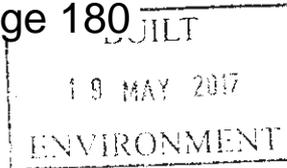
If by allowing this development you can be assured that within a short space of time you will be presented with another proposal to divide for the reasons of personal benefit only.

I am therefore asking that you do not consider this application for the reasons that i have outlined.

Thank you

~~Yours sincerely~~

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Clevelands
Ashley Road
Battledown
Cheltenham
GL52 6PG

Friday, 19 May 2017

Mr Ben Hawkes
The Planning Dept.
Cheltenham Borough Council
The Promenade
Cheltenham
GL50 1PP

Dear Mr Hawkes

**Re: Planning Application 17/00365/FUL
The Water Garden, Birchley Road, Cheltenham**

As an owner of a house in Battledown, I am objecting to the over development of The Water Garden plot in Birchley Road on the basis that it will effectively double the amount of vehicles.

The drawings show the development of two separate houses with at least 3 or 4 vehicles each, in affect that plot with one entrance could be used by up to 8 vehicles , also bearing in mind that it is located on a blind bend as well as on a downward sloping road.

My concern would be that there could be some sort of vehicle incident in the future as well as the fact that there is no pavement so people have to walk in the roadway.

Please will you consider my objection.

Yours sincerely

A large black rectangular redaction box covering the signature area.A smaller black rectangular redaction box covering the name area.

Phone [REDACTED]
Email [REDACTED]

Hawthorns
Oakley Road
Cheltenham
Glos. GL52 6NZ

6th March 2017

Dear Ms. Crews

**Planning Application 17/00365/FUL
Objection thereto**

As residents of the Battledown Estate, we wish to object, with the greatest vigour, to the above planning application.

The grounds for our objection are that a two-dwelling proposal (of whatever size or design) would breach the Estate's 1859 Deed of Covenant, which limits the housing density permitted on the Estate. It is this low density which gives the Estate its characteristic, and to which each existing householder (including the controlling shareholders of the developer submitting the Application) has signed up.

The issue for us, and for the Trustees of the Estate, is not one of design or of the act of replacement of the existing property at The Water Gardens, but is of opposition to a "2 property" replacement.

Approval of this application, as submitted, would open the floodgates to widespread further development of the Estate, in contravention of our long-standing, and equally long-observed Deed of Covenant, and we ask that the Council refuse the application on this basis.

Yours sincerely,

[REDACTED]

[REDACTED]

Ms Tracey Crews
Director of Planning
Cheltenham Borough Council

BY HAND

Phone [REDACTED]
Email [REDACTED]

Hawthorns
Oakley Road
Cheltenham
Glos. GL52 6NZ

21st April 2017

Dear Ms Crews,

Planning Application 17/00365/FUL

Thank you for the opportunity (provided by your letter dated 10th April) to react to revisions to the planning application referenced above.

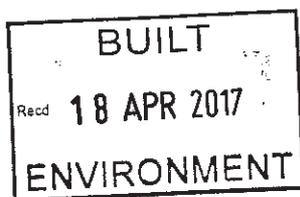
In my view, the revisions are minor, and do not change the opinions of my wife and myself, as submitted in our letter dated 6th March. They do not appear to address what for us is the fundamental issue of the density of development on the Battledown Estate, and the implications for the Covenant which each and every resident of the Estate has accepted in their purchase of property on the Estate.

We therefore ask you to accept that our letter of 6th March apply to the revised planning submission, as to the original version.

Yours sincerely,

[REDACTED]

Ms Tracey Crews
Director of Planning
Cheltenham Borough Council



*Carlton House.
Battledown Drive,
Cheltenham,
Gloucestershire.
GL52 6RX.*



Cheltenham Borough Council,
Planning Department.
P.O. Box 12,
Municipal Offices,
Promenade,
Cheltenham.

17th April 2017

Dear Ms Crews

The observations and advice contained in our last letter to you remain the same as there are two houses shown on the plans. Perhaps you need to look at your records of your valuation officer and the legal department you had at that time. This would have been prior the sale, the agreement you must have reached with the Trustee's of the Estate which enabled you sell this land in plots of a pre-determined size, together with the Battledown Estate maintained Road?

Yours faithfully



Birchley House, Birchley Road, Battledown, Cheltenham,

Glos GL52 6NY

Telephone: 01242 [REDACTED]

To Cheltenham Borough Council
Planning Department
P.O. Box 12
Municipal Offices
Promenade
Cheltenham
GL50-1PP

For the attention of Mr Ben Hawkes

10th March 2017

Planning Ref:-17/00365/FUL

Dear Sir

Proposal; Demolition of existing building and garage and replacement with two new detached dwellings at The Water Gardens, Birchley Road Cheltenham

I am the owner of Birchley House, Birchley Road, the property which immediately abuts the eastern boundary of the proposed development site. I have lived at this property for almost 14 years.

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique because it is believed to be the sole remaining Victorian estate which is governed by its founding Charter, a 1859 Deed of Trust, and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees.

I wish to object to this planning application on the following grounds:

1. It does not comply with or satisfy the requirements of:
 - a) The Government's national sustainable development strategy for protection of our heritage and historic environment.
 - b) Cheltenham Borough Council's 1999 Economic Development and Regeneration Strategy for the cultivation of the town's history and environmental quality
 - c) Cheltenham Borough Council's Local Plan Policy O11 "to conserve and improve Cheltenham's....historical heritage"
 - d) Cheltenham Borough Council's Local Plan Policy O12 "to conserve and improve Cheltenham's landscape character and green environment"

- e) Cheltenham Borough Council's Local Plan Policy O23 "to secure a high standard of residential amenity"

2. Cheltenham Borough Council's Local Plan Policy CP1

Policy CP1 is to ensure that development is sustainable ie development which conserves or enhances environmental assets including conserving historic areas and safeguarding attractive landscape. The Planning Statement which has been lodged by the applicant admits at Para 1.8 that "The area (i.e. Battledown estate) is characterised by large houses in large plots which is the dominant typology of the Battledown Estate and along with its mature landscape setting gives the area its identity....its landscaped setting does positively contribute to the local character".

The applicant also states correctly at para 1.8 of his Planning Statement that "to preserve the founding green and spacious principles of this residential estate a legal deed (i.e. the 1869 Deed of Trust to which I have referred above) restricts owners and any successors in title to a number of conditions including the density and character of new residential development". This proposed development is for two houses to replace the one which it is proposed be demolished. The Battledown Trustees professional advice from both surveyors and solicitors is that two houses on the site would breach the density obligation in the 1859 Trust Deed. If planning consent is granted then a precedent will have been set with the inevitable pressure for the similar over development of many of the other houses on the Battledown Estate leading to the loss of one of Cheltenham's heritage assets for ever.

If this application is granted then the resulting damage to Cheltenham's attractiveness to all of its inhabitants, and to Battledown in particular, would be severe. People now and in the future would not be able to enjoy the amenity of the Battledown mature landscaped setting and the CBC objectives and policies in its Local Plan and Government guidance would have been cast aside. On this basis therefore this planning application does not constitute sustainable development and comply with Policy CP1. Therefore the presumption which would otherwise apply in favour of granting the application cannot apply.

3. Cheltenham Borough Council's Local Plan Policy CP3

The aim is stated to be "to protect and enhance the built and natural environments..." It continues "...A high quality environment can help the towns economy" and further the CBC will "...control () any negative impacts of development on landscape, buildings and wildlife." In furtherance of these aims CP3 provides that "Development will be permitted only where it would...conserve or enhance the best of the built or natural environments". "Best" is defined as "a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site OR LOCALLY"(my emphasis).

The area of the Battledown Estate is a feature of Cheltenham's environment which the applicant himself describes as "an attractive rural leafy setting within proximity to Cheltenham town". Furthermore, "its mature landscape setting gives the area its identity" and further "its landscaped setting does positively contribute to local character".

Granting consent for two houses on this site as explained at item 2 above could possibly/likely lead to the destruction of the Battledown Estate as originally conceived and subsequently preserved by the trustees over the generations for the benefit of the residents and also for the town. Consequently granting consent is not consistent with the CBCs policy CP3.

4. Cheltenham Borough Council's Local Plan Policy CP4a

Policy CP4a provides that "Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality." In this context amenity includes loss of outlook and separately loss of privacy.

Loss of Outlook---Due to the topography the outlook from Birchley House is primarily to the west across the intended site. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the existing two storey house which it is proposed be demolished and also higher than any of the other houses within the row of which they would form a part. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. If two houses were built the combined width of the new development would also represent a very significant loss of outlook from my property and from that of my neighbours. As adjoining landowners there would be a significant loss of amenity arising from these current proposals.

Loss of Privacy---Similarly the four storey buildings are shown to have bedroom windows directly looking into my property and overlooking those of my neighbours. Although those windows will be more than 21 metres away, in the context of the open aspect of this site and the topography the loss of privacy would be very significant. In the circumstances the minimum distances should be disappplied.

For both of these reasons policy CP4a has not been complied with.

5. Cheltenham Borough Council's Local Plan Policy CP4b and Development and Highway Safety TP1

Policy CP4b provides that "Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level"

Policy TP1 provides that "Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access...."

The site boundary with Birchley Road from which access to the site is obtained is very near to a bend and also the road at this point is quite steep. This section of road is particularly dangerous as evidenced by the fact that here have been numerous accidents on this bend. There have been numerous instances of cars hitting the walls and trees which line the road at this point and indeed going into the ditch on this bend; I have even had a car go through my fence in to my garden. The trustees have done what they can to make the situation safer but there is little more that they can do.

The current house on the site has four double bedrooms indicating a maximum number of 8 adults living there. If the proposed new houses were built then the maximum occupancy would be 24 (i.e. 12 double bedrooms). Consequently the number of vehicles going to and from the proposed 2 new houses could be three times greater than at present and so the risk associated with that would also be significantly greater.

For this reason policies CP4b and TP1 have not been complied with.

6. Cheltenham Borough Council's Local Plan Policies CP7 and GE3

Policy CP7 provides that “Development will only be permitted where it....adequately reflects principals of urban design and ...compliments and respects neighbouring development...” It is a principle of urban design in the Local Plan to “retain...skylines...”

Policy GE 3 provides that “In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site...”

As stated at 4 above the proposed four storey dwellings are disproportionate in their height when compared to the other houses in the row of which these two are intended to form part. The ridge line will be significantly higher than that of the existing house which is to be demolished.. The proposed dwellings are both also very much higher than the rooves of the dwellings which are on the north and south sides of them, particularly the house to the north and there are great concerns as to the restriction of sunlight to that property particularly during the winter. The proposed houses do not compliment or respect the neighbouring properties in these various respects.

Also the houses which are proposed are inappropriate to those which are nearby due to their mass and bulk. The properties would have a visually overbearing impact on the premises around them and as such would be intrusive.

It is clear therefore that policies CP7 and GE3 have not been complied with

7. Cheltenham Borough Council's Local Plan Policy GE2

Policy GE2 states that green space is “undeveloped land, not necessarily provided for formal recreation or public amenity, which makes a positive visual and environmental contribution to the town...” and this includes “...private gardens...” Green space is acknowledged in the Plan as having “worth for townscape environmental wildlife and recreational values”. The townscape is defined in the Local plan as “the positive features of a place which create a special identity for a given area”. Outside of the conservation area “green space is just as important to the local townscape and character and is as highly valued by residents.” “...green space contributes to an urban environment...by creating lower densities of development it can reduce levels of activity in an area, thereby contributing to a more peaceful and relaxed ambiance, a benefit...in...residential areas”. “Human life, health and wellbeing depend on a healthy natural environment.” “Green spaces are essential in providing habitats for a wide range of flora and fauna.”

The Local Plan also states that such gardens “are often considered by owners to be a valuable resource; a financial resources which may be realised through development....Developments of this nature can be to the detriment of the townscape and environmental value of green space.”

Accordingly Policy GE2 establishes that “The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted.” Note 2 to this policy provides that “the fact that a site is the most cost effective development option for the applicant is not justification for an exception to policy GE2”

The green space of this site is an integral part of the green space provided by the Battledown Estate to the townscape of Cheltenham, and intended to be protected by the terms of the 1859 Trust Deed under the provisions I have already referred to at item 2 above. Battledown Hill is an attractive wooded feature which can be seen from many vantage points around the town and from the

surrounding countryside. Clearly the Battledown Estate makes a significant townscape and environmental contribution to the town. The size and design of the proposed two new houses would be such as to stand out on the hill locally and from a distance and alter this landscape. Accordingly the proposed development would be in breach of this Policy.

8. Flooding

I understand that there are numerous natural underground springs on the Battledown Hill, one or more of which come to the surface within the development site – hence the name given to the existing house of “The Water Gardens”. Currently the springs feed a large ornamental pond within the existing garden but if the proposed development takes place these watercourses would be interfered with resulting in the potential of causing flooding or water logging in gardens nearby or upstream, or worse endangering house foundations with the excess water washing away the subsoil.

9. Housing

The applicant indicates that the proposed development will assist the housing shortage. However it is my understanding that the shortage is in starter and mid-range properties, and therefore not of the type being proposed.

10. Design

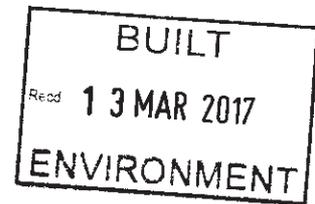
The specific design of the proposed new houses is neither in keeping with the existing surrounding dwellings nor, even on a modern interpretation, does it bear any resemblance to a regency style villa. The elevation with four storeys is indicative of a block of flats and the chimneys at both ends of both houses are reminiscent of a power station. The design is totally unsympathetic and insensitive.

In conclusion, whilst I do not object to development per se, as explained above this particular application does not comply with or satisfy the Government’s national strategy or the policies in the Council’s Local Plan. Accordingly I object to the application and ask the Council to refuse it.

Yours faithfully,



Field House
Ashley Road
Cheltenham
GL52 6PH



8th March 2017

Dear Ms Crews

Planning Application 17/00365/FUL

I write on behalf of my husband and myself to object to the planning application as above.

Having lived on Battledown for at least 42 years, we believe we are the residents who have lived here the longest. Hopefully we are not "old codgers" but people caring and concerned about our surroundings. During all this time it has always been said by the Trustees that only one house is permitted per half-an-acre, as stated in the Covenant of 1859. No-one has been able to alter this, and we can see no reason why the owner/developer of The Water Garden should have the right to do so now, and the Planning Committee of the Cheltenham Borough Council should follow the terms of this Covenant.

The area of Battledown is unique. The other evening we had cause to drive down Birchley Road and could look across through a beautiful pine tree and over The Water Garden to the stunning view across Cheltenham and beyond to the Black Mountains in Wales. Across the road walked two roe deer. I suggest the planning committee might do the same thing to appreciate the area, by driving downhill on Birchley Road. It would be a sacrilege to demolish this house and replace it with two, three storey houses that look more like factory units. Even if permission were given to rebuild one house instead of the present one, we would object to a three storey property, as it would create a precedent, and would not be in-keeping with the other surrounding houses. The view down Birchley Road would be ruined.

We are lucky and appreciate that the larger gardens provide a haven for wild life. The deer as mentioned above, badgers, foxes, bats, squirrels; and today we can hear the woodpecker drilling in an oak tree. The area is well know for it's bird life and is popular with ornithologists. Recently we have had an owl box fitted into one of our

trees by the Gloucestershire Barn Owl Recovery Unit to encourage them to breed in our garden.

The increase in the density of housing on this estate would be to destroy it's ethos. We strongly object to this planning application for the reasons mentioned above.

Yours sincerely,

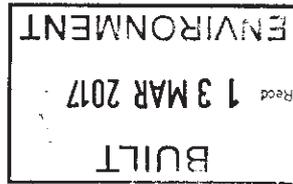
A large black rectangular redaction box covers the signature and name of the sender. The redaction is composed of several overlapping black shapes, including a large top block, a smaller block below it, and a horizontal bar extending further to the left.

Wellswood House

Birchley Road

Cheltenham

GL52 6NY



12 March 2017

Mr B Hawkes

Planning Officer, Cheltenham Borough Council

PO Box 12

Municipal Offices

Promenade

Cheltenham

GL50 1PP

Dear Mr Hawkes

17/00365/FUL | Demolition of existing building and garage and replacement with two new detached dwellings | The Water Garden Birchley Road Cheltenham Gloucestershire GL52 6NY

I strongly object to the proposed application. I am submitting my objection by post in order to include two photographs but have started the text of my objection on a separate page for ease of posting online.

Yours sincerely



Planning Application at The Water Gardens, Birchley Road. Ref 17/00365/FUL

I strongly object to the Planning Application made for two houses following demolition of The Water Gardens, your reference Ref 17/00365/FUL. I am an immediate neighbour to the north of the proposed development and would lose significant amenity should the development be allowed.

Loss of light and overshadowing

The most recent document submitted by the developer (8 March 2017), site section F-F, shows the height of the proposed house on plot 1 as being slightly taller than the existing house. However, the new house will sit further back on the plot; it will be downhill and will therefore actually tower over my property. It will cut out all the southerly light to my property in the winter and over my pool until late afternoon /evening even in the summer. This would greatly reduce my enjoyment of my property.

Further, as the new garage of plot 1 will sit very close to the boundary at what appears to be the same height as my upper floor I will lose light in two of the most used rooms in my property, the lounge and the largest bedroom.

Overlooking and loss of privacy

The proposed terrace of plot 1, although on the lower ground floor, would I believe sit just above my pool, taking away the privacy I currently enjoy whilst using the pool.

The kitchen window to the north and large rear staircase window in the plot 1 house would look directly in to my largest bedroom window and downwards in to both my lounge and glass roofed conservatory. This is an unacceptable loss of privacy.

Design materials and appearance

A previous objector described the design as "Russia in the 1970's". I agree. The frontage of the properties has a commercial feel. The northern elevation of plot 1, facing my property, is shown as comprising five different building materials. It has an industrial look and is very unattractive.

Layout and density

The existing house on The Water Gardens plot has a large floor area and is two storeys. In order to site 2 houses on the plot the developer proposes reducing the floor area and building properties that are four storeys high. This is a much higher density of building and hard standing than currently exists on the plot and beyond that allowed by the Battledown Estate covenants.

The infrastructure in Battledown is struggling to support recent development. Extreme weather conditions are already testing the drainage/sewerage systems and the roads deteriorating with overuse by construction traffic. Increasing the housing density will aggravate these problems.

Access

Although The Water Gardens plot is 0.361 hectares in size its position allows for only one access point on a sharp and steep bend. Adding another house to the plot doubles the risk of a serious accident. In recent years three vehicles have breached my hedging (after shot of one attached), another hit the wall of The Water Gardens, and two vehicles (photo of one incident attached) have been pulled from the ditch opposite my property. One vehicle hit the fencing on the outside of Birchley House, both a cyclist and micro-scooter rider have lost control coming downhill and been injured. More vehicles using this entrance can only increase the risk of accidents and injury.

The developer assumes that the access can be widened, presumably for safety purposes, but does not own this land. It is owned by the Battledown Estate and therefore the residents of the Estate. Amending the access across the verge would require approval of the Trustees, who may not choose to grant it. If this were the case, then I believe that allowing the development of two houses on the plot would pose a great danger to traffic and pedestrians.

Serious breach of the Terms of the Deed of Covenants of The Battledown Estate

My property and The Water Gardens sit within the Original Lot 60 of The Battledown Estate, which is approx. 3.75 acres in size. The Deed of Covenants permit only seven houses to be built on this Original Lot and it is, therefore, full. If the Water Gardens is demolished it can be replaced with just one property under the Trust Deed.

When purchasing a property on the Estate buyers are made aware of their legal duty under the Covenants, which are the same obligations for all members of the Battledown community. There are no exceptions for developers.

Of the 16 properties in Birchley Road, Skyview House (formerly Glenesk) was demolished and the rebuild completed last year. The demolition and rebuild of Kerrymead, has just received planning permission; despite being a very modern build there were no objections. The Battledown community accept the cycle of change and improvement to properties but a challenge to the rules we all observe after legally accepting these is underhand.

