



# CHEL TENHAM

BOROUGH COUNCIL

## Notice of a meeting of Planning Committee

Thursday, 17 September 2020  
2.30 pm

Virtual WEBEX video conference via YouTube -  
<https://www.youtube.com/user/cheltenhamborough>

Membership	
<b>Councillors:</b>	Garth Barnes (Chair), Paul Baker (Vice-Chair), Dilys Barrell, Mike Collins, Stephen Cooke, Bernard Fisher, Paul McCloskey, Tony Oliver, John Payne, Diggory Seacome and Simon Wheeler

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

### Important Notice

#### FILMING, RECORDING AND BROADCASTING OF PLANNING COMMITTEE MEETINGS

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If you make a representation to the meeting you are consenting to the use of those sound recordings for broadcasting and training purposes.

### Agenda

1. **APOLOGIES**  
Councillor Cooke.
2. **DECLARATIONS OF INTEREST**
3. **DECLARATIONS OF INDEPENDENT SITE VISITS**
4. **MINUTES OF LAST MEETING** (Pages 7 - 12)  
Minutes of the meeting held on 20<sup>th</sup> August 2020
5. **PLANNING/LISTED BUILDING/CONSERVATION AREA CONSENT/ADVERTISEMENT APPLICATIONS, APPLICATIONS FOR LAWFUL DEVELOPMENT**

**CERTIFICATE AND TREE RELATED APPLICATIONS –  
SEE MAIN SCHEDULE**

6. **20/00683/OUT LAND ADJACENT TO OAKHURST RISE  
CHELTENHAM** (Pages 13 - 354)  
[Planning Application Documents](#)
7. **20/01223/CONDIT THE QUADRANGLE, IMPERIAL  
SQUARE, CHELTENHAM** (Pages 355 - 370)  
[Planning Application Documents](#)
8. **20/01041/FUL 4 MOOREND GLADE, CHELTENHAM,  
GLOUCESTERSHIRE** (Pages 371 - 386)  
[Planning Application Documents](#)
9. **APPEAL UPDATES** (Pages 387 - 388)  
Details of the current appeals that have been lodged.
10. **ANY OTHER ITEMS THE CHAIRMAN DETERMINES  
URGENT AND REQUIRES A DECISION**

**Contact Officer:** Democratic Services,  
**Email:** democraticservices@cheltenham.gov.uk



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## Planning Committee

Thursday, 20th August, 2020

2.00 - 3.30 pm

Attendees	
<b>Councillors:</b>	Councillor Garth Barnes (Chair), Councillor Paul Baker (Vice-Chair), Councillor Dilys Barrell, Councillor Stephen Cooke, Councillor Bernard Fisher, Councillor Paul McCloskey, Councillor Tony Oliver, Councillor John Payne, Councillor Diggory Seacome and Councillor Simon Wheeler
<b>Officers in Attendance:</b>	Craig Hemphill (Principal Planning Officer), Michelle Payne (Senior Planning Officer), Claire Donnelly (Planning Officer) & One Legal representative

### 1. Apologies

Councillor Barnes thanked Councillor Baker for standing in as Chair at the last few meetings. He reminded Members that the meeting was being live-streamed, and that they must be present for the whole debate in order to vote. He advised those present that the officer presentations were can be viewed on the website, and checked that the public speakers were present.

Apologies were received from Councillor Collins.

Councillor Barrell joined the meeting midway through item 5b and as such was advised to abstain on the vote.

### 2. Declarations of Interest

**Mendip, Tryes Road:** Councillor Barrell is a member of SPJARA, the residents' group which has commented on the application, but she has not been involved in their discussions or consideration.

### 3. Declarations of independent site visits

**Mendip, Tryes Road:** Councillors Barrell, Oliver, Cooke and McCloskey.

### 4. Minutes of last meeting

Councillor Barnes signed the minutes as a true and correct record.

### 5. Planning/Listed Building/Conservation Area Consent/Advertisement Applications, Applications for Lawful Development Certificate and Tree related applications – see Main Schedule

There were none.

### 6. 20/00552/FUL Car Park, Chester Walk,

The senior planning officer introduced the application for an innovation hub in the town centre, a revised application following permission granted in June 2019, to be situation in the car park to the rear of the children's library to the east of the Grade 1-listed St Mary's Church. It is part of a wider masterplan to improve access connectivity and footfall to the church grounds and lower High Street, which has been awarded a government funding grant. The current proposal has a similar profile to the approved scheme, but is now a modular construction rather built with shipping containers. The industrial aesthetic is retained. As the principle is already established and highways matters have been addressed, the main issues to consider are the impact on the surrounding heritage assets. Both Historic England and CBC's conservation officer have concerns, but these only focus

on the heritage impact; the planning officer has to take all material planning considerations into account. Having done so, the recommendation is to permit, subject to the conditions set out in the report.

### **Public Speaking:**

i. Jason Pritchard, agent, in support, outlined the main difference between the previously approved project and the current scheme – the modular construction. He said the lay-out would be broadly the same, but there is now a single point of entry orientated towards the west door of the Minster, with new seating, lighting and footpaths to open up the area. The design is contemporary in nature but subservient to the minster, and the building will be highly sustainable, benefitting from additional investment from the Government's 'Build Better Fund'. It will host and facilitate a variety of initiatives that will have a positive economic, educational, cultural, social and environmental impact on the town, and act as a catalyst to major improvements to the area, as well as being a vital frontier outpost to Cyber Cheltenham.

ii. Cllr Hay, in support, said that the scheme will transform a run-down, under-utilised part of town, which suffers significant anti-social behaviour problems, not helped by poor linkages and high buildings. She told Members that £3.114m of government money will help deliver this scheme together with a programme of additional benefits to the area. It will provide jobs, co-working space for the fast-growing cyber and creative sectors, and a much-needed flexible performance space. The scheme is part of the Council's wider ambition and corporate priority to make Cheltenham the cyber capital of the UK, and provide much-needed opportunities which will support the town and the council's financial and economic recovery. The government funding is contingent on planning consent being granted, and requires schemes to be completed by December 2021. The application complies with the three key principles of the NPPF – economic, social and environmental objectives, and Members must give weight to these important planning issues.

### **Member Questions**

In response to Members' questions, the senior planning officer confirmed that:

- The applicants have remained in close contact with the Minster throughout, and Diocese continues to support the project;
- The main entrance to the building will be situated in the east elevation, as with the approved scheme;
- There are no specific details regarding the use of the arena, but it will presumably be used for a variety of performances.

### **Member debate**

Councillor Seacome noted that there is not much room at the side of the building for parking and unloading, and no back door to the performance space – he wondered how performers would get large and heavy equipment into the building.

Councillor Baker considered this to be a 'wow' project in a forgotten part of the town, a catalyst for improvement of the wider area, which should be a strong tourist offer but currently isn't. It will have a positive impact on many aspects of life in Cheltenham – cultural, economic and cyber. He felt the module design is increasingly popular, can be put up at speed, and it is radical, innovative and of our time, though he realises design is subjective and some people are not so keen. He reminded Members that the library building already contrasts with the Minster, and this modern construction will be a positive addition to the town.

Councillor Fisher endorsed all comments so far regarding the concept and what it will bring to the town, but felt the main criteria to be the design, with the only entrance facing the west door of the Grade 1-listed Minster. This is already enclosed by tall buildings, and the proposal, which higher than the previous scheme, will enclose it further. The design is strongly condemned by Historic England, the Architects' Panel and the Civic Society. He noted that the café will be open to the public, which could affect local businesses struggling to recover after Covid. The previous scheme used upcycled shipping containers, and if that has fallen by the wayside, we should have a fresh theme with a better design. The powder-coated steel cladding could have a lifespan of 40 years, and there are also constraints regarding archaeological remains which are worth conserving. He felt that there must be a better solution than this appalling design, and if it is permitted, we will be doing the people of Cheltenham a disservice.

Councillor Cooke also agreed and supported the concept, endorsing Councillor Hay's comments, but felt that the previous scheme was more welcome because of its radical, recycling and interesting credentials. He agreed with Councillor Fisher that this is a very sensitive location, and if the shipping containers are not used, a much more interesting design should be sought, not constrained by shipping container shape. He noted a comment in the papers about anti-social behaviour in the churchyard, and wondered how the scheme would contribute towards reducing this if it doesn't open onto that area. Like Councillor Fisher, he was concerned about the negative comments from the council's trusted consultees, who were previously supportive, and worried that we may be rushing into something we will subsequently regret, wondering if there was any merit in delaying the decision to improve the scheme to the satisfaction of Historic England. He asked officers to explain the main differences between the previous scheme and this one, which has caused such a change of heart in the consultees.

Councillor Payne echoed the comments of the last two speakers, and felt between a rock and a hard place – the need for the hub is critical and it will be a catalyst to take Cheltenham forward, but consultees have made adverse comments about the design and he shares that concern, particularly the relationship between the Minster and the building, and wondered if the Diocese is supportive of the entrance point. He said he wanted to support the scheme, but there are so many adverse comments from trusted consultees which are difficult to ignore.

