

## **Planning Committee**

**6.00 pm, 21 February 2019**

### **Present at the meeting**

Councillor Garth Barnes (Chair)	Councillor Alex Hegenbarth
Councillor Paul Baker (Vice-Chair)	Councillor Karl Hobley
Councillor Stephen Cooke	Councillor Tony Oliver
Councillor Diggory Seacome	Councillor Simon Wheeler
Councillor Victoria Atherstone	Councillor John Payne
Councillor Bernard Fisher	Councillor Rowena Hay
Councillor Dilys Barrell	Councillor Roger Whyborn (Reserve)
Councillor Mike Collins	

### **Officers in attendance**

Michelle Payne, Planning Officer  
 Claire Donnelly, Planning Officer  
 Daniel O'Neill, Planning Officer  
 Gary Dickens, Planning Officer  
 John Rowley, Senior Planning Policy Officer  
 Mike Holmes, Interim Head of Planning  
 Chris Chavasse, Senior Trees Officer  
 Nick Jonathan, Solicitor

#### **1. Apologies**

Councillor McCloskey.

#### **2. Declarations of Interest**

##### **1. 18/02337/CONDIT 48 Suffolk Road**

Councillor Barrell – is speaking as ward councillor and reading a statement in objection from a neighbour who cannot attend. Will retire from the Chamber during the debate.

##### **2. 18/02560/FUL Tree Tops, Southam Road**

- i. Councillor Baker – knows the applicant – will speak in support, then retire from the Chamber during the debate.
- ii. Councillor Payne – is ward councillor; was invited to discuss the application with the developer but declined; has made no public comment on the application.

##### **3. 19/00051/FUL 33 Gloucester Road**

Councillor Atherstone – is ward councillor for St Peter's, but has not had any engagement in this application.

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

- i. Councillor Barrell has visited 18/02171/OUT Land Adjacent to Oakhurst Rise on a previous occasion; she has also visited 18/02337/CONDIT 48 Suffolk Road, and 19/00056/FUL 66 Beeches Road.
- ii. As Members did not visit Charlton Court on Planning View, Councillor Barnes had subsequently viewed it on Google Earth and other pictures.

**4. Public Questions**

There were none.

**5. Minutes of last meeting**

The minutes of the meeting held on 17<sup>th</sup> January 2019 were signed as a true record, without amendment.

Before the start of the meeting, Councillor Barnes requested that members of the public in the gallery internalise their views rather than disturb the meeting.

**6. Planning/Listed Building/Conservation Area Consent/Advertisement Applications, Applications for Lawful Development Certificate and Tree related applications – see Main Schedule****7. 19/00056/FUL 66 Beeches Road**

Application Number:	<b>19/00056/FUL</b>		
Location:	<b>66 Beeches Road</b>		
Proposal:	Double storey extension to the side of the property and a single storey extension to the rear of the property. Existing single garage in garden to be demolished to allow for the proposed works.		
View:	<b>Yes</b>		
Officer Recommendation:	<b>Permit</b>		
Committee Decision:	<b>Permit</b>		
Letters of Rep:	<b>0</b>	Update Report:	<b>None</b>

**Officer introduction**

**MP:** Explained that the application site relates to a semi-detached property located within a residential area on Beeches Road. The applicant is seeking planning permission for the erection of a two storey side extension and single storey rear extension following the demolition of an existing detached garage. She advised that for transparency, the application is at planning committee as the applicant's wife works for the council within the Place and Growth Division.

**Vote on officer recommendation to permit**

15 in support

0 objections

0 abstentions

**PERMIT**

**8. 18/02171/OUT Land adjacent to Oakhurst Rise**

Application Number:	<b>18/02171/OUT</b>		
Location:	<b>Land adjacent to Oakhurst Rise</b>		
Proposal:	<b>Outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration (revised scheme following refusal of application re. 17/00710/OUT)</b>		
View:	<b>Yes</b>		
Officer Recommendation:	<b>Permit</b>		
Committee Decision:	<b>Refuse</b>		
Letters of Rep:	158	Update Report:	<b>Officer update; additional representations</b>

**Officer introduction**

**MP:** Members will recall the outline application for 90 houses which was refused by Planning Committee in July 2018, on the following grounds: loss of veteran trees, impact on the setting of listed buildings, impact on highways and amenity of local residents, impact on an existing badger sett within the site and biodiversity generally, and visual impact on the landscape character. This revised application is seeking outline permission for 69 houses, including 40% affordable housing, with access again via Oakhurst Rise. Highways officers consider the impact to be acceptable. The application covers access, lay-out and scale; appearance and landscaping will be covered under reserved matters should the principle be considered acceptable. As set out in the officer report, the officer recommendation is to permit subject to a signed S106 agreement to secure affordable housing, and a revised schedule conditions as set out in the blue update.

**GB:** there are additional representations from Charlton Kings Parish Council and an additional officer update. Advised Members that, at his discretion, there will be two public speakers on each side, for strictly three minutes each, and advised speakers that they will be timed and informed 30 seconds before they need to finish.

**Mr Gander, Cheltenham Flood Action Group, in objection**

Has studied the flood risk assessment. The proposal should be rejected because it completely fails to deliver the JCS overarching strategy requirement that all new development provides an overall reduction in flood risk. Adjusting for climate change is not a reduction because that is an existing risk. When we analyse flood risks, we need to ask if the model methodology up-to-date and fit for purpose, the assumptions reasonable, the data reliable, what happens if the model goes wrong, and do the model outcomes pass the common sense test? This model uses IH24 methodology instead of the more up-to-date FEH methodology recommended by the Environment Agency. This is an old model, not right for this design. Neither is it consistent with the JCS, which says these plans must use up-to-date modelling technology

The first thing that makes no sense is that the plan wants us to believe the lie that 28,100 square metres of this site comprises permeable soft landscaping when we know that the geology of the site is impermeable and that no infiltration is possible. Hoping we don't spot this trick, they then input into the model only 13,600 sq metres as the surface area to use as the basis for the SUDs design – the trick enables them to reduce surface area used to calculate surface water run-off by 70%, and generate an impossibly low predicted flow rate for a steeply-sloping site of 3.6l per second – about one toilet flush.

Using this corrupt data input, they then reduce the actual run-off rate from about 14l per second – which would require storage capacity of about 3,300 cubic metres – to a reduced capacity from last time of approximately 1400 cubic metres to 1,100 cubic metres.

The developers don't want to build storage to the right size because it's expensive, and because for the next 100 years – for the lifetime of this development - they have to maintain it and pay for the maintenance. They are not allowed to do this because county SUDS guidelines state that the design must take into account all the water on site up to the discharge point including water that may enter the land via neighbouring land, higher land or open water courses. Challenges anyone to explain how it can be safe or logical to approve a model that only takes into account 30% of the actual area and related run-off to be managed.