In conclusion

Descending Battledown Hill via Birchley Road, residents and visitors alike enjoy a fantastic vista across Cheltenham to the Black Mountains. To allow the development of two such domineering properties on this plot, merely for the financial advantage of a developer and their financial backer, will take this from future generations. An important part of the Battledown heritage will be lost and the properties will have an adverse effect on the visual amenity of the area as a whole.

I urge the developer to withdraw these plans. They miss an opportunity to make best use of a very private and attractive plot. Building a single low level house taking in the views and utilising the aspect of the plot including the reinstatement of the ponds could result in a stunning home commanding a premium. This could be newsworthy for the right reason and not for a challenge to a Deed put in place to secure the amenity of the majority.





Birchley House, Birchley Road, Battledown, Cheltenham,

Glos GL52 6NY

Telephone: [REDACTED]

To Cheltenham Borough Council
Planning Department
P.O. Box 12
Municipal Offices
Promenade
Cheltenham
GL50-1PP

For the attention of Mr Ben Hawkes

13th March 2017

Planning Ref:-17/00365/FUL

Dear Sir

Proposal; Demolition of existing building and garage and replacement with two new detached dwellings at The Water Gardens, Birchley Road Cheltenham

I live at Birchley House, Birchley Road; the property which immediately abuts the eastern boundary of the proposed development site.

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique because it is believed to be the sole remaining Victorian estate which is governed by its founding Charter, a 1859 Deed of Trust, and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees. It should therefore be preserved at all costs.

I wish to object to this planning application on the following grounds:

1. It does not comply with or satisfy the requirements of:
 - a) The Government's national sustainable development strategy for protection of our heritage and historic environment.
 - b) Cheltenham Borough Council's 1999 Economic Development and Regeneration Strategy for the cultivation of the town's history and environmental quality
 - c) Cheltenham Borough Council's Local Plan Policy O11 "to conserve and improve Cheltenham's....historical heritage"
 - d) Cheltenham Borough Council's Local Plan Policy O12 "to conserve and improve Cheltenham's landscape character and green environment"

- e) Cheltenham Borough Council's Local Plan Policy O23 "to secure a high standard of residential amenity"

2. Cheltenham Borough Council's Local Plan Policy CP1

Policy CP1 is to ensure that development is sustainable, i.e. development which conserves or enhances environmental assets including conserving historic areas and safeguarding attractive landscape. The Planning Statement which has been lodged by the applicant admits at Para 1.8 that "The area (i.e. Battledown estate) is characterised by large houses in large plots which is the dominant typology of the Battledown Estate and along with its mature landscape setting gives the area its identity....its landscaped setting does positively contribute to the local character".

The applicant also states correctly at para 1.8 of his Planning Statement that "to preserve the founding green and spacious principles of this residential estate a legal deed (i.e. the 1869 Deed of Trust to which I have referred above) restricts owners and any successors in title to a number of conditions including the density and character of new residential development". If two houses are built in place of the one presently there, this will breach the density obligation in the 1859 Trust Deed, as confirmed by the professional advice obtained by the Battledown Trustees from both surveyors and solicitors. This will then set a precedent for the similar over development of many of the other houses on the Battledown Estate, and one of Cheltenham's heritage assets will be lost forever.

If this application is granted, people now and in the future will not be able to enjoy the amenity of the Battledown mature landscaped setting, and the CBC objectives and policies in its Local Plan and Government guidance would have been ignored. The resulting damage to Cheltenham's attractiveness, both to Battledown and to wider inhabitants, would be severe. Therefore this planning application does not constitute sustainable development and comply with Policy CP1, and should be rejected.

3. Cheltenham Borough Council's Local Plan Policy CP3

The aim is stated to be "to protect and enhance the built and natural environments..." and "...A high quality environment can help the towns economy". Further, the CBC will "...control () any negative impacts of development on landscape, buildings and wildlife." In accordance with these aims, CP3 states that "Development will be permitted only where it would...conserve or enhance the best of the built or natural environments". "Best" is defined as "a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site OR LOCALLY"(my emphasis).

The applicant himself describes the Battledown Estate as "an attractive rural leafy setting within proximity to Cheltenham town". Furthermore, "its mature landscape setting gives the area its identity" and "its landscaped setting does positively contribute to local character".

As detailed at item 2 above, if planning permission for 2 houses is granted, it would lead to the destruction of the Battledown Estate as originally conceived and subsequently preserved by the trustees over the generations for the benefit of the residents and also for the town. Consequently granting consent is not consistent with the CBCs policy CP3 and the application should be rejected.

4. Cheltenham Borough Council's Local Plan Policy CP4a

Policy CP4a states that “Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality.” This refers to loss of outlook and separately loss of privacy.

The outlook from Birchley House is primarily to the west across the intended site. The proposed four storey houses would be much higher than the existing two storey house and also higher than any of the other houses within that row. The new houses would dominate and ruin the current outlook due to their disproportionate size in terms of both height and width. The combined width of the new development would not only result in a significant loss of outlook from Birchley House but also from that of my neighbours. Taken together, this is unacceptable harm to the amenity of adjoining landowners and the locality, and is not in agreement with Policy CP4a.

The location of the bedroom windows of the four storey dwellings is such that they would be looking directly into my home and also my neighbours, resulting in a significant loss of privacy for both houses. This would be so despite the windows being more than 21 metres away due to the open aspect of the site and the topography. In the circumstances the minimum distances should be disappplied to preserve amenity in accordance with Policy CP4a.

5. Cheltenham Borough Council’s Local Plan Policy CP4b and Development and Highway Safety TP1

Policy CP4b states that “Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level”

Policy TP1 states that “Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access....”

The development site is accessed very near to an almost blind bend where the road is quite steep. It is particularly dangerous here and there have been numerous accidents. Cars have hit walls and trees and have even gone into the ditch; we have had a car go through our fence and into our garden. Measures have been taken by the Trustees to improve safety at this point in the road but it still remains perilous.

The maximum occupancy of the proposed new houses is 24 (i.e. 12 double bedrooms), which is a significant increase from the maximum occupancy of the current house which is 8 (i.e. 4 double bedrooms). This means there is the potential for a threefold increase in traffic and therefore the risk of further accidents on this stretch of road will be increased.

Policies CP4b and TP1 have not been complied with and the application should be rejected.

6. Cheltenham Borough Council’s Local Plan Policies CP7 and GE3

Policy CP7 states that “Development will only be permitted where it....adequately reflects principals of urban design and ...compliments and respects neighbouring development...” It is a principle of urban design in the Local Plan to “retain...skylines...”.

Policy GE 3 states that “In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site...”

As outlined previously at point 4, the proposed four storey dwellings are disproportionate in their height when compared to the other houses in the row. The ridge line will be significantly higher than that of the existing house which is to be demolished. This is also the case for the properties on the north and south sides, particularly the house to the north, and there is a considerable risk of sunlight restriction to that property, especially during winter. As such, the proposed houses do not compliment or respect the neighbouring properties at all and the skyline would not be retained.

Also the mass and bulk of the proposed houses renders them inappropriate to those which are nearby. The properties will be visually overbearing and therefore intrusive.

If planning permission were granted, policies CP7 and GE3 would be breached, therefore the proposal should be rejected.

7. Cheltenham Borough Council's Local Plan Policy GE2

Policy GE2 states that green space is "undeveloped land, not necessarily provided for formal recreation or public amenity, which makes a positive visual and environmental contribution to the town..." and this includes "...private gardens..." Green space is acknowledged in the Plan as having "worth for townscape environmental wildlife and recreational values". The townscape is defined in the Local plan as "the positive features of a place which create a special identity for a given area". Outside of the conservation area "green space is just as important to the local townscape and character and is as highly valued by residents." "...green space contributes to an urban environment...by creating lower densities of development it can reduce levels of activity in an area, thereby contributing to a more peaceful and relaxed ambiance, a benefit...in...residential areas". "Human life, health and wellbeing depend on a healthy natural environment." "Green spaces are essential in providing habitats for a wide range of flora and fauna."

The Local Plan also states that such gardens "are often considered by owners to be a valuable resource; a financial resources which may be realised through development...Developments of this nature can be to the detriment of the townscape and environmental value of green space."

Accordingly Policy GE2 establishes that "The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted." Note 2 to this policy provides that "the fact that a site is the most cost effective development option for the applicant is not justification for an exception to policy GE2".

The 1859 Trust Deed is intended to protect the green spaces of the Battledown Estate provided to the townscape of Cheltenham, as outlined at point 2 above, including the green space at the proposed development site. Battledown Hill is an attractive wooded feature which can be seen from many vantage points around the town and from the surrounding countryside, making a significant townscape and environmental contribution to the town. The proposed two new houses would stand out on the hill locally and from a distance due to their size and design, altering this landscape and breaching Policy GE2. As such, the proposal should be rejected.

8. Flooding

Many natural underground springs exist on Battledown Hill, some of which surface within the development site, which is why the house was named "The Water Gardens". At present there is a large ornamental pond within the existing garden which the springs feed into. Building the 2

proposed houses would interfere with the water flow, flooding or water logging gardens nearby or upstream, or worse endangering house foundations with the excess water washing away the subsoil.

9. Housing

The applicant refers to the housing shortage and how the proposed development will help. However the shortage is in starter and mid-range properties, and therefore these 2 properties will not help at all.

10. Design

The proposed houses will not blend in with the existing surrounding properties due to their design. Even on a modern interpretation, the houses do not resemble regency style villas. Having four storeys, they are more akin to a block of flats and the chimneys at both ends of both houses are reminiscent of a power station. The design is, frankly, ugly, unsympathetic and insensitive.

In conclusion, whilst I do not object to development per se, as explained above this particular application does not comply with or satisfy the Government's national strategy or the policies in the Council's Local Plan. Accordingly I object to the application and ask the Council to refuse it.

Yours faithfully,

A thick black horizontal bar used to redact the signature of the author.

[REDACTED]
Shawford, Oakley Road, Cheltenham, Gloucestershire GL52 6NZ
[REDACTED]

Ms Tracey Crews, Director of Planning
CBC Planning Department
Municipal Offices, Promenade, Cheltenham GL509SA
3/03/2017



Dear Ms Crews

Re: Planning Application (17/00365/FUL)

I should like to object to the above Planning application in the strongest possible terms. My objection is based on the following reasons

Regardless of house design it would be massively detrimental to the people and heritage of Cheltenham to permit any two house development scheme to proceed

Even if the developer came back and reapplied with another, more modest, scheme of two less intrusive houses, my objection will still stand

Any development for two plus houses per plot is within direct breach of the Battledown covenant.

Any development such as this will lead to the destruction of a special environment that has stood for over 150 years and which benefits not only all the residents of the estate, but hundreds of other Cheltenham citizens who daily make use of the estate for exercise and relaxation, dog walking, running, cycling, horse riding and just generally enjoying the quiet roads and leafy green environment on Battledown Hill

The increased traffic from any such application and further applications would also seriously add to the risk of injury and death to the children and parents who attend the Holy Apostles School on Battledown Approach and all other users, residents and visitors of Battledown Hill. No two house, or more, scheme should be permitted.

Thank you

Yours sincerely

[REDACTED]

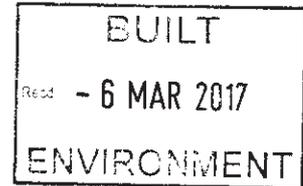
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[REDACTED]



Shawford, Oakley Road, Cheltenham, Gloucestershire GL52 6NZ

Ms Tracey Crews, Director of Planning
CBC Planning Department
Municipal Offices, Promenade, Cheltenham GL509SA
3/03/2017



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Thank you

Yours sincerely




Shawford, Oakley Road, Cheltenham, Gloucestershire GL52 6NZ

Ms Tracey Crews, Director of Planning
CBC Planning Department
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3/03/2017



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No two house, or more, scheme should be permitted.

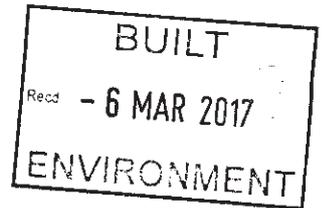
Thank you

Yours sincerely



[REDACTED]
Shawford, Oakley Road, Cheltenham, Gloucestershire GL52 6NZ

Ms Tracey Crews, Director of Planning
CBC Planning Department
Municipal Offices, Promenade, Cheltenham GL509SA
3/03/2017



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No two house, or more, scheme should be permitted.

Thank you

Yours sincerely

[REDACTED]
[REDACTED]

Birchley House, Birchley Road, Battledown, Cheltenham,

Glos GL52 6NY

Telephone: [REDACTED]

To Cheltenham Borough Council
Planning Department
P.O. Box 12
Municipal Offices
Promenade
Cheltenham
GL50-1PP

For the attention of Mr Ben Hawkes

6th March 2017

Planning Ref:-17/00365/FUL

Dear Sir

Proposal; Demolition of existing building and garage and replacement with two new detached dwellings at The Water Gardens, Birchley Road Cheltenham

1. Introduction

I am the owner of Birchley House, Birchley Road, the property which immediately abuts the eastern boundary of the proposed development site. I have lived at this property for almost 14 years.

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique because as far as I am aware it is the sole remaining Victorian estate which is governed by its founding Charter, (a Deed of Covenant or Trust), and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees.

2. Planning Strategy and Policy

Government has published a national sustainable development strategy. In that strategy "Sustainable Development" means "A better quality of life", the object of which is to ensure "a better quality of life for everyone, now and for future generations to come, through...effective protection of the environment..."

The Government guidance also states that it considers the historic environment to be a central part of the country's heritage and national identity which contributes to the quality of life and economic

activity. It says that effective protection for ALL aspects of the country's historic environment is fundamental to the Government's policies for environmental stewardship.

In 1999 Cheltenham Borough Council commissioned a report entitled "Cheltenham: Its Economy and Future". That report concluded that the economic success of the town is the product of its "total heritage---its history and environmental quality..." and its recommendation was that "the cultivation of this total approach must be maintained". Based on this report CBC published an Economic Development and Regeneration Strategy which established five strategic priorities for the town, the one of relevance to this objection being "a quality approach to the town".

Against this background CBC has produced its Local Plan. Various statutory provisions require that planning applications are determined in accordance with the Local Plan. The Local Plan sets out numerous objectives and policies which are informed by the Government's guidance and CBC's own research. Those objectives include "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23).

Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets..." Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..." and "safeguarding attractive landscape".

3. The Planning Statement and Sustainable Development (CP1)

The Planning Statement which has been lodged by the applicant admits at Para 1.8 that "The area (i.e. Battledown estate) is characterised by large houses in large plots which is the dominant typology of the Battledown Estate and along with its mature landscape setting gives the area its identity....its landscaped setting does positively contribute to the local character".

The applicant also states correctly at para 1.8 of his Planning Statement that "to preserve the founding green and spacious principles of this residential estate a legal deed (i.e. the Deed of Covenant to which I have referred above) restricts owners and any successors in title to a number of conditions including the density and character of new residential development". The applicant has prefaced the above comment by saying that this is not a planning matter but in the context of what I have set out in the paragraphs above that is not correct. That is because this proposed development is for two houses to replace the one which he proposes to demolish. The trustees' professional advice from both surveyors and solicitors is that the construction of two houses on the site would breach the density obligation in the governing deed. If the planning consent is granted then the trustees of the Battledown Estate will be obliged by the duties of their office as trustees to take appropriate steps, possibly including litigation, to enforce the deed to prevent the building works from taking place. However, there can never be absolute certainty in litigation and so if the result is that the construction does eventually take place then the precedent will have been set and it is inevitable that there will be intense pressure for the similar development of many of the other houses on the Battledown Estate which the trustees will be powerless to prevent and one of Cheltenham's heritage assets will be lost for ever.

If CBC were minded to grant this application then the resulting damage to Cheltenham's attractiveness to all of its inhabitants, and to Battledown in particular, would be severe. Current and future generations would not be able to enjoy the amenity of its mature landscaped setting and the CBC objectives and policies in its Local Plan and Government guidance would have been cast aside. On this basis therefore this planning application does not constitute sustainable development.

Therefore the presumption which would otherwise apply in favour of granting the application cannot apply and so I would request that this application be refused.

4. The Planning Statement and Sustainable Environment (CP3)

The Local plan includes a policy for sustainable environment (CP3). The aim is stated to be “to protect and enhance the built and natural environments...” It continues “...A high quality environment can help the towns economy” and further the CBC will “...control () any negative impacts of development on landscape, buildings and wildlife.” In furtherance of these aims CP3 provides that “Development will be permitted only where it would...conserve or enhance the best of the built or natural environments”. “Best” is defined as “a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site OR LOCALLY”(my emphasis).

The area of the Battledown Estate is a feature of Cheltenham’s environment which by the applicants own planning statement is described as “an attractive rural leafy setting within proximity to Cheltenham town”. Furthermore, “its mature landscape setting gives the area its identity.” And further “its landscaped setting does positively contribute to local character”.

It is clear that granting consent for two houses on this site for the reasons explained at 3 above could possibly/likely lead to the destruction of the Battledown Estate as originally conceived and subsequently preserved by the trustees over the generations for the benefit of the residents and also for the town. Consequently granting consent is not consistent with the CBCs policy CP3 and should be refused.

5. Safe and Sustainable Living (CP4a)

Policy CP4a provides that “Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality.” In this context amenity includes loss of outlook and separately loss of privacy.

Loss of Outlook---Due to the topography the outlook from Birchley House is primarily to the west across the intended site. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the two storey house which is to be demolished and also higher than any of the other houses within the row of which they would form a part. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. If two houses were built the combined width of the new development would also represent a very significant loss of outlook from my property and from that of my neighbours. As adjoining landowners there would be a significant loss of amenity arising from these current proposals.

Loss of Privacy---Similarly the four storey buildings are shown to have bedroom windows overlooking my property and those of my neighbours. Although those overlooking windows will be more than 21 metres away, in the context of the open aspect of this site and the topography the loss of privacy would be very significant. In the circumstances the minimum distances should be disappplied.

For both of these reasons policy CP4a has not been complied with and so the application should be refused.

6. Safe and sustainable Living (CP4b) and Development and Highway Safety (TP1)

Policy CP4b provides that “Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level”

Policy TP1 provides that “Development will not be permitted where it would endanger highway safety, directly or indirectly by....increasing the use of an existing access....”

The point at which the existing house joins the highway is very near to a bend. The road at this point is quite steep. This section of road is particularly dangerous. There have been numerous accidents on this bend. I have had a car go through my fence in to my garden. There have been numerous instances of cars hitting the walls and trees which line the road at this point and indeed going into the ditch on this bend. The trustees have done what they can to make the situation safer but there is little more that they can do.

The maximum number of occupants for which the existing house has been built is 8 (i.e. four double bedrooms). If the proposed new houses were built then the maximum number of occupants would be 24 (i.e. 12 double bedrooms). It is to be expected therefore that the number of vehicle movements to and from the new premises would be three times greater than at present and so the risk associated with that would also be significantly greater.

For this reason policies CP4b and TP1 have not been complied with and the application should be refused.

7. Design (CP7) and Development within extensive gardens (GE3)

Policy CP7 provides that “Development will only be permitted where it....adequately reflects principals of urban design and ...compliments and respects neighbouring development...” It is a principle of urban design in the Local Plan to “retain...skylines...”

Policy GE 3 provides that “In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site...”

As stated at 5 above the proposed four storey dwellings are disproportionate in their height when compared to the other houses in the row of which these two are intended to form part. The ridge line will be significantly higher than that of the house which is to be demolished (although the applicant has chosen not draw attention to this by including this detail on the submitted drawings). The proposed dwellings are also very much higher than the rooves of the dwellings which are on either side (north and south) particularly the house to the north and there are great concerns as to the restriction of sunlight to that property particularly during the winter. The proposed houses do not compliment or respect the neighbouring properties in these various respects.

