

Planning Committee

Thursday, 21st November, 2019

6.00pm

Attendees	
Councillors:	Councillor Tony Oliver, Councillor Roger Whyborn (Reserve), Councillor Wendy Flynn (Reserve), Councillor Garth Barnes (Chair), Councillor Stephen Cooke, Councillor Diggory Seacome, Councillor Victoria Atherstone, Councillor Bernard Fisher, Councillor Dilys Barrell, Councillor Mike Collins, Councillor Simon Wheeler, Councillor John Payne and Councillor Rowena Hay
Officers in Attendance:	David Oakhill (Head of Planning), Michelle Payne (Senior Planning Officer), Victoria Harris (Planning Officer), Chris Mead (Senior Highways Officer), Nick Jonathan (Legal Officer)

21. Apologies

Councillors Baker and McCloskey.

22. Declarations of interest

There were none.

23. Declarations of independent site visits

Councillor Collins – 18 Hatherley Lane.

24. Public questions

There were none.

25. Minutes of last meeting

These were approved and signed as a true record of the meeting, without amendments.

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

27. 19/01370/FUL Imperial Garden

Officer Introduction

DO introduced the application for an ice rink and ancillary uses over two years at Imperial Gardens, in addition to the existing planning permission for the Gardens to be used for 70 days every calendar year. It is at Committee because the application site is CBC-owned land, and Councillor Mason has requested a Committee decision. The proposed ice rink will operate in the winters of 2020-21 and 2021-22, and take up a quarter of Imperial Gardens. The original application site included the pond and footpath, but this was subsequently amended to allow better pedestrian access. The applicant's position is that the proposal will be a good thing for town, with broad benefits. As elsewhere in the country, the town centre is struggling to compete, and there is evidence that the Christmas lights turn-on, the big wheel and other events in Imperial Gardens increased footfall to the Cheltenham, bringing benefits to the town centre as a whole. Residents are concerned about additional use of the Gardens, the effect on residential amenity, highways safety, traffic, impact on the heritage asset and trees, but no objections have been raised by consultees on these issues

Public Speaking

Jake Ford, neighbour, in objection

The three objections raised this evening are detailed in the letter submitted on 13th August. First, the impact on neighbouring residents. Residents in Imperial and Montpellier Square are reliant on on-street parking, with each house allowed two permits per annum. As things currently stand, residents are constantly competing for spaces during any town hall or festival event, of which there are now five a year. It is almost impossible to find a free space until after 9.00pm. There is not enough parking in town to support these events. Set-up and take-down of event structures sees the suspension of several parking bays. As a paying resident with a permit, it seems mad that he cannot park on his street, and adding a further 75 days of this is unacceptable. There is potential for an increase in anti-social behaviour. Over four years, has been victim of five separate incidents, including burglary and car vandalism, all at night and two during festivals. The rise in footfall, mainly in the evenings, may lead to a rise in antisocial behaviour, as well as an increase in noise pollution and litter.

The second objection relates to the impact of the ice rink on the sensitive central conservative area, and the listed buildings in Imperial Square that define Cheltenham's regency heritage. The ice rink will be completely alien to these surroundings, in contrast to the festivals which add to the community and bring a more cultural and educational appeal.

The third objection relates to the use of public green space for business. Cheltenham's parks are widely used all year round, especially Imperial Square due to its central location and flower displays. Policy is in place to protect these spaces, and the ice rink installation for 75 days goes completely against these. If an ice rink is needed in Cheltenham, an alternative site such as a car park or pedestrianised area should be considered over green land. There is no need for an artificial ice rink that puts business first and green space second.

Kevan Blackadder, Director of Cheltenham BID (applicant), in support

Cheltenham BID has been operating for over three years now, with the aim of attracting people to town and encouraging them to stay longer. One way this has been done successfully is by holding new events in the town centre, to attract local and regional audience, such as Light-Up Cheltenham and the Observation Wheel in Imperial Gardens. An ice rink would be a major additional attraction and significantly improve Cheltenham's Christmas offering, drawing in new and repeat visitors to skate and also to visit shops, bars and restaurants. Town centres can no longer rely on traditional retail to thrive and the BID endeavours to improve the mix of activities in the town centre. The ice rink in Gloucester Quays attracts between 35,000 and 37,000 skaters each Christmas season, around 60 per cent of which are pre-booked, so a town centre ice rink would bring many thousands of people to Cheltenham who potentially would not come otherwise.

Imperial Gardens is the most appropriate location for the ice rink because of its proximity to town centre businesses and car parks, chosen to allow the town centre to benefit; it is the most logical place to achieve that. Other events that take place in the Gardens, including those run by Cheltenham Festivals, take up most of the available space, but the ice rink would use just 13 per cent of the space, leaving 87 per cent free. The chosen area is as far away as possible from where most of the residents live and is closest to the existing main areas of activity on the Promenade. The main footpaths would not be obstructed and the hope is to use mains power for the rink, both to minimise the noise and to be environmentally friendly. However, if that isn't possible, super-silent generators will be used, and will be sited away from the residents.

Prior to making the application, the BID consulted with the Friends of Imperial Gardens and amended its proposals in the light of their comments. Cheltenham Trust is keen to be involved, providing food and drink from the existing bar in the Gardens, which would mean there would be no need to use external operators. The BID believes the ice rink would bring huge benefits to Cheltenham, its economy and its businesses. With its small footprint at Imperial Gardens, it could operate without having any significant impact on local residents or on the town's open spaces.