**Mr Marsden, on behalf of Friends of Charlton Kings, in objection**

Represents over 1000 residents supporting FoCK. Seven months ago, Members agreed with their arguments. There is no substantive change in this application to address the Committee's concerns. In three minutes, can only cover national policy concerns, which include but are not limited to the following:

1. Planning permission must be determined in accordance with the development plan. This application for 69 homes bears no resemblance to Cheltenham Plan currently under examination by the Planning Inspector. A major objection is access to the site. Argued last time that turning a cul-de-sac with a 14% gradient into an access route that contravenes the GCC Manual for Streets design is unsafe, and errors in distances and transport data have led to unsound assessments. Planning Committee agreed. This application is for 216 bedrooms. There is no mention of the over capacity of roads, sewers, doctors' surgeries or schools. This is overdevelopment, not sustainable development; Charlton Kings can't cope.
2. Heritage assets are precious, and the planning process is supposed to protect them from harm. The statutory objections from Historic England have not been weighted as advised; CBC heritage experts have been overruled, errors have been allowed to stand. Historic England has agreed a policy position with CBC re. the future development of this site, but this application takes no account of that position.
3. Affordable housing must be profiled against need. This application doesn't meet the housing need for two-bed, four-person houses, and relies entirely on a future negotiation that could prove this site is not financially viable.
4. We have an obligation to provide a healthy society for the future and guard against the loss of valued sporting facilities. Developing this site will remove an iconic cross country route for ever. Thousands of children from all backgrounds have benefitted from the site since 1957, yet its loss is described in the application as a public benefit not harm.

In summary, CBC reported to the Planning Inspector that there is a strong local supply of houses and it will be able to deliver on its JCS commitment. The harm from this application to the landscape, ecology, heritage assets, and future generations would be permanent. This is not 25 homes, Oakhurst Rise is not the right access. Please reject the application.

#### **Mr Coles, St Edward's School, in support**

Is the bursar of St Edward's School Trust, and can confirm that the school fully supports the application. St Edward's is a charitable trust with two schools, and this development is a unique opportunity for the charity. The school's lease on preparatory school site is diminishing, and approval of this development will lead to the transfer of the freehold to the Trust, which will secure its future on the site. Ownership will provide new opportunities to improve the facilities enjoyed by St Edward's children, as well as many local schools and community groups. The school is confident that the planning application can be delivered without compromising the environment and experience at St Edward's. The school fully supports the proposal and urges Members to do the same.

#### **Mr Firkins, agent, in support**

This is an emotive proposal, but would like to focus on the planning facts and realities. Last year, the officer recommended approval of a 90-unit scheme. It was refused by Committee for the reasons set out in the report. The applicant listened carefully and, as a result:

- no veteran trees are to be removed, protection zones are respected, and 170 new trees will be planted;
- County Highway's consultation response is very detailed, and confirms no danger to highway safety. After the last debate, alternative access options were revisited and discounted, due to greater impact on heritage assets, junction proximity on London Road, and safeguarding issues. Oakhurst Rise connects to the adopted highway and is the most logical access. Fewer units will mean less impact, and enhancements to the network elsewhere are secured;
- The new layout provides more space around the GII\* listed building. All experts agree that any harm is 'less than substantial harm'; there is simply disagreement about where on that scale the harm sits. The latest independent ECUS report commissioned by the

Council agrees that the whole site can be developed, with guidance on how the assets can be safeguarded; this scheme complies with that recommendation;

- Natural England and the county ecologist have no objection. Badgers are protected but not endangered, and replacing their sett is a sensible and permissible approach to its long-term retention, and has been shown to be the best overall solution, agreed by Natural England;
- The previous application was not refused on flood grounds. The LLFA was very clear in stating (as recorded in the minutes) that 'the proposal will deliver benefits to flood risk; if left as is, existing development will be at greater risk over the next 80 years';
- There are 25% fewer units, 30% fewer bedrooms. Just 30% of the site will be built on – 50% including gardens – and 40% affordable housing provided in the exact mix requested.

The site is not AONB or greenbelt; it is in the principle urban area, a sustainable and logical location for housing. The lack of a five-year housing supply adds weight in support. The layout shows how much the scheme has changed in response to the previous debate.

At the local plan examination last week, CBC was quite clear that 25 units suggested by Historic England is not an upper limit. The site will change, just as all the houses we live in changed the landscape on which they were built. This is a sustainable location and there is a shortage of housing – with nearly 400 people looking for affordable housing in Charlton Kings and none provided in the last 40 years. The recommendation is clear.

### **Councillor Savage, in objection**

Addressed the Committee last July when the previous iteration of the application was up for consideration. Councillors present will recall thoughtful and well-informed discussion followed by a clear and unambiguous outcome. This application is a variation of the previous one; there are changes, but these are minor and do not address the key reasons why the Committee rightly and overwhelmingly rejected the previous scheme. In the previous debate, a myriad of refusal reasons were highlighted, well founded in local and national policy, and these remain as relevant and applicable to this proposal as to the previous. The proposed access was rightly highlighted in the previous refusal; Members have experienced it on Planning View, approaching the site from Ewen's Farm and Oakhurst Rise. This will be the sole access, including for the heavy construction traffic over many months or even years. Thereafter, it will be the only access for hundreds of additional cars, vans and lorries on a daily basis, as well as refuse and emergency vehicles. Such a major development with Oakhurst Rise as the sole point of entrance and exit would be completely inappropriate and wholly inadequate, transforming a steep, winding cul-de-sac into a major thoroughfare. In addition, the often winding, narrow and congested roads of Ewen's Farm already serve as a rat run between the A40 and Hales Road. This development would result in a significant increase in traffic flow on residential roads that are simply unable to cope.

Councillors also rightly highlighted that although the site is not technically in the AONB, development here would have a major impact on it. The landscape and character, and views in and out, would be clearly and detrimentally affected by permitting such major urbanisation on the green edge of our town.

We are fortunate to have a team of dedicated, hard-working and professional officers, and it is difficult to go against their recommendation for a second time, but the Committee's decision last year was the right one. Implores Members to have the courage of their convictions. They made the right decision, and should stick to their guns, stick up for their town, by making the right decision against and refusing the application.

### **Member debate**

**GB:** will take Members' questions to officers first.

**Councillor questions**

**BF:** what does the site contribute to the five-year housing land supply? SF said no veteran trees would be lost, but the tree officer's report stated that one would be lost? Is disappointed that the LLFA is not here to answer questions – a contentious issue – would like to ask questions. Mr Gander emailed his thoughts on flooding to Planning Committee and officers; thought there would therefore be someone here to answer Risks associated with the 14% gradient was also emailed to Members, and has asked Chair, Vice Chair and planning officer whether this should be looked at from a legality point of view in case there should be a judicial review. How many years are left on the lease of the school? Although he supports the school, its freehold is irrelevant, and not a reason to permit or refuse this application.

**SC:** would like clarification of the site diagram – is the pink inverted Y-shape area at the bottom connecting to the road there as part of construction period, representing a road or path at the end, or for some other purpose?