Also the houses which are proposed are inappropriate to those which are nearby due to their mass and bulk. The properties would have a visually overbearing impact on the premises around them and as such would be intrusive.

It is clear therefore that policies CP7 and GE3 have not been complied with and therefore the application should be refused.

8. Private Green Space (GE2)

The Local Plan states that green space is “undeveloped land, not necessarily provided for formal recreation or public amenity, which makes a positive visual and environmental contribution to the town...” which includes “...private gardens...” Green space is acknowledged in the Plan as having “worth for townscape environmental wildlife and recreational values”. The townscape is defined in the Local plan as “the positive features of a place which create a special identity for a given area”. Outside of the conservation area “green space is just as important to the local townscape and character and is as highly valued by residents.” “...green space contributes to an urban environment...by creating lower densities of development it can reduce levels of activity in an area, thereby contributing to a more peaceful and relaxed ambiance, a benefit...in...residential areas”. “Human life, health and wellbeing depend on a healthy natural environment.” “Green spaces are essential in providing habitats for a wide range of flora and fauna.”

In paragraph 6.23 of the Local Plan relating to private green space it states that such gardens “are often considered by owners to be a valuable resource; a financial resources which may be realised through development....Developments of this nature can be to the detriment of the townscape and environmental value of green space.”

Against this background the Local Plan establishes the policy (GE2) that “The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted.” Note 2 to this policy provides that “the fact that a site is the most cost effective development option for the applicant is not justification for an exception to policy GE2”

The green space of this site is an integral part of the green space provided by the Battledown Estate to the townscape of Cheltenham. Battledown Hill is an attractive wooded feature which can be seen from many vantage points around the town and from the surrounding countryside. Clearly the Battledown Estate makes a significant townscape and environmental contribution to the town and so granting this consent would be in breach of this policy and it should be refused.

9. Conclusion

This application seeks to impose on the owners of those properties that neighbour the proposed development site a form of development which is overbearing and inappropriately large. The proposals are unsympathetic to the nature and scale of the surrounding properties. It is clear that the quality of life for those who live near to the site will be adversely affected in many ways. In particular the granting of this consent could lead to the destruction of the Battledown Estate as an attractive feature of the town and that would be much to be regretted. I have explained that whereas that would not normally be considered a planning matter it is a planning matter in this instance because the application if granted would be detrimental to the survival of the Battledown Estate and so does not satisfy the requirements for sustainable development. Furthermore, as I have demonstrated, this application does not comply with many of the Council’s Local Plan policies and so I would strongly urge CBC to refuse this application.

Please be aware that this is not a case of “NIMBYism”. The officers will be aware that there have been numerous applications for planning consent on the Battledown Estate. Some of those attract a few objections but there are some which attract no objections at all. This application however is of a different order, it is not supported by the Battledown trustees, and is highly insensitive to the neighbouring residents. I would remind the Council that, as I have said at 2 above, the Government

is seeking to promote sustainable development being a better quality of life for everyone, now and for future generations and that cannot be achieved by granting this application.

10. Referral to committee

If this application is to be referred to the Councillors for a decision then please note that I would like to address the meeting of the committee at which this application is to be decided and would you therefore please let me know in due course the date that that meeting is to be held

Yours faithfully,

A solid black rectangular box used to redact the signature of the sender.

Lisvane.
Oakley Road
Battledown
Chesterham
91526PA.

8.3.2017.

Dear Sirs

We have recently
received a letter from the
Trustees of Battledown Estate
saying they have had an
application to demolish Water
gardens in Birchley Road & then
build two new houses on the
plot. This in my opinion is
absolutely necessary & should
not be allowed.

Yours faithfully



APPLICATION NO: 17/00882/FUL	OFFICER: Mrs Emma Pickernell
DATE REGISTERED: 10th May 2017	DATE OF EXPIRY: 5th July 2017
WARD: Prestbury	PARISH: Prestbury
APPLICANT: Mr Justin Lawrence	
AGENT: DK Planning & Development Ltd	
LOCATION: 8 Bouncers Lane, Cheltenham	
PROPOSAL: Construction of single storey dwelling between 8-10 Bouncers Lane	

RECOMMENDATION: Refuse



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site comprises the side gardens of two semi-detached properties located on the west side of Bouncers Lane, south of the junction with Blacksmiths Lane. The site is surrounded by other semi-detached properties. There is presently a garage associated with 10 Bouncers Lane located on the site,
- 1.2 Planning permission is sought for the erection of a single storey flat roofed dwelling, located between 8 and 10 Bouncers Lane. This would provide a 2 bedroom dwelling with integral garage. The design comprises a timber clad elevation to Bouncers Lane within a rendered frame. The render continues on the north elevation and the cladding continues on the south elevation. The rear (west) elevation is largely glazed.
- 1.3 Access to the site would be via the existing gate at the frontage which would provide a shared access with 10 Bouncers Lane.
- 1.4 The application is at committee at the request of Cllr Payne.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport safeguarding over 90m

Relevant Planning History:

02/00809/FUL 10th July 2002 PER
Single storey single extension

16/01168/FUL 17th August 2016 WDN
Construction of single storey dwelling between 8 and 10 Bouncers Lane

17/00297/FUL 5th April 2017 WDN
Construction of single storey dwelling

15/02160/PREAPP 13th January 2016 CLO
Two semi-detached properties in garden area

15/02099/PDE 30th December 2015 AEGPD
Single storey rear extension 5.4 metres long by 6.8 metres wide with flat roof, the flat roof will have a roof light 3 x 2 metres, to the rear of the extension there will be a 1.8 metre patio door floor to ceiling and a window

16/01168/FUL 17th August 2016 WDN
Construction of single storey dwelling between 8 and 10 Bouncers Lane

17/00297/FUL 5th April 2017 WDN
Construction of single storey dwelling

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 4 Safe and sustainable living

CP 7 Design

GE 5 Protection and replacement of trees

GE 6 Trees and development

HS 1 Housing development

TP 1 Development and highway safety
TP 2 Highway Standards
TP 6 Parking provision in development

Supplementary Planning Guidance/Documents

Development on garden land and infill sites in Cheltenham (2009)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Tree Officer

1st June 2017

The Tree Section does not object to this application, but could a Tree Protection Plan be submitted and agreed before determination. Also could a method statement for the creation of the driveway in which no roots with a diameter of greater than 25mm be severed, be submitted and agreed before determination.

Please use the 'gutter cover informative' in any permissions granted.

GCC Highways Planning Liaison Officer

22nd May 2017

I refer to the above planning application received on 11th May 2017.

With regards to the above site; under our Highway's Standing advice criteria we do not need to be consulted on this application and this can be dealt with by yourselves with the aid of our guidance.

If you have any queries please do not hesitate to contact me.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	13
Total comments received	31
Number of objections	0
Number of supporting	31
General comment	0

5.1 The application was publicised by way of letters to 13 neighbouring properties. 31 letters of support were received.

6. OFFICER COMMENTS

6.1 Determining Issues

The key issues in determining this application are principle, design and layout, impact on neighbouring properties, access and highways issues and trees.

6.2 Principle

Paragraph 49 of the NPPF advises that when determining applications for housing they “*should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*”; as it stands, the Council is currently unable to demonstrate such a five year supply.

Where housing policies are not considered to be up-to-date, the NPPF is quite clear that development proposals should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole, or specific NPPF policies indicate that development should be restricted.

In this instance the site is within the Principal Urban Area of Cheltenham and is surrounded by residential development. As such the key issue here is whether there are significant adverse impacts of approving this development which would outweigh the benefits.

At Paragraph 53 the NPPF states “*Local Planning Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.*” Cheltenham Borough Council has adopted a Supplementary Planning Document: Development on Garden Land and Infill Sites in Cheltenham. This document provides detailed advice on how to assess such schemes and this will be discussed further below.

6.3 Design and layout

Para 56 of the NPPF states that good design is a key aspect of sustainable development and is indivisible from good planning. Para 60 states that decisions should not attempt to impose architectural styles or particular tastes, it is however proper to seek to promote or reinforce local distinctiveness.

Policy CP7 of the Local Plan states that development will only be permitted where it is of a high standard of design, reflects the principles of urban design and complements and respects neighbouring development and the character of the locality.

The Development on Garden Land and Infill Sites in Cheltenham Supplementary Planning Document states that proposals for development on garden land should be based upon a thorough understanding of the character of the neighbourhood, and in particular the street and block within which the site is located. Bouncers Lane is a long street which exhibits a number of building styles and layouts along its length. However the section of Bouncers Lane within which the application site is located has a strong semi-detached character. On the west side this comprises semi-detached pairs that are relatively widely spaced and on the eastern side, a slightly more compact form of semi-detached development. The spaces between the buildings contribute as much to this character as the buildings.

The SPD states that “*in a street where there is a dominant pattern in the amount of a frontage that is built up, the width of dwellings and the spacing of dwellings along that frontage, proposals which vary from this will not normally be acceptable.*” (page 33).

To locate a dwelling within the space between these two properties would erode this character to an unacceptable degree. It would result in the loss of the gap between the dwellings which would result in the loss of the distinctive rhythm of development within the street. Not only would it result in the loss of the gap, it would also introduce a form of development which is alien to the character of the area. Whilst the design proposed is not

without merit, it is not appropriate for this location; its depth, style and the position of the dwelling on the plot are out of keeping with the character of the area and would result in the appearance of being 'shoehorned' into the site. The unsuitability of the site for a new dwelling and the compromised nature of the scheme is evidenced through the need to provide the sole window to both of the bedrooms on the side elevation and at high level.

For these reasons the proposal is considered to be unacceptable in terms of its design and layout and contrary to the advice contained within the Council's SPD on garden land development.

6.4 Impact on neighbouring property

Policy CP4 of the Local Plan states that development should only be permitted where it would not cause unacceptable harm to the amenity of adjoining land users and the locality.

This application is a revised version of a scheme which was withdrawn earlier this year which in addition to the concerns mentioned above was also considered to have an overbearing impact upon neighbouring properties, due to the depth to which it projected into the rear of the plot. The depth of the building has now been reduced and whilst it does still project beyond the rear of the adjacent properties (both of which have been extended at the rear), it is no longer considered that the scheme should be refused on neighbour amenity grounds.

The proposal complies with the light tests and as such would not have a significant impact upon light entering the adjacent dwellings. There are side facing windows proposed, however these would be high level and were the application approved, could be conditioned to be obscure glazed. A garden of 11.5m would remain which is sufficient to avoid an unacceptable relationship with the properties at the rear.

6.5 Access and highway issues

The application proposes the use of an existing access which is set back from the pavement edge. Its use would be intensified due to its use by two dwellings, however there is sufficient room within the plot for manoeuvring whilst avoiding conflict. The proposed dwelling provides for one garaging space with further driveway space in addition.

As such the proposal is considered to be acceptable in terms of access and parking.

6.6 Trees

A comment has been raised by the tree officer with regards to tree protection. Were the application to be approved it is considered that this could be adequately dealt with by way of a condition.

6.7 Other considerations

The applicant makes that point that the proposed properties could both be extended and that outbuildings could be provided under permitted development. Whilst this is true, such a fall back position would not result in a form of development akin to what is proposed here and as such it is not considered that this argument provides sufficient justification for the proposals.

7. CONCLUSION AND RECOMMENDATION

- 7.1 As mentioned above it is acknowledged that the proposal makes a small contribution towards housing supply. However the proposed form of development is considered to be unsustainable inasmuch as it fails to fully understand and respond to the character and form of the area. It is contrary to the approach for building upon garden land and infill sites, outlined within the SPD and would be harmful to the character and appearance of the area. As such the harm outweighs the benefits and the application is therefore recommended for refusal.

8. INFORMATIVES / REFUSAL REASON

1. The proposed dwelling, by reason of its siting and design would fail to take account of the established character of the area and would be detrimental to it both through the erosion of the gap between the properties and through the formation of a dwelling which appears cramped in its plot and is out of keeping with the area. As such the proposal is contrary to the policies CP7 of the Local Plan, the Development on Garden Land and Infill Sites in Cheltenham Supplementary Planning Document and the NPPF.

INFORMATIVE:

1. In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the authority cannot provide a solution that will overcome the harm which would be identified.

As a consequence, the proposal cannot be considered to be sustainable development and therefore the authority had no option but to refuse planning permission.

APPLICATION NO: 17/00882/FUL		OFFICER: Mrs Emma Pickernell	
DATE REGISTERED: 10th May 2017		DATE OF EXPIRY : 5th July 2017	
WARD: Prestbury		PARISH: PREST	
APPLICANT:	Mr Justin Lawrence		
LOCATION:	8 Bouncers Lane Cheltenham Gloucestershire		
PROPOSAL:	Construction of single storey dwelling between 8-10 Bouncers Lane		

REPRESENTATIONS

Number of contributors	31
Number of objections	0
Number of representations	0
Number of supporting	31

1 Bouncers Lane
 Prestbury
 Cheltenham
 GL52 3DG

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

2 Bouncers Lane
 Cheltenham
 Gloucestershire
 GL52 5JF

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

5 Bouncers Lane
 Cheltenham
 Gloucestershire
 GL52 5JB

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

7 Bouncers Lane
 Cheltenham
 Gloucestershire
 GL52 5JB

Comments: 26th May 2017

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I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

14 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JF

Comments: 26th May 2017

I would like to offer support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

16 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JF

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

18 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JF

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

329 Prestbury Road
Cheltenham
Gloucestershire
GL52 3DF

Comments: 26th May 2017

I offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

331 Prestbury Road
Cheltenham
Gloucestershire
GL52 3DF

Comments: 26th May 2017

I offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

20 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JF

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

23 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JB

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

24 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JF

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

25 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JB

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

27 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JB

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

31 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JB

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

1 Glebe Road
Prestbury
Cheltenham
Gloucestershire
GL52 3DG

Comments: 26th May 2017

I offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

8 Glebe Road
Prestbury
Cheltenham
Gloucestershire
GL52 3DG

Comments: 26th May 2017

I offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

323 Prestbury Road
Cheltenham
Gloucestershire
GL52 3DD

Comments: 26th May 2017

I offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

325 Prestbury Road
Cheltenham
Gloucestershire
GL52 3DF

Comments: 26th May 2017

I offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

21 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JB

Comments: 26th May 2017

I offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

19 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JB

Comments: 26th May 2017

I would like to support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

We believe it will be great addition to the road.

17 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JB

Comments: 5th June 2017

I live directly opposite this proposed property and have no objection to this application. Quite frankly I was pleasantly surprised and pleased to be notified a single story building is proposed.

15 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JB

Comments: 26th May 2017

I would like to support the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

We looking into the plot which the new dwelling will be built and feel it complements the road.

11 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JB

Comments: 26th May 2017

I would like to support the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

7 Glebe Road
Prestbury
Cheltenham
Gloucestershire
GL52 3DG

Comments: 5th June 2017

I live behind this proposed property and have no objection to this application.

6 Glebe Road
Prestbury
Cheltenham
Gloucestershire
GL52 3DG

Comments: 5th June 2017

I offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

5 Glebe Road
Prestbury
Cheltenham
Gloucestershire
GL52 3DG

Comments: 5th June 2017

I live behind this proposed property and have no objection to this application. I am pleased the proposal is for a single storey house.

4 Glebe Road
Prestbury
Cheltenham
Gloucestershire
GL52 3DG

Comments: 26th May 2017

I offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

3 Glebe Road
Prestbury
Cheltenham
Gloucestershire
GL52 3DG

Comments: 26th May 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

12 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JF

Comments: 26th May 2017

I would like to support the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

The design of the dwelling has been well thought out and complements the rest of the road.

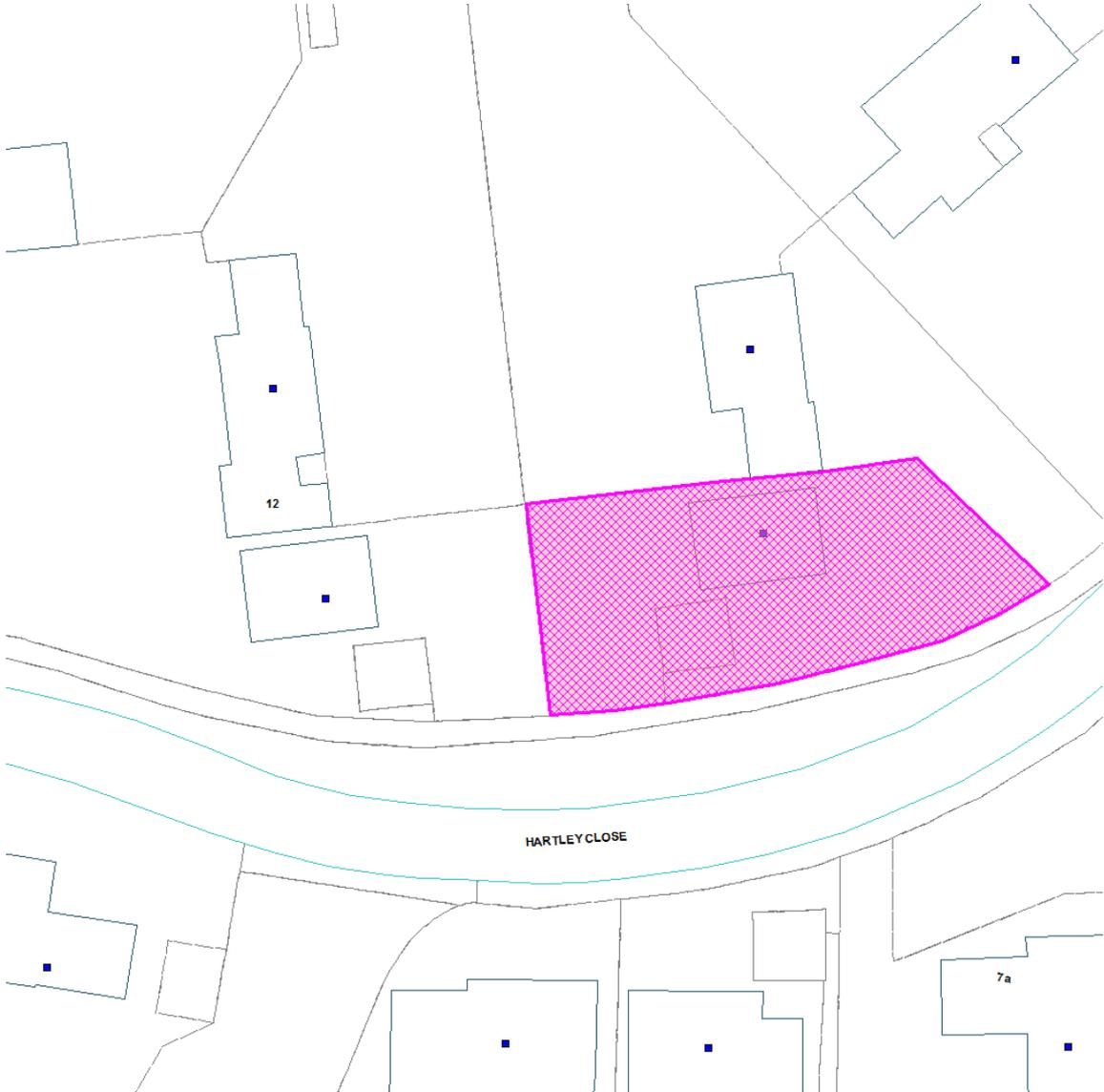
4 Bouncers Lane
Cheltenham
Gloucestershire
GL52 5JF

Comments: 5th June 2017

I would like to offer our support to the application to build a new dwelling between No 8 and No 10 Bouncers Lane, Prestbury Road, Cheltenham.