Councillor Mason, ward councillor

Is present to represent local residents, having worked closely with them and at one to endorse the all the points raised by the resident speaker. Would like to concentrate first on the issue of residents' trust with the Council. Some years ago, the Council negotiated a 70-day land use agreement with residents – to which they reluctantly agreed – and since then, new residents buying or leasing their properties in the area do so in the knowledge that the parks will be used for 70 days a year for commercial purposes. This application is for an additional 75 days – adding up to 40% of the year – and runs a coach and horse through the earlier agreement. Residents are not against the ice rink itself, but it should be included in the existing 70 days' LUA, to not break their trust.

Turning to the issue of well-being, councillors have spoken many times about improving the well-being of the town, and its green space is traditionally used for relaxation, allowing people to enjoy their surroundings. They cannot do this when looking at commercial ice rink with all the noise it brings. Rejects the idea that there are no better alternative sites in Cheltenham. The ice rink at Gloucester works well because it is in the Quays, but Cheltenham has won awards for its gardens, and commercialising them in this manner will go against that. This is a conservation officer, and this is creep – officers will confirm whether this can be taken into consideration, but with a little bit here and a little bit there, four years down the line we could have events on 200 days a year.

In addition, the Overview and Scrutiny working task group is looking at CBC's policies on how to best use its parks, including Imperial Gardens, and considering the issue of commercialisation; the report is due out to go to Cabinet hopefully in January, looking at how to use all parks in town, including Imperial Gardens, and if the ice rink application isn't rejected tonight, Members may at least consider deferring their decision till January; otherwise he Council end up going against its own policy.

Finally, residents are not NIMBYs; they know that the festivals are important to the town, but just request that the use of the Gardens is limited to 70 days, bearing in mind why the parks were originally put there – not for ice rinks.

Member debate

DB: the idea of an ice rink is wonderful and will bring a lot of people into the town, but is concerned about 75 days – it seems a very long time to be adding to use of the park for commercial purposes. Is wondering about the grass recovery after being covered for 75 days – it will require a lot of rejuvenating; is there any advice about this? Also would like to know whether any decisions about opening hours has been made? If it operates late at night, it will be disruptive for residents.

BF: will support the application. Imperial Gardens is in the centre of the town, and for years its history – as the Winter Gardens, for dances, roller skating, aircraft manufacture during the

war etc – has been as a place of entertainment. This is no change – it is just the type of entertainment that has changed. The ice rink will be situated right next door to the Quadrangle, with its new roof-top restaurant and commercial premises on ground floor, so as far as possible from residential properties.

Supports FISG and Imperial Gardens - it is a fantastic facility in the centre of town. The officer said footfall in Cheltenham has increased, and shops and restaurants are not suffering as badly as elsewhere in the country but this is not reason to be complacent. The BID director says the ice rink will pull people in and benefit the town. We need to change the way we view our town centres; to survive we have got to adapt, and this will be part of it. There will be other things which have to change. Hopefully car parking will be improved, with an increase in park and ride, so people coming for evening's entertainment won't drive home and can enjoy a glass of mulled wine. Supports whole-heartedly.

JP: not for first time, is confused by this application. It is a full application – and if it was for a house, we would turn down for lack of information. We don't know how big the ice rink will be, its opening hours, its power supply – so many unknowns. It is unacceptable to grant full planning permission for a set-up for which we don't know the basic details. Will it be covered or open? What will the retail outlets around it be? Until we know, Members can't form a sound judgement on how it will fit into Imperial Gardens. Is also concerned about residents' views; they currently tolerate five festivals a year, squeezed into 70 days, yet this application for an ice rink requires 75 days, which includes 28 days for rigging and de-rigging, and must be quite an extensive operation. Is concerned with not knowing what power supply is; if it's not mains, it will rely on generators, which is not good for Cheltenham's green credentials. Cannot support the application without more details.

MC: in principle, this is a great idea, and it has to be in the town centre to maximise the effect. Both the daytime and night-time economies will benefit, and as a family activity, it will encourage people to come out together and to keep fit. Is not convinced about the location, but this is the application before us, and is minded to support

RW: on the face of it, this a wonderful idea – the additional amenity and increase in footfall is not in doubt. Has concerns however. The current 70 days' usage wasn't chosen by accident, but was hard fought over, taking account of the effect on the Gardens and on the turf. Notes a lot of people have been consulted but not the parks and gardens officer – he should have been, as it is certain that if the ice rink is in place for 75 days, in winter, it will wreck the turf underneath, and for a number of weeks after the event – this is a loss of amenity, although at least it isn't proposed to be situated in the flower bed area. To support the proposal, would want to have reassurance about reinstatement of the ground afterwards.

DS: shares a lot of JP's concerns; there are too many unknowns. Is concerned for the grass, having seen what happens with the other festivals – with replanting and re-turfing, it takes 2-3 months to recover. Can actually remember playing lawn tennis on the grass at Montpellier Gardens but certainly couldn't do this now. Is also worried about food and alcohol – there are enough outlets around the centre of town, and we don't need more. The generators aspect is also worrying, as is the possibility of loud pop music going on to 11.00pm, which won't please the residents. Cannot support the proposal.

DO, in response:

- If the application is permitted, it allow for 75 additional days for fixed 2-year period, including set-up and take-down time; the ice rink itself will not operate for 75 days. The consent will then end after two years;
- Recollects from pre-app discussions that the rink would operate from the turn-on of the Christmas lights (end November) to the first weekend in January;
- A land use agreement has been submitted with the planning application, as required for any activity. The current permission allows 70 days' use a year, and there is a LUA attached to any use within the parks. Consent doesn't include details on types of structures etc; the LUA requires the applicant to provide information and detail within a specified time, before the event takes place. This is consistent with the way all events in parks operate;
- grass and other reinstatement work is covered in the LUA, with repairs required within a certain time space, and a charge imposed if not completed. The grass will be repaired and re-seeded, with the licensee required to bring it back up to standard;
- the Parks department was engaged in pre-app discussions, and is in agreement and satisfied that the LUA does/would cover any concerns, including hours of operation and noise control.