Councillor Wheeler echoed Councillor Hay's comments, believing the scheme will add great value to the area, and we cannot afford to let it go. The module design is interesting, attractive and different – it doesn't have to mimic the beautiful Regency buildings around it. He suggested that, without foundations, if it doesn't work, it could be easily replaced in 15-20 years' time.

Councillor McCloskey reminded Members that they are not here to redesign the scheme, but to focus on the economic, social and environmental issues. He said that with many people losing their jobs they may want to start new enterprises, and the sooner we can get this up and running the better, adding that the funding may be lost if we have to go back to the drawing board.

Councillor Fisher added that the artist's impression shows heavily pollarded, white-barked trees – this is misleading, as the trees in question are limes. While agreeing with all that has been said about concept and need, he felt that this a steel-clad building adjacent to a Grade 1 listed church – noting that only 2.5% of listed buildings have this status - doesn't comply with the NPPF requirements for high-quality design, and should not happen.

Councillor Cooke asked if the intention is that the building will be temporary or likely to last 50-100 years. If so, Councillor Fisher made good points.

The senior planning officer confirmed that:

- Historic England and the Civic Society don't object to the use of modular units;
- Historic England's main concerns remain the same as for the previous scheme, which was unanimously supported. That scheme was for storage containers, this scheme has a similar industrial aesthetic and appearance. If Members are minded to move to refuse, they need to bear in mind the extant permission and be very clear in identifying the harm of this scheme, given the similarities;
- To Councillor Seacome, she assumes thought has been given to his points about moving equipment in and out of the performance space;
- The main entrance has always been in the elevation facing the Minster;
- The application is not for temporary permission – it will be a permanent structure.

The principal planning officer reminded Members that consultation comments are very specialised, and while taking these into account, it is important to remember that the officer has to consider the wider picture when making a recommendation, taking into account the previous consent and the public benefit

Councillor Seacome added that the pathways are not properly delineated, and it isn't clear where people will enter the building from the churchyard. He noted that the trees will shield the Minster from the building, but remained worried about the entrance and the rear access to the arena.

Vote on officer recommendation to permit:

7 in support

1 in objection

1 abstention

**APPROVED**

## **7. 20/01004/FUL Mendip, Tryes Road,**

The planning officer introduced the application, at Committee at the request of Councillor Harman and the residents' association. She showed Members various elevations and floor plans, and photographs taken from the adjoining property, looking towards the application site. The key considerations are design, impact on the conservation area, and impact on the neighbouring property.

### **Public Speaking**

i. Mrs Lovell, neighbour, in objection, said her family felt this proposal to be a step too far, with the two-storey extension resulting in substantial loss of light and overshadowing. She understood that planners rely on the 45 degree light, but was concerned that this should be a rule of thumb and not followed slavishly. She said the proposed extension will create a 'tunnel effect' on her property. In addition, she believed there would be loss of privacy in her garden, and also the gardens and rear windows of houses in Painswick Road. She felt that the consequence of repeated attempts to reduce the size of the extension to gain planning approval had resulted in a strange-looking, box-like dwelling, which would not preserve or enhance the conservation area.

ii. Cllr Harman, in objection, felt that the speaker had put her case eloquently, and hoped Members would take her comments into account. He said he has visited the neighbour's garden and noted the overpowering impact the extension will have – other Members have not been able to do this – and noted the neighbour's comment about the impact on Painswick Road – this is not detailed in the report, but will clearly have a dramatic and devastating effect. SPJARA has objected, and although some changes have marginally reduced the impact, this is not sufficient and the design solution is not aesthetically pleasing. He hoped that the Committee will agree and refuse the application.



**Member Questions:**

In response to Members' questions, the planning officer confirmed that:

- The tunnel effect on light to the neighbouring property, with extensions on both sides, already exists, but it is felt that the first floor extension is far enough away from the window not to make it any worse;
- The 45 degree light test for a door – the patio doors in this case – takes a centre point 1.6m from floor level and half way across the window to assess a pass or fail.
- The previous scheme was much larger, and following long and complicated discussions it was suggested that the application be withdrawn and a new one submitted, with subsequent re-consultation. This was a neater way to deal with the situation.

**Member debate:**

Councillor Cooke said that as with so many applications, it is a balance of benefit between the applicant wanting more space and the effect on the neighbour's property. He felt that looking at the pictures, the patio doors will be substantially shielded, whether or not the scheme passes the light test. The neighbouring garden and patio area will be shaded from the afternoon sun. This extension will also have a small effect of people in Painswick Road, and bearing in mind the context in the conservation area, the over-development and the unacceptable effect on the neighbour, he cannot support the scheme. He is prepared to move to refuse as over-development.

Councillor Barrell was also concerned about the overbearing effect on No. 11 and the residents of Painswick Road to a lesser extent; it is a very big addition. Councillor Baker noted that the residents of Painswick Road have not objected, and said that if the rear of the properties face the south, the sunshine it receives will not be impacted by the development. He did not feel the proposal could be considered over-development.

Councillor McCloskey had visited the area, and subsequently looked at the Park Conservation Area document – he could find no mention of Tryes Road or anything which highlighted these houses. He was therefore not overly exercised about the impact on the conservation area, as very little of it will be seen from the street, or from Painswick Road. He noted the NPPF's presumption in favour of development, and that the house clearly doesn't suit a modern family's needs in its current state. In view of the applicant's efforts to get the scheme right, and felt on balance, that it was not unreasonable.

The planning officer confirmed that the rear garden is south-facing.

**Vote on officer recommendation to permit**

6 in support

4 in objection

**PERMIT**

**8. Appeal Updates**

The appeals update had been circulated to Members.

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

There was no other business to discuss.

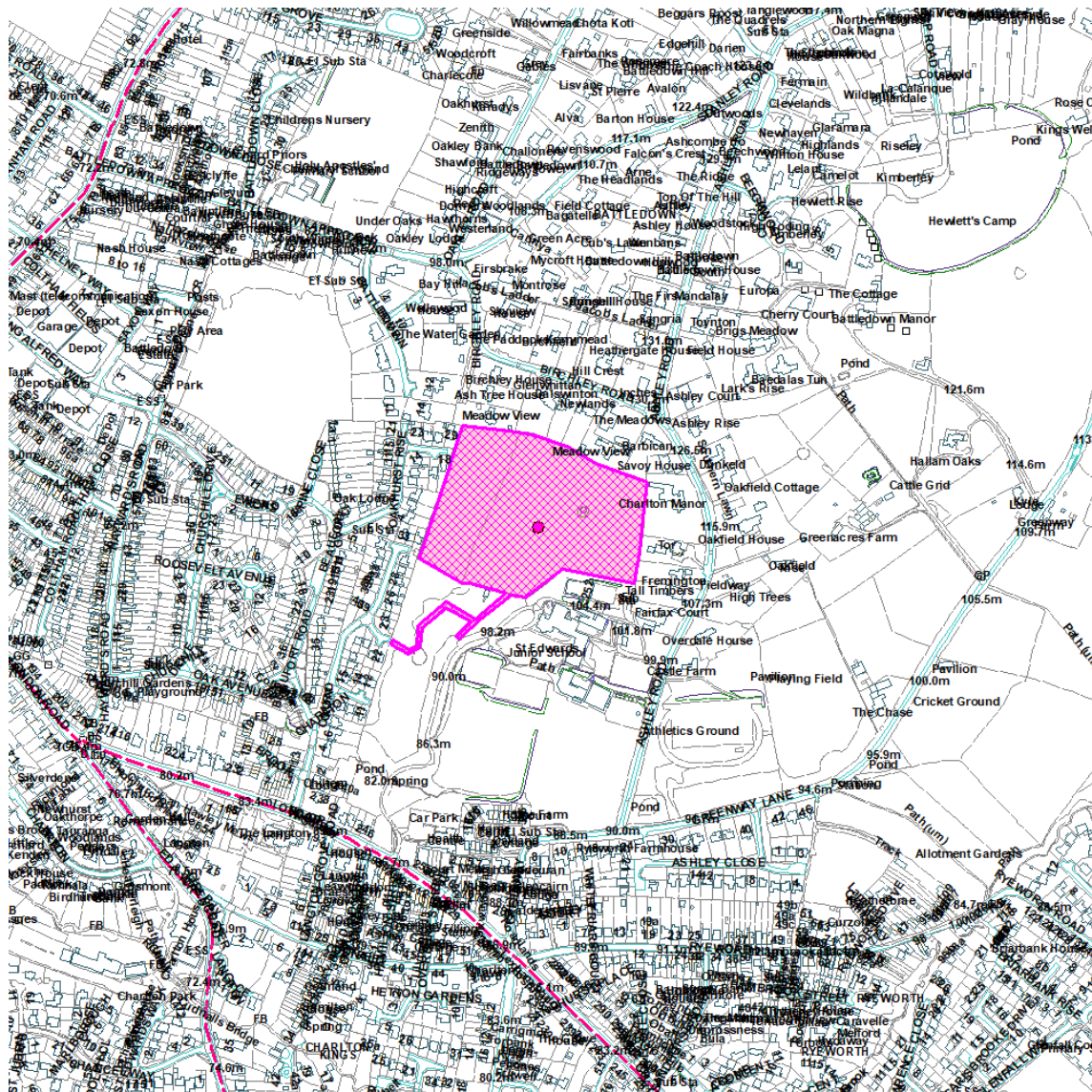
Next meeting: 17th September

The meeting ended at 3.30pm.