**MC:** it is nice to see County Highways officers in attendance, and notes that they have provided a very comprehensive report. Have officers visited the site? Regarding school places, we are told there is no spare capacity in local schools, therefore S106 funding from the development will be needed, but have the schools been asked if they can absorb extra capacity? Some schools are fully developed can't take any more pupils. Contributions to Balcarras and the primary school are mentioned, but could they physically take any more pupils? This scheme is different and much more sympathetic towards trees than the previous one. Doesn't like chopping down trees, and asked last time about replanting, but how long will it be before the new trees absorb the same amount of water as those currently on the site? There is potential flooding issue here.

**PB:** as this is a new application, is it right to assume that if Members are minded to refuse, they are not tied to the same refusal reasons as before? Can they consider additional reasons? Flood risk is a potential reason to refuse but was not included last time. Would welcome officer comments on this.

**DB:** would be grateful for information about housing land supply. Is not quite sure what we have to decide at the end of it. Should we assume we have five-year housing land supply, assume we haven't, or accept that we don't we really know at the moment? Like to know what bearing it has on what we are doing.

**JP:** has a question for highways officers, regarding comments at Appendix 1 of their very comprehensive report. When considering the gradient on Oakhurst Rise – a red line for him as far as development is concerned – highways officers state that reference should be made to GCC Manual for Streets. Went to that document this afternoon to find it has been revoked. Will Oakhurst Rise need to be re-profiled to make the gradient acceptable?

**RW:** as a substitute, has questions that other Members may know the answers to. Regarding housing density, the proposal is for 69 dwellings – less than the previous 90, but more than the 25 suggested in Policy HD4 of the emerging Local Plan. What is the rationale for officers accepting that 69 dwellings should be permitted, when they have previously come up with figure of 25? Would also like answers on flooding – there are very different views of risk from county officers compared with those of the objector, who argued his case well.

**Chris Chavasse , Trees Officer, in response:**

- To BF, re. the veteran tree – made two separate comments to application, firstly saying that clear demarcation lines and values when considering whether a tree is classed veteran are not succinct. The applicants have employed experienced arboriculturalists who have produced different results. Considers T3014 to be a fine old tree, with a lot of

characteristics of a veteran tree but is not classed as veteran by the quite distinct characteristics involved - including its size/diameter of trunk – using guidelines from Natural England. As a tree of value, asked if it could be retained; this was not possible, but other veteran and notable trees on site are retained. Is fine with that – sad to lose it, but it is the least valuable of the older trees on site;

- To MC's question re. how long before new trees absorb the same amount of water, cannot really say as it is difficult to be quantitative, with so many variables at play, not least as rainfall, sunshine, climate change, increase/decrease in storms, pest, disease, all of which have an effect. At the same time, common sense would suggest that different trees will take time to mature and different trees demand absorb different volumes of water.

**Lucas Arinze, Highways Officer, in response:**

- To address the comments made by Cllrs BF, JP and MC, regarding the gradient of Oakhurst Rise, Oakhurst Rise is a publicly maintainable historic highway which has served 30+ dwellings and a sub-station for a number of years. There is nothing to suggest that this section of highway is unsafe and there has been no personal injury collisions recorded. Manual for Gloucestershire Streets is only guidance and what it sets out is not absolute values. It provides guidance for developers and tells them what is definitely acceptable. There is nothing to say such gradient wouldn't be acceptable; if all developments had to meet the values contained within Manual for Gloucestershire Streets, many developments in Stroud and the Forest of Dean for example wouldn't be possible.
- To MC, yes, highways officers have visited the site and appreciate the concerns raised;
- To JP, it would be unreasonable to request the developer to re-profile the whole of Oakhurst Rise, and it could make the development unviable;
- Highways officers would look at the gradient of highways within site should the developer choose to have them adopted.

**John Rowley, Planning Policy Team Leader, in response:**

- Regarding the five-year land supply, this site does not feature;
- to questions seeking clarification about this, an update has been provided today – very last minute, due to government changes to National Policy (NPPF) announced on Tuesday - we cannot prove we have five year supply. Stats from government indicate that we may have to change buffer from 20% to 5%. Hasn't been able to run through figures in enough detail to update the trajectory since August statement. The recommendation must therefore be that, as there is lack of clarity on new statement on five year supply, the most recent statement – confirming a 4.6 year supply, as at August 2018 – is what we have to fall back on this for purposes of tonight;
- To BF, to confirm – this proposal doesn't contribute to five year supply – it is within the trajectory but outside five-year period.

**Nick Jonathan, solicitor, in response:**

- To PB, regarding additional refusal reasons, new reasons could be considered if there has been a material change in circumstances between now and the original application. To my knowledge there hasn't been such a change – so adding new refusal reasons is not recommended.

**Michelle Payne, case officer, in response:**

- To BF, confirms that the LLFA is not here. They were asked to come, but considered that they could add nothing to the debate other than confirming that the drainage strategy in the FRA demonstrates the site can be developed safely. As this is an outline application, it is only establishing that the principle is acceptable;
- Regarding the school lease, cannot comment on how much longer this has to run; St Edward's has provided a letter of support, but limited weight can be given to how much

public benefit the proposal will provide. It is up to Members to decide how much weight they give to this;

- To SC, the pink area on the map indicates the drainage connection easement, not roads or footpaths;
- To MC, re. the S106 contribution for education, this now comes under CIL . It is for the County to decide on where it should be spent. Both Balcarras and Charlton Kings Primary serve this area, but cannot comment on whether they have the capacity to expand;
- To RW, regarding the number of dwellings proposed, 25 is the number identified in policy - it is not an upper limit, but an approximate figure. As set out in the report, very limited weight can be given to the emerging local plan at the moment, as it is still going through examination. Regarding the specifics of this site, the officer recommendation would be to permit whether it is a potential land allocation or not.

### **Member debate**

**BF:** regarding the five year land supply – this is always given weight at appeal. We are very close, and the last figures showed us to be ahead of target with completed schemes, at 108% we are doing OK but don't currently have a five-year supply.

In 2008, strategic sites were identified for the JCS, including one site adjacent to his ward where the biggest percentage of new houses the town has even seen are to be built. The reason why Consortium cannot bring this development forward is that County Highways Officers have requested them not put in an application as there is no highways plan for 4,000 dwellings. If this proposal is refused and goes to appeal, the Inspector would have to look at this. Part of this is making Junction 10 a four-way instead of a two-way junction. County Councillors say JCS has identified a strategic need – what we need in the future, for young people, workers etc. – and we need a highways plan to make this happen. We may get agreement for a four-way J10 at the end this year but there is no guarantee. The need for it has been compounded by the West Cheltenham development, which will include 1000 houses. It is one reason why we do not have a five year land supply.

Last year, wrote to County Highways asking for monitoring at Six Ways junction, Holy Apostles junction, Hales Road and Old Bath Road at A40 – there are times when all these junctions are near or over capacity on projections done. Asked for rubber tube monitoring – very simple – to determine the number of vehicles and their speed – but no-one was prepared to do it. Wrote to local highways officer for area, and received a reply that he is aware of Councillor Fisher's concerns but does 'not appear to have any data for these locations'.