SC: can see in principle that an ice rink will be good for the town - an attractive feature, good for bringing people in and for leisure – but has a problem with where it is. The harm to the grass is a significant issue and will last for some time, and 75 days is a very long time. To keep the ice rink open, significant energy input will be needed, and the carbon costs will be considerable. If generators are used, they will be on the go all the time, and if they are diesel-powered, will create a lot of pollutants and particulate, which is bad for residents. If not, and mains power is used, this is also unacceptable. It would be better if it could be placed elsewhere on a solid surface, and there must be other options, but the main issue is the potential diesel generator running day after day. To add another 75 days to the current 70 days seems a bit harsh on local residents.

WF: would like to know the reasoning behind the 28 days to set up and take down. Festivals get all done within 70 days, and this amount of time seems excessive. What is reason for this?

DB: as Councillor Mason said, Members might want to look at the report of the O&S committee before making decision on this; it would be helpful to know how things will pan out.

DS: it hasn't been mentioned yet, but there are two manhole covers in the proposed area, which could need to be accessed and could therefore be problematic.

JP: to respond to MC, is not opposed to the ice rink and actually thinks the work of BID bringing additional attractions to Cheltenham to be extremely beneficial, but has a problem with this application and the lack of information on size, space requirement, power, etc. If Members had some idea of these issues, they could maybe have suggested alternative locations.

GB: would remind Members that it is not our role to suggest alternative locations.

DO, in response:

- to reiterate, permission was granted in 2012 granted perm permission for 70 days a year, with LUAs to define size, location, space etc, building in flexibility as events and festivals change;
- the O&S report is presumably concerned with the medium- to long-term future, but this application is only for two years. It is up to Members to decide whether it is beneficial to know the outcome of the O&S report before they make a decision;
- regarding the days to set up and take down, presumes the 28 days will be half at the beginning and half at the end;
- regarding a possible diesel generator, understands BID is in negotiation with the Trust to secure the electrical supply from the town hall. If that is not possible, another source of power will be required. Noise would be controlled through LUA.

VA: thinks the concept is brilliant, bringing young children and families together in the town centre, providing exercise, and with benefits to local economy which cannot be ignored, but has concerns about it coming to Committee now, lacking critical information to make an informed decision Without knowing the scale which still need to be planned out, or about the power supply, and with the concerns of local residents, it feels premature to be here already.

GB: those issues will be taken up with the LUA. Is not sure we can do more at this stage.

BF: Councillor Mason mentioned the O&S report about use of open spaces and commercialisation, but a lot of our open spaces have been used for commercial events since they were built – people used to be charged to go into Pittville Park! How relevant is the O&S report to this application? If it says this application isn't valid, we would have to think again, but doesn't think it will. The O&S report is something we cannot consider until we see it. Still supports application. It will help the town, which is already one of the finest shopping and entertainment towns in the country. We need to keep improving – is in favour of that.

SC: for him, the deal breaker is the generator – the noise and pollution it would create would be most unpleasant for local residents and shoppers. Is it possible to have a condition that the ice rink can go ahead with mains electricity but if this isn't possible, if can't?

DO, in response:

- this would risk holding the applicant to ransom, as there is only one available power supply. The applicant needs to negotiate with the Trust to see if the town hall system can be used, but doesn't know if it will be possible or will overload supply at a busy time of year;
- the two issues with generators are noise and emissions. There is room for negotiation here, and if critical, could be agreed with the chair and vice-chair following the decision. The applicant doesn't know who the operator is, and until this is settled, doesn't know what power source will be used, what the fit-out will be like etc. It is a chicken and egg situation, and that is the challenge of every application like this. The system allows flexibility on purpose. On the issue of the generator, it will put the applicant in a very difficult position for if they can't secure power supply; would require further discussion.

BF: is not an electrical engineer, but has worked with refrigerated plants – power will be needed to bring the ice down to the required temperature, and then cut in and out as and when needed, as with a fridge freezer – it will not be running 24/7. Some Members have talked about re-siting the ice rink, but if a generator is needed, it will be the same argument

wherever it goes – the same particulates and pollutants. The ice rink won't need a lot of power once it's been brought down to the correct temperature; the operator won't want to waste money unnecessarily on electricity, and it won't run it at night.

GB: these are technical details which Members are not competent to consider.

SW: agrees with DO – we can't hold the applicants to ransom, and say if they can't get power from the national grid, the proposal will be refused; this is blackmail. A condition to control the noise levels of generators is not unreasonable, however, and an easy compromise between no generators at all and keeping the disruption to a reasonable level.

GB: all these issues will be dealt with under the LUA and officers' jurisdiction, looking at air quality and noise pollution. Can see that the applicant would like to give some answers to Members' questions, but protocol does allow any public participation in debates. Would like to move to the vote. If Members want to include a condition about power, it might be acceptable to do that rather than take a decision which we will have difficulty with afterwards.

SW: as said, if this is already in the LUA, is happy with that. Couldn't support a proposal to allow the ice rink only if the national grid is used to power it.

WF: another option is to defer – wait for the O&S report in January when we will have more information, talk with the applicant about possible solutions re. power supply. Is nervous to agree to this without knowing the details.