APPLICATION NO: 17/00386/FUL	OFFICER: Miss Claire Donnelly
DATE REGISTERED: 24th February 2017	DATE OF EXPIRY: 21st April 2017
WARD: Charlton Park	PARISH:
APPLICANT: Mr L Turbifield	
AGENT: The Smith Hotchen Partnership	
LOCATION: 8 Hartley Close, Cheltenham	
PROPOSAL: Two storey side and rear extension and external remodelling	

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to a two storey, brick built, detached property on Hartley Close. Hartley Close is a residential cul-de-sac which has an element of space about the properties. There are a range of two storey properties and bungalows, detached and semi-detached within the Close. The site is within the ward of Charlton Park and is not in a conservation area.
- 1.2 The applicant is seeking planning permission for a two storey side and rear extension, and external remodelling.
- 1.3 The application is before planning committee at the request of Councillor Baker due to concerns raised by residents.
- 1.4 Members will visit the site on planning view.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport Safeguarding over 45m
Smoke Control Order

Relevant Planning History:

00/00796/FUL 18th July 2000 PER
Erection of conservatory

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 1 Sustainable development
CP 3 Sustainable environment
CP 4 Safe and sustainable living
CP 7 Design

Supplementary Planning Guidance/Documents

Residential Alterations and Extensions (2008)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Gloucestershire Centre For Environmental Records

16th March 2017

Report available to view on line.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	7
Total comments received	21
Number of objections	21
Number of supporting	0
General comment	0

5.1 Letters have been sent to neighbouring properties, 21 comments have been received all raising objections to the proposal.

5.2 Comments Received

The main concerns raised include:

- Overbearing impact
- Negative visual impact
- Overly large extension
- Not in-keeping with the neighbouring properties in both scale and use of materials
- Loss of light
- Overlooking

6. OFFICER COMMENTS

6.1 Determining Issues

6.2 The main considerations in relation to this application are the design and the impact on neighbouring properties.

6.3 Design

6.4 Local Plan Policy CP7 requires development to be of a high standard of architectural design to complement and respect neighbouring development.

6.5 The council's adopted Supplementary Planning Document: Residential Alterations and Extensions (2008) sets out design guidance in terms of extension to residential properties. Whilst the document does not specifically mention extensions to detached properties, the document emphasises the importance of achieving subservience. The document states that an extension should not dominate or detract from the original building but play a supporting role. The design guidance also states that materials have a key role in aiding an extension to read as a subservient addition. The document states that the chosen external facing materials for an extension should match or complement those used in the existing building to achieve an appropriate addition.

6.6 The initial proposal was not considered to be subservient to the original building, as such the extension was not considered to be of an acceptable design. The mass of the rear elevation was considered to be too substantial and resulted in an overbearing and oppressive impact on the adjoining land user to the rear of the site. Both the design of the rear extension and side extension was considered to completely dominate and detract from the original form of the existing building and was therefore contrary to the relevant design guidance. There have also been concerns in regards to the impact on neighbouring amenity as a result of the rear extension; this is discussed in the section below.

- 6.7** The initial proposal proposed the external walls of the extension to be finished in render; this was not considered to be acceptable as there is no obvious use of render within the immediate locality. It is noted that the site sits in a prominent location within Hartley Close and the use of render was not considered to be in-keeping or complementary of the immediate neighbouring development, as such it was suggested that the extension should be predominantly brick so the extension complements the parent dwelling and the character of the surrounding area.
- 6.8** Negotiations have taken place, setting out neighbour concerns and, subsequently, revisions were later submitted.
- 6.9** The design of the proposal has been revised to overcome officers concerns regarding the overbearing rear (west) elevation, awkward roof forms and scale of the two storey side extension.
- 6.10** During the first consultation phase of the application, concerns were raised in regards to the overbearing impact of the proposal both on the street scene and the neighbouring properties. The rear (west) elevation has been altered to reduce the mass, scale and overbearing impact of the extension. The first floor of the two storey rear extension has been reduced in depth by 1.9m and this helps the original design of the parent dwelling to be read more clearly. This has resulted in the massing of the rear elevation being broken up and the two storey side extension reading more clearly as a later addition. The single storey rear extension remains largely unchanged; although the kitchen has been stepped in by 0.7m to help break up the massing of the rear elevation. The two storey side extension has been revised to project beyond the side elevation of the original building. The revisions show the design of the parent dwelling reflected in the design of the two storey side extension and complements and reflects the original form of the parent dwelling. The originally proposed render has also been omitted from the scheme.
- 6.11** Since the submission of revisions there are still concerns from residents that the extension will have an overbearing impact on the street scene. Whilst these comments have been duly noted, it is considered that the revised plans have overcome officers' initial concerns. It is noted that the application is proposing a considerable sized extension; however revised plans have altered the design to reduce the mass of the extension, which as a result reads as a more complementary and an appropriate addition to the house.
- 6.12** For the reasons set out above, it is considered that the revisions have overcome initial design concerns and the proposal is now a more respectful addition to the original building. The proposal is considered to comply with Policy CP7 of the Local Plan and guidance set out within the Supplementary Planning Document: Residential Alterations and Extensions.
- 6.13 Impact on neighbouring property**
- 6.14** Local Plan Policy CP4 requires development not to cause unacceptable harm to the amenity of adjoining land users and the locality.
- 6.15** Letters have been sent to neighbouring properties, 21 responses have been received throughout the application process. The main concerns which have been raised are listed above in paragraph 5.2 above.
- 6.16** Other concerns raised by residents include drainage concerns including access and maintenance of drains, parking as a result of the increased size of the property, loss of a view and a covenant on the properties within the Close. These matters have been further covered in paragraphs the below.
- 6.17** The initial proposal was considered to result in unacceptable harm on the amenity of neighbouring properties. The aforementioned Supplementary Planning Document

(adopted 2008) provides guidance and clarity on maintaining privacy and reducing any impact of development on the privacy of neighbouring properties; it also helps the authority to be consistent in its decision making. The document states that first floor windows should achieve 10.5 metres to the boundary to protect the amenity of adjoining land users. This measurement is derived from national best practice in relation to safeguarding amenity and members will be aware that officers refer to it in many reports. The application initially proposed a two storey rear extension including 3 new first floor windows which measured 9m to the boundary, contrary to the guidance. Revised plans were submitted and the first floor of the two storey extension has been set back so the first floor windows achieve the 10.5 metre required distance.

- 6.18** The application proposes two velux roof lights within the north elevation roof slope, a condition has been attached to ensure the roof lights are obscure glazed and non-opening unless the parts that open are 1700mm above floor level. This has been attached to protect the privacy of the adjoining land user.
- 6.19** The relevant light tests have been carried out to assess the impact of the proposal on the neighbouring property, no. 6 Hartley Close. It is likely that as a result of the proposal this neighbouring property will experience a loss of light however the loss of light will not be to a level that is considered to be unacceptable.
- 6.20** As set out above, the proposal is considered to comply with Policy CP4 of the Local Plan and the relevant guidance in terms of not causing unacceptable harm to the amenity of adjoining land users in terms of a loss of light or loss of privacy.
- 6.21 Other considerations**
- 6.22** Several residents have raised concern over the access and maintenance of a shared drain which is situated within the application site and subsequent flooding issues which have occurred due to the drainage in the area. This matter is not a material planning consideration and does not form part of the decision making during the planning process.
- 6.23** Comments in regards to a covenant on the property have been submitted by a neighbouring resident as part of their objection. A covenant on a property is not a material planning consideration and therefore cannot be taken into account when determining a planning application.
- 6.24** A comment has been raised that due to the scale of the proposed extension some residents will experience a loss of a view. This is not a material planning consideration as there is no right to a view.
- 6.25** The matter of parking has been raised by neighbours as a result of the new extension and subsequent enlarging of the existing property. The site benefits from a driveway which can fit at least 2 cars on as existing. A new garage will also be constructed which will provide further off street parking; as such there are no concerns over highway safety as a result of the proposal.

7. CONCLUSION AND RECOMMENDATION

- 7.1** In light of the above, the proposed two storey side and rear extension is considered to comply with the relevant guidance and policies in terms of design and impact on neighbouring properties. Whilst officers note that the application is proposing a large extension to the existing building, it is considered that the revised design achieves an acceptable relationship with the parent dwelling that can accommodate this proposal.

- 7.2 Taking into consideration the council's policies and guidance and neighbour comments, on balance the level of impact is not so severe that the development should not be supported.
- 7.3 As such, the recommendation is to permit this application subject to the conditions set out below.

8. CONDITIONS / INFORMATIVES

GCC Highways Planning Liaison Officer

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 All external facing and roofing materials shall match those of the existing building unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, having regard to Policies CP3 and CP7 of the Cheltenham Borough Local Plan (adopted 2006).

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and/or re-enacting that order), the two velux roof lights in the North elevation roof slope shall at all times be glazed with obscure glass to at least Pilkington Level 3 (or equivalent) and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above floor level of the floor that the window serves.

Reason: To safeguard the privacy of adjacent properties having regard to Policies CP4 of the Cheltenham Borough Local Plan (adopted 2006).

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

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In this instance, the authority sought revisions to overcome concerns regarding design and impact on neighbouring amenity.

Following these negotiations, the application now constitutes sustainable development and has therefore been approved in a timely manner.

APPLICATION NO: 17/00386/FUL		OFFICER: Miss Claire Donnelly	
DATE REGISTERED: 24th February 2017		DATE OF EXPIRY : 21st April 2017	
WARD: Charlton Park		PARISH:	
APPLICANT:	Mr L Turbifield		
LOCATION:	8 Hartley Close Cheltenham Gloucestershire		
PROPOSAL:	Two storey side and rear extension and external remodelling		

REPRESENTATIONS

Number of contributors	18
Number of objections	17
Number of representations	0
Number of supporting	0

4 Hartley Close
Charlton Kings
Cheltenham
GL53 9DN

Comments: 17th March 2017
Letter attached.

17 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 17th March 2017
Letter attached.

2 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 19th March 2017
I strongly oppose the above application.

It is not in keeping with the rest of the Close and its position will be an eyesore. Very overpowering to properties nearby and looks unattractive.

20 Hartley Close
Cheltenham
Cheltenham
Gloucestershire
GL53 9DN

Comments: 19th March 2017

Scale of proposal relative to site

The proposed double-storey extension makes the overall mass of the resulting property much too large for the small plot that it sits on. The resulting extension will be out of scale with the surrounding properties and the original house. The house extension is too dominant for this position on the road and the overall layout of the Close.

Loss of amenity

It is unfair to neighbours at No6, No10 and No 12 as its monolithic rear elevation will overlook, reduce light and views from these properties in an unacceptable manner.

Design

We are not averse to the remodelling of the property as render does exist in some shape, form and extent on most of the houses in the Close, however, not to this degree.

The design would be better to demolish the existing garage, move the double-storey extension further forward to the side of the house, reducing its scale and height, thereby not encroaching on the rear garden at all. However, this would then compromise current available parking spaces.

7 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 20th March 2017

Letter attached.

7B Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 19th March 2017

The comments of my other neighbours sum it up really well and I'm sure that any planning officer review of this application against planning policy and indeed best practice would lead to a recommendation that consent be declined. The application as it currently stands is for an extension which is too large for the plot, will impact severely and unacceptably on direct neighbours, ignores the fact that every other house in the street is brick not rendered (apart from a bungalow which is totally out of sight and so no precedent has been set) and what with the proposed grey windows the architect is apparently attempting eclecticism that would be infinitely more appropriate in somewhere like Sandy Lane. The proposal would also lead to a property which is too large for the street, especially given the central and prominent position that no. 8 has. On a positive note, a much smaller brick finished and well thought through extension would I'm sure receive fewer objections.

Comments: 6th June 2017

Whilst the use of a brick finish within the revised application is to be welcomed, my concerns about scale, especially given the position of the property within the Close, remain.

6 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 14th March 2017

It is probably right to say at the outset that we are not opposed to the development of this property in principle as it has been let go somewhat as the previous owner fell into ill health. However, the proposal is very challenging in its scale and style and we raise the following objections in respect of this:

Overshadowing and consequent loss of light

The proposed re-development of the site would significantly overshadow No 6 causing a major loss of light to the house and garden, currently of sunny aspect. This is due to a combination of factors:

- The proposed double-storey extension is a good 4m beyond the existing build line
- The building is situated on higher ground than the adjacent properties
- In rotating the axis of the roof extension by 90 degrees, a full height wall to the ridge of the roof is put hard up against No 6.

These factors would collectively ensure that the kitchen/dayroom and nearest bedroom of No 6 are in heavy shadow for a significant part of the day and particularly so in the winter months. My partner, who is a gardener, artist and designer will be particularly affected by this. Beds currently given over to flowers will have insufficient sun.

Loss of amenity

Nobody has a right to a view but a significant reason for living in the close is the the enjoyment of the views of the surrounding country and Leckhampton Hill in particular. For No 6 this view will be replaced to a significant extent by a blank, high wall if this development is permitted in its current form.

Mass of proposed development

This is not a considerate development. The sheer mass and over-bearing bulk of the proposal looms over all the adjacent properties (particularly 6 and 10) in an unsympathetic way that is out of keeping with the character of the neighbourhood.

Character of neighbourhood

Having originally been built as a "scheme of development" Hartley Close has been maintained (and enforced) as a coherent neighbourhood, partly through the use of restrictive covenants. It is characterised by its leafy green spaces, secluded nature coherence in design. This proposal is quite out of keeping with this and as such sets a precedent in style, use of materials and scale.

Scale of proposal relative to site

The proposal appears to be too big for the site. In a road characterised by open spaces this proposes the largest property be built on the smallest plot. As such it would set a precedent for further over-development which would change the character of the neighbourhood. The already small garden is almost entirely sacrificed to the redeveloped building. The occupants of a 5 bedroom property tend to come with a proportionate number of cars, bikes, vans etc. It is hard to see this working in practice.

Services

The proposal appears to be constructed directly over the shared drainage from properties 6, 8, 10 and 12. I believe theses drains would need to be re-engineered in such a way as to ensure they

remain functional and accessible as the area is already at risk of flooding and I would seek assurance that this is undertaken in such a way as to minimally disrupt the lives of the sharing users.

I look forward to hearing from you.

Comments: 30th May 2017

The revised drawings address some of the concerns raised regarding the earlier set but the overall reduction in scale is not sufficient to address the fundamental nature of the proposal.

The proposal as a whole continues to be over-large for the plot on which it sits so that it crowds and looms over the adjacent properties and almost entirely uses the garden.

I believe light will be poor in the family room as it has no roof lights and faces directly on to the border with the adjacent property.

The proposed property would be quite out of keeping with the rest of the development around which covenants were originally constructed to preserve the overall character of the road, particularly in relation to the positioning and spacing of the properties.

It is still not clear how the issue of drainage from the other properties will be addressed.

12 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 15th March 2017

We would like to object to the planning application for 8 Hartley Close.

We concur with the comments submitted by other objectors, in particular with regard to the overlarge extension which is in a design and of a rendering completely out of keeping with other properties in the road, impacting closely upon neighbouring properties and overwhelming its already small garden. The central and slightly elevated position of No 8 and its prominence when moving up or down the road exacerbate this, as has been pointed out. The original covenant (third schedule) for the properties in Hartley Close also stipulates uniformity of their siting, character, size, colour and mode of construction. The proposed development is clearly at variance to this.

From the point of view of our property, the change in main axis of the proposed development to present a large pale rendered aspect will significantly impact on the sightlines from our property.

The foul water drainage and surface water drainage from our property and those of our neighbours converge under the proposed development. We share the concerns raised by other objectors about the potential for worsening of flooding risk and of maintenance of access for service to these sewers and drains.

Comments: 29th May 2017

Having reviewed the revised plans for this application we retain our objections to the planning application for 8 Hartley Close. Although modified, the plans continue to cause concern.

We concur with the comments submitted by other objectors, in particular with regard to the overlarge extension which is completely out of keeping with other properties in the road, and which would impact closely upon neighbouring properties and overwhelm the property's already small garden. The central and slightly elevated position of No 8 and its prominence when moving up or down the road exacerbate this, as has been pointed out, particularly with the two storey

Page 239

extension close towards the road. The original covenant (third schedule) for the properties in Hartley Close also stipulates uniformity of their siting, character, size, colour and mode of construction. The proposed development is clearly at variance to this.

From the point of view of our property, the main axis of the proposed extension presenting a large facing aspect will significantly impact on the sightlines from our property.

The foul water drainage and surface water drainage from our property and those of our neighbours converge under or very close to the proposed development. We continue to share the concerns raised by other objectors about the potential for worsening of flooding risk and of maintenance of access for service to these sewers and drains.

10 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 14th March 2017

Letter attached.

Comments: 6th June 2017

The proposed redevelopment of No8 threatens to impose a dominant property of conflicting character, on an otherwise well spread blend of houses & bungalows within a green spacious environment.

The site sits at the heart of the Close both at it's narrowest section & on one of the smallest plots within Hartley Close.

Whilst now the revised proposal presumably prescribes a matching brick finish, alien feature windows accentuate it's contrast to established properties & overall the scheme surrenders very little in scale to the previous plan.

The proposal will double the property width towards the carriageway narrowing further the visual corridor to the upper Close.

This will have an undoubted impact on the general character of the environment however viewed; from No10 it will substantially redefine the skyline outlook.

In my original comments (14th March '17) I referenced the Boro's own planning guidelines with respect to extensions/development & I would suggest very little has been altered to ameliorate the thrust of this application to comply with the adopted policy.

The now proposed 1st floor overhang of the drive introduces yet another feature out of kilter with the established nature of the properties further emphasizing it's departure from the heritage of it's surroundings.

I believe the majority of my original comments remain relevant & I urge the committee to withhold approval until a more modest proposal that respects the space & complexion of the Close is submitted.

14 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 10th March 2017

Letter attached.

9 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 7th March 2017

I would like to object to the proposed plans on the basis that three rendered elevations will be too imposing for their neighbours. I believe that the plans should be carefully reworked to present a more sympathetic façade. It seems that there is a lot of circulation space on the first floor which with some alteration could allow for the North West corner of the house to step back from its neighbours.

18 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 15th March 2017

I would like to object to the planning application for 8 Hartley Close for the following reasons:

- The submitted drawings show a building that is out of keeping with the rest of the street.
- All the properties in Hartley Close are of a similar style and, to an extent, size. The predominant material is brick and the street scene has coherence, harmony and scale.
- This plan fits none of these characteristics of the street scene; the use of render will spoil the overall appearance and harmony of the setting as will the overbearing size.
- Certain aspects also appear to show large blank walls, again, completely out of keeping with the rest of the neighbourhood.
- The windows seem to be overly large and the mass of glazing is out of keeping with the character of all the other properties in the close.
- The size of the proposed extension is out of proportion to the size of the original house, is therefore not subservient to the original building and again, offends the overall planning of this estate.
- Given the particular position of number 8, a development of this nature would totally dominate the views into and the approach to the estate.

Comments: 30th May 2017

I have reviewed the revised plans for 8 Hartley Close and, at first glance, it is difficult to see what has changed apart from render being replaced by brick, which is welcome. Earlier points are therefore unchanged.

Objections to the first draft of these plans focussed on the overbearing size of the proposed dwelling and the massing of glazing.

The glazing is unaltered and, looking at the drawings, still appears to be somewhat unsightly.

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The size of the building, in the new proposals, is even larger than in the first draft; there is now an extension at the back of the house and garage, making the garden even smaller, and at the front, the first floor has been extended forward so that it now overhangs the front door.

It bears repeating that this proposal would create a dwelling excessively large for both the plot and the street as a whole and its' position would overly dominate the entry to the road.

5 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 21st March 2017

I support the objection arguments relating to the proposed further building on the existing garage on Number 8 Hartley Close. This new proposed extension blocks out the large portions views of Numbers 10, 12, 14 and the rest of this side of Hartley Close. A further point appears to be the materials on any extension which may not go with the original property. Altogether, several residents would wish to say that Number 8 is likely to diminish the original spatial aspects if the plans are not substantially amended.

16 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 14th March 2017

We object to the proposed extension and external remodelling proposed by 8 Hartley Close.

The basis of this objection is twofold.

Firstly the size and design of the extension and remodelling is not in keeping with the current character of other properties in the Close, and is of a size and height that will be visually overbearing creating a negative impact for the neighbourhood.