Chairman

<b>APPLICATION NO:</b> 20/00683/OUT		<b>OFFICER:</b> Mrs Emma Pickernell
<b>DATE REGISTERED:</b> 29th April 2020		<b>DATE OF EXPIRY:</b> 29th July 2020 Extended by agreement with the applicant to 25 <sup>th</sup> September 2020.
<b>DATE VALIDATED:</b> 29th April 2020		<b>DATE OF SITE VISIT:</b> 24 <sup>th</sup> June 2020
<b>WARD:</b> Battledown		<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	W Morrison (Chelt) Ltd & Trustees Carmelite Charitable Trust	
<b>AGENT:</b>	Frampton Town Planning Ltd	
<b>LOCATION:</b>	Land Adjacent To Oakhurst Rise, Cheltenham	
<b>PROPOSAL:</b>	Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration	

**RECOMMENDATION:** Approval subject to s.106



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is a large, undeveloped parcel of land, approximately 4.3 hectares, located to the east of the borough within the Principal Urban Area (PUA), in an elevated position above the town. The site comprises two fields of grassland separated by a mature hedge and trees, and is largely bound by hedging and trees.
- 1.2 Residential properties in Birchley Road and Ashley Road are located to the north and east of the site, and Oakhurst rise to the west; St Edwards Preparatory School is located to the south.
- 1.3 The site is heavily constrained due to the presence of a number of protected trees; the sloping nature of the site; the presence of protected wildlife species; the presence of an historic Ice House; and its close proximity to listed buildings.
- 1.4 Currently the site forms part of the wider St Edwards Preparatory School site but is owned by The Carmelite Charitable Trust who lease the land to the school.
- 1.5 Two previous planning applications for this site have been refused by the Planning Committee. Application ref 17/00710/OUT was an application for the erection of 90 dwellings and was refused in July 2018. There were 5 reasons for refusal which, to briefly summarise, related to 1) loss of trees, (2) impact on the setting of listed buildings, (3) unacceptable impact on highway network due to access via Oakhurst Rise, (4) Impact on protected species, (5) Impact on landscape character and AONB.
- 1.6 Application ref 18/02171/OUT was an application for up to 69 dwellings. This was refused on 22<sup>nd</sup> March 2019 for the following reasons:

1) *The proposed development fails to adequately address the constraints and site specific requirements set out within emerging Cheltenham Plan Policy HD4 which identifies the site as a potential land allocation for housing. Although the Cheltenham Plan is currently under examination and has not yet been formally adopted, and there are significant unresolved objections to the policy, paragraph 48 of the NPPF (2019) does allow the Local Planning Authority to afford some weight to this policy in the emerging plan.*

2) *The proposed development would result in the loss of a number of trees within the application site, including a significant TPO'd tree which has some valuable characteristics and features of a veteran tree. The scale of the development on this valuable site would also be likely to result in the deterioration of the retained Veteran trees, which would fail to be outweighed by wholly exceptional reasons.*

*The development would therefore be contrary to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 (c) of the National Planning Policy Framework (2019).*

3) *The proposed development would have a significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.*

*The development would therefore be in conflict with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2019).*

4) *The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of*

*the site which the application proposes to be relocated as part of the development. Paragraph 175 (a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the relocated sett. The development would have a negative impact upon this valuable habitat of hedgerows and pasture, and biodiversity across the site generally.*

*The proposed development would therefore be contrary to adopted policy SD9 of the Joint Core Strategy (2017), paragraph 175 (a) of the National Planning Policy Framework (2019) and Natural England's Standing Advice.*

- 5) *The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.*

*The proposal would therefore be contrary to saved policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).*

- 1.7 Following the refusal of the planning application an appeal was made to the Planning Inspectorate which was dealt with by Public Inquiry which was held on 20 - 23 August 2019. On 20<sup>th</sup> September 2019 the appeal was dismissed.
- 1.8 Prior to the Inquiry the authority withdrew the fourth and fifth reasons for refusal in relation to ecology and visual impact. The appeal Inspector did not consider that the appeal proposal would cause harm to the appearance and character of the AONB.
- 1.9 The full text of the appeal decision will be provided to members as **appendix 1**, however the 'overall assessment' of the appeal decision is as follows:

*"120. It is established above that the less than substantial harm to designated heritage assets that would be caused by the proposed development carries considerable weight. In my judgement, for the reasons explained above, this harm is of a very significant level and both Listed Buildings whose settings would be harmed are themselves of very high significance. I therefore consider that the less than substantial harm identified amounts to the requisite clear reason to dismiss this appeal, in terms of Framework paragraph 11d(i).*

*121. However, very considerable weight is also to be afforded to the contribution the development would make to the supply of affordable housing in the face of an acute shortage. The contribution to market housing also carries significant weight, in the absence of a current overall five year housing land supply for Cheltenham. These are the net total of benefits identified in favour of the amended proposal now at appeal.*

*122. In my overall judgement, the adverse impact by way of the less than substantial harm to the significance of designated heritage assets in this case would alone outweigh these benefits to housing. I therefore consider that dismissal of the appeal is warranted on that ground with respect to Framework paragraph 11d (ii).*

*123. Moreover, it is also appropriate to take account of the harms I have identified by way of the loss of a protected tree and the degree of long-term risk to those trees to be retained, the potential net loss of biodiversity and the disadvantage due to the less than ideal nature of the highway access to the appeal site. I do not consider that these further adverse effects would, either individually or jointly, outweigh the significant benefits to the supply of affordable and market housing. Nevertheless they do further support the case for dismissal of this appeal.*

*124. Finally, the weight to be ascribed to the benefit to housing supply is fairly to be regarded as being constrained by the prospect that, even if the present proposal is rejected, there is still potential for the site to be development in line with an emerging local plan allocation, albeit for a lesser scheme, as well as by the likelihood that, within the foreseeable future the Cheltenham Plan, currently under examination, will be adopted, with a resultant increase in housing supply for Cheltenham to above five years. These prospects too, although conjectural and not determinative, still militate against the approval of the current proposal.”*

**1.10** This application is now seeking outline planning permission for a revised scheme which proposes the erection of 43 dwellings (40% affordable). As with previous applications this current application is seeking approval for the access, layout, and scale with matters relating to appearance and landscaping reserved for future consideration, should the principle of developing the site be considered acceptable. Access would be via Oakhurst Rise as previously proposed. The proposed housing mix comprises:

4 no. 1 bed maisonettes  
2 no. 2 bed maisonettes  
1 no. 1 bed house  
8 no. 2 bed house  
9 no. 3 bed house  
19 no. 4 bed house

**1.11** The principal changes between the 2018 planning application that was dismissed at appeal and the current proposal are:

- Revised layout of the site
- 26 fewer dwellings
- Revised indicative landscaping and tree planting proposals
- Revised arrangements for relocating badgers

**1.12** In addition to drawings, the application has been accompanied by a number of detailed reports and statements, all of which have been available to view on the Council's website.

**1.13** The Cheltenham Plan, with the site allocated for housing development (HD4) was adopted by the Council on the 20<sup>th</sup> July 2020.

**1.14** The application is at committee at the request of Councillors Harvey, Fisher and Savage.

**1.15** Due to the Covid 19 outbreak a group site visit will not be arranged in respect of this application. Whilst this Authority ordinarily organises a 'planning view' this is by no means essential and is not required by any legislation. Most members of planning committee have visited the site twice when considering previous applications on the site. Photographs and other illustrative will be made available through the officer presentation.