DO, in response :

- if Members vote to defer, there is a limited amount of information to find out, as no operator will be found until the permission is in place. However, deferral is better than refusal;
- also, if they defer to wait for the O&S report, they should remember that CBC owns the land – it is in our gift. The application would probably be back at Committee in December, before the O&S report is published. However, Members have the option to defer if that is what they prefer.

GB: deferral doesn't help in every situation, but has to be proposed before a vote can be taken.

RH: DB suggested this at the beginning of the debate.

GB: nobody actually proposed it until now.

Vote on WF's move to defer

6 in support
7 in objection
Not Carried

Vote on officer recommendation to permit

6 in support
3 in objection
4 abstentions
PERMIT

28. 19/01822/FUL West Lodge, Cold Pool Lane**Officer introduction:**

VH explained that the application site relates to land associated with West Lodge on Cold Pool Lane, currently occupied by a large single-storey outbuilding used for MOTs and car repairs. The site is outside the PUA, in the greenbelt. The proposal is to replace the single-storey outbuilding with a single-storey dwelling and the recommendation is to approve, subject to conditions. There have been some neighbour concerns about notification of the application - the two adjacent landowners were informed by letter and a site notice was placed on Cold Pool Lane as this is the address to which application is registered. It is at committee at the request of Cllr McKinlay.

Public Speaking:**Sarah Bamford, neighbour, in objection**

Is Chair of Up Hatherley Parish Council, and at the meeting to represent the residents of Sunnyfield Lane who are shocked and concerned about the application and the lack of consultation. Strongly urges the committee to reject the application. Sunnyfield Lane is narrow and quiet, surrounded by farmland, with properties intermittently fronting the lane. It is in the greenbelt, and infill will have a massive effect, dramatically changing its character. No new houses have been built for 60 years, and several applications have been refused, one of which went to appeal where the inspector determined that in-fill would effectively turn a rural setting to a suburban one.

The officer report focuses on West Lodge and its neighbours on Cold Pool Lane, neglecting its impact on Sunnyfield Lane, where the proposed dwelling will be located. The report states this is a brownfield site, but it is clearly greenbelt. The applicant put up two large sheds without planning permission, and a high fence so nothing could be seen from the lane. When the Parish Council objected, they were told no action would be taken provided the sheds were for personal use. The applicant has never sought permission to run a business here and many residents of the lane are unaware of the activity behind the gates.

The JCS recently re-affirmed that the lane and surrounding fields are a particularly sensitive area of the greenbelt, directing development to more appropriate areas. The proposed development is right on a blind bend which unexpectedly narrows, regularly forcing vehicles onto the pavement to avoid a collision. It is unclear how construction vehicles would manoeuvre in and out of the site without causing a significant problem for motorists and pedestrians.

The proposed development will have a serious impact on the local community, and there are other options available to the applicant that would have much less severe impact on the local environment. Urges Members to reject the application as currently proposed.

Becky Brown, agent, in support

The proposal has generated a lot of interest from local residents and Parish Council representatives. The applicant would have liked to attend the meeting but is unable to do so; she sends her apologies. She has confirmed that both the dropped kerb and existing buildings were installed in 2004 on the understanding that planning permission wasn't required. The council's enforcement officer at the time confirmed this following a site visit, reported back to the Parish Council, and closed the enforcement case. Due to the length of time that has passed since, the buildings have now become lawful, as has their use as a car

repair business. The site is therefore classed as brownfield, albeit in the greenbelt. Is surprised to hear that neighbours didn't know what was going on behind the gates, as some local residents and Parish Council members have used the services of RAS Motors.

The Parish Council and residents are concerned that a precedent will be set for further development in the greenbelt, but the specifics of this case are unique, and any other sites would only be policy-compliant if they are also on previously developed land. The scheme complies with national and local greenbelt policy, because it comprises redevelopment of previously developed land, and would not have a greater impact on the openness of the greenbelt than the existing development. Is not suggesting it complies with infill policy.

The proposed dwelling is single storey and modest in size, so as to have no additional impact on the openness of the greenbelt compared to the existing development on the site. The design and materials are unassuming and appropriate for the site and vicinity. Apart from a large ash, all the existing trees on the site are to be retained, and the trees officer is happy with the scheme. The new dwelling will utilise the existing site access, currently used for the vehicle repair business, resulting in fewer trips. Gloucestershire Highways are happy with the scheme. Being single storey and some distance from neighbouring properties, there are no loss of amenity issues. The proposal complies with the development plan and, with no material considerations to suggest otherwise, planning permission should be granted.

Cllr McKinlay, in objection

Called this application in to Committee firstly due to concerns from local residents and the Parish Council – its concerns are outlined in the Parish Council submission in Section 4 of the officer report, eloquently outlining their concerns. Wearing his cabinet member hat, has other concerns with the basis on which officers have recommended the proposal for approval. The report, from 6.8 onwards, puts forward an argument that the proposal is acceptable despite not being in line with JCS because the council does not have a five-year housing land supply – the argument put by this developer and every developer in every case. At 6.10, it refers to NPPF Paragraph 11, which states that there is a presumption favour of sustainable development where there are no relevant development plan policies or the council cannot demonstrate a five-year supply of deliverable housing sites, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. However, the report doesn't quote from Paragraph 12 of the NPPF which goes on to say something rather different: that the presumption in favour of sustainable development doesn't change the statutory status of the development plan, and if a planning application conflicts with an up-to-date development plan, permission should not usually be granted.