Secondly, the extension will be built over the current drainage system, with a potential to limit access in the future. As we occupy a property which is sited much lower than other houses on the street we would want assurance that there would be no increased risk of either flooding or the ability to access the surface water drainage system following periods of heavy rain.

I therefore ask that careful consideration is given prior to granting any planning permission for this property.

Comments: 28th May 2017

I have reviewed the revised plans and note the change to the exterior of the extension from rendering to brick which is more in keeping with the style of properties on the street. However I was disappointed that the size of the extension has not reduced to any significant proportion, which will result in a property out of scale to the others on the Close. It will also create an overbearing presence, as this property is on the right hand bend of the road coming into the Close. This extension will also create an oppressive and unsightly wall very near to the edge of the footpath and road.

Lastly I have previously noted concerns with drainage and access to the drains, which I can not determine how this has been addressed in the revised plans.

21 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 20th March 2017

I can only agree with and re-iterate other people's comments in our own objections to this proposed extension.

- The plans are unsympathetic to the adjacent properties. The plans as they are will seriously impede and therefore degrade the view of at least three, if not more, adjacent neighbours.
- The scale of the planned extension against the property's plot size is too great. Hartley close is characterised by its open space and sympathetic mix of bungalows and two storey houses, all on appropriately sized plots. Extending the size of number 8 so drastically would create a property out of character with the rest of the close.
- The overall view up and down Hartley Close would be changed forever. Number 8 sits at the very centre of Hartley Close, enjoying a prominent position at the inside of a slight curve in the road. For such a large extension to be built at that location would be a considerable and unwelcome change to the views up and down the road.
- The materials chosen for construction are out of keeping with the surrounding properties. The proposal of large facades of cream painted render is not in keeping with the predominantly open brick construction of almost all the houses in Hartley Close.

While we would not object to anybody improving their home in a way that did not adversely affect the lives of their neighbours or impact the look and feel of the immediate area, then this proposal seems to be at odds with both of those ideals.

6 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 14th March 2017

I am writing to object to the above planning application.

1. As an artist and designer I rely on good natural light and this proposal would cast a heavy shadow over the area in which I work! Particularly in the winter months the light would be unacceptably reduced.
2. As a keen gardener I have invested in laying out flower beds in the area most overshadowed by the proposal. The dramatic loss of light would make it impossible for such planting to grow well.
3. Our property is not currently overlooked but the drawing proposal appears to show a new 'velux-type' window which would overlook our entire property and garden.
4. The scale of the proposed build is out of proportion to the rest of the neighbourhood and has been inconsiderately planned.

I look forward to hearing from you.

14 Hartley Close
Cheltenham
Gloucestershire
GL53 9DN

Comments: 27th May 2017

We object to this planning proposal for the following reasons:

- Our objections regarding the surface water drainage problem are still relevant and are not being addressed.
- The drawing of the proposed remodelling is not clear and contains inconsistencies making it difficult to determine what is being proposed. These errors should be corrected.
- The South Elevation shows large windows on the ground and first floors but the East Elevation appears to show only a large window on the first floor.
- The Block Plan shows a door on the north wall but the North Elevation does not show a door.

As the drawing contains errors can the Block Plan be taken as being correct? If it is correct then the two storey extension does not extend past the existing south wall of the garage but if it is incorrect then could the two storey extension extend to the edge of the pavement?

This modified proposal is an improvement on the original proposal but it is still overly large for the plot and its position in Hartley Close. The other properties that have been extended within the Close have not changed the overall character of the Close as the extensions are not intrusive but this proposed extension will be very conspicuous and dominate the entrance to the Close.

13th March 2017

Page 244 RILEY CLOSE

CHARLTON KINGS

Your Ref. 17/00386/FUL

CHILTENHAM. GL53 9DN

Dear DUS

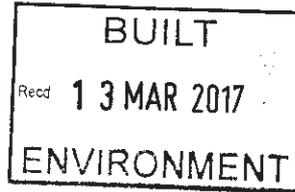
Re - 8 HARTLEY CLOSE, CHARLTON KINGS.

I would like to object to the proposed alteration of the above property, it is the first house you notice as you enter Hartley Close and to extend it would stick out and spoil the look of the road and not in keeping with the rest of the Hartley Close houses.

Yours Sincerely

[Redacted Signature]





17, Hartley Close,
Charlton Kings,
Cheltenham,
Glos.,
GL53 9DN,
12. 03. 17.

Dear Ms. Claire Donnelly,

Comments regarding proposed planning application at No 8 Hartley Close.

As one enters Hartley Close the road starts to curve to the left and the first house that you will see, straight ahead, will be No 8. If this application is agreed and the property rendering painted cream, the building would become even more prominent than it is today.

The building plan shows a proposal for 5 double bedrooms. I believe that sooner or later the number of people living in this property would require a maximum of possibly 4-5 cars. The current space available would only be suitable for 2 cars if the garage is not used. One must ask where would additional cars be parked overnight? The answer would be in the road. This situation could cause difficulties for cars trying to exit the Close due to the narrowness of the road at this point.

The object of any house improvement should be to include the retention of the existing character in the area; and not to create possible difficulties for other home owners in the Close.

The acceptance of this proposed plan would not accomplish these objectives.

Yours Sincerely,



7 HARTLEY CLOSE
SANDY LANE
CHARLTON KINGS
CL 539DN

20 3 2017

Dear Miss Donnelly

YOUR REF 17/00386/FUL

Regarding the proposal in respect of No. 8, my objection is that the extension and the re-modelling of the building is out of context with the style of our close which has remained unaltered for over forty years.

I am, therefore, concerned as to the visual impact of what is being put forward.

Yours Sincerely

[Redacted signature]

BUILT
Recd 20 MAR 2017
ENVIRONMENT

Claire Donnelly
Planning Officer
Cheltenham Borough Council
Promenade
Cheltenham

Two storey extension to side and rear of 8 Hartley Close Ref: 17/00386/FUL.

We write to register our objection to the above planning application validated on 24th February 2017.

In referencing Cheltenham Borough Council's own Supplementary Planning Document – Residential Alterations and Extensions, Adopted February 2008, we have serious reservations regarding design, impact and neighbourhood concerns.

Impact.

The design Guide suggests that as a rule, if there is an established pattern of acceptable design features in the street, one should aim to use them in a project, something which this scheme appears to ignore?

The development proposed is within one of the smallest yet most visible plots in the Hartley Close development. Hartley Close is characterised by its green spaces between buildings carrying through the reputation Cheltenham enjoys as a spacious town. This spaciousness derives from the spaces at the front, back and at the sides of buildings. Glimpses of trees, gardens and surrounding hills are essential if that character of an area is to be maintained. This proposed extension is out of scale with immediately surrounding properties, extremely overbearing on the street scene & even when entering the Close would produce a significant visual departure from the long established intrinsic components.

We believe it compromises the original space around dwellings & is simply too large for its site.

Design.

As we understand it, rear and side extensions in Cheltenham are usually required to be subservient to the original building in height and width, generally with the extension set back and the ridge line lower than the existing. The scale of this dominant extension appears to breach this principle while seeking to entirely change the aspect and design of the original dwelling? The windows proposed are contemporary, over imposing and completely out of sympathy with the established pattern of design features in the Close.

Equally we thought materials should either match those existing, or adopt a darker tone to help the extension stand back and let the shape of the original building dominate? The proposed scheme conspicuously seeks to completely change the shape and size of the existing building and does not complement or respect neighbouring development or the character of the locality and landscape.

The two storey rear wall of the proposed extension, projects circa 4m from the rear of the existing property and is possibly less than 9.5m from the joint intermediate rear boundary with our property. It will present an enormous 13.7m wide by 4.6m high to eaves, cream painted rendered wall;

entirely out of keeping for the Close! This rendered finish extends on 3 sides of the proposed scheme. Our own property is 12m from the joint rear boundary & finished to blend with those around it.

The scheme proposes an overlarge 5m wide bi-fold glazed wall to face towards us(West) and 3 No. bedroom windows no more than 9.5m from our boundary such that, if permitted, would seriously invade our privacy.

The submitted drawings show apparent errors in that the side kitchen door is not indicated on the north elevation and a velux roof window has been omitted from the same elevation.

Assuming materials proposed should match the colour and texture of the existing building, surely the proposal significantly ignores this aspect?

Neighbour concerns.

The government transferred ownership of private drains to STWA on the 1st October 2011 to provide greater clarity of ownership and responsibility with the cost of maintenance of the transferred sewers now the responsibility of the water authority.

Both storm water and foul sewers serving our own and neighbours properties flow through the rear garden of No 8 Hartley Close and in fact, from available records are located immediately under the site of the proposed extension. The construction of a two storey building over the existing transferred sewers is questionable at the very least and without proper precautions could aggravate existing flooding issues?

We suggest that any boundary treatment or planting along the line of the joint rear boundary, (where specimen beech trees were planted in the week preceding validation), should to maintained at a height not exceeding 2.4m to prevent loss of daylight, the submitted scheme does not reflect this.

The local plan Policy CP7 requires development to be of a high architectural design and standard to complement and respect neighbouring development & we would request you give these elements close scrutiny please?

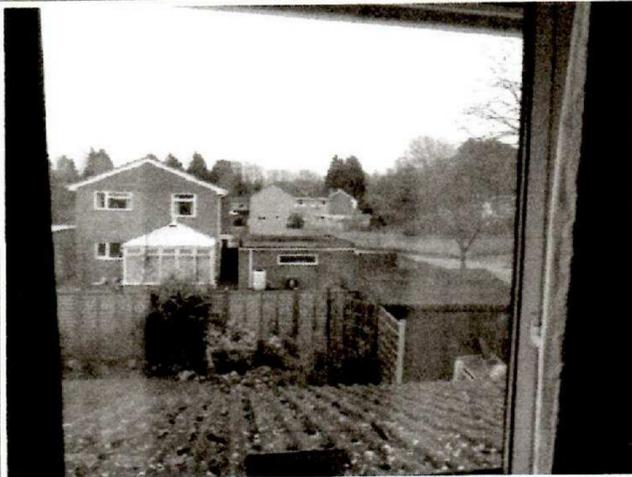
The proposed extension, in our view, causes harm to the architectural integrity of the property grouping within the Close, our own suffering particularly, producing an unacceptable erosion of open space around the existing dwellings. The original character of the immediate area consists of similar proportioned detached houses set in spacious green plots, which this proposal contravenes both in scale and design!

We strongly urge that these proposals be reduced to a scale and form that properly reflects the unique principles of design established & to date preserved within Hartley Close since it's early 1970's completion.

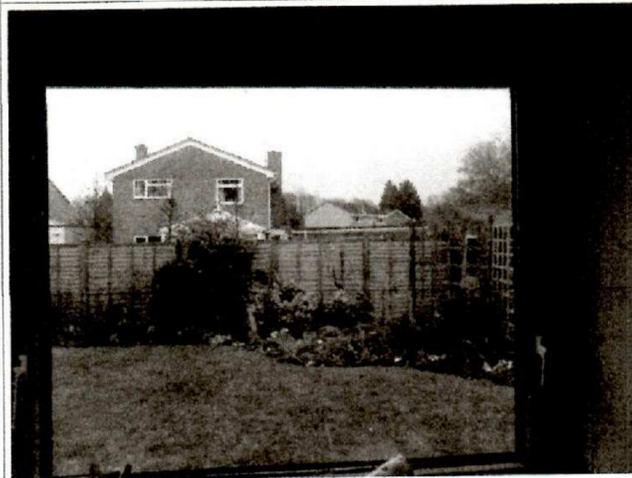
Yours sincerely


10, Hartley Close, GL53 9DN

Nb. Photographic impression/projection of the comparative outcome below:-



VIEW FROM 1st FLOOR WINDOW



VIEW FROM GR'D FLOOR WINDOWS

Miss Claire Donnelly
Planning Officer
Planning Department
Municipal Offices
Promenade
Cheltenham
GL50 9SA

14 Hartley Close
Charlton Kings
Cheltenham
Glos.
GL53 9DN
7th March 2017

17/00386/FUL | Two storey side and rear extension and external remodelling | 8 Hartley Close Cheltenham Gloucestershire GL53 9DN

Dear Miss Donnelly,

We am writing to express a concern we have with the above planning application for the extension to number 8 Hartley Close. Our concerns are with the surface water drain capacity and its route under the proposed extension.

On the 12th June 2016 Cheltenham had a very severe rain storm and the drain and manhole in our drive was not able to cope with the water and it flooded into our garage to a depth of just over one inch. When the rain stopped the water drained away. The drain is sited on the boundary between numbers 14 and 16 and takes the surface water from both drives. The manhole takes the surface water from both numbers 14 and 16 which includes both the garages, the rear garden patios and some of the bungalow roofs water.

This surface water drain flows along the front of number 14 behind numbers 12 and 10 and down the side of number 8. At the front of number 8 it is joined by the surface water drains from numbers 4 and 6. The drain then joins the main surface water drain in Hartley Close.

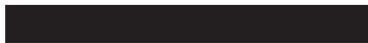
A heavy rain storm on the 27th August 2016 caused the manhole in the front drive to fill right to the top with water but it did not flood out as the rain eased and the water was able to flow away. Following this rain storm I contacted Severn Trent as these surface water drains are their responsibility. On the 7th September 2016 Severn Trent visited our property and put a camera along the surface water drain pipe all the way to number 12. This confirmed that this pipe is clear. The two Severn Trent personnel gave me a phone number to call if / when this problem occurs again so they can visit the property and see the problem for themselves. Hopefully they would then investigate the problem further by examining the surface water drain from Hartley Close.

Our concern is that the extension to number 8 will increase by admittedly a relatively small percentage the volume of water flowing in the surface water drain that cannot cope at present. According to the drawing of Hartley Close that we have the proposed extension will also cover the surface water drain pipe making any rectification of a problem more difficult. (The drawing does not correctly show the surface water drains for numbers 14 and 16 so it may well be incorrect for number 8).

Due to the elevation of numbers 12, 10 and 8 relative to numbers 14 and 16 a complete blockage of the surface water pipe would cause all the rain water from the roofs to flow back into the gardens of 14 and 16.

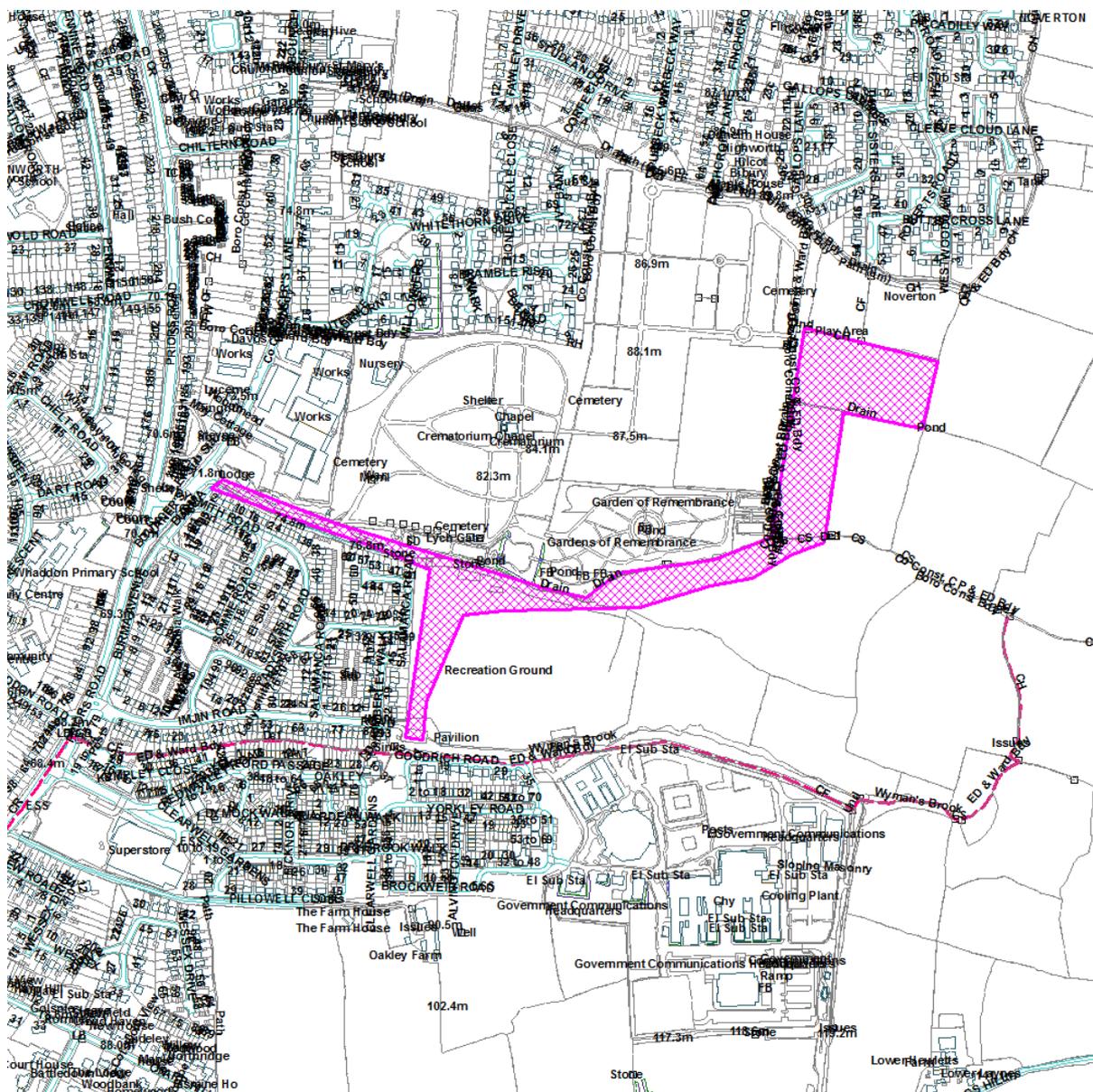
In our opinion Severn Trent should investigate the surface water drain before any building work starts and make any relevant changes to alleviate the flooding problem we have. Also any planning consent should specifically require agreement by Severn Trent of the surface water drain pipe installation.

Yours sincerely,

A large black rectangular redaction box covering the signature area.A large black rectangular redaction box covering the signature area.A smaller black rectangular redaction box covering the signature area.

APPLICATION NO: 17/00759/FUL	OFFICER: Mr Craig Hemphill
DATE REGISTERED: 19th April 2017	DATE OF EXPIRY: 19th July 2017
WARD: Oakley Ward	PARISH:
APPLICANT:	Property And Asset Management
AGENT:	Roberts Limbrick Ltd
LOCATION:	Cheltenham Cemetery and Crematorium, Bouncers Lane, Cheltenham
PROPOSAL:	Access arrangements for the proposed erection of a new crematorium. (Access road in part within Cheltenham Borough Council with the proposed crematorium and associated works within Tewkesbury Borough Council).