**1.16** Relevant Officers have visited the site on a number of occasions.

## **2 CONSTRAINTS AND RELEVANT PLANNING HISTORY**

### **Constraints:**

Airport Safeguarding over 45m  
Landfill Sites boundary  
Principal Urban Area  
Residents Associations

**Relevant Planning History:**

**CB15569/00**                      **WITHDRAWN**                      **28<sup>th</sup> August 1981**  
Land to the west side of Whitefriars School – Outline application for residential development

**CB15568/01**                      **REFUSED**                      **29<sup>TH</sup> October 1981**  
Land to west side of Whitefriars School – outline application for residential development of 6.5 acres of land including new highway access from London Road – refused on highway grounds

**CB16992/00**                      **REFUSED**                      **25<sup>TH</sup> October 1984**  
Land to west side of Whitefriars School – Outline application for residential development including the construction of new estate roads, footpaths, landscaping and all associated drainage works – refusal reasons related to policy contraventions; loss of tree; surface water drainage; and highway/traffic implications

*Note: Although the above planning history has been included for completeness, given the significant period of time that has since passed, the decisions are not relevant to the determination of this application which must be determined in accordance with the current development plan and national policies.*

**17/01736/SCREEN**                      **ISSUED**                      **8th September 2017**  
Request for a screening opinion under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

**17/00710/OUT**                      **REFUSED**                      **30th July 2018**  
Outline application for residential development of 90 dwellings including access, layout and scale, with all other matters reserved for future consideration

**17/01778/FUL**                      **WITHDRAWN**                      **5th July 2018**  
Provision of a dropped kerb

**18/02171/OUT**                      **REFUSED**                      **22nd March 2019**  
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 ref. 17/00710/OUT)

### **3 POLICIES AND GUIDANCE**

**National Planning Policy Framework**

Section 2 Achieving sustainable development

Section 3 Plan-making

Section 4 Decision-making

Section 5 Delivering a sufficient supply of homes

Section 8 Promoting healthy and safe communities

Section 9 Promoting sustainable transport

Section 11 Making effective use of land

Section 12 Achieving well-designed places

Section 14 Meeting the challenge of climate change, flooding and coastal change

Section 15 Conserving and enhancing the natural environment

Section 16 Conserving and enhancing the historic environment

**Adopted Joint Core Strategy Policies**

SP1 The Need for New Development  
SP2 Distribution of New Development  
SD3 Sustainable Design and Construction  
SD4 Design Requirements  
SD6 Landscape  
SD7 The Cotswolds Area of Outstanding Natural Beauty  
SD8 Historic Environment  
SD9 Biodiversity and Geodiversity  
SD10 Residential Development  
SD11 Housing Mix and Standards  
SD12 Affordable Housing  
SD14 Health and Environmental Quality  
INF1 Transport Network  
INF2 Flood Risk Management  
INF3 Green Infrastructure  
INF6 Infrastructure Delivery  
INF7 Developer Contributions

**Adopted Cheltenham Plan Policies**

D1 Design  
D3 Private Green Space  
L1 Landscape Setting  
HE1 Buildings of Local Importance and Non-Designated Heritage Assets  
HE2 National and Local Archaeological Remains of Importance  
BG1 Cotswold Beechwoods Special Area of Conservation Recreation Pressure  
H1 Land Allocated for Housing Development  
HD4 Land off Oakhurst Rise  
SL1 Safe and Sustainable Living  
G12 Protection and Replacement of Trees  
G13 Trees and Development  
C11 Securing Community Infrastructure Benefits  
C12 Sports and Open Space Provision in New Residential Development  
C14 Broadband Provision

**Supplementary Planning Guidance/Documents**

Development on garden land and infill sites in Cheltenham (2009)  
Flooding and sustainable drainage systems (2003)  
Landscaping in new development (2004)  
Planning obligations (2003)  
Planning obligations: transport (2004)  
Play space in residential development (2003)  
Public art (2004)  
Security and crime prevention (2003)  
Sustainable buildings (2003)  
Sustainable developments (2003)  
Travel plans (2003)

**4 CONSULTATIONS**

**Social Housing**

*17th June 2020*

See **Appendix 2**



## **Building Control**

*20th May 2020*

The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.

## **Parish Council**

*2nd July 2020*

Further to the CKPC Planning Committee Meeting of 5/11/18, we object to the above application with the following comments:

It is disappointing that except for a reduction in the number of dwellings proposed, this application does little to address any of the Committee's concerns raised about the previous applications for this site.

### **Drainage and Flood Risk:**

The Committee note the concerns raised by the Cheltenham Flood & Drainage Panel and note that again, despite the matter being previously raised, there is no detail as to how the attenuation systems will be maintained in the future. If the drainage and attenuation systems are not maintained then the development would in time become a substantial flood risk to properties downhill of it.

### **Ecology:**

Even if the re-location of the badger sett is successful, this development would convert what is currently the foraging area for the badgers into hard landscaping and gardens. This will bring badgers into conflict with residents, both in terms of accidents with cars and damage to gardens.

There seems to be some confusion between the various documents as to whether or not all the mature trees on the site would be retained or not.

### **Local services:**

There are shortages in capacity in both Primary and Secondary schools in the Parish, with some children unable to gain entry to schools within the Parish.

Similarly, prior to the current exceptional circumstances, there were substantial waiting times to access local GP services.

This proposal will increase demand for these already stretched services.

### **Heritage:**

The development would be detrimental to the setting of both Ashley Manor and Charlton Manor and we note Historic England's continued objection to the development on these grounds.

### **Transport:**

As with all the previous applications, the suggestion that there is easy access to local facilities and bus services by bicycle or on foot is simply nonsense. The severity and length of the climb from the bottom of Charlton Court Road to the entrance to the development (32m of climb over 460m) means that almost all journeys to and from the site would be by private car. The Residential Travel plan simply ignores this obstacle to sustainable transport. The offer of an e-bike to each household is merely a marketing gimmick. If this development has a design life of 100 years, what happens when the e-bike reaches the end of its working life, or if the original property owner moves? The fact is that only extremely dedicated cyclists will cycle to or from this development and people will not walk to local shops if they have a car available.

We understand that the Travel Plan quotes bus timetables from 2018 that no longer run as evidence of access to bus services.

### Community Cohesion:

As almost all movements to and from the site will be by private car, the site will effectively be socially isolated from the surrounding residential areas, severely restricting Community development and integration with the wider Parish.

### Social Housing:

While Charlton Kings (as everywhere else) has a shortage of social housing, given the access difficulties other than by private car, social housing tenants without access private cars would be very isolated.

### Local Plan:

The suggestion (which this Committee strongly disagreed with) in the Local Plan was that the site could possibly accommodate around 25 dwellings, yet this application is for 43, almost double the (disputed) amount suggested.

### Winter Access:

Residents of Oakhurst Rise have previously reported that in snow and icy conditions it is necessary to leave cars in Charlton Court Road as Oakhurst Rise becomes dangerous and even impassable. As the only access to the development would be Oakhurst Rise, adding the cars from a further 43 households either risking Oakhurst Rise or being abandoned in Charlton Court Road would be foolhardy.

### Existing Residents:

The existing residents of Oakhurst Rise enjoy the amenity of living on a quiet cul-de-sac. The road becoming a through route for this development will be detrimental to their quality of life. This is especially true of the resident who relies on the Community mini-bus to take her out. The operator of the bus has said they may well not be able to continue providing the service if the development takes place. The bus blocks the end of the cul-de-sac that would form the access to the site while her wheelchair is loaded and unloaded as the road is not wide enough to carry out this operation and maintain a through route. While the impact on residents is reduced with the reduction from 69 to 43 dwellings, it is still unreasonable. Sustainable development is meant to enhance people's quality of life, not degrade it.

## **Cheltenham Civic Society**

*4th June 2020*

### OBJECT.

Before commenting on the merits of the current scheme (see below), the Civic Society Planning Forum agreed that the history of this case was evidence of poor planning.

As noted by the inspector in the appeal decision of 19 August 2019, the site lies within the defined Principal Urban Area of Cheltenham but is not allocated for any form of development. However, neither is the site subject to any policy restriction on development. So, there is no objection to the principle of residential development and some development is inevitable. But the way in which this is being resolved is wrong.

This application is now the third in the past 2 ½ years. Each time the number of new homes proposed has been reduced (91, 68 and now 43). The developer aims to maximise the number approved; the planners and the appeal inspector cut them back. Greater emphasis on placemaking rather than just numbers of dwellings might have been more

constructive on such a sensitive site. A great deal of expenditure has been incurred, and much public anxiety, even anger, has been generated as result.

In our view, some 25 or so homes could be built on part of the site, as the council itself has indicated (Policy HD4 in the emerging local plan). The site also has important environmental values, including veteran trees, wildlife, heritage assets and fine views which should be protected. However, little public benefit is being derived from this at present.

The public interest would best be served if those parts of the site that cannot be developed with housing were to be dedicated as public open space, to be managed in order to retain their environmental qualities.

We conclude that a plan-led approach should have been adopted here rather than an appeal-led one. Once it became clear that there were pressures for development, Cheltenham Borough Council should have worked with the landowners, the developer and the local community to draw up a master plan for the whole site. This should have indicated in broad terms where development would be acceptable and where it would not, and what form it should take. It should have also ensured lasting public and environmental benefits by dedicating most of the site as public open space.

We ask that the Council learn the lessons from this expensive, time-consuming and divisive experience.

As to the current proposal, the architectural quality of the proposed buildings is poor, and they will date badly. Given local concern about the site and its environmental importance we should expect better. On this site, the aim should be an outstanding development, which could relate to the density and style guidelines of the adjacent Battledown estate.

There is no indication in the application of what will happen to the non-developed green area and what the plans are for the management of the green spaces. There is also no mention of energy conservation.

### **Gloucestershire Centre For Environmental Records**

*22nd May 2020*

Biodiversity report received.

### **Gloucestershire Wildlife Trust**

*14th August 2020*

Regarding the proposal for Local Wildlife Site status on land at St Edwards Prep School, Charlton Kings (Site under planning application 20/00683/OUT).

In order to achieve the goal of a balanced and useful Local Sites system, the Gloucestershire Wildlife Sites Partnership uses minimum habitat and species thresholds that fit the unique biodiversity of the county into a wider context, and a set of general criteria based on the DEFRA-recommended version of the Ratcliffe criteria.