Officers already stated at Paragraph 6.9 of the report that this application is in conflict and contrary to the development plan - JCS Policy SD10, and Local Plan Policies GB1 and GB2. The idea that we should wave it through on the grounds that we have no five-year housing land supply because we haven't got a plan is nonsense. We do have a plan, and if the argument is that because we don't have a five-year land supply we should wave through anything that comes forward, we won't have a policy, we won't have a greenbelt protection policy or infill policy, we won't have any sort of policy. According to the report, not having a five-year land supply trumps everything else – this is not true. Members shouldn't make a decision tonight based on Paragraph 11 of the NPPF – this would be the same as saying we have no functioning planning policy and could get the council into some considerable difficulties later on.

Turning to the application itself, it is an interesting proposal, sold as being obvious, compliant, and fitting in well. Having looked at the drawings, it looks like a large cattle shed with bedrooms in it. The dimensions are interesting - approximately 24m by 7m. This is a huge building, and whether it is appropriate or not, the applicant is trying to pull a fast one in claiming this dwelling on the site of temporary structures without planning permission is somehow approved in planning regulations - it isn't. This is a false argument.

Member debate

RW: had looked at the officer report and at the objections, but Councillor McKinlay's speech has taken the wind out of his sails with a comprehensive demolition of the proposal and a lot of valid points he had not thought of. One thing Members should be mindful of is that whilst they may understand that the question of the five-year land supply puts certain obligations on us, they shouldn't be panicked by it or compelled to make wrong decision. We are talking about one property off the five-year land supply, and JCS proposals have been designed to provide all the housing requirement we need. Housing may not be coming forward as fast as we like, but Members shouldn't be panicked into making decision.

This is about protecting JCS proposals and the greenbelt, and whether Members are serious about it or just wanting to put it in their election leaflets – this is fundamental. In this area of greenbelt, there is a clear defining boundary along distributor road; this application is an infill and could be followed by another and another along Sunnyfield Lane. There are a number of roads where infill is acceptable in the greenbelt, but Sunnyfield Lane is not such a road.

The question of development on brownfield sites is important; understands that every application is considered on its merits, but are we saying it is OK to put up a few sheds, leave them there for years, then put up a house on the same site? Even if the footprint is the same as the original sheds, it is an insult to suggest the impact of the sheds is the same as a house in constant use. Can see no reason to support this application.

BF: has read the letters of objection, listened to Councillor McKinlay, the parish councillor and officers. The buildings on this site have been there for at least ten years with or without planning permission - and have therefore acquired the right to be there, and the site has consequently become a brownfield site. Yes, it's in the greenbelt, but we know as a council that some building takes place in greenbelt; it is not sacrosanct. This application is replacing a commercial building with a residential home. Didn't like it being compared to a cow shed; it's true that it would be classed as a big house in the centre of town, but this isn't the centre of town. On the principle of developing in the greenbelt, CBC has just acquired a lot of greenbelt land to develop; it will be necessary in the future, and cannot help but think there will be major overhaul of planning laws at some stage. We must consider every application on its merits. Prefers a 3-bed house to a garage at this location, and will support the application. We need housing, and can't be hypocritical about the greenbelt.

MC: this is the application before us. Doesn't like the design. Will vote against.

DB: would like one or two clarifications. To the highways officer, a number of neighbours say this is a dangerous bend, but there is no highways objection? Also, one letter mentioned a 160-year-old tree with roots which might be affected by the building, although it is located in the neighbour's garden. Would the tree be taken into consideration? There is also a query about drainage and flooding; would appreciate some more thoughts about that.

SC: doesn't object to the house – it is replacing a shed, and is inclined to agree with BF, but RW and Councillor McKinlay have put forward well-made arguments, and it seems that the applicant is taking advantage of process a little bit - erecting a shed in the hope that no-one notices and then the site becoming a brownfield site. Would welcome further information about the points made in the letters concerning insufficient notification of neighbours. What are the rules? The issue of precedent has also been raised; what are the rules here?

VH, in response:

- on the issue of drainage, this would be covered by building control if permitted; there are no details in the application as it stands;
- regarding trees, the trees officer visited the site and considers the application acceptable, with suggested conditions;
- regarding precedent, each application is taken on its own merits; if further applications are submitted, they will be considered accordingly . This application is a bit different, as it is a replacement of an existing building, but any future applications would be assessed at the time;
- to SC, on the subject of notification of neighbours, the statutory requirement is to notify anyone whose property is adjacent to the site, in this case two landowners, who each received a letter. A site notice is not a statutory requirement, but the case officer decided to put one up on Cold Pool Lane – the address at which the site is registered.

CM, in response:

- regarding access, the point was made by the planning officer, that there is an existing access, which generates an existing number of trips. The new use will generate fewer trips, and we cannot infer that it would be less safe, using common sense and pragmatism;
- If there is an existing access, and the intention to generate fewer trips as the result of a planning decision, highways officers will deem it as safe, even if it is currently sub-standard in some capacity. Because it has operated safely for extended period of time without accidents – a simple way to ensure everyone's access to properties with substandard access continues in a safe and suitable way - this is a considered administration. If a new access will generate more trips, it will need to come up to standard – we cannot take risk that more trips can be sustained by a sub-standard junction. This is how highways officers make decisions;
- This access will be the first off Sunnyfield Lane; all other properties and static home parks generate traffic beyond this access, away from the junction. Any new trips generated by the proposal will go in and out of the first access on the road. Highways officers are satisfied access is suitable.

SW: this is another case where CBC has been caught out, having missed the sheds being put up and the business operating without permission – we need more officers and manpower, and the public should bear in mind that if they see things that 'aren't right', they need to tell the council quickly. Much like RW, felt the rug pulled from under him when AM spoke. Originally thought that as that the site was already occupied by ramshackle sheds and the owner running a garage of sorts, it was not a particularly nice situation but one that has been going on for some years and we can't do anything about it. If we could say this is misuse of land in the greenbelt and require the applicant to stop, would go with that - but we can't. The choice is to accept what is being proposed – which is not beautiful – or to allow

what is currently going on at the site to continue - which gives more cause for concern. We shouldn't just say this is better than what is there now. Has not decided yet.