RECOMMENDATION: Recommendation to follow



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

1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located to the north eastern edge of Cheltenham which is accessed via Bouncers Lane. The application relates to a cross boundary proposal between Cheltenham and Tewkesbury for the erection of a new crematorium facility. The existing chapel crematory along with the entrance gates are Grade II Listed, with the grounds being a registered park and garden. To the northern and western edges of the existing site are residential areas; to the south are local amenity playing fields. To the east is grazing land, beyond which is the AONB; the site itself is not located in the AONB.
- 1.2 The site has been used as a crematorium since 1938 when an extension was built onto the original Victorian burial Chapels. The site has expanded over time in a west to east direction, with the more recent memorial areas being added to the east.
- 1.3 While the original chapel buildings have undergone alterations over their history, they are no longer considered fit for current visitor volumes and demands due to ageing crematoria equipment and a shortfall of capability to supply the additional facilities needed including access and car parking. A comprehensive study was commissioned by Cheltenham Borough Council in 2015 to assess all the options available to allow the delivery of a long term sustainable future for the Cemetery and Crematorium, and how to best serve the communities of Cheltenham and the surrounding areas in the future. The study set out in its recommendations that the viable option was to build a new Crematory facility.
- 1.4 Following this recommendation, pre application discussions took place in early 2017 with a subsequent planning application submitted to Tewkesbury Borough Council and Cheltenham Borough for the construction of a new crematory facility. It is proposed to be constructed on the grazing land to the east of the existing crematory which is owned by Cheltenham Borough Council.
- 1.5 The proposal is to build a new crematorium containing two chapels with associated public waiting areas, a crematorium and staff facilities. The building is to be single storey following a design approach which seeks to pick up on the vernacular barn form with a series of connecting buildings of varying heights. Materials proposed include natural slate roofing, Cotswold stone, cream buff brickwork, ashlar stone mullions, dark grey aluminium windows, doors and rainwater goods. A total of 135 parking spaces are proposed providing disabled, visitor and staff parking provision. A detailed landscaping scheme is also provided. The site will be accessed via the existing crematorium road network with a new egress route proposed.
- 1.6 As referred to above the application is cross boundary. The grazing land on which the bulk of the proposed new crematorium car parking and associated work is proposed to be located lies within the administrative boundary of Tewkesbury Borough Council. A planning application has been submitted to Tewkesbury Borough Council for the works proposed within their boundary, on which they will make a planning determination.
- 1.7 For determination for Cheltenham Borough Council are the elements of the scheme proposed within its administrative boundary. These works include the proposed new egress route which skirts the southern boundary of the existing crematory site on land to the side of Priors Farm playing fields. The route runs towards and along the rear boundaries of residential properties on Salamanca Road and Ladysmith Road before connecting back into the crematorium internal road network so that all vehicular access and exit will remain through the current Cemetery arrangement onto Bouncers Lane. The application also sets out the need and route for a temporary construction access point which is to be provided at the west boundary of Priory Playing Field linking to Imjin Road.
- 1.8 In support of the application the applicant has submitted:

- Application forms, site location plans, drawings and cross sections, 3D visuals
- Planning Statement
- Design and Access Statement
- Topographic survey
- Landscape Assessment and visual appraisal and landscape proposals
- Heritage report assessment and report including Archaeological report
- Flood Risk assessment and drainage strategy
- Transport statement
- Ecology reports
- Arboriculture surveys.

1.9 The application is before Planning Committee as the applicant is Cheltenham Borough Council.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Smoke Control Order

Relevant Planning History:

17/00332/PREAPP PCO

Proposed new Cem and Crem and associated works.

94/00882/PF 17th November 1994 PER

Alterations To Upgrade The Existing Cremator Equipment With New To Comply With The Requirements Of The Environmental Protection Act

94/00885/LA 17th November 1994 PER

Internal And External Alterations To Upgrade The Existing Cremator Equipment With New To Comply With The Requirements Of The Environmental Protection Act

99/00534/COU 29th July 1999 PER

Extension To Burial Ground (Including Formation Of Roads And Footways)

10/00960/FUL 22nd July 2010 PER

Provision of a pedestrian footpath

11/00922/LBC 3rd October 2011 GRANT

Installation of 2 new cremators

11/01500/FUL 21st November 2011 PER

Installation of adiabatic air blast cooler as part of the new cremator installation

11/01501/LBC 21st November 2011 GRANT

Installation of adiabatic air blast cooler as part of the new cremator installation

13/00774/LBC 17th September 2013 GRANT

Proposed new and replacement signage

15/01859/FUL 18th December 2015 PER

Proposed change of use of an area of land to the east of the cemetery for burial and cremation purposes and the erection of fencing

17/00011/OUT PCO

Outline application for the creation of access roads to serve a potential future new crematorium and chapels on land to the east of the existing Bouncers Lane Cemetery

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 1 Sustainable development

CP 3 Sustainable environment

CP 4 Safe and sustainable living

CP 5 Sustainable transport

CP 7 Design

BE 20 Archaeological remains of local importance

GE 5 Protection and replacement of trees

GE 6 Trees and development

CO 1 Landscape character

CO 2 Development within or affecting the AONB

NE 1 Habitats of legally protected species

NE 3 Biodiversity and geodiversity of local importance

NE 4 Contaminated land

RC 1 Existing community facilities

UI 2 Development and flooding

UI 3 Sustainable Drainage Systems

TP 1 Development and highway safety

TP 2 Highway Standards

Supplementary Planning Guidance/Documents

Flooding and sustainable drainage systems (2003)

Landscaping in new development (2004)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Gloucestershire Centre For Environmental Records

16th May 2017

Biodiversity Report available to view on website.

Architects Panel

7th June 2017

Design Concept

The panel had no objection to the principle of the development. The siting and layout of the new building has been carefully considered and scheme generally has been well designed.

Design Detail

The simple, sober and understated barn-like architecture was felt to be entirely appropriate for a Crematorium in this setting. The light-filled interiors and well-proportioned courtyards will no doubt be attractive up-lifting spaces.

Recommendation

Supported

Environmental Health

30th May 2017

The application includes an acoustic report which identifies suitable limits for noise levels at the nearest residential site. At this stage in the design air handling plant has not been specified. I would therefore recommend that at this stage a condition is attached to any planning consent to ensure that when the detailed design is completed a similar report is produced to calculate likely noise levels affecting the residential property and is subject to approval by the LPA before first use of the site.

County Archaeology

3rd May 2017

In connection with the above planning application I wish to make the following observations regarding the archaeological implications of this scheme.

I advise that there has been no previous archaeological investigation of the proposed access route. However, the wider locality is known to contain archaeological remains relating to activity and settlement of prehistoric and Roman date.

Indeed, a previously unknown Roman settlement has recently been found during archaeological evaluation undertaken in connection with a proposal for a flood-storage area only a little to the south of the current application site.

I am therefore concerned that ground works required for the construction of the new access road may reveal significant archaeological remains. For that reason it would in my view be prudent to make provision for archaeological monitoring of the ground works required for this development, so that any significant archaeological remains revealed during construction may be recorded.

In order to facilitate this I recommend that a condition based on model condition 55 from Appendix A of Circular 11/95 is attached to any planning permission which may be given for this development, ie;

'No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority'.

Reason: It is important to agree and implement a programme of archaeological work in advance of the commencement of development, so as to make provision for the investigation and recording of any archaeological remains that may be destroyed by ground works required for the scheme. The archaeological programme will advance understanding of any heritage assets which will be lost, in accordance with paragraph 141 of the National Planning Policy Framework

I have no further observations.

Tree Officer

19th May 2017

The CBC Tree Section recommends this proposal regarding access arrangements for the proposed erection of a new crematorium.

The proposed route skirting the cemetery to the south is the least invasive in terms of tree removal/pruning implication. There should be no significant quality tree removal associated with this proposal as it skirts the boundary and indeed where the access road ingresses into the cemetery, consideration has been taken of the cedar at the eastern end of the driveway so that there should be no impact on the root protection area of this tree.

There will however be some vegetation removal as indicated on drawing no 0522-GA011 Rev B of March 2017-Proposed Egress Road Plan. Whilst this will have some localised minor impact, this vegetation is overwhelmingly self-sown goat willow and some cypress hedge removal.

GCC Highways Planning Liaison Officer

22nd May 2017

I refer to the above planning application received on 26th April 2017, submitted with Application Form, Design & Access Statement, Proposed Site Layout, Planning Statement, Proposed Egress Road Plans, Proposed Egress Road Construction Details, Transport Statement with Appendix A-C. Plan no(s), 8325/PL01, 8325/PL02, 0522-GA-10B, 0522-GA-11B, 0522-ATR-12A, 0522-ATR-13A, 0522-ATR-14A, SK001B, SK002B, SK003B, SK004B, SK005B, SK006B.

Planning Policy & Material Considerations Context

- N.P.P.F.
- Cheltenham Borough Local Plan.
- Manual For Gloucestershire For Streets.
- MfS/MfS2.

Location & Site Accessibility

Cheltenham Cemetery and Crematorium sits adjacent to Bouncers Lane which is a class 3 highway, subject to a 30 mph speed limit with pedestrian footways and street lighting. The development has an existing access off of Bouncers Lane, which provides access to Cheltenham Town centre and various other local amenities and high quality public transport.

Walking & Cycling

The proposed & existing development site is well located for pedestrians with uncontrolled pedestrian crossing points including a pedestrian refuge island, dropped kerbs and tactile paving already exist along Bouncers Lane, Ladysmith Road, Imjin Road, Priors Road/Cromwell Road junction and Priors Road/Imjin Road Junction which connect members of the public to the existing and proposed site by foot.

Pedestrian footways will be provided internally within the application site, linking the car parking areas to the proposed new Chapels and Crematorium. There are currently no designated cycle routes in the immediate vicinity of the site; however cyclists are able to utilise the existing highway network to access the existing Cemetery and Crematorium and proposed new Chapels and Crematorium.

Public Transport

The nearest bus stop provision is located approximately 25m to the south, (Left) of the existing access to the Cemetery and Crematorium, further bus stops (Northbound and Southbound) are also located along Priors Road approximately 75m to the west of the

access to the Cemetery and Crematorium which is within the desired comfortable walking distance recommended by the IHT providing for journeys on foot guidance table 3.2.

The bus services available here are the 4, A, M7. These provide a service between Benhall, Whaddon, Hesters Way and Cheltenham Town Centre, providing sustainable transport options. The local bus stops and pedestrian infrastructure provides for the opportunity to travel by sustainable modes to both the existing Cemetery and Crematorium, and the propose application site.

Incident Analysis

Information has been provided in the TS with regards Incident Analysis a high level review for the existing highway safety conditions on the local highway network in the vicinity of the existing Cemetery and Crematorium access road has been carried out.

Personal Injury Accident (PIA) data was obtained from CRASHMAP for a five year period between 2011 and 2015. A summary of the total number of recorded accidents within the study area for a five period were 7 slight incidents of which 2 incidents were recorded on Bouncers Lane and 5 were recorded on Priors Road.

The area investigated includes the access road to the existing Cemetery and Crematorium, Bouncers Lane, Priors Road, and Imjin Road. No incidents were recorded along the Bouncers Lane in the immediate vicinity of the existing site.

I can confirm that the data shows no unusual patterns or clusters of collisions within the vicinity of the site which may be considered indicative of issues with highway design.

Access & Layout

The proposed development is to utilise the existing vehicular access arrangement off of the Bouncers Lane via a gated entrance and an internal two-way access road which varies in width between 5.0m and 5.5m then continues via the internal road network which currently serves the existing Cemetery and Crematorium.

On Entry to the existing Cemetery and Crematorium vehicles would follow the existing one way route to the proposed new Crematorium. The proposed new 3m wide egress (only) road from the new Chapels and Crematorium will run adjacent to the southern boundary of the existing Cemetery and will link back into the internal access road to the main entrance/exit of the existing Cemetery and Crematorium.

Proposed Egress Route Plans 0552-ATR-12A, 13A and 14A, displays swept path analysis which demonstrates a limousine, hearse and skip lorry can egress the 3m wide road with localised widening on bends without conflict and can adjoin the existing internal road network without conflict demonstrating the road is suitable to accommodate such vehicles.

Passing bays have been positioned along the new egress road to allow for vehicle pull-in. I note no details have been submitted demonstrating inter-visibility splays between the passing bays, however this will not be open to the public at this stage and will not affect the public highway, therefore the highway authority will make no comment.

The new egress road would not be offered for adoption therefore will be privately maintainable. The proposed egress route would be closed to all traffic outside of services and will be controlled via barriers. In addition access to the existing Cemetery and Crematorium is also controlled.

I note it states in the Transport Statement the proposals will include secure and lit cycle parking for staff and visitors. These will be located within close proximity of the buildings, Proposed Site Plan drawing no.8325-SK10M, demonstrates cycle storage, this can be secured by a suitable worded planning condition.

As part of the Construction Method Statement a scheme will need to be provided for safe access for large vehicles (articulated lorries). As the existing access arrangement off of the Bouncers Lane does not have enough space to accommodate an articulated lorry to be able to pull into the access without preventing the free flow of traffic along the Bouncers Lane, this can be secured by a suitable worded planning condition.

Parking

Gloucestershire does not currently have parking provision standards, parking provision would therefore be assessed against Paragraph 39 of the NPPF with consideration given to the accessibility of the development, the type use and nature of development, the availability of, and opportunity for sustainable transport, local car ownership levels and the need to reduce the use of high emission vehicles.

The spaces should comply with the minimum dimensions of 2.4m x 4.8m for a standard space with 6.0m of drivable space for ease of access.

The proposal includes parking provision (including 10 Disabled parking spaces). Proposed Site Plan 8325 SK10M Appendix B, demonstrates a total of 135 vehicle parking spaces, 116 x visitor spaces, 10 x disabled spaces, 3 x mini bus spaces, 2 x hearse space and 4 x ground keepers spaces.

Based on the experience of the current operation and demand for parking on site, the proposed level of car parking has been deemed appropriate by CBC to meet the operational demands of the scheme. The highway Authority consider this to be acceptable.

Plans SK001B, 02B, 03B, 04B, 05B, 06B demonstrate that a skip lorry, hearse, 7.5T Rigid and limousine can all manoeuvre (turn/park) within the internal layout without conflict, this also is considered acceptable.

Servicing And Refuse Collection Arrangements

The proposals includes a designated servicing area located at the southeast of the proposed Chapel buildings.

Cheltenham Borough Council (CBC) have advised that the service vehicles entering the site would be similar to those currently accessing the site. The largest vehicles that would access the servicing area is a rigid vehicle (7.2m in length) and a small skip lorry (6.3m in length), where there is a turning head provided for these vehicles to manoeuvre. Swept path analysis plans Sk001B and Sk002B confirms this and no conflicting issues therefore I consider this to be acceptable.

Service vehicles would utilise the same route as visitors to access and egress the proposed new Chapels and Crematorium as per the existing situation, it is understood that refuse would be collected at the main entrance gates to the existing Cemetery and Crematorium, from Bouncers Lane.

Refuse generated by the proposed new Chapels and Crematorium would be collected internally by staff and then taken to the collection point.

Emergency Vehicle Access

Emergency vehicles would utilise the same route as visitors to access and egress the proposed new Chapels and Crematorium.

Vehicle Traffic Generation

I note that within the submitted Transport Statement Cheltenham Borough Council (CBC) has confirmed that the proposals would mirror that of the existing North and South Chapel and Crematorium (in terms of scale and times of operation). As such, it is anticipated that

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the proposals would not attract any additional traffic than at present, therefore the Highways Authority would except and agree with the provided Vehicle Trip Generations.

The proposal for the erection of a new crematorium would not be regarded as significant and will not result in a detriment to highway safety in accordance with Section 4 of the NPPF.

Recommendation

I refer to the above planning application received on 26th April 2017, submitted with Application Form, Design & Access Statement, Proposed Site Layout, Planning Statement, Proposed Egress Road Plans, Proposed Egress Road Construction Details, Transport Statement with Appendix A-C. Plan no(s), 8325/PL01, 8325/PL02, 0522-GA-10B, 0522-GA-11B, 0522-ATR-12A, 0522-ATR-13A, 0522-ATR-14A, SK001B, SK002B, SK003B, SK004B, SK005B, SK006B.

I recommend that no highway objection be raised subject to the following conditions being attached to any permission granted:-.

Condition1

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall:

- i. provide for the parking of vehicles of site operatives and visitors;
- ii. provide for the loading and unloading of plant and materials;
- iii. provide for the storage of plant and materials used in constructing the development;
- iv. provide for wheel washing facilities for construction traffic.
- v. specify the intended hours of construction operations;
- vi. measures to control the emission of dust and dirt during construction
- vii. provide a scheme to control construction movements at site access (Bouncers Lane Junction)

Reason: To reduce the potential impact on the public highway and accommodate the efficient delivery of goods and supplies in accordance paragraph 35 of the National Planning Policy Framework.

Condition2

The development hereby permitted shall not be brought into first use until the cycle storage facilities have been made available for use in accordance with the submitted plan Proposed Site Plan drawing no.8325-SK10M, and those facilities shall be maintained for the duration of the development.

Reason:- To ensure that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up in accordance with paragraph 32 of the National Planning Policy Framework.

Condition3

The building hereby permitted shall not be brought into first use until the vehicular parking and turning facilities have been provided in accordance with the submitted plan drawing no.8325-SK10M, and those facilities shall be maintained available for those purposes thereafter.

Reason:- To ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided in accordance with the National Planning Policy Framework.

Statement of Due Regard

Consideration has been given as to whether any inequality and community impact will be created by the transport and highway impacts of the proposed development. It is considered that no inequality is caused to those people who had previously utilised those sections of the existing transport network that are likely to be impacted on by the proposed development.

It is considered that the following protected groups will not be affected by the transport impacts of the proposed development: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, other groups (such as long term unemployed), social-economically deprived groups, community cohesion, and human rights.

GCC Local Flood Authority (LLFA)

17th May 2017 - Objection

I refer to the above application received by the Lead Local Flood Authority (LLFA) on 26th April 2017 for comment on the flood risk and management of surface water.

It is acknowledged that the site is located within Flood Zone 1. Also, according to the Environment Agency's interactive flood mapping and the surface water management plan produced for the Priors Oakley Flood Alleviation Scheme, the proposed site is at low risk of surface water flooding up to and during the 1 in 100 year event. As acknowledged in the pre-application advice for this site, there is however some surface water flood risk along ordinary watercourse B (reference plan 'Cheltenham V11 Rev A') and the Wyman's Brook, and ultimately the proposed egress route.

In principle, the LLFA accepts the proposed drainage strategy for the site (reference report number 70020522-F01) , however due to the surface water flood risk along the proposed egress route the applicant is required to consider the wider catchment and overland flows onto the site from the elevated topography to the east. In light of this, the LLFA objects to the application in its current form and requires further information to this effect.

NOTE 1 :The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency

NOTE 2 : Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through suds@gloucestershire.gov.uk e-mail address. Please quote the planning application number in the subject field.

Sport England

23rd May 2017

Thank you for consulting Sport England on the above application.

Sport England - Statutory Role and Policy

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 74) and Sport England's Playing Fields Policy, which is presented within its Planning Policy Statement titled 'A Sporting Future for the Playing Fields of England' (see link below):

www.sportengland.org/playingfieldspolicy

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

The Proposal and Impact on Playing Field

The proposal will result in the loss an estimated 0.7 - 0.85 hectares of playing field for a new access road for the crematorium. It will necessitate the relocation of a junior football pitch, which reduces the flexibility of the site.

Assessment against Sport England Policy/NPPF

The applicants have not addressed the NPPF's paragraph 74 in their planning statement or in the Design and Access Statement. They have also not provided at a reasonable scale drawings which show the proposed and existing playing pitch layouts including the run-off areas around the football pitches. Nor have the applicants addressed Sport England's planning policies or the emerging Playing Pitch Strategy

The Playing Pitch Strategy, PPS, is almost completed and it identified shortfalls of match sessions for adult, youth 11v11 and youth 9v9 pitches across Cheltenham at present, with future demand increasing these shortfalls to include mini 7v7 pitches. The site has been identified in the PPS. This site is used by 3 clubs: C3 diamonds, Charlton Rovers and Interlogos First.

The reduction of playing field land will impact on the ability to move and relocate pitches within the site envelope, and therefore be detrimental to the playing of sport on this site

Conclusion

In light of the above, Sport England objects to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 74 of the NPPF.

Should the local planning authority be minded to grant planning permission for the proposal, contrary to Sport England's objection then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application should be referred to the Secretary of State, via the National Planning Casework Unit.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

Our objection may be overcome, if pitch improvements to the remaining playing fields were undertaken - the PPS identified drainage issues on this site and by reducing the playing field area, this would exacerbate the problems.

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If you would like any further information or advice please contact me at the address below.
11th May 2017 - Thank you for consulting Sport England on the above application. I can confirm that the consultation has been received and was accepted on 11 May 2017

In accordance with Paragraph 011 of NPPG (Article 22 of the Development Management Procedure (England) Order 2015), Sport England will respond to this consultation within 21 days of the date of acceptance.