How can we have a report on projection for the Oakhurst Rise proposal – traffic leaving the site, 28.6% one way, 14.2% another way - when we have no up-to-date data? Most of what we have goes back to 2010 – it is historic and a lot changed in the area since then. Hales Road traffic lights are one of the most air-polluted areas in Cheltenham as a result of traffic volume. Wanted data and numbers that laymen on Planning Committee could use to make a judgement. This hasn't come forward, and has now been told he can pay for the work from his own highways local money, which is an insult. Without the data, cannot see how we can support this proposal. It was previously refused previous on highways grounds, and no meaningful, up-to-date data has been provided with this application. The development of the Dunkerton retail unit on the A40 factory is adding further to the traffic on this road.

Is a great supporter of St Edward's – it is a fantastic senior and junior, model school – but if it acquires the freehold, this could be a two-edged sword – there will be more pressure on the school to realise its asset – a very valuable piece of land - which could mean further development. It could be hoped that the Carmelite monks should be considering the school, not money.



Regarding the emerging Local Plan, the agent said 25 houses on this site is not the upper limit, but it isn't the minimum either – we could have less. On Monday, Council talked about changes to the town's CO2 emissions, with environmentally friendly, zero emission houses. Members didn't throw the previous application out on account of numbers – this was not the issue. It is a shame the LLFA is not here to answer questions. MP said they considered the flood risk assessment to be feasible. Would remind members also that the drawings are only indicative of what the houses will look like – this is misleading, and design not fixed. Members should not be misled. May not look like that should we permit. And attempts to defend the 14% gradient compound felony by allowing further 69 houses on Oakhurst Rise are ridiculous.

**GB:** would ask that Members be concise and considerate about the amount of time they take to make a point.

**PB:** this is a challenging application, both last time and this time. Congratulates Michelle Payne, the case officer, for the huge amount of work and time she has put in to this application – living and breathing it for many weeks, including outside office hours. It is a massive application, the most important on tonight's agenda, possibly the most important Committee will consider for a long time. Before focusing on issues, we must be clear that this an outline application, not detailed, and the only reason to pass it would be for the delivery of houses. Understands the importance of housing to the town, as demonstrated by CBC committing £100m for social housing. The five-year housing land supply is a nonsense from government re figures and growth; it is evolving all the time – there was another update on 19<sup>th</sup> February, with the good news that the previous buffer of 20% more than the likely requirement has now been reduced to 5%. It is clear the way the government is going, and clear that we are over supplying. We are nearer to five year supply tonight than we were on Tuesday – it is a moving target.

Believes Policy HD4 to be relevant – Members have had a response from the officer, confirming it is relevant but has limited weight due to Plan status. The Plan has been through two consultations, and we are now at hearing stage. It is all about timing and balance; the Plan is evolving, near to conclusion - it is a shame it is not in place, but weight can therefore be attached. It may be small but it is nonetheless important. It is all about balance, weighing pros and cons. This application has one pro, but a lot of cons.

Members have been told that outline applications don't count towards housing numbers; if it was a detailed scheme, we would be talking about numbers, but we're not.

Historic England has issues regarding the impact of the scheme, as discussed at the last meeting. It strongly objects to the impact on GII\* listed building; it cannot comment on the GII-listed Charlton Manor, but there will be a significant impact on that too, referred to by CBC's conservation officer. Accepts that it is about balance at end of day, but the previous refusal reasons re. harm to heritage assets still stands - NPPF 193, 194, 196, JCS SD8. This scheme doesn't reduce in any way impact on those two buildings.

Regarding trees and biodiversity, congratulates the applicant for making this scheme less harmful than the previous one, retaining more trees, but it is still not acceptable. The same refusal reasons as previously still stand regarding impact on trees, habitat and biodiversity. The Woodland Trust is a well-established professional organisation, and we must have due regard to its comments. Although it is no longer the case that many ancient or veteran trees will be lost, the development of the site will have a long-term impact on the survival of the remaining trees. In addition, wildlife will suffer and cannot be sustained if the site is developed to this intensity. The ancient and veteran trees will be subject to deterioration, surrounded by housing. There will be conflict between the houses and the trees, and applications for shading, trimming branches, taking trees down – we see applications to take down TPO'd trees time after time after time.

Natural England is concerned about the loss of irreplaceable habitats that this sites provides - pastures and hedgerows. It would be a crying shame to let this magical site go for an important but small number of houses. Other less sensitive sites will come out of the plan process. This is the most sensitive site we could consider developing.

Impact on AONB was one of the previous refusal reasons and this proposal has the same impact as before.

The Increase in traffic issue has been well covered; the previous refusal reason still stands.

Regarding flooding, the LLFA has let us down badly on this and other sites. It is shocking that no-one is prepared to come and defend its report to the meeting. We are lucky to have organisations to help us in decision-making – we listen and take notice of comments from the Civic Society and Architects Panel – and Cheltenham Flood Action Group should be a consultee going forward in the same way. It has produced a damning analysis of the flood risk assessment, referring to all policies on which this scheme will impact. These are professional people who have gone through the proposal in a thorough way, with regard to the NPPF, etc. Can officers confirm that if this outline application is permitted, flooding is a reserved matter and would come back to the Committee at the detailed stage? If so, it should come back with a proper scheme to comment on, not a wishy-washy 'yes, it's OK'. Would like flooding added as a refusal reason, together with Policy HD4.

It is all about balance. On the pro-side, it's the case that the proposal would result in short-term provision of construction jobs, there is a lot of work on in the town at the moment. The scheme will provide additional homes, including 28 affordable units – these are important but don't count towards housing supply, and as it is an outline, it is not definite that these will ever be delivered. It would be different if this was the detailed proposal. 28 affordable units is good, but the loss of trees, effect on habitats, remaining trees and the AONB setting, impact on listed buildings, flooding, traffic, loss of cross country course (though there is no planning reason to refuse on this) – all these will have a negative impact.

Will move to refuse as described – can pick up all NPPF paragraphs to refuse. If it is lost, would like all conditions tightened up and extra requirements added.

**GB:** the officer update at paragraph 4 sets out that landscaping is a reserved matter, and this includes drainage.

**PB:** has read this. Would like to know if flooding can be added as a refusal reason.

**SW:** it is difficult to follow two previous speakers who have said so much. On one side, this is a beautiful, green piece of land – would like to have it on his doorstep. Would like it to remain green, but it is due for development – understands this has to happen, for the advantage of the town generally. Yes, it is a shame to develop, but we need houses, and they have to go somewhere – this makes the application difficult to refuse.

Having said that, drainage is an issue. The LLFA says it can be sorted, but we were told this at BMW in Up Hatherley and since that site was developed, there has been significant flooding in the area. What guarantees are there on what we are told by our experts? The first speaker has done his homework, and is suggesting a totally different outcome to our expert.

If there is no other solution, it is a difficult case – it is not our job to redesign the application. Last time, it was asked whether other access points could be used, to make the development more sustainable, but we are told this isn't possible. Didn't go up Oakhurst

Rise on the bus this time, but last time the bus couldn't get up to the top – Members had to get out and walk.

Yes, it is a highway, but we will be asking that road to double its capacity. Highways officers say this is acceptable. Highways officers always say this, but we know in our heart of hearts that this is not going to provide acceptable access, particularly with construction vehicles, emergency vehicles etc.