Regarding neighbour notification, CBC seems to have missed a trick here too. If they are selected by simply looking at addresses, this isn't good enough. Officers should look at a map, draw a circle round the application site to ascertain who might be affected. Cold Pool Lane will not be not affected by this application, but Sunnyfield Lane will. This isn't the first time this issue has been reported – where the people most affected have not been notified. We should get to grips with this in future

BF: regarding notification, is not a parish councillor but goes to parish council meetings, and understands that they are notified of every planning application in the parish. Maybe they could have talked to their parishioners more.

Vote on officer recommendation to permit

6 in support

5 in objection

1 abstention

PERMIT

29. 19/01956/FUL 18 Hatherley Lane

Officer introduction

MP introduced the application, sited on the south side of Hatherley Lane, within the PUA. The proposal is an extension and sub-division of 18 and 20 Hatherley Lane, to create four dwellings, each with two car-parking spaces. It is at Committee at the request of Councillor Britter, due to concerns from local residents. The recommendation is to grant permission subject to the conditions set out in the update report.

Public Speaking

Rosemary Dillworth, on behalf of neighbours, in objection

Residents acknowledge that many of their concerns have been addressed, following the third revision of the plan and the officer's report. However, some objections remain. First, residents dispute that the unauthorised use of the property has been going on for over 10 years. The current low budget hotel came into use about three years ago, and prior to this, was advertised as a lodging house, with long-term residents owning few cars. The planning application shouldn't condone or enable continuation of unauthorised use.

Second, the new fourth dwelling includes a two-storey extension only 4m from the boundary of 14 Faringdon Road; 7m seems to be the distance supported by other councils, to avoid overbearing. The outdoor space for the new property is insufficient and would lack privacy, being overlooked by at least four properties, and will exacerbate an already over-developed site only ever intended for two properties, and create an unwelcome terrace effect out of character with the area. The additional dwelling will increase the number of vehicles reversing onto the busy road near a blind bend, with bus routes and heavily-used pedestrian access to two local primary schools. A similar proposal was refused on 2000 on all these grounds and the issues are still valid today, with no change other than higher volume of traffic.

Third, if the application is approved, which neighbours strongly oppose, there must be a condition stating that before the first occupation of any of the dwellings, the existing use should cease in its entirety. This would avoid approving uses that may lead to claims of statutory nuisance if the existing use continues in part, and to protect future residents of the dwellings.

Councillor Britter, in objection

Residents who live adjacent to the site have given factual and personal reasons why the application should not be permitted. Some more elderly residents have asked for their concerns to be made known. There is widespread concern that the answers given in the application form are not correct, particularly its description as two semi-detached houses – it has been a lodging house or hotel for many years and should be treated as such. A previous application in 2000 was refused on the grounds of over-development, lack of amenity space, and not being in the interest of highways safety. Local residents are asking what has changed. New proposal does nothing to address concerns raised by the original refusal.

The proposed two-storey extension by its size and position represents an unneighbourly form of development and will harm the amenity of neighbours, particularly in Faringdon Road. It will be overbearing. This is an established neighbourhood, where gardens are important in promoting the health and well-being of the residents, but this proposal will harm that amenity, and aggravate an already overdeveloped site, designed for two dwellings, not four. The proposal doesn't respect local context or street scene, creating a big, unwelcome terrace effect, out of character with the neighbourhood. Planning policy states that good design should contribute positively in making an area better for people, and should improve the character and quality of area; if it fails to do this, it shouldn't be accepted.

Local Plan Policy CP4 requires new development to avoid causing unacceptable harm to amenity of adjacent land users and locality. This application is contrary to Section 7 of the NPPF – it does not contribute positively to making the area better for people; in fact it adds to the strain on transport infrastructure, drainage infrastructure, and the health of residents through noise intrusion etc. There are concerns about car parking – cars should not project or interfere with use of the road or pavement, and vehicles parked on or straddling the pavement will cause dangerous obstruction, inhibiting the independence of many vulnerable local people and children on their way to and from school. Vehicle access and egress close to a blind bend will increase the potential hazards on this busy road.

Although the site is not in a recognised flood risk area, residents confirm that surface flooding occurs in heavy rain. National and local planning policy require that any improvements do not to increase risk of flooding against this, and state the need to incorporate substantial and sustainable drainage systems.

The owners of the property have not engaged with the community, and while residents acknowledge that some of their concerns have been addressed in the third revision of the plan, the proposal will still have a profound, detrimental and devastating effect. There are also concerns about increasing the number of letting rooms available to the hotel – which is why the additional condition has been suggested to help overcome this fear.

In conclusion, a similar application was refused in 2000, and all the refusal reasons are still relevant. The proposal fails to meet JCS policies SD4 and SD14, Local Plan policies CP4

and CP7, and paragraphs 12 , 127 and 130 of the NPPF. The local community has spoken; they should be listened to, and the application should be refused.