However, if insufficient information is received in order to allow us to make a substantive response to the consultation, Sport England will contact you to request further information. The 21-day deadline will not commence until receipt of the additional information.

As a public body, Sport England is subject to the terms of the Freedom of Information Act 2000, which gives members of the public the right to access the information we hold. In the event of a request being received, we will be obliged to release information relating to the application and our response unless an exemption in the Act applies. You should therefore inform us if you believe any elements of your submission to be confidential or commercially sensitive so that we can take your concerns into account.

If you would like any further information or advice please contact the undersigned at the address below.

5. PUBLICITY AND REPRESENTATIONS

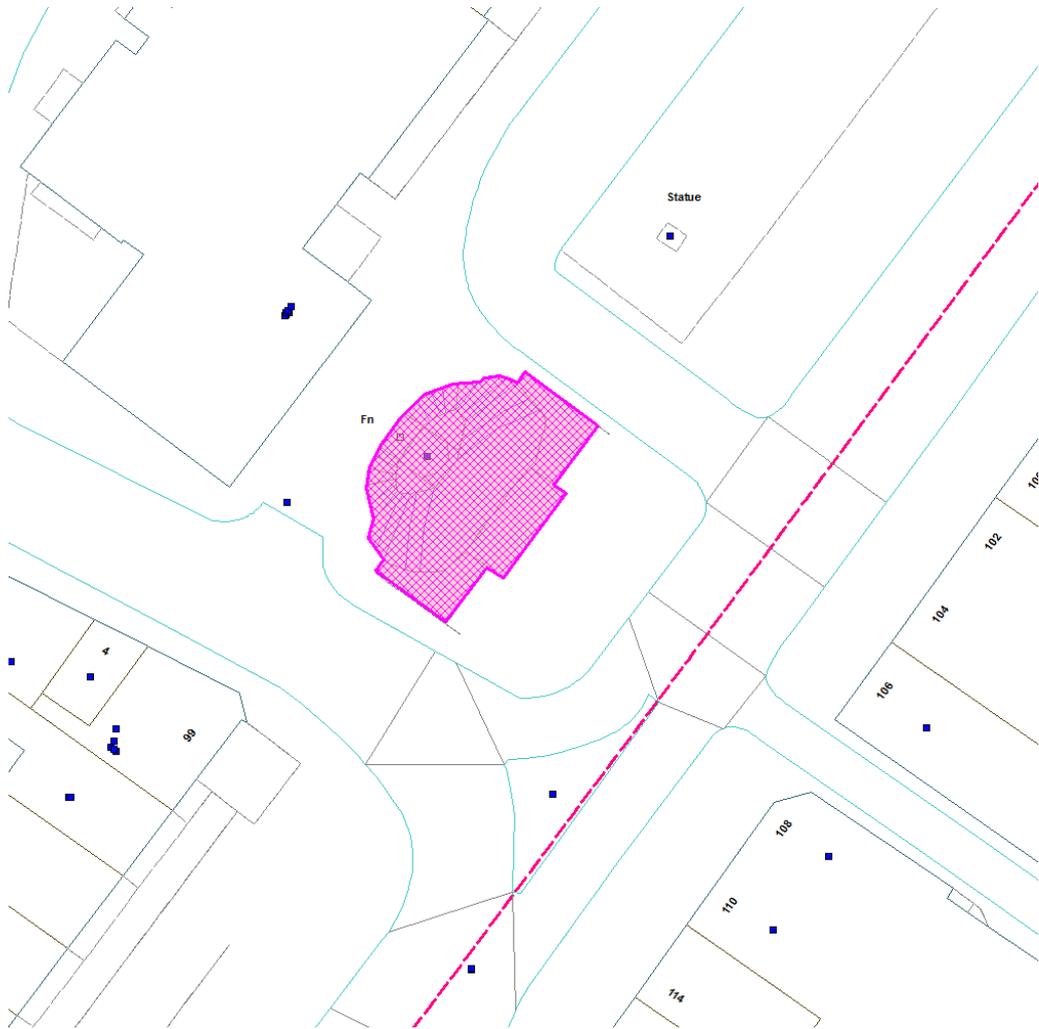
- 5.1 Letters have been sent to 127 neighbouring properties along with a site notice being displayed.
- 5.2 At the time of writing the report no representations have been received.

6. OFFICER COMMENTS

- 6.1 At the time of writing this report discussions are taken place with additional plans and information being produced in relation to the objections received from the Lead Local Flood Risk Authority and Sport England. An update report will follow once additional comments from these consultees are received.

APPLICATION NO: 17/00670/LBC	OFFICER: Mr Adam Dyer
DATE REGISTERED: 3rd April 2017	DATE OF EXPIRY: 29th May 2017
WARD: Lansdown	PARISH:
APPLICANT:	Cheltenham Borough Council
AGENT:	n/a
LOCATION:	Neptune's Fountain Promenade Cheltenham
PROPOSAL:	Fitting of stainless steel clamps to coping and stainless steel skewers to horses head to prevent separation

RECOMMENDATION: Grant



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1. DESCRIPTION OF SITE AND PROPOSAL

Neptune's Fountain is a Grade II listed structure located in a prominent location on Cheltenham's historic Promenade. The application proposes to fit stainless steel clamps to the coping stones and stainless steel skewers to the horses head to prevent separation and ensure its long term survival.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Conservation Area
Core Commercial Area
Flood Zone 2
Flood Zone 3
Listed Buildings Grade 2
Smoke Control Order

Relevant Planning History:

87/01258/AN 17th December 1987 REF

Telephone Boxes On The Promenade Cheltenham Gloucestershire - Display Of Non Illuminated Advertisement

17/00641/CLBW 9th May 2017 CERTPU

To repair falling render beneath horse bowl. Strip old render back to a stable surface with hammer and chisel, clean off soil and debris. Excavate gravel and soil from behind retaining walls and place protective sheeting (Mypex or similar) to minimise further egress of water and soil. Replace soil and gravel. Allow to dry and apply new Belzona render to match existing.

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

BE 9 Alteration of listed buildings

Supplementary Planning Guidance/Documents

Central conservation area: Montpellier Character Area and Management Plan (Feb 2007)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Historic England

24th April 2017

Thank you for your letter of 13 April 2017 regarding the above application for listed building consent. On the basis of the information available to date, we do not wish to offer any comments.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	0
Total comments received	0
Number of objections	0
Number of supporting	0
General comment	0

A site notice was displayed near to the site and a Gloucestershire Echo advert was placed.

6. OFFICER COMMENTS

- 6.1** The key consideration in relation to this application is the impact of the works on the listed building and the conservation area. Section 16 (2) of the Planning (Listed Building and Conservation Areas) Act 1990 requires local planning authorities to have special regard to the desirability of preserving a listed building or any features of special architectural or historic interest which it possesses.
- 6.2** The proposal includes removing the existing iron fixings and replace with stainless steel clamps to coping stones and stainless steel skewers to horses head to prevent separation.
- 6.3** At present there is diagonal cracking to one of the horses heads. This forms a prominent feature of the fountain, and if nothing is done the continuous wetting and drying, along with occasional freezing within the winter months will lead to further expansion of the crack and eventual separation of the head. The proposal is to therefore drill three holes and bed stainless steel resin skewers within. The use of stainless steel will ensure a high degree of rust protection. The holes will then be filled by a mixture of lime and Portland stone dust, largely masking any evidence of the repair. The proposed works are proportionate to the risk, and they will help maintain one of the town's most popular landmarks.
- 6.4** The proposal to inset stainless steel cramps to lock the coping stones together will also ensure the continued survival of the statue. As this will prevent the soil and gravel moving them over a period of time. The proposed method and render mix is also appropriate.

7. CONCLUSION AND RECOMMENDATION

- 7.1** It is recommended that consent is granted with the following conditions:

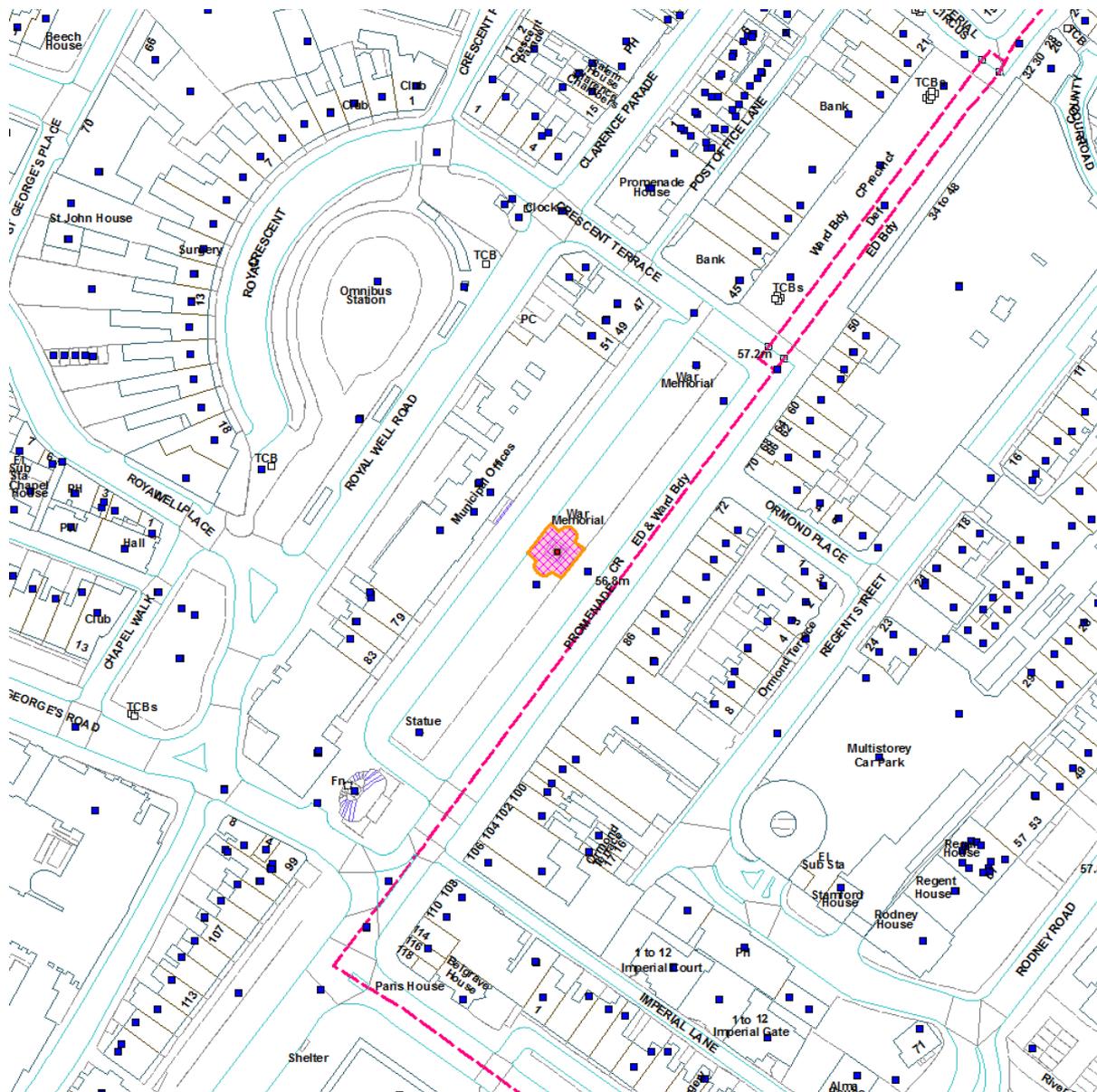
8. CONDITIONS

- 1 The works hereby granted shall be begun before the expiration of five years from the date of this consent.
Reason: To accord with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.
Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 All disturbed surfaces shall be made good using materials to match the existing materials, composition, form, finish and colour of the existing building.
Reason: In the interests of the special architectural and historic qualities of the Listed Building, having regard to Policy BE9 of the Cheltenham Borough Local Plan (adopted 2006) and Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Historic Environment Good Practice Advice (note 2).

APPLICATION NO: 17/00920/LBC	OFFICER: Mrs Ullin Jodah McStea
DATE REGISTERED: 12th May 2017	DATE OF EXPIRY: 7th July 2017
WARD: Lansdown	PARISH:
APPLICANT:	Cheltenham Borough Council
AGENT:	Cheltenham Borough Council
LOCATION:	Cenotaph, Promenade, Cheltenham
PROPOSAL:	To renew 4 number lamps around the war memorial in the promenade Cheltenham, with new fabricate globe and cap fittings

RECOMMENDATION:



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The War Memorial is located in a prominent position set centrally within formal gardens to the front of the Municipal Offices on the Promenade. Previously covered by the curtilage of the Municipal Offices, the Cenotaph was listed Grade II in its own right in 2016.
- 1.2 The proposal is for the replacement of the 4 metal lanterns on each corner of the war memorial.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Conservation Area
Core Commercial Area
Smoke Control Order

Relevant Planning History:

12/01767/LBC 11th February 2013 GRANT

Replacement of paving slabs with natural stone paving. Replacement of edging of raised planting bed with Forest of Dean stone plinth. Installation of uplighters and LED strip lights to illuminate Cenotaph and plaques. Repair of plinth steps and balustrade stonework. Replacement of existing lanterns with replicas of those originally installed. Installation of information panels.

14/01340/DISCON 24th September 2014 DISCHA

Discharge of conditions 4 and 5 of listed building consent ref. 12/01767/LBC

15/01604/LBC 10th December 2015 GRANT

Conservation of the war memorial to include cleaning of the stonework, carrying out repairs to decayed and fractured stone, repointing, re-cutting and re-filling deteriorated letters, and incising 8no. new names to match original style

16/00728/LBC 8th June 2016 GRANT

Insertion of a narrow stainless steel flashing above inscription panels

16/01290/LBC 23rd September 2016 GRANT

To renew 4 number lamps with 4 purpose fabricated globe lamps and caps

16/01296/CLBW 5th August 2016 CERTPU

Cleaning works to the Cenotaph

16/02132/FUL 17th February 2017 PER

Erection of war memorial interpretation board

17/00381/CLBW 5th April 2017 CERTPU

Cleaning of flagstones

3. POLICIES AND GUIDANCE

Adopted Local Plan Policie
CP 7 Design

BE 9 Alteration of listed buildings

Supplementary Planning Guidance/Documents

Central conservation area: Montpellier Character Area and Management Plan (Feb 2007)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Historic England

7th June 2017

Thank you for your letter of 25 May 2017 regarding the above application for listed building consent. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	0
Total comments received	0
Number of objections	0
Number of supporting	0
General comment	0

- 5.1 A site notice has been displayed at the site and an advertisement was published in the Gloucestershire Echo.

6. OFFICER COMMENTS

6.1 Determining Issues

- 6.2 The key consideration in relation to this application is the impact of the works on the listed building.

- 6.3 Section 16 (2) of the Planning (Listed Building and Conservation Areas) Act 1990 requires local planning authorities to have special regard to the desirability of preserving a listed building or any features of special architectural or historic interest which it possesses.

- 6.4 Last year listed building consent was granted for the replacement of the existing metal lamps on the Cheltenham Cenotaph with reproduction lamps based on the design of the original lamps that were part of the war memorial in the 1920s.

- 6.5 The design of the lamps that were given consent were based on the somewhat limited information that was available on the design of the original lamps.

- 6.6 Since that time further information on the design of the original lamps has been discovered. This application reflects this information and proposes a new, more accurate design of lamp.

7. CONCLUSION AND RECOMMENDATION

- 7.1 The recommendation is to give delegated powers back to officers to approve (subject to the conditions set out below and the result of the consultation with the public and the War Memorials Trust).

8. CONDITIONS

- 1 The works hereby granted shall be begun before the expiration of five years from the date of this consent.

Reason: To accord with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

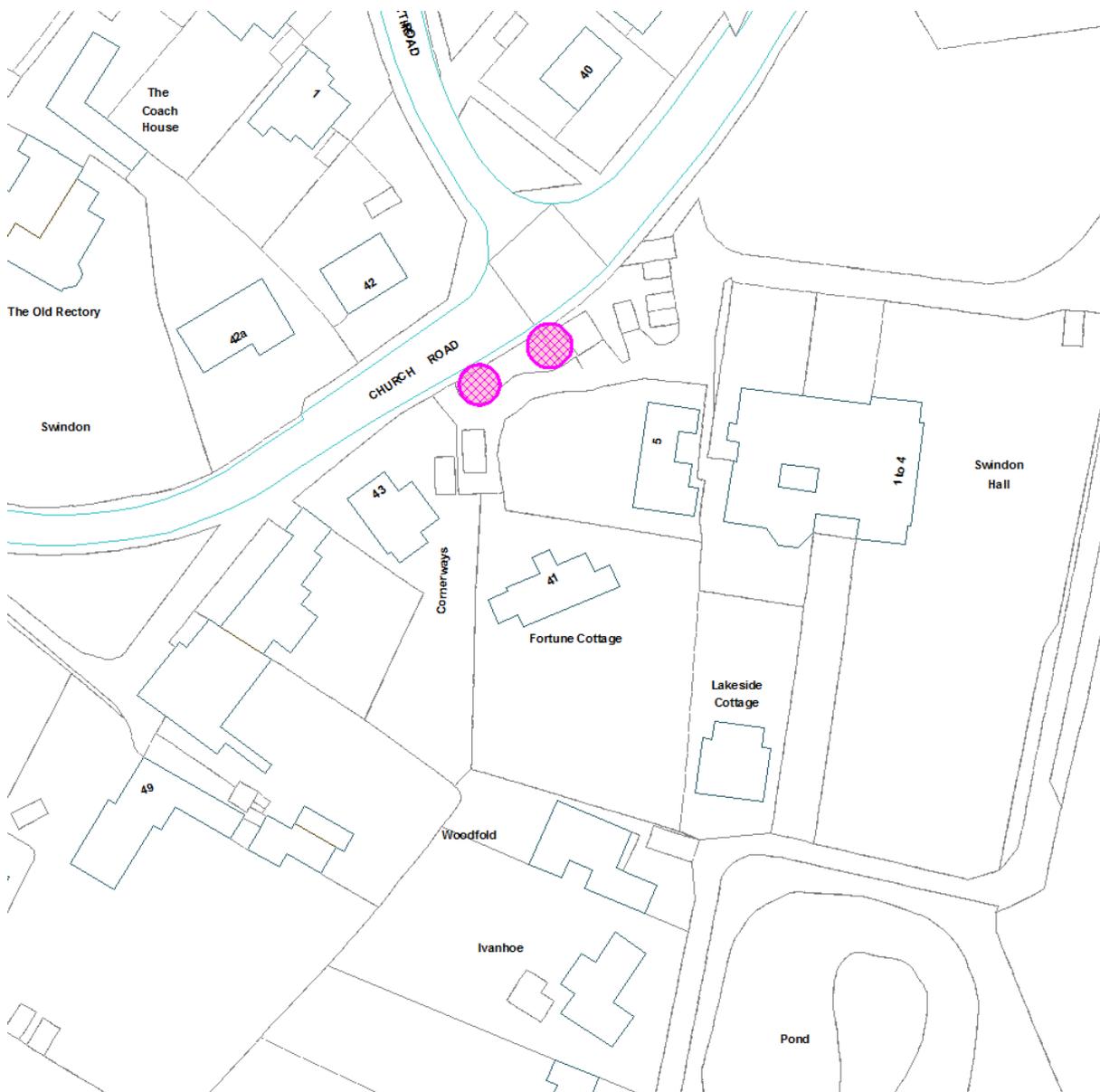
Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 All disturbed surfaces shall be made good using materials to match the existing materials, composition, form, finish and colour of the existing building.

Reason: In the interests of the special architectural and historic qualities of the Listed Building, having regard to Policy BE9 of the Cheltenham Borough Local Plan (adopted 2006) and Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Historic Environment Good Practice Advice (note 2).