The proposed site does meet the criteria set out in the Key Wildlife Sites (now referred to as Local Wildlife Sites [LWS]) handbook (2015), being greater than 0.5 ha (site is approximately 3.5 ha), confirmed as MG1 grassland habitat by NVC survey carried out by Aspect Ecology in July 2019 and Aug 2020 and by Bioscan in July 2019 and recording, through combination of all of the above surveys 22 species from the grassland list. However, MG1 can cover a wide range of grassland condition, from very high grass cover

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and few herbs through to much lower grass density and significant herb cover. As it stands at the moment, the proposed site is of borderline LWS quality and the LWS process requires it to be examined by the LWS selection panel to determine whether it should be adopted as a LWS or not. The panel may be unable to convene before the planning application goes to committee.

The site lies within a gap in grassland ecological network connectivity. Enhancement to grassland habitat within this area would benefit the ecological network and with appropriate management the quality of the grassland on this site could be enhanced within a relatively short time. Irrespective of the LWS selection panel decision, it is Gloucestershire Wildlife Trusts view that any development on this site should provide a strong commitment to biodiversity net gain and a strong management and maintenance plan for both the grassland and veteran tree features on the site.

### 2nd September 2020

The Local Wildlife Site (LWS) Selection Panel met on 01/09/2020 to consider the proposal for St Edwards Prep School Meadow to be a LWS.

In addition to me providing secretariat, the LWS Selection Panel consists of a representative from each of the following:

Gloucestershire Naturalists' Society  
Gloucestershire Wildlife Trust  
A Gloucestershire Local Planning Authority

The Panel agreed that the site passes the Gloucestershire Local Wildlife Site Selection Criteria 2015 under point 9. Value for learning - "c. the site is exceptionally well-placed to offer educational opportunities either by its proximity to a school or other place of learning, or its easy accessibility for study of the species and habitats present without causing unacceptable damage or disturbance". The site is part of the land currently leased to the St Edwards Prep School and therefore by its proximity to the school and range of habitats and species on the site, it is exceptionally well placed to provide accessibility for study. Whether the school currently uses the site for nature study or not, is not a decision point as the LWS criteria aim to protect sites to maintain benefit into the future and changes in curriculum or personnel could easily result in change of attitude towards use of the site. LWS may be selected purely on the grounds of excellence for the understanding of biodiversity, even where other criteria are not met.

The Panel also consider that the site may also pass the criteria for MG1 grassland plant species. Two sets of plant species data that were provided for the site by Aspect Ecology (applicant's representative) and Bioscan (Friends of Charlton Kings representative) differ but between them provide a match for 22 species from table H5c of the LWS criteria. Under normal circumstances we would conduct our own independent survey at the correct time of year to decide whether the grassland passes the criteria based on plant species. However due to the timescale associated with the planning application this is not possible.

The site will be recorded on the LWS database as St Edwards Prep School Meadow.

### 2<sup>nd</sup> September 2020

I am writing to provide Gloucestershire Wildlife Trust's (GWT) comments regarding the biodiversity mitigation proposed in application 20/00683/OUT.

The grassland on site has been assessed in the applicant's ecological report as of poor quality semi natural grassland. However, there are as they mention, a number of indicators

of unimproved neutral grassland, a resource for which we only have 1677ha recorded in the county (0.6% of the county by area). Though these indicators are in some cases infrequent in the sward, they and the historic of lack of agricultural improvement of the site, do suggest that if the site were to be more appropriately managed, e.g. appropriately timed annual hay cut and removal of the arisings, the site would be likely to develop to a more unimproved grassland quality.

The ecological report enhancement measure EE2 talks of grassland creation, however, in the response to Friends of Charlton Kings (20\_00683\_OUTECOLOGY\_BRIEFING\_NOTE\_ON\_BEHALF\_OF\_THE\_APPLICANT-1076642.pdf) the consultant clarifies that existing grassland will be retained and enhanced. GWT would endorse the retention of the grassland intact and enhancement of the sward through local provenance seed. The ladies bedstraw is not widespread across the site, being mainly in a couple of large patches to the north west of the ice house. Attempt should be made to preserve this in situ.

The largest area of retained grassland, being retained for school use, will not have public access. This gives greater confidence that under enhancement and correct management a more species rich sward should develop. It should be made clear to residents that this area has no public access and fencing should be such to ensure it is not easy to gain access. Management should consider the requirements of both the enhancement of plant species diversity but also the maintenance of invertebrate species recorded on the site such as chimney-sweeper moth and five spot burnet moth.

The site has been confirmed to pass the Local wildlife Site (LWS) selection criteria by the Gloucestershire LWS selection panel (01/09/2020) on the grounds of Value for Learning, being a good selection of habitats and species exceptionally wellplaced to offer educational opportunities by its proximity to a school. The mitigation plan will enable the continuation of part of the site to meet the same criteria, however, GWT would like to see conditions in place such as a conservation covenant to ensure the undeveloped area of the site is secured for biodiversity in perpetuity.

For areas accessible to residents the outcome of grassland enhancement is of lower confidence as access by dog walkers is likely to result in nutrient enrichment and compaction.

GWT's view that the mitigation and enhancements for the habitats and species recorded on site are adequate to achieve no net loss of biodiversity.

### **Heritage And Conservation**

*7th July 2020*

The relevant legislative and policy context within which the proposal needs to be considered is set out below.

The cornerstone of heritage legislation is the Planning (Listed Buildings and Conservation Area) Act 1990, Section 16(2) which states, "In considering whether to grant listed building consent for any works the local planning authority... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

A core policy of the National Planning Policy Framework 2019 (NPPF) is heritage assets be conserved in a manner appropriate to their significance. Chapter 16, paragraphs 193-196 set out the framework for decision making for applications relating to heritage assets. This assessment takes account of the relevant considerations within these paragraphs.

Local planning authorities are required by paragraph 192 of the NPPF to identify and assess the particular significance of any heritage asset... taking into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. When considering potential impacts of development on the significance of a designated heritage asset Paragraph 193 of the NPPF requires great weight be given to the asset's conservation. If harm to or loss of a heritage assets is identified Paragraph 194 of the NPPF requires clear and convincing justification for it. Paragraph 195 and Paragraph 196 of the NPPF go into detail over the level of clear and convincing justification required. Notably Paragraph 196 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Historic England's Historic Environment Good Practice Advice in Planning: Setting of Heritage Assets (GPA3) December 2017 is also of relevance. The GPA3 provides a framework for the assessment of proposed changes to the setting of a heritage asset. To assess the degree of potential harm to the significance of a heritage asset, it advises a stepped approach, which includes: Identifying which heritage assets and their setting are affected; Assessing of the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated: Assessing the effect of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it; Exploring ways to maximise enhancement and avoid or minimise harm; Making and documenting the decision and monitoring outcomes.

The current application 20/00683/OUT is an outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration. This application is an amendment of application 18/02171/OUT an outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration which was dismissed at appeal, itself an amendment of application 17/00710/OUT, an outline application for residential development of 90 dwellings including access, layout and scale, with all other matters reserved for future consideration which was refused.

A number of heritage assets and their settings are potentially affected by the development proposal, both within and immediately adjacent to the proposal site. Most notable is Ashley Manor. This property has had a number of name changes but will be referred to as Ashley Manor within these comments.

Ashley Manor is a grade II\* listed building and described in its list description as one of the finest Regency villas in the Cheltenham area. Its current use is an administration building associated with St. Edward's School. It is located within a planned parkland setting, with a rural setting comprised of open fields and trees to the north. Notably this northern rural setting is the application site.

Ashley Manor forms a group with a number of other heritage assets on the school site which include, the boundary walls and gate to Ashley Manor facing on to London Road, the summerhouse to the southwest of Ashley Manor, a pair of piers at the carriage sweep of the southwest of Ashley Manor, all of which are ancillary structures associated with Ashley Manor within its parkland setting. Each of these structures is separately grade II listed. A noteworthy curtilage listed building to the north of Ashley Manor, outside the planned parkland but within its rural setting, and within the application site, is a former icehouse.

Charlton Manor, Ashley Road is a notable heritage asset adjacent to the northeast corner of the site. It is a grade II listed Victorian house on the Battledown estate, whose rear boundary directly abuts the site. The rear of this property looks west over rural setting provided by Ashley Manor and has views of the wider landscape.

The heritage concerns previously raised over refused outline applications 17/00710/OUT and 18/02171/OUT have to an extent been addressed by the current application. It is considered there are still issues with the proposal in terms of its impact on the setting of the heritage assets, which result in it causing less than substantial harm. However, on balance, it is considered it should not be objected to in heritage terms due to the amendments made to the number and location of dwellings, the measures introduced to mitigate its visual impact and the associated public benefits. The advice below will address the impact of the development proposal on each affected heritage asset identified.