Member debate

MC: it is nice to hear objectors making well-reasoned objections. The description of the site is that it is currently three dwellings and a fourth is being proposed; there could be an argument that this is over-development of site. Is surprised by the highways report – a previous application on this site was refused on highways grounds. Nothing has changed and, if anything, the traffic situation has got worse over the years, so why have no objections been raised by County Highways? Is appalled by the land drainage report within the officer report. This road floods on a regular basis, and cars often have to be driven through the flooded road. This is not mentioned, and Nos. 23, 25 and 27, 29, 31 Hatherley Lane are substantially lower than the road, often ending up with water in their front gardens; nothing is brought up about this, yet the application could exacerbate the situation and it should be looked at carefully. Has seen the effects of water here – some residents have created their own flood defence systems – and it would be irresponsible to allow an application to go ahead in the area which may make it worse.

Regarding the time the building has been used as hotel, the report says 10 years but residents say it is a lot less. How long is the owner allowed to illegally breach the use of building until it becomes immune from enforcement action? If the public is to have faith in planning system, they need to see people brought to book for breaches of planning system. Has anything been done in the past? What would we do in future to stop it having a detrimental effect on the property? Is this application a way to increase the number of rooms for short-term lets? The objector talked about a condition if permission is granted, requiring the existing unauthorised use to cease in its entirety. As things are, is not happy, and would like to refuse the application on the grounds of over-development – four properties on a plot intended for two – creating a terrace effect, exacerbating existing flood issues, and also on highways ground – though knows we have to be careful here.

RW: on planning view, thought this looked OK, but it is actually not. One of concerns raised by residents is the proposal's overbearing effect and overlooking for No 14. Actually, and with due respect to residents, this isn't where focus should be – the new dwelling is still quite a long way from the neighbour, and the facing wall is blank with no window. Looking at this as the main objection misses the bigger picture – that the site is now heading for over development – four dwellings on a site intended for two. The second issue is that it will alter the street scene, creating the only terrace in the area. Highway safety is dealt with too lightly – this is a busy, narrow piece of road, with a bridge close by; also pedestrian safety has to be considered. The car parking spaces provided are tight, and a long vehicle, or badly parked one, will create an obstruction for pedestrians. It is a narrow pavement as is, for parents struggling along both sides of street with small children and push chairs; there are a lot of children in the area, who walk past on their way to the schools in the area.

Has real concerns about highway safety and parking, over development and the poor street scene. Understands the multiple occupancy situation and that on the face of it this will get better if houses are created, but if the owners continue to use the houses as HMOs, they can put in a large number of people without planning permission. The main issues are over-development, poor streetscene, significant highways and parking issues, and obstruction of the pavement and carriageway.

BF: has a question for officers: was told on planning view that the number of bedrooms will be reduced from what is existing – which would mean a reduction in the number of people living there now if it was to be fully let in the future. A lot has been said about over-development, but the NPPF mentions nothing about over-development and there is no rule. Is concerned that the existing situation isn't good, but this application gets rid of it and turns the properties back to houses, as originally intended. They will be separate houses, hopefully occupied by families and adding to the housing stock, and are therefore an improvement. Regarding overlooking, the one window at the back has opaque glass, and there are no windows in the side wall. There could be a reduction in the number of cars, in reducing the number of bedrooms from 14 to 10. Is not qualified to speak on flooding and highways issues, but feels that overall this will improve the situation, and put the site back to where it was. Also asked the officer on planning view about the issue of AirBnB, but was told there are no regulations of government control to stop this. This property is currently a mess, and the proposal will put back good and substantial family homes for people who need them. Will vote in support.

MP, in response:

- regarding flooding, advice from the land drainage officer is included in the report. The footprint of the dwelling is not altered in any way – the only extension is above the garage – so there should be no impact on surface water flooding. The scheme will introduce soft landscaping and residential gardens which will be a betterment regarding surface water, and cause no additional flood risk;
- the existing use is to some extent irrelevant. The authorised use is as two semi-detached dwellings. A use needs to be in existence for more than 10 years to be immune from enforcement action. The enforcement officer was aware of the issue, sent a planning contravention notice to the applicant, met with him, and was provided with sufficient evidence to reach decision that the existing use was immune from enforcement action. That is view of enforcement officer, but largely irrelevant to what Members are considering today;
- the residents' suggested condition cannot reasonably be attached, as the application is seeking permission for straightforward C3 residential use; if it is approved and the existing use continues within the building as extended, enforcement action can be taken;
- on the question of over-development, the application amounts to just an extension above the existing garage – a common extension on a chalet-style dwelling, with many examples around the town. On the other side, a similar extension got permission – officers don't feel over-development;
- to BF, there are 17 letting rooms at the moment; the proposed use would result in fewer bedrooms;
- regarding AirBnB, this can be carried out anywhere; there are no restrictions.

CM, in response:

- can see why Members find it tricky to comprehend the different highways position in 2000 and 2019. It is a fair question, and the answer is the NPPF. This changes the way officers administer discretion – what is proposed must be significantly worse in capacity terms or have an unacceptable impact on highway safety to warrant a refusal. In balance, in this case, we have 13 vehicles currently doing the same as this application proposes eight will do, going forward – so there will be a reduction of the current impact. There is nothing on record that the current behaviour at this site is unacceptable. Any new planning permission will need to be formalised with modern

technical standards, and the access will still be subject to more technical approval from GCC if planning permission is granted, for drop kerbs etc. It is all a case of balance against NPPF since 2012; in 2000, officers could say 'that looks dangerous, let's say no' but planning has moved forwards, and how highways officers make recommendations has changed.

JP: is at a loss to understand why proposed development of this site could be seen to exacerbate flooding issues; would think the opposite is the case, with the introduction of soft landscaping. Doesn't see how it will detract from the streetscene – if anything, it will improve it - and the footprint will remain the same. On planning view, saw two properties in desperate need of renovation – as they currently are cannot be for betterment of the area. Hopes that the developers will develop the site with a view to rent or sell; it will have to be more attractive than what is currently there, and to advantage of local area.