If this was the only objection, may find the proposal OK, with all the other objections, is finding is a struggle to vote in favour of this application.

**MC:** will be brief. A lot of good points have already been made by BF, PB and SW. This is a beautiful site, full of history, and a cross-country route – chopping down trees and hedgerows here is a great pity. Moving badgers from their natural sett to a plastic one is ridiculous. Regarding access, it is ludicrous to say that it will be safe, up the hill of Oakhurst Rise, with a 90° bend. If local schools can't accommodate the additional pupils, parents will have to drive to other schools, putting further pressure on the highway network. Highways officers say that personal injury records show six collisions in the last five years, one recorded as serious, all due to driver or cyclist error – are they saying we can develop highways as much as we want as long as drivers don't do anything stupid. This is ludicrous, as is the message to keep on developing as County Highways say there is no problem. Regarding ecology, biodiversity, CO2 emissions, this will make is much worse, as will driving all sorts of vehicles up and down Oakhurst Rise. Won't support the scheme; is glad PB has suggested reasons to refuse and fully supports them all.

**DS:** one reason why he didn't vote for this last time was due to the paltry access to the site. Through from Charlton Kings to Hales Road is already a rat run, and any vehicle bigger than a car doesn't work. Was worried by feedback after the previous meeting, when made a suggestion to enter the site through the schoolgrounds up side of hedge, that he had suggested an alternative entrance through Charlton Court Road. Did not say that – the effect would clearly be the same as the Oakhurst Rise access.

The Oakhurst Rise access point is not good enough; doesn't like their being only one access to the site. One in and one out would be better; 70 houses with only one access point not is not sustainable. Agrees with SW.

**JP:** it is fair to say there have been some very eloquent and well-argued presentations. Has two items to add: one of the main refusal reasons last time was access, and it is disappointing that Highways Officers do not offer supportive advice to the developer or residents as to how access could be made better. Secondly, last month there was a debate at length about Cheltenham's ambition to become carbon-free by 2030. This development application doesn't support that. The site is quite remote, and the vast majority of residents, despite provision of ebicycles, will use their cars to access local facilities. This is not something we would want to support.

**GB:** Members have covered a fair bit of ground; doesn't want to extend the debate unnecessarily, or to cut people short, unless there are new points to be made. Would like to bring the debate to a conclusion.

**PB:** would like to read a relevant paragraph from NPPF which is the whole point about this application. (reads) *'When determining planning applications, local planning authorities should apply the following principles: development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland and ancient or veteran trees, should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists'.* Under 'wholly exceptional reasons', it talks about infrastructure projects including nationally significant infrastructure projects, orders under the transport and works act and

hybrid bills etc. Does not believe this scheme falls under that definition of exceptional reasons.

**SC:** some very good points have been made. The proposal has some good points: in plain view, it looks great, but it comes down to a single point of access. It was clear on planning view that it would be a big ask to get all traffic through that point. For him, this is the deal breaker. The plan view doesn't show that the development is on a significant hill, which causes drainage issues and so on, with a 14% gradient. Leckhampton Hill has an average gradient of 11% and as a utility cyclist, is not sure he could get up that road with shopping etc. There is a sustainability problem issue here. As discussed at Council on Monday, with global warming and more severe winters, Oakhurst Rise could become very dangerous in winter time. Is very worried about this access point, and agrees with comments from other Members so will not repeat them. Cannot support the proposal.

**Mike Holmes, in response:**

- Has listened to the debate, and is concerned that the proposal reasons suggested will not be supported at an appeal by people we rely on for consultation. This would mean opening up the need to find evidence from other sources, in order to justify and provide evidence for the refusal reasons. A situation may arise, even if the appeal is unsuccessful, that the appellants may well be awarded costs. This doesn't only happen when the Inspector overturns a Council's decision; it is all about justifying the refusal reasons;
- Since the previous application, there has been a reduction in the number of units; flooding was not identified as a reason for refusal previously; highways concerns were, even though this had no support from highways officers. Needs to point this out to Members before they vote.

**BF:** regarding a possible appeal, the previous application was rejected on highways grounds, and there is a clear indication in the report tonight and officer email, that no data in that area has been provided to back up highways comments. How can they do a report with no data? Officers should be asked to provide data that we can use to make a judgement; an Inspector will ask for it. There is nothing in the NPPF to say applications should be accepted because authorities are frightened of costs.

**GB:** it is the responsibility of officers to bring this to Members' attention, and part of the process we must go through.

**Vote on officer recommendation to permit**

3 in support

11 in objection

1 abstention

**NOT CARRIED**

**PB:** as custodians of the council tax payers' money, it would be irresponsible of Members to put forward frivolous, unsupportable refusal reasons when there are enough good reasons to refuse. Will therefore not persist with refusal on flooding grounds, as this is an outline application and the situation is evolving. Would like to add evolving policy HD4, but otherwise propose the same refusal reasons as last time:

- Harm to the listed buildings JCS Policy SD8, NPPF paragraphs 193, 194, 196, 190;
- Negative impact on biodiversity NPPF paragraphs 175C, 175A, SD9 (2), Local Plan GE6;
- Harm to the AONB, as previously, CP3 and SD6;
- traffic refusal reasons as before.

**John Rowley, in response:**

- paragraph 48 of the NPPF refers to the weight that should be given to relative policies in emerging plans, stating that there are three factors to take into account: the most relevant is the extent to which LPAs may give weight to emerging local plans, according to the extent to which there are unresolved objections to relevant policies; the less significant the unresolved objections, the more weight can be given.
- Policy HD4 maintains a number of objectives still being considered as part of the Inspector's examination. It may not be prudent to give this as a reason for refusal – it is not a good reason to refuse at this present time.

**PB:** it may be limited weight but it is still weight. The outstanding unresolved objections relate to the loss of green space, biodiversity and historic buildings – the bulk of objections reflect this.

**GB:** it is up to PB what refusal reasons he wants to propose, but Members should be aware that refusal reasons which aren't robust could result in costs against the Council.

**Nick Jonathan, in response:**

- Didn't include Policy HD4 as a refusal reason last time; cannot give additional weight now than could last time. Would caution against including it now.

**John Rowley, in response:**

- The local plan has been submitted since the last application, so there is some difference in terms of weight that could be granted to the emerging policy because we are now at examination stage but having said that the outstanding objections have not yet been resolved in any further sense, so it's different but not materially different.

**SC:** can it be confirmed that Policy CP4 will be included, with regard to access via Oakhurst Rise and sustainability of the development.

**PB:** this was used previously and will carry forward. Suggests that the Chair and Vice-Chair could review the refusal reasons and make any further comments. Regarding HD4, JR is right – we are further down the process. It carries some weight and although not huge, it is therefore material.

**GB:** if Members are happy for the Chair and Vice-Chair to look at reasons to refuse in detail afterwards, got general feel for them, fine tune them post-meeting if suits members.