APPLICATION NO: 17/00827/CACN		OFFICER: Mr Christopher Chavasse	
DATE REGISTERED: 27th April 2017		DATE OF EXPIRY: 8th June 2017	
WARD: Swindon Village		PARISH: Swindon	
APPLICANT:	Mr J Parkinson		
AGENT:	Matt Hale Tree Surgery		
LOCATION:	Fortune Cottage, 41 Church Road, Swindon Village		
PROPOSAL:	Fell 2 Conifers adjacent to Church road		

RECOMMENDATION: TPO western tree by entrance; No Objection to removal of eastern tree by car port.



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Remove 2 cypress trees on driveway to front of Fortune Cottage.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport safeguarding over 90m
Conservation Area

Relevant Planning History:

01/00128/CACN 2nd March 2001 NOOBJ

Silver Birch in rear garden: crown thin and remove lowest branch

06/01187/CACN 6th October 2006 NOOBJ

Walnut - remove 2 overhanging branches (walnut in garden of 4 Swindon Hall)

08/00336/CACN 4th April 2008 NOOBJ

Silver birch (T4 on plan) - fell

Silver birch (T5 on plan) - reduce back to 1m (approx) above previous pruning point, shorten back side branches all round to shape and lift to 12ft (approx)

09/01174/CACN 15th September 2009 NOOBJ

Silver birch along east boundary (T1 on plan) - crown reduce in height by 2-3m (approx) and reduce lower side branches by 50%(approx)

Small cypress on boundary adjacent to Lakeside Cottage(T2 on plan) – fell

10/01143/FUL 17th September 2010 PER

Alterations and extensions to dwelling

14/01366/CACN 26th August 2014 NOOBJ

1) T2 (as per plan) - Silver Birch - Reduce to previous reduction points; 2) T3 - Hazel - Remove 3 big limbs to clear holly and over fence; 3)T4 - Holly - Reduce by one third off top; 4)T5 - Apple - Fell; 5)T6 - Silver Birch - Reduce to previous reduction points

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

GE5 – The council will resist the unnecessary felling of trees on private land and will make Tree Preservation Orders when appropriate.

4. CONSULTATIONS

Parish Council

30th May 2017

Comments: Swindon Parish Council objects to the proposed removal of these trees which appear to be in sound condition.

The trees are well established and during their time we have not heard of any concerns or received any complaints regarding visibility of the road.

Trees contribute considerably to the character of the Village and particularly to the character of the conservation area. These particular trees are significant and provide an significant visual contribution to an important location. The trees should be retained to continue to thrive and enhance the Conservation Area and local landscape.

There are many benefits to trees but we fully appreciate that all trees need to be maintained which can require some pruning and from time to time and can also require reductions in their height and in the length and number of their branches but we do not believe that either of the trees are in a location or in a condition that are likely to cause nuisance and should remain.

It is our opinion that the removal of the trees should only be permitted if they are in a dangerous condition, likely to damage property or are dead. However, we are not tree experts and we believe that a site visit should be made to consider the issues regarding visibility and the tree officer should carry out an inspection to review the trees and perhaps put forward a proposal for works to the trees.

Cheltenham Tree Group

28th May 2017

We would suggest if not too late that replacement /s be planted if felling does occur.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	10
Total comments received	5
Number of objections	5
Number of supporting	0
General comment	0

5.1 2 site notices were erected close to trees.

5.2 Comments received are attached to this report.

6. OFFICER COMMENTS

6.1 Determining Issues

These cypress trees have a large public visual amenity, the western tree is suitable for a Tree Preservation Order as it scored 15 “TPO Defensible” on the Tree Evaluation Method for Preservation Orders (TEMPO). Whereas the eastern tree did not qualify scoring 8 “Does Not Merit TPO”.

One of the reasons given for removing western tree is due to the tree being in the way of cars entering/exiting driveway. There is evidence of previous collisions with 1 of the stems however, this wound is old and such collisions do not appear frequent and are minor in nature. This tree is not growing quickly and as such the increase in girth of the traffic damaged limb work will be slowly gradual. There is an allegation that this tree is damaging the wall but the limb currently resting on the wall could be removed without detracting from the trees overall amenity. The crown of this westerly tree could also be raised to make vehicle access into/out of the drive easier.

The eastern tree is in poor structural condition and is growing more quickly than the western tree. It would not be possible to prune this tree to improve its appearance or the

owners would have to spend considerable sums repeatedly to ensure the tree is retained safely and does not damage the adjacent wall.

Whilst both trees provide considerable visual amenity to the neighbourhood and screening to neighbours (hence the objections), trees officers consider that only the western tree by the entrance is worthy of a Tree Preservation Order. Following discussions with the owner new more appropriate trees would be planted should this Council facilitate both trees removal (this is not legally enforceable).

6.2 The site and its context

The trees are situated along a private drive which joins and runs parallel to Church Road. The western tree is a multi-stemmed cypress (4 stems surround a central main stem) located at the entrance of the driveway. The eastern tree is situated further into the driveway next to the carport but still adjacent to the boundary wall. Both trees are clearly visible from Church Road.

6.3 Design and layout

The trees are situated within a grassed area directly bordering the private drive situated behind the retaining wall which separates Church Road from the private drive.

6.4 Impact on neighbouring property

These trees provide screening and so privacy to neighbouring properties. However, it is not the responsibility of these trees owners to provide such screening or privacy.

6.5 Sustainability

Retention of the western tree would retain some of the visual amenity and should a new more appropriate species be planted in/by the location of the eastern tree then this visual amenity would be retained in the longer term. Whilst this species of tree is visually pleasing and can provide a roost for bird life, such species is of low ecological value.

7. CONCLUSION AND RECOMMENDATION

- 7.1 Tree officers recommend TPO western tree by entrance, and No Objection to the removal of the eastern tree by the car port.

APPLICATION NO: 17/00827/CACN		OFFICER: Mr Christopher Chavasse	
DATE REGISTERED: 27th April 2017		DATE OF EXPIRY : 8th June 2017	
WARD: Swindon Village		PARISH: SWIND	
APPLICANT:	Mr J Parkinson		
LOCATION:	Fortune Cottage, 41 Church Road, Swindon Village		
PROPOSAL:	Fell 2 Conifers adjacent to Church road		

REPRESENTATIONS

Number of contributors	5
Number of objections	5
Number of representations	0
Number of supporting	0

5 Swindon Hall
Church Road
Swindon Village
Cheltenham
Gloucestershire
GL51 9QR

Comments: 18th May 2017
Letter attached.

43 Church Road
Swindon Village
Cheltenham
Gloucestershire
GL51 9QS

Comments: 18th May 2017
Letter attached.

Comments: 26th May 2017
Letter attached.

Green Lodge
Church Road
Swindon Village Cheltenham
Gloucestershire
GL51 9QX

Comments: 19th May 2017

I totally agree with the comment of the two other residents who have previously objected to this planning application.

I have looked at the trees in question and can see no reason why all of a sudden they are obscuring the view of the road, they have not grown suddenly overnight.

If any thing they have been allowed to grow outwards overhanging the public footpath causing an obstruction to traversing pedestrians.

In my opinion it would be sensible to have the trees lightly trimmed to remove the footpath obstruction whilst keeping the visual aspect of the area.

Woodfold
Swindon Hall Grounds
Church Road
Swindon Village
Cheltenham
Gloucestershire
GL51 9QR

Comments: 15th May 2017

These 2 trees are very effective at screening some of the properties of Church Road from properties in and around The Hall, which would otherwise overlook each other.

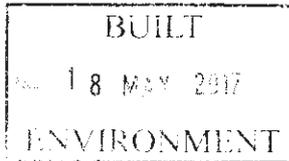
They improve the amenity view and appearance of the bend in the road as it passes the Village Green.

Trimming or removal of some of the Lower branches is needed to remove obstruction of the Footpath & enable / encourage off- road parking on this busy bend in the road.

7 Rushworth Close
Cheltenham
Gloucestershire
GL51 0JR

Comments: 19th May 2017

I have previously asked for the Planning Committee to have a site visit to see this location and the see the impact that tree removal will have. This request has not yet been confirmed. I would be grateful if it could be acknowledged.



[REDACTED]
5 Swindon Hall

Church Road

Swindon Village

Cheltenham

GL51 9QR

Email: [REDACTED]

17 May 2017

Dear Mr Chavase

Ref:- 17/00827/CACN The felling of 2 trees in Church Road.

We wish to object against the felling of these trees. Church Road is the route through the village and we consider the removal of the trees would be detrimental to all wild bird life, squirrels, birds etc also it would probably increase air and noise pollution into all the surrounding houses and gardens including the grounds of Grade II listed Swindon Hall, with a loss of privacy to all adjacent properties on either side of church road and also the visual aspect will be ruined especially when travelling down the road from the local parish church.

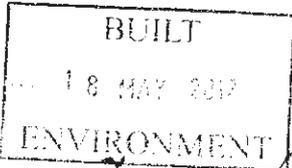
With regard to the trees, maybe pruning back would be sufficient, also in my opinion a site visit before a final decision is made and we lose the trees forever.

Kind Regards

[REDACTED]

43 Church Rd
Swindon Village
Cheltenham
Glos GL51 9QS
17.05.2017.

Ref 17/00. Page 280 3N.



Dear Tracey Crews.

Thankyou for your letter, I would like to make the following comments, as I live next door.

Whilst being aware the lower branches of the trees need attention which can be dealt with by routine maintenance, I feel their removal ^{is} unnecessary and detrimental to the area therefore being too drastic an action.

I am not a car driver therefore I haven't an experience of usage, but I regard the parking up to the exit entrance is the biggest hazard, this frequently occurs these days.

The wall determines how one approaches, being 6ft in height care has always been paramount.

Over the years the size of the exit has been increased in size with the removal of gates also a low small wall. I am unaware of an accident in too-and froing in my 46 years here.

I feel the trees enhance the area, they protect the private driveway to Swindon Hall and grounds, the trees removal would open up this route to the Lodge with the possibility of more traffic using a poor based driveway.

The land behind the wall is used for parking also recently a storage ground for surplus goods etc, neither providing a replacement for such attractive trees if the area is opened up.

The trees work for us, not only in appearance, they reduce noise levels, help with pollution from the now increased traffic flow, also giving privacy to residents living closeby. The birds enjoy their coverage, the blackbirds respond in song.

I hope these comments will be of some assistance when a decision is being made

yours faithfully

BUILT

Recd 25 MAY 2017

ENVIRONMENT

43 Church Rd
 Swindon Village
 Cheltenham
 GL 51 9QS.

Ref 17/00827/CA CN.

To Mr Christopher Chaser,
 Cheltenham Borough Council
 Planning Dept.

24.05.2017

My previous letter dated the 17th May remarked on the removal of the trees, namely the reason for the action.

This was "stated by the contractor," as

Obscuring View of Road.
 Damage to Wall.

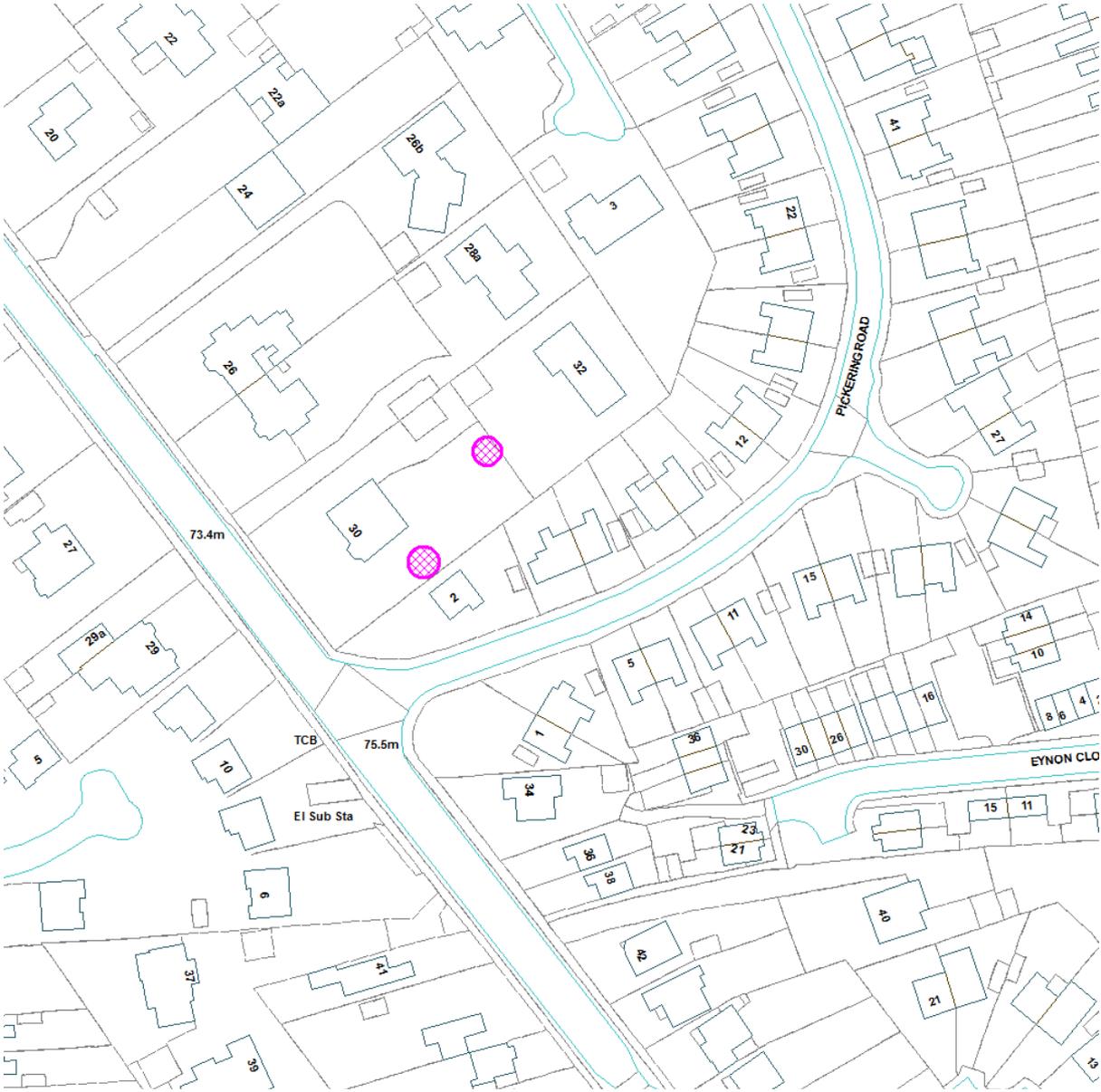
Surely the owners must have discussed this with him, and in my opinion is somewhat an emotive description, as I am now aware it is to free up land for extra parking, which will possibly lead to more using the driveway. I am considering if this was a means, - if the application was unchallenged, to promote leverage in order to receive permissions, making the Conservation Area almost irrelevant, my previous remarks on this remain the same as before.

yours faithfully,



APPLICATION NO: 17/01097/CONF		OFFICER: Christopher Chavasse
DATE REGISTERED: 27 th April 2017		DATE OF EXPIRY: 25 th May 2017
WARD: Leckhampton		PARISH: Leckhampton
APPLICANT:	Mrs Moreen Adnitt	
AGENT:	N/A	
LOCATION:	30 Moorend Park Road, Cheltenham	
PROPOSAL:	Confirmation of TPO no 746 Wellingtonia to the rear of property and oak tree to the side of property	

RECOMMENDATION: Order is Confirmed



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Confirmation of a Wellingtonia and oak within the garden of 30 Moorend Park Road.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Smoke Control Order

Relevant Planning History:

03/02005/FUL 27th April 2004 PER

Conversion of existing coach house to a granny flat, construction of a new garage - revised plans received 5/04/04

68/00009/PO 15th May 1968 REF

30 Adjoining 30 Moorend Park Road Cheltenham Gloucestershire - Proposed Conversion Of Existing Mews To Detached Dwelling And Garage Space.

68/00218/PO 23rd October 1968 REF

Erection Of Semi-Detached Dwelling Houses.

74/00340/PF 23rd October 1974 REF

Change Of Use Of Ground Floor Flat To Architects Studios And Ancillary Storage Toilets And Print Room In Basement.

05/00589/FUL 2nd June 2005 REF

Extension to existing dwelling house to provide new double garage with habitable accommodation over.

16/02322/CLEUD 23rd January 2017 CERTLE

Confirmation that The Coach House at the rear of 30 Moorend Park Road has an established use as an independent dwelling and confirmation that condition 2 of planning permission 03/02005/FUL is no longer applicable.

17/00579/FUL 9th May 2017 PER

Proposed external alterations including works to existing access, the erection of a single storey extension with raised garden terrace at the rear.

17/00897/TPO PDE

1) T1 - Wellingtonia - removal of lowest limb and any damaged limbs; 2) T2 - Oak - crown lift off house by 2m and reshape back in to crown

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

GE5 - The council will resist the unnecessary felling of trees on private land and will make Tree Preservation Orders when appropriate.

4. CONSULTATIONS

Cheltenham Tree Group-"Agree that both trees provide considerable amenity to the area and removal would create significant impact on that amenity hence TPO seems to be the

most appropriate option as no reason appears to have been provided for the removal eg danger of bow/limb loss due to decay”

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	2
Total comments received	1
Number of objections	1
Number of supporting	0
General comment	0

5.1 Copies of the TPO were sent to immediate neighbours and 3 site notices were erected.

5.2 Comments Received:

- 1) Wellingtonia is out of proportion to its setting,
- 2) Wellingtonia sheds foliage and other tree related debris continually. This blocks gutters.
- 3) Wellingtonia has dropped 3 branches within previous 9 years. Such falling branches have caused damage to garden furniture and plants.

No comments have been received regarding the oak tree to the side of 30 Moorend Park Road.

6. OFFICER COMMENTS

6.1 Determining Issues

A Planning application (17/00579/FUL) was received which involved the removal of the Wellingtonia as well as an initial proposal to create a raised kitchen garden under the canopy of the oak. Whilst plans were modified to withdraw the kitchen garden proposal, trees officers considered that both trees were vulnerable to complete removal and were notified of the plan to fell the Wellingtonia within days. As such trees officers considered their amenity value was so significant as to warrant a Tree Preservation Order.

To aid the evaluation of the trees worthiness of a TPO a tree evaluation method for preservation orders (TEMPO) assessment was undertaken and the trees were scored by trees officers as being “Definitely merits TPO”. TEMPO is a widely used system in the industry and one which most local authorities use in most cases for assessing TPO worthiness or otherwise.

6.2 The site and its context

The trees are situated within the rear and side of the garden of 30 Moorend Park Road. The trees’ canopies are visible from the public highway but the trunks of these trees are not. Both trees contribute to the rich arboricultural fabric of this area and indeed the crown of the Wellingtonia can be seen from quite some distance.

6.3 Design and layout

Both trees are adjacent to the perimeter of the property’s garden. The oak is situated adjacent to 2 Pickering Close. The Wellingtonia is 20 metres from the building front of 32 Moorend Park Road and 22 metres from the rear of 30 Moorend Park Road. Adjacent is lawn area and mixed shrubs and small trees. There is an intention to remove many of these smaller trees and shrubs.

6.4 Impact on neighbouring property

Recent permission was granted (17/00897/TPO) to enable the pruning back of the oak off the roof area of 2 Pickering Close as well as the removal of one low limb off the Wellingtonia from over the garden area of 30 Moorend Park Road. This work has now been undertaken.

Both trees are within falling distance of adjacent properties which could lead to feelings of anxiety during windy weather.

Both trees shed significant tree-related debris (foliage, flowers, seeds, cones etc) throughout the year.

6.5 Sustainability

Both tree species are recognised for their durability and low incidence of failure.

Both of these trees appear to be in sound structural and biological condition and it is not considered likely that either tree will become the cause of damage. However should the condition of either tree change, trees officers would likely permit remedial work of good arboricultural practice. It is the owner's responsibility to ensure the trees are kept in an acceptable structural and biological condition.

7. CONCLUSION AND RECOMMENDATION

Trees officers recommend the Tree Preservation Order on these two trees is confirmed.