RW: challenges assumptions upon which CM has reached his conclusions. The logic is flawless and in line with the NPPF, based on less vehicle usage in future, but there will be more cars on site – passes every day and rarely sees more than 2-3 vehicles on the forecourt, and although the current forecourt is not elegant, it allows driving on and off. With eight car-parking spaces, using good practice people will have to reverse onto the forecourt in order to drive off forwards; the other way round will be worse. There will be a lot more vehicular traffic on and off, as there is so little now by nature of the current occupancy.

CM, in response:

- regarding HMOs, has discussed the levels of car ownership previously, the different work patterns with more comings and goings at different times of day from a traditional family, higher number of vans etc. We cannot say residential properties won't have vans, but this is a residential application and it provides residential-style parking – instead of expansive frontage to be parked on as one might see fit, with no specific design, this is clearly eight well-articulated spaces for the proposed houses, two per dwelling. Last month, with the Monkscroft application, there were no concerns about this level of parking provision. This is a repetition of same highways principles;
- regarding road safety, one accident has been recorded in the area in the last five years ago – a shunt – but none on Hatherley Lane, despite all the properties with a similar style of access arrangement to what is proposed here.

SW: as an observation, would like to see this returned to a pair of semis and not what is in front of us, though many of the objections from residents have been caused by historic problems, which should now be eased. On the question of the suggested condition to stop the dwellings being used as they currently are before starting work, the officer has said that this is what will happen, in effect – if permission is granted, it will be back to square one – the current use would be unlawful and subject to enforcement action. Regarding parking, agrees with RW's view of usage – has walked past many times and not seen many vehicles, but has had complaints that the green land at the end is used for parking vehicles, and been asked to use his local money to get bollards put up – which suggests that that piece of land being used because residents can't park currently. Four dwellings with two car-parking spaces per dwellings is OK – better than the old requirement of PPG17 for 1.5 space per unit. This is two spaces per dwelling, so marginally better. Doesn't like the proposal, and agrees with the neighbours' concerns, but we should consider it a lot better than what is currently there.

SC: doesn't particularly like this proposal – it is over-development , making two three-bed houses into four dwellings – with 10 bedrooms upstairs and potentially another five downstairs which could be used for bedrooms. The officer has said if the owners use it for AirBnB, we can't do anything about it – and there will be 15 bedrooms altogether. Notes that 18A also has no bathroom upstairs. Regarding notes that on 22.10, highways officers recommended the application be refused on highways grounds, and on the same date, after additional comments, recommended no objection be raised. It seems odd to include both with the same date.

CM, in response:

- the original layout plan had two clusters of four perpendicular parking spaces, with cars parked parallel to road – they would have had to come in tight, manoeuvre in and turn, and officers' principle concern was the safety of other road users and pedestrians. Not enough space was provided, the arrangement was too complicated and frustrating, and would lead to conflict. Officers suggested an alternative layout for parking, but issued the refusal to show they were serious about not liking the first layout, and adopting the refusal position to make the applicants seek a change. This change position was accepted

Vote on officer recommendation to permit

11 in support

1 in objection

PERMIT

30. 19/01890/FUL Hearne Brook Flood Relief

Officer introduction

MP introduced the application for on flood relief alleviation scheme on land south of Beech Road, and seeks to address fluvial and overland flooding of residential property. The proposed works are approved and funded by the Environment Agency. Access is via Balcarras Road onto an existing track. The application is at Committee as the applicant is CBC. The recommendation is to permit, subject to the amended conditions.

Member debate

JP: has no objection to flood alleviation schemes – they are essential - but has a question for officers. These works are being managed by the Environment Agency, which is perfectly sound, but in Prestbury, where a flood storage area is managed by the Environment Agency, is that in recent heavy rain, the scheme didn't work, because the Environment Agency hasn't managed it properly. The issue in this proposal is whether the water courses that the scheme empties into are close to the properties, and do the boundaries on properties incorporate any part of watercourses with riparian rights. The Environment Agency is now saying in Prestbury that the watercourses are the responsibility of residents , not of the Environment Agency, which is potentially a huge burden. Could a similar situation occur here?

DB: for clarification, can the officer comment on the situation around 75 Beeches Road, where the resident believes the flood alleviation works will cause flooding in his garden?

MP, in response:

- the works are approved by and funded by the Environment Agency, with the local planning authority responsible for management and maintenance of surface water work.

The Environment Agency won't be managing the scheme; it is part of a wider package of flood relief work;

- on the plan, it's possible to see the properties in Beeches Road; they have long gardens abutting the site, with an existing ditch across the back, just within the boundaries. Doesn't know about any rights but at the moment, the land drainage officer says water running down off the hill should go into the ditch but doesn't – it goes over the ditch, This is an exercise to catch it, slow it down and direct it into the ditch. It is fairly simple work.

JP: this is almost an exact image of what happens in Prestbury. The Environment Agency still apparently manages the scheme, but in heavy rain the overflow flood storage area filled up to 1.5m deep and nothing was done to control the outflow, resulting in flooded of the watercourses. The Environment Agency says management of watercourses is residents' responsibility; this is not right. We will have to wait and see what happens there .

MP, in response:

- discussed the resident's concerns with the applicant, who has been out to speak to the residents following their objection. Even if permission is granted, it is still private land, and any works in the garden will have to be agreed between the applicant and the resident. The applicant is in conversation with resident regarding the design of the headwall in his garden, so the resident will have some control over how it is designed and what it will look like.

Vote on officer recommendation to permit

10 in support

1 abstention

PERMIT

31. Appeal updates

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

Chairman