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

11 in support

0 in objection

4 abstentions

**MOTION CARRIED - REFUSE**

**9. 18/02337/CONDIT 48 Suffolk Road**

Application Number:	18/02337/CONDIT		
Location:	48 Suffolk Road		
Proposal:	Variation of condition 4 on 17/00960/COU for alternative hours of extractor fan use and additional attenuation measures		
View:	Yes		
Officer Recommendation:	Permit		
Committee Decision:	Permit		
Letters of Rep:	5	Update Report:	Officer update

**Officer introduction**

**GD** introduced the application as above, he advised that permission had previously been given which enabled the premises to change from use class A1 (retail) to A3 (restaurant and café). The application is seeking to vary an existing condition which restricts the operating hours of the existing extraction fan and extend the operating hours to 10:30pm Monday to Saturday and to 5:30pm on Sunday and bank holidays. The officer recommendation is to permit subject to the installation of the proposed noised attenuation measures. The application is before committee at the request of Cllr Dilys Barrell due to the potential impact on neighbouring amenity.

**Miss Smart, agent, in support**

Miss Smart advised that she was acting on behalf of the applicants who were seeking to vary condition 4 of the approved planning application which deals purely with the use of the extraction equipment. She explained that the current hours of use restrict the operating needs of business and as such the applicant was seeking to extend the operating hours of the extraction fan, she confirmed that the operating hours of the restaurant and garden would remain unchanged as a result of the proposal. She highlighted that the bakery was an award winning business which contributed to the local economy, however, the current constraints placed significant restrictions on the business, only allowing them to trade at lunch time. The business predicted they had lost approximately £50,000 in revenue over the last year due to their inability to prepare and serve food into the evening; the bakery element was also unable to function in the mornings. She explained that the noise attenuation measures proposed had been advised by technical noise consultants to ensure noise was kept to an acceptable level for neighbouring areas; a technical noise report also accompanied the application. She noted that environmental health had raised no objections to the proposed noise attenuation measures and the officer report had concluded that the extended hours would not have an unacceptable impact on neighbouring residents. She reiterated that approving the application would support the growth of a local successful business as the restrictions had inevitably impacted on the businesses viability.

**Councillor Barrell, in objection**

Councillor Barrell read out a statement on behalf of the residents at 44 Suffolk Road who were unable to attend the meeting. In the letter the neighbours explained that their property consisted of their business (Eden Health and Beauty Spa) at the front and their residential property to the rear. They were concerned that the outside cooking area extension had been erected without planning permission, and this was located just 6 feet away from their bedroom. They stressed that the business is located in a conservation and residential area and they are regularly affected by noise, cooking smells and smoke from Baker and Graze, with cooking starting at 5am. They were concerned that the extended use of the fans would increase the cooking noises and smells and felt that they deserved the right to a peaceful family life outside of usual business hours. They suggested that the fans be redirected to the front of the shop, exiting on Suffolk Road with proper restrictions put in place for garden use, including the outside cooking area. They advised that Baker and Graze did not adhere to the current restrictions with fans often being turned on much earlier than permitted, and the garden and fans being used until 11pm. They explained that the situation had caused considerable stress to them and felt that even with the attenuation measures the sounds would be audible and the smells problematic.

Councillor Barrell expressed her own concerns for the application and explained that whilst they wanted to maintain the Suffolks as a vibrant, lively area they needed to be cautious of the fact that it is a residential area with neighbours extremely close to the premises. She noted that the fan can be disturbing and for residents, this noise continues all day every day, including Sundays and Bank Holidays. She requested that the committee carefully consider both the needs of the business and residents.

Councillor Barrell left the room for the duration of the debate.

**Member debate**

**MC:** noted that the neighbour's concerns were unrelated to the application as the application was simply to vary condition 4 regarding hours of use of extraction equipment. Whilst he was disappointed to hear the neighbour was being disturbed by smells and noise, he reasoned that they could only consider whether they agree or disagree with varying the hours of operation.

**SW:** acknowledged that the Suffolks was a mixed-use area with lots of shops in close proximity to residential areas and that was simply the nature of it. He noted that during the site visit the fans had not appeared to be too disturbing and that in any case, you were unable to hear background noise after a while. He asked the officers whether decibel readings for the fans had been taken and questioned whether measures were being taken to reduce those noises? He noted that if the applicants were breaking the conditions on their current application then it is a matter for the enforcement officers, not the planning committee.

**RW:** Agreed with Councillor Barrell that it is a matter of proper balance when arriving at a decision. He acknowledged that Suffolk Road had always been an area with restaurants and vibrant commercial activity and residents living in the area were aware of that. He didn't feel that extending the hours to 22:30 was unreasonable and agreed with Councillor Wheeler that after a while you don't notice background.

**BF:** Felt that the neighbour and Councillor Barrell's concerns were about ancillary noise as a result of running a bakery and cafe in a residential area which is a different matter. He noted that the fans do comply with legislation and he did not feel that the hours proposed were excessive.

**DS:** During the site visit had felt that the noise from the courtyard which was intermittent was more of a disturbance than the noise from the fans.

**SC:** During the site visit he had been struck by how noisy the front of the building was and had felt the back garden was fairly quiet except for the noise from the fans, and so he could see why neighbours found it disturbing. He questioned what reassurance officers had that the sound would be reduced to 33 decibels as had been promised?

**GD, in response:**

- Advised that the current decibel levels had not been taken as part of this application by environmental health. He explained that when the applicant had applied for the first change of use, they wished to use the existing extractor fan which had been there before they had taken on the tenancy. However, environmental health had explained that the noise from the current extractor fans running to 22:30 would be unacceptable.
- He explained that the environmental health officers comments regarding the reduction in decibel levels had been based on what the applicant had told them. To ensure that this was complied with, they had included an additional line to say the hours would only be extended if and when those attenuation measures were put in place. Therefore, if the committee were minded to permit the application, the owner of the business couldn't start operating to 22:30 until the new extractor fan and attenuation measures were put in place.
- Following a question from the Chair about whether environmental health would check that the sounds levels had been reduced. GD explained that if they have a noise complaint from a neighbour then they would take measurements and if these exceeded the required levels then they would be in breach of their planning condition and enforcement action would be taken.

- He confirmed that he and the enforcement officer had been to site and so were aware of certain issues i.e. the garden being used outside of hours and a new structure that had been built without permission. He explained that once this application had been decided enforcement action would be taken if necessary.
- He confirmed that if Members were minded to permit then the applicant would have to implement the new extraction fan with the attenuation measures so it wasn't a case of deferring the application.

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

12 in support

1 in objection

1 abstention

#### **PERMIT**

#### **10. 18/02466/CONDIT Granville, Church Walk**

Application Number:	<b>18/02466/CONDIT</b>		
Location:	<b>Granville, Church Walk</b>		
Proposal:	Variation of condition 5 on planning permission 18/00136/FUL - variation to window detail		
View:	Yes		
Officer Recommendation:	<b>Permit</b>		
Committee Decision:	<b>Permit</b>		
Letters of Rep:	<b>3</b>	Update Report:	<b>None</b>

#### **Officer introduction**

GD introduced the application as above; he explained that planning permission had been granted in 2018 for the demolition of an existing bungalow and erection of a contemporary two storey dwelling. The application was granted with a condition relating to the first floor windows to the north, east and south elevations. He advised that the applicant was seeking to vary this condition to enable two first floor windows to the east elevation to be side hung with restricted opening, both would be obscurely glazed and both served bathrooms. He confirmed that the original condition still applies to the other windows on the first floor. The recommendation was to permit as per the reasons outlined in the officer report. The application is before Committee at the request of Cllr Paul McCloskey due to the potential impact on neighbouring amenity.