Concerning Ashley Manor, as stated, historically its curtilage included planned parkland within a wider rural setting, defined by open fields and trees and tree groups. This setting has been compromised by both the school use, which has resulted in a number of unsympathetic extensions and alterations within its parkland setting, and by significant suburban development around its boundary, diminishing its wider rural setting. Despite this the parkland setting, most notable to the south, and it's the rural setting to the north, has survived.

Due to their proximity to the development site, it is considered Ashley Manor, the summerhouse to the southwest of Ashley Manor and a pair of piers at the carriage sweep to the southwest of Ashley Manor, located around the driveway sweep and uppermost section of the driveway, along with the curtilage listed icehouse located to the north of Ashley Manor, are affected by the development proposal.

It is clear from the submitted supporting documents an attempt has been made to design the proposal to minimise its impact on Ashley Manor, it's associated listed and curtilage listed structures and its setting. It achieves this by limiting built form to the north-west of the proposal site and by preserving the existing rural setting to the north of Ashley Manor and a notable 'finger' of land to the southern section of the development site. It also introduces and reinforces extensive landscaping in the form of a 30 metre tree planting band, located between the development proposal and the remaining retained rural setting, in an effort to soften its impact. Notably the visual link between the north elevation of Ashley Manor and the icehouse is preserved within the development proposal, it being retained within its rural setting, with the tree planting serving to reinforce the vista without encroaching upon it.

However, the proposal does result in a loss of part of the wider rural setting and the character of the remaining setting is changed from large open fields to one where the open space is diminished and strong bands of trees become more prominent. It is also acknowledged in the short-term views of the development proposal will be possible from Ashley Manor and its immediate setting, although long-term, when the trees are more mature, a strong tree line will be created obscuring the built form. This impact is considered to cause a measure of less than substantial harm to the significance of a designated heritage assets. This harm will need to be weighed against the public benefits of the proposal.

Charlton Manor, Ashley Road is located to the northeast of the site within the Battledown estate. Battledown was laid out in 1858 with Charlton Manor the first property to be built there in 1864. The estate grew slowly into the late 20th century the area is typically characterised by large houses set back from the road on large plots. The rear boundaries of properties on the Battledown estate, including Charlton Manor, face onto the proposal site.

Charlton Manor has been designed to take advantage of views beyond its rear garden, over both the existing fields, to the icehouse and over the longer views of the wider landscape. As previously noted, the development proposal has attempted to address the concerns over the location of built form by limiting it to the north-west of the site, enclosing it with extensive landscaping in the form of tree planting and by retaining a notable section of the rural setting.

It is again acknowledged short-term views of the development proposal would be possible, although long-term a strong tree line would be created. The impact of the truncated views across the fields as a result of the reduction of the rural setting and the resultant change of character is considered to cause a measure of less than substantial harm to the significance of a designated heritage asset. This harm will need to be weighed against the public benefits of the proposal.

Paragraph 196 of the NPPF requires when less than substantial harm is identified a weighing exercise between the harm to the significance of a designated heritage asset and the public benefits of the proposal take place.

The steps in Historic England's Historic Environment Good Practice Advice in Planning: Setting of Heritage Assets have been demonstrated within the Heritage Impact Assessment by Grover Lewis Associates dated April 2020. The conclusions regarding the impact are similar to those identified within the above comments, where less than substantial harm is identified. The public benefits of the development proposal are identified and a balancing exercise is undertaken within the Planning Statement by Framptons dated April 2020. The public benefits, which are stated as outweighing the great weight that needs to be given to the asset's conservation, are identified as the delivery of market housing and affordable housing to which substantial weight should be given, net gains to biodiversity, the benefits from long term management of mature trees and hedges, the economic benefits arising from employment during the construction period and indirect employment following occupation of the dwellings, improvements to the Ice House and benefits to St Edward's School.

Where less than substantial harm has been identified it is considered to be caused to limited aspects of the heritage significance of the affected heritage assets and their settings. The proposal has been significantly amended since the previous proposals to address the reasons for refusal. Notable is the decrease in the number and location of dwellings, and the proposed extensive landscaping measures to reduce and mitigate the visual impact of the development proposal on the heritage assets and their settings. Cumulatively these measures, and the acceptance of the public benefits of the proposal, are considered to result in a proposal that, on balance, should not be objected to in heritage terms.

To accord with Paragraph 196 of the NPPF the case officer will need to carry out a separate exercise to weigh the public benefits of the proposal against the great weight that needs to be given to the conservation of the affected heritage assets.

### **Tree Officer**

*26th May 2020*

The CBC Tree Section does not object to this application.

Whilst the nature of the part of the site proposed to be built upon will change forever and trees are to be removed as a part of the development process, it is proposed to retain most significant trees as well as trees protected by a Tree Preservation Order. There is also a proposal to plant what is planned to become a significant belt of trees to act as a buffer between the school and the proposed development as well as plant many other trees within this site.

All of the high quality category 'A' trees (as per BS5837 (2012)) within the site are shown as being retained and indeed only a 14 meter high ash and a similar sized sycamore are shown as being part of removal plans of 'moderate' or category 'B' trees leaving an overall 90% of total category B tree stock. There are trees of lesser 'low quality' 'C' grade trees to be removed. Such trees have been classified because they are unremarkable, are in



impaired condition or have a primary 'collective value'. Experience has shown on active development sites elsewhere that whilst trees are shown as being retained, situations can arise where trees previously marked for retention have to be removed (for whatever reason). However in this situation, a combination of a particularly robust described tree protection plan combined with arboricultural supervision at appropriate sensitive junctures as well as building development proposals generally being situated well away from trees, it is anticipated that such occasional unplanned collateral damage will be limited. However, much of the success of the development of the site will rely on the 'buy in' by the site supervisor and other site employees during the course of construction. To address this, procedures have been recommended within the submitted tree protection details so that not only site management but also all site operatives will be aware of the importance of trees to this site and the risks involved with non-compliance to all tree protection measures.

Whilst the planting mitigation strategy appears generous, it will take many years (decades) before maturity. However apart from some low quality boundary and mid site hedge self-sown trees, there are very few existing new trees currently succeeding into maturity. This may be as a result of wild deer or other animals eating/destroying all new growth. Proposed landscape strategy includes deer-proof fencing which must be maintained if such native tree planting is to succeed. Much of the area within the site is to be used by St Edward's School in the future and the tranquil nature of this south eastern area should remain. It appears as though this area is to be left undeveloped. This would be a good location to plant new potentially very large 'landmark' trees for the future. It is noted that there are several such trees close to the school-Sequoia, pine, beech etc. It is strongly recommended that similar trees are planted here for the future benefit of the school as well as landmarks for the proposed nearby residents. Please could planting plans be adjusted accordingly.

The majority of existing successfully established new trees are ash. Sadly they have a very uncertain future with the prospects of ash die-back likely to kill most ash trees. Any planning permission to be granted must include details of tree planting pit design for all large trees to be planted, species, size, location, root type, maintenance and watering regime etc to be submitted and agreed. Similarly, all hedgerow and woodland planting as well as succinct details of veteran tree 'buffer' planting must be submitted and agreed prior to the commencement of any on site works. Please note that the nature of the soil in this area is clay and that it is important the clay tolerant species are planted so as to minimise tree establishment difficulty.

The heads of terms for the landscape management plan are acceptable and such a detailed 10 year management plan should be conditioned as a part of any Reserve Matters. The hedge bisecting the site which is chiefly comprised of ash is likely to become somewhat thread-bare if/when the anticipated ash dieback kills such existing ash trees. The retention of the hedge and new planting briefly discussed as not being for amenity and as such selective planting will include deterrent planting (ie spiny/prickly) species. Whatever is planted, it is considered likely that children will find access and begin to play within this hedge line. Consequently it is likely that parts of it may suffer-however such outdoor play is a part of childhood in such a peri-urban situation and it is unrealistic to consider that the hedge line and growth within it will remain completely undisturbed. However the deterrent planting and proposed knee rails around and under the drip lie of veteran trees must be successful. Such trees have an increased heritage and ecological value and their continued survival and prosperity is essential as they continue to mature. Succinct details of such deterrent tree and shrub planting must be submitted as a part of Reserve Matters. Such details must be assessed by CBC Trees and Landscape Design officers prior to discharge.

Tree VT3028 is especially vulnerable to damage and as such it is recommended that a permanent barrier preventing such access is erected around the tree. Such a barrier (metal fence) should not be possible to be climbed over. This will 'frame' the tree highlighting its importance to adjacent householders and users of the open space. Obviously, access

should be possible with padlock and key when absolutely necessary. Such a an appropriate and tasteful metal fence will make it's long term retention more certain.

Again the 'buy-in' by any new residents and owners of the soft landscaping within this site is essential if the overall landscape led design of the site is to succeed. Such activities to be described within a management plan will not likely be cheap to afford by residents (especially as it is noted that there are to be several 'affordable housing' plots). Nevertheless such a 'buy-in' is critical if the site is to successfully retain it's current primary natural features (the veteran trees) as well as the proposed new tree planting. The possibility of covenants enforcing such landscape features on owners should be explored. Similarly Retention of existing and proposed hedgerow' planning conditions should be issued along with any permission to be granted.