#### **Mr Hayward, neighbour, in objection**

Mr Hayward explained that his objection was in relation to the upstairs window of Mr Unwin's property that, when open, faces South and overlooks his garden. This could be evidenced by the papers submitted to the Council which show window A overlooking a large part of his rear garden, thereby reducing his privacy. He informed committee that he had no issue with the windows opening north over the front garden with the restrictor at a maximum of 16cm, although he had been advised that the restrictors could be removed. He noted that Mr Unwin's comment regarding the fact a man of average height could still look out of an open window above 1.7m make that type of window more of an objection. He therefore suggested that the windows opening as they are but facing north not south may be worth discussing.

#### **Mr Unwin, applicant, in support**

Explained that the window in its current state was a genuine error, however, he hoped that he could demonstrate that the existing window was on par with what the current conditions called for with regards to safeguarding privacy. He highlighted that the restrictors were permanently fixed with solid brass catches and were riveted to the outside window frame so would need to be mechanically removed from the outside. He noted that the current conditions placed no restrictions on the opening angle of the windows and that the view from both windows was limited to a driveway at the back and a private road to the front. He further noted that both windows were located in bathrooms with toilets in front of them making it



difficult to lean out and due to privacy reasons they were unlikely to be near the windows. He highlighted that the house directly opposite had no windows of its own on the elevation facing his house and currently it was physically impossible to look into the gardens or houses of two of the properties that had objected. He noted that the current condition places no restrictions on how much the windows could open, only that it must open above 1.7metres, he reasoned that if it was to be replaced with an opening of this height an average height person could look out unimpeded on to neighbouring properties anyway.

### **Member debate**

**TO:** questioned whether the officers had been to site and seen the windows fully open? He noted that from the site visit the windows looking to the front didn't seem to be a problem.

### **GD, in response:**

- Confirmed that the photos before them had been taken by the enforcement officer and they highlighted the extent the window looking directly towards the neighbouring property could be opened. As there had been no internal staircase Members had been unable to view the rear window during the site visit.

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

15 in support  
0 in objections  
0 abstentions

**PERMIT**

## **11. 18/02560/FUL Tree Tops, Southam Road**

Application Number:	<b>18/02560/FUL</b>		
Location:	<b>Tree Tops, Southam Road</b>		
Proposal:	Internal & external alterations including single storey side extensions, two storey rear extension and new triple bay garage with link (revised application to previously approved application ref. 18/00603/FUL; changes include alterations to existing roof) (part retrospective).		
View:	Yes		
Officer Recommendation:	<b>Permit</b>		
Committee Decision:	<b>Permit</b>		
Letters of Rep:	<b>13</b>	Update Report:	<b>1. Additional representation</b> <b>2. Officer update</b>

### **Officer introduction**

**CD** introduced the application as above, she explained that the property was a two storey residential dwelling in Prestbury accessed off Southam Road and the applicant was seeking retrospective planning permission for the increase in height of the ridge of the original dwelling. She advised that the other extensions and garage had already been granted permission, therefore, only the increase in ridge height was to be considered by the Committee. The application was at Committee as a result of a parish council objection.

### **Ms Jackson, neighbour in objection**

Ms Jackson explained that neither herself or her neighbours were against upgrades to any properties including Tree Tops, they were proud of where they live and welcomed any improvements which make for better surroundings. Their objection, however, came from the way the project had been handled by the applicant. She felt that the construction was overbearing and was dismayed that it was done without consultation with all its neighbours.

She highlighted that the applicant had provided various drawings which were inconsistent and confusing, and once permission had been obtained, the applicant went on to build 1 meter above what was granted, making the 2 storey extension taller and wider than was accepted. She felt that the extra meter in the roof affected neighbouring properties light and privacy and created a significant modification to the whole of the extension which was now extremely imposing. She felt that the applicant had disregarded the planning regulations, its procedures and neighbours and that granting retrospective permission would encourage other builders to carry on breaking the rules in future. She felt that by removing 4 rows of breeze blocks from the back extension, the construction would at least, conform to the original drawings. She questioned whether planning permission would have been granted to the applicant had he submitted such a high elevation in the first place and requested that Members of the committee be vigilant on future applications in order to prevent further extensions.

**Mr Bence, applicant, in support**

Mr Bence explained that he and his wife had lived in Prestbury for 13 years and were very much at the heart of the community. They had hoped Tree Tops would be their forever family home and a place to bring up their children. He explained that the original plans had been shown to the neighbours at Grey Gables and all the adjoining houses to the rear of their property on Mill Lane. He stated that they had all believed it to be in keeping with the area and showed no concern. They were disappointed that their ward councillors were unwilling to speak with them despite numerous attempts made throughout the build process. He noted that Tree Tops was a 1950's mock Georgian property in need of major renovation and they had believed their plans to be in keeping with the local area. He explained that the original proposal included an annex over the garage with an adjoining link, which they had taken out at the request of the planning officer. He confirmed that they had no intention of going into the main roof space initially; however, without the annex they needed space to accommodate their elderly parents and growing family. He explained that the architect had made a genuine mistake in measurements and they had subsequently ordered new trusses, they were unaware that they needed planning consent which was a massive oversight on their part. Enforcement officers had advised them that retrospective planning permission would be required but they could carry on at their own consequence. He highlighted that they had stopped all works to the roof immediately out of respect for their neighbours and this had subsequently put the project back 4 months. He did not feel the development was subservient or over developed, it was a large plot and they had only taken 20% for building land, he noted that many of the surrounding houses were 80% building land, 20% garden. He highlighted that the majority of objections related to aspects of the house that had already been granted permission. He reiterated that they had worked hard to create a house that was in keeping with the area and were disheartened by accusations that they were being dishonest. They felt that the plans had hugely improved the plot and without the roof space the house was not fully functioning for their needs. He confirmed that the reasons the drawings were slightly different was because they had switched architects due to the error.

**Councillor Baker, in support**

Explained that he knew the applicant through the football club, he felt it unfortunate that the ward councillors couldn't speak on behalf of the applicant. He reiterated that this was simply about the roofline, not about how the project had been handled. He acknowledged that the application was confusing for residents but explained that the plans had been changed due to consultation with the planning team and as a result of objections; they had also changed architects to get a situation that was acceptable in planning terms. He noted that on planning view they had sat in the garden of number 5 and they couldn't see the ridgeline of the house from the garden. He felt the Parish Council's objections were unfair and nothing in the design conflicts with the NPPF. He highlighted that the applicant had come back to a compromise situation to appease residents and to come in line with planning.

Councillor Baker left the chamber for the debate and the remainder of the meeting.