All tree planting near to proposed dwellings must be sympathetic in terms of proposed tree size (in maturity) and species. It is unrealistic the consider that new occupants will accept living adjacent to inappropriate trees (taking into account overall future size, tree 'litter', shade, propensity to shed limbs and branches, leaf, fruit and flower drop annually etc) and as such tree planting regimes must take account of this when planting.

The relationship between new properties and such existing retained veteran trees as well as new planting must be harmonious in terms of structural compatibility as well. The site appears to be comprised chiefly of shrinkable clay soil. It is imperative that new dwellings/structures' foundations are constructed in such a manner as to take account of this soil and not suffer from subsidence related damage as a result of tree root water extraction. Such successful subsidence claims inevitably lead to demands for tree removal or heavy pruning (removing much of the amenity of the trees) so as to reduce water demand. Such a situation must not arise in the first instance. Piled foundation structures are mentioned in the Tree Protection Plan but detailed foundation design which takes account of current, and future water demand must be submitted as a part of Reserve Matters.

The proposed 'no-dig' solution to parking adjacent to tree T3015 detailed within the Tree protection Plan is necessary and should be included in Reserve Matters. Drainage connection to the south of the site must not enter into the Root Protection Area of any tree or thrust bore drainage techniques must be a minimum 1 meter below the soil horizon so as to minimise damage to existing trees-all as detailed in the FLAC Tree Protection Plan of 17th April 2020.

Provision for pedestrian and vehicle access into the proposed open spaces is essential so as to facilitate maintenance to the meadow as well as trees. Details of how such access is facilitated should be submitted and agreed.

### **GCC Highways Planning Liaison Officer**

*1st July 2020*

See **Appendix 3**

### **GCC Local Flood Authority (LLFA)**

*6th May 2020*

Information provided with this application, in the document C21505 Oakhurst Rise, Charlton Kings / FRA Rev M April 2020, adequately describes a feasible strategy for the management of surface water on and from the development site.

The strategy described will require further detail before development commences including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development.

Should permission be granted for this development it should be conditioned as follows:

Condition:

No building works hereby permitted shall be commenced until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall include a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason:

To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution for the lifetime of the development.

NOTE 1 :The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency

NOTE 2 : Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through [suds@gloucestershire.gov.uk](mailto:suds@gloucestershire.gov.uk) e-mail address. Please quote the planning application number in the subject field.

**Severn Trent Water Ltd**

*5th May 2020*

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- o The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- o The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

### **Charlton Kings Friends**

8th June 2020

See **Appendix 4**

29th July 2020

Review of Submitted Ecological Appraisal on behalf of CK Friends

See **Appendix 5**

### **Sport England**

*1st May 2020*

Thank you for consulting Sport England on the above application.

The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), therefore Sport England has not provided a detailed response in this case, but would wish to give the following advice to aid the assessment of this application.

General guidance and advice can however be found on our website:

[https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning\\_applications](https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning_applications)

If the proposal involves the loss of any sports facility then full consideration should be given to whether the proposal meets Par. 97 of National Planning Policy Framework (NPPF), link below, is in accordance with local policies to protect social infrastructure and any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

If the proposal involves the provision of a new sports facility, then consideration should be given to the recommendations and priorities set out in any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority may have in place. In addition, to ensure they are fit for purpose, such facilities should be designed in accordance with Sport England, or the relevant National Governing Body, design guidance notes:

<http://sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/>

If the proposal involves the provision of additional housing (then it will generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demand, then new and/or improved sports facilities should be secured and delivered in accordance with any approved local policy for social infrastructure, and priorities set out in any Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

In line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for

new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England's Active Design guidance can be used to help with this when developing or assessing a proposal. Active Design provides ten principles to help ensure the design and layout of development encourages and promotes participation in sport and physical activity.

NPPF Section 8: <https://www.gov.uk/guidance/national-planning-policy-framework/8-promoting-healthy-communities>

PPG Health and wellbeing section: <https://www.gov.uk/guidance/health-and-wellbeing>

Sport England's Active Design Guidance: <https://www.sportengland.org/how-we-can-help/facilities-and-planning/design-and-cost-guidance/active-design>

Please note: this response relates to Sport England's planning function only. It is not associated with our funding role or any grant application/award that may relate to the site.

### **Historic England**

*13th May 2020*

Thank you for your letter of 1st May 2020 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

#### Summary

We consider the open green space of the application site to contribute significantly to the setting of the Grade II\* listed Ashley Manor. Historic England objects to the proposed development and considers the quantum, location and screening of the development would result in harm to heritage significance, as defined by its setting.

#### Historic England Advice

While we have rehearsed the significance of Ashley Manor and its setting at the time of the 2017 and 2018 applications, we consider it appropriate, as a reminder, to repeat our own assessment of those aspects of setting that contribute to heritage significance.

The villa at St Edwards School, known most recently as Ashley Manor, was built for Nathaniel Hartland (the single most important lender of money to builders in the Pittville development in Cheltenham). Its list description describes it as 'One of the finest villas in the Cheltenham area, its internal plasterwork is a particular feature for its diversity, depth and quality of composition.' The original approach to the house is from London Road to the south; the sinuous tree-lined drive remains largely unaltered. The Grade II listed boundary walls and gate piers (marking the entrance from London Road), and further into the grounds, the Grade II summerhouse and drive piers to the surviving carriage sweep are all remnants of this high-status, grandiose villa-house ensconced within its generous parkland setting. Indeed, the topography of the site is significant; the land rises markedly from south to north, which would have been a conscious motive for siting this 'villa' style dwelling overlooking the town. This 19th century revisiting of ancient Classical-inspired villas was heavily influenced by Andrea Palladio's work of the 16th century. Palladio's villa suburbana (country houses purely for residential or leisure as opposed to agriculture), in particular the Villa Rotunda, gave rise to a vast tradition in villa architecture; these formative dwellings were conceived with a close relationship to their location. Of Villa Rotunda, Palladio wrote 'the site is as pleasant and delightful as can be found; because it is upon a small hill...it is encompassed by the most pleasant risings...and therefore...enjoys the most beautiful views from all sides'. The building rises out of the landscape and so does Ashley Manor in this very nature. So, whilst the principal elevation faces southwards, the siting of this villa, within its extensive, rising grounds is of, arguably, equal significance. Ashley Manor is

designated as Grade II\*, and as such is in the top 8% of listed buildings. Therefore, greater weight should be given to its conservation. The National Planning Policy Framework (NPPF) defines 'conservation' as 'the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance'. We acknowledge that significant modern additions (large school-related buildings, as well as landscape features such as the blue-topped playing surfaces) have eroded the historically isolated setting of Ashley Manor. Notwithstanding, the house (and associated school buildings) remains positioned within the extent of its historical grounds and the application site forms a key green buffer between the villa and later development to the north. The application site is clearly associated, historically, with the villa and that grounds of this extent would be expected with a high-status property.

Following the refusal of applications in 2017 and 2018 for 90 and 69 units respectively, the revised outline application proposes a further reduction in dwelling numbers to 43 units on the site north of Ashley Manor. The area proposed for development is now pushed towards north-western corner of the site and would include a wide planted screen to the south of the proposed built development. This represents a less intensive form of development of the site than the previously schemes. However, we still consider that the severance of the setting of Ashley Manor and the encroachment of development and associated landscaping towards the Grade II\* building is harmful and an unacceptable quantum and form of development.

The most recent refusal (18/02171/OUT) was dismissed at appeal during the period of examination of the Cheltenham Plan, with particular reference to allocation site HD4 (the application site). During inquiry, the Examination Inspector issued post- Hearing advice requiring an amendment to the development boundary in order to safeguard the setting of listed buildings. However, at this time, the Examination Inspector had not agreed the Main Modification for public consultation and the appeal against the refusal of the 2028 application was determined on that basis.

When considering the Planning Inspector's comments in the appeal decision in 2018, the importance of the application site to the setting of the Grade II\* building was reached by taking a range of viewpoints, including those from principal rooms in Ashley Manor. The Inspector stated that there is 'an historic and visual association between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I refer above, I consider that the appeal site, with the Ice House it encompasses, contributes importantly to the historic and current visual setting of both these listed buildings, as designated heritage assets..... Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views (Viewpoint 1 in the Landscape and Visual Assessment.' This enforces our continued view that it is the entire application site which makes an important contribution to the setting of the Grade II\* building and not just the areas closest to it.

In terms of proposed tree planting as means to screen the development and mitigate the visual impact, the Appeal Decision makes comment on the proposed screening along the southern boundary to the site. The Inspector comments that 'by avoiding built development in the southernmost part of the site, the amended layout mitigates to some extent the effect of the proposed development on the setting of the westfacing, former Ashley Manor House and its surrounding associated buildings and carriage drive. However, the proposed introduction of new landscape planting, screening that boundary, would obstruct the relationship of the Manor to this part of its setting.' The revised application has removed the new planting shown along the northern side of this boundary on the dismissed scheme.