**Member debate**

**MC:** Explained that he didn't like retrospective planning applications and it was difficult to know whether cases were genuine. However, since going on planning view he didn't have a problem with the application.

**SW:** Felt it unfortunate that they were not looking at the whole design which he felt was appalling and not subservient; he was disappointed that it had got planning permission in the first place. He requested that they carefully think about what applications come to committee in the future. Whilst he had great sympathy with the neighbours he acknowledged that they were only here to discuss the ridge height, which could not be seen from next door as it was below the height of the extension, he therefore didn't think they were in a position to refuse.

**RH:** Noted that from planning view, the extension was very close to the neighbours and she could understand why they felt uncomfortable. However, with regards to the ridge line, she couldn't see any reason why they would refuse the application and so she would be supporting it.

**JP:** He explained that Tree Tops had been an elegant house, sitting in substantial grounds which were very private and unimposing on neighbouring properties. Whilst he accepted that the majority of the building had been granted planning permission he had concerns that throughout the whole development process there had been no consideration or meaningful engagement with neighbouring residents. He noted that the ridge height had been an alleged error on the architect's part which had resulted in insufficient head room in the roof space. He suggested that an appropriate course of action for an experienced developer would have been to submit a planning application in the normal way and this would have given residents the opportunity to comment. Instead, he felt that the applicant had gone ahead and significantly increased the ridge height of the roof to the applicant's benefit but to the detriment of neighbours, particularly those living in the Stables development. He noted that the plans had recently been modified and the architect had created an optical illusion to give the impression of a more balanced front elevation, however, the ridge height remained unchanged. He felt that the changes to the front elevation had no impact on residents to the rear who still have to endure a ridge height 800mm above what was originally permitted. He felt it an unsatisfactory incident that would never have arisen if due process had been followed.

**Vote on officer recommendation to permit**

11 in support

2 in objection

1 abstention

**PERMIT**

**12. 18/02630/FUL 14 Regency House**

Application Number:	<b>18/02630/FUL</b>		
Location:	<b>14 Regency House</b>		
Proposal:	Erection of an external awning over sitting room window		
View:	Yes		
Officer Recommendation:	<b>Permit</b>		
Committee Decision:	<b>Permit</b>		
Letters of Rep:	<b>6</b>	Update Report:	<b>None</b>

**Officer introduction**

**DO** introduced the application as above, he explained that the application relates to a top floor apartment at 14 Regency House the applicant seeking erection of an external awning over the sitting room window. The recommendation is to permit as per the reasons outlined in the officer report. The application is before committee at the request of Cllr Klara Sudbury due to the impact of the proposed development on the character and appearance of the area.

**Vote on officer recommendation to permit**

14 in support

0 in objection

0 abstention

**PERMIT**

**13. 19/00051/FUL 33 Gloucester Road**

Application Number:	<b>19/00051/FUL</b>		
Location:	<b>33 Gloucester Road</b>		
Proposal:	Retrospective change of use to a 7-person HMO which has been in constant use since July 2015		
View:	Yes		
Officer Recommendation:	<b>Permit</b>		
Committee Decision:	<b>Permit</b>		
Letters of Rep:	<b>0</b>	Update Report:	<b>1. Representations from Councillor Willingham</b> <b>2. Officer update</b>

**Officer introduction**

**CD** introduced the application as above; she advised that the application relates to a 2 storey mid terrace property at 33 Gloucester Road. She explained that the applicant is seeking retrospective planning permission for a 7 bed HMO which has been in use since 2015. The application is at committee at the request of Councillor Willingham.

**Councillor Willingham, in objection**

Councillor Willingham requested that the committee refuse the application; he indicated that the matter should have been the subject of stronger enforcement due to a breach of planning. He noted that the planning application had been submitted with inaccurate and incomplete information on the application form. Further concerns included the fact that the public had not been informed of the pre-application advice given to the applicant, which was contrary to the openness and transparency required in the planning process. The applicant had also answered no when questioned whether “parking is relevant to this application” which he considered must have been a misinterpretation or simply, an incorrect statement, particularly given that this was a family dwelling, in a permit parking area that only permits two permits per dwelling. Councillor Willingham was concerned that additional vehicles would park on Alstone Avenue or Alstone Croft, causing danger and irritation to those residents, or in planning terms unacceptable harm to the amenity of the area.

He further noted that in areas with a high density of HMOs, there are noisy parties running late into the night during fresher’s week and following the exam period. There are also issues of improperly presented waste, with overflowing bins and recycling that blows down the street. He was concerned that the Council had not retained the protections afforded by HS3 from the Local Plan and that these documents had remained on the website.

He highlighted that the back lanes to the rear of the property were extremely dilapidated, evidence in his opinion, of the real harm that afflicts an area when failures in the planning process allow it to be neglected by transient tenants and absentee landlords. He explained that the lane becomes a fly-tipping ground for departing tenants and is a drain on council

resources and a source of regular casework. He felt that the fact that no-one had objected to the application demonstrates the extant harm because no-one was concerned enough to object, or in some cases had little faith in the planning, planning enforcement or enforcement processes. He reasoned that whilst it is just one more person, they needed to be cautious of the cumulative impact and was concerned that there has been no assessment of when the density of HMOs in this area would reach breaking point.

He emphasised that it was not his intention to delay the process but his concerns were as a result of the fact he deeply cared about the area he represented.

Whilst he requested that the application be refused under SP4a because of the cumulative impact and harm, he suggested that if the committee were minded to approve, they place a planning condition on the applicant requiring them to work with CBC in respect of any alleygate or PSPO schemes in order to minimise the potential harm arising from issues in the back lane.

### **Member debate**

**KH:** had sympathy with Cllr Willingham and explained that similar issues had been experienced in St Pauls ward. He noted that in the emerging local plan there was the potential inclusion of article 4 direction although appreciated that they couldn't add sufficient weight to that at this stage. He stressed that the impact on the community should not be underestimated and that it was significant that no neighbours had responded to the consultation. He questioned what the consequences of refusal would be as he feared it would be unenforceable.

### **MH, in response:**

- He explained that such situations were as a result of changes in permitted development by central government which allow people to change to 6 people in a unit of accommodation. He advised that Members should consider the difference in what would be permitted development in terms of 6 and what has actually been created at the premises with a licence. He noted that whilst the application was before the committee as a result of the licensing process, licensing is irrelevant to planning. In his opinion, it would be difficult to justify a reason for refusal based on one additional person. Similarly, the cumulative effect could not be considered a policy issue in this instance as CBC do not have the policy to deal with that in this ward.

**SW:** was concerned about student accommodation in the town and the impact on others residing in the area. Whilst he could not justify a sound reason for refusal he was unhappy with landlords taking small houses and filling them unreasonably with multiple occupants which exceed what the house was originally designed to handle.

**RW:** was similarly concerned and shared frustration with Members, he felt that the way the applications were presented to the planning committee i.e. one house at a time, made the committee powerless. He queried whether officers were looking at a sufficiently wide enough area for article 4 direction and suggested St Peters is included.

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

6 in support

3 in objection

5 abstention

**PERMIT**

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

Chairman

The meeting concluded at 21:00.