However, a significant tree belt is proposed within a few metres of the boundary which would effectively divorce the visual connection between the carriageway approach to the west elevation of Ashley Manor and its open, green setting beyond. This impact may be demonstrated by some additional analysis of the view presented in Plate 7 (in addition to

others) in the Heritage Impact Assessment. We remain very concerned over the visual severance of the open land to the north of Ashley Manor.

We understand that subsequent to the Cheltenham Local Plan Inquiry, the Examination Inspector's report of 17th March 2020 approves the Main Modification for HD4: A minimum of 25 dwellings, subject to masterplanning (in accordance with Policy SD4 of the JCS) which demonstrates that development can be achieved whilst accommodating: A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development. We understand that following the Inspector's Report, the council have yet to formally adopt the Cheltenham Plan at this time. While we acknowledge the emerging housing allocation for this site, it must respect the setting of heritage assets. We do not consider that the current proposals achieve an acceptable level of respect to the setting of heritage assets. We therefore advise that significant adjustments are made to demonstrate how allocation HD4 can be delivered in a way that the setting is not harmed to this extent.

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". When considering the current proposals, in line with Para 189 of the NPPF, the significance of the asset's setting requires consideration. Para 193 states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be.

Para 194 goes on to say that clear and convincing justification is needed if there is loss or harm. When considering development that has been identified to affect setting, Historic England's guidance (Historic Environment Good Practice Advice in Planning - Note 3. The Setting of Heritage Assets) should be referred to.

### Recommendation

Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 193 and 194. .

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

### **Battledown Trustees**

*6th June 2020*

On 1st May 2020, you kindly advised that you would be pleased to receive comments concerning the above planning application from the Trustees of the Battledown Estate, having designated us as 'Consultees' on the matter.

This application is yet another attempt to build over a large proportion of the exceptional and irreplaceable meadow-land accessed via the top of Oakhurst Rise, which would bring a multitude of problems and disadvantages to Charlton Kings and the wider Cheltenham

community. The Land directly adjoins the Battledown Estate's southern boundary and so any development thereupon would directly affect a number of properties on the Estate. This application may well be for approximately one third fewer homes than the previous application but the arguments for refusing permission for the scheme remain for the greater part the same as those put forward at the time of the August 2017 application (rejected), the October 2018 scheme (rejected) and the appeal inquiry conducted by an Inspector from HM Planning Inspectorate in August 2019 (dismissed).

From the voluminous documentation produced relating to the previous applications and the already considerable documentation submitted for this new application, it is abundantly clear that none of the grounds on which the Trustees previously objected have been adequately addressed. Inaccurate statements contained within the documentation submitted for this application have already been highlighted by other professional and concerned consultees. Nevertheless, for good order's sake, we repeat the Trustees' observations and primary objections to the proposed development herewith :

a) Considerable loss of privacy would be suffered by a number of Estate properties and residents, owing to the proposed positioning and height of the dwellings on the Land immediately adjoining the Estate's southern boundary.

b) There would be noticeable degradation to the environment of the Estate owing to the significant increase in 'noise pollution' which would be generated by the proposed 43 dwellings, once completed.

c) There would be a material and dangerous increase in the risk of flooding for a number of Estate properties located in Birchley and Ashley Roads. In 2007, several Estate houses including some adjoining the proposed development Land, were badly flooded; this situation can only be exacerbated by the proposal to cover such a significant proportion of this Land with concrete, tarmac and buildings which would prejudice the delicate balance of springs, pools and flood-ameliorating water absorption on this land.

d) In common with many other residents in this area of Charlton Kings, all residents on the Battledown Estate would be affected by the material increase in traffic which would inevitably result from the building of these proposed 43 homes, as such a significant increase in traffic would affect many roads in the area, including Sixways Junction, Hales Road, London Road, King Alfred Way and Athelney Way, as well as those narrow roads immediately adjacent to the proposed development site --- and the 'knock-on' effects would severely affect and inconvenience many thousands of local residents in Charlton Kings and the eastern part of Cheltenham. In a nutshell, the local infrastructure and road system is already choked at peak periods and is simply inadequate for the existing traffic (as already acknowledged by Gloucestershire Highways), let alone the critical increase in traffic consequent upon the construction of these additional homes.

e) Furthermore, this proposed development would increase the dangers for both cyclists and pedestrians. Quite apart from the unacceptable gradients and road widths on the residential streets which are designated as Access to the Land, one should also appreciate that the application necessitates severe street gradients within the proposed development site itself. Nowhere in the Applicant's documentation is this defect highlighted as it should be and so we believe this important detrimental aspect, compromising safety, should once again be brought to the attention of the Planning Committee members. Importantly, it should be clear to both CBC Planning Officers and Planning Committee members, that this site and the access thereto is totally unsuitable for wheelchair users and those with some other physical disabilities; this would inevitably mean complete reliance on motor vehicles for any such putative residents.

f) We also object on the grounds that the views of this area of Battledown as seen from the nearby AONB will be permanently blighted, in contravention of national planning regulations



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and, in this context, we support the strong objections made by Historic England on similar grounds.

g) It is also worth noting the remarks of HM Planning Inspector written at the time he made his decision to reject the Applicant's Appeal in September 2019, viz. :

83. Be that as it may, the presence of the new built development would still be visible from Charlton Manor and prominent in views available from its important west-facing windows. Distant views would be partly obstructed and, furthermore, the Ice House would be obscured by the intervening dwellings on plots 31-34. The appreciation of the Manor in views from within its setting to the west would be compromised, including for residents and members of the public living in or visiting the proposed dwellings.

84. As in the case of Ashley Manor, I consider that these effects on the visual relationship between the Grade II Charlton Manor and the appeal site would have a very significant adverse impact also upon the setting of this Listed Building. Having regard to the statutory duty under s66 of the PLBCA, the effect of the development on the setting of Charlton Manor also would be contrary to Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.

This new proposal for development has moved housing back by some thirty metres and has increased screening but it is still visible and prominent in views from the important west-facing windows at Charlton Manor, a property located within the Battledown Estate.

h) From the very important perspective of Amenity, we object owing to the permanent and irretrievable degradation of a valuable outdoor sporting facility used regularly by children from all over Cheltenham and, indeed, Gloucestershire, together with the unacceptable additional strain that such a development would place on local GP surgeries and school places -- neither of which are able to meet the demand consequential upon such a noteworthy increase in local housing.

There are many reasons to approve different housing development schemes; however, the Trustees believe that it would be misguided for any Planning Committee to approve a scheme such as this proposal, which would do irreparable harm to the local community and blight the environment of the existing electorate.

A significant majority of Borough Councillors on the Planning Committee have rejected previous applications for building over this meadow-land for very good reasons. This latest application singularly fails to address in a convincing manner many of the grounds for refusing previous applications cited by both Borough Councillors and the Planning Inspectorate and, even worse, perpetuates much of the inaccurate information submitted at the time of those previous applications.

Exactly the same multitude of planning considerations apply to this new application and therefore the Trustees anticipate and request that the same judgements will be made once again, to the clear benefit of the existing local communities in both Charlton Kings and the wider borough of Cheltenham.

**Natural England**

*8th June 2020*

Thank you for your consultation on the above dated 01 May 2020 which was received by Natural England on the same day. We are sorry for the delay replying.

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Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

### SUMMARY OF NATURAL ENGLAND'S ADVICE

#### NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>
- damage or destroy the interest features for which the Cotswolds and Commons and Beechwoods Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation options should be secured:

Mitigation as set out in the Council's Habitats Regulations Assessment (HRA) Appropriate Assessment must be secured.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

#### Further advice on mitigation

Natural England concludes from the submitted ecological appraisal and comments from the County Ecologist that the Council intends to rely on the Habitats Regulations Assessment (Including stage 2 - Appropriate Assessment) produced in respect of a previous planning application for the application site - reference 18/02171/OUT. A copy of the HRA from this previous application should be attached to the submitted documents posted on the Council's website.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

The Homeowner Information Pack should present information describing informal recreation opportunities in the following sequence:

- Public space on your doorstep
- A short drive by car or bus
- Further afield – e.g. The Forest of Dean, the Severn Estuary

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The proposed HIP leaflet for Hunts Grove, Quedgeley (produced by Crest Nicholson. Gloucester City Council and FPCR) provides a useful example.

### Sites of Special Scientific Interest (SSSI)

SSSIs with public access also exist closer to the application site than the Cotswold Beechwoods SAC. These include:

- Leckhampton Hill and Charlton Kings Common
- Crickley Hill & Barrow Wake
- Cotswold Commons and Beechwoods

In addition, Cleeve Common lies 4.0Km to the north-west.

Education and awareness raising measures designed to address the recreation theme in relation to the European Site described above should be designed to help avoid disturbance to wildlife and encourage awareness of these sites' sensitivities. Provided this holistic approach is taken we do not anticipate adverse effects on these SSSI's notified features.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

### Other advice

#### Green infrastructure

Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

Adopted Joint Core Strategy policy INF3 and the JCS Councils' Green Infrastructure Strategy 2014 refer. Emerging Cheltenham Plan policy GI1 may also be relevant.

Consideration should be given to what opportunities exist to integrate green infrastructure delivery with measures that serve to offer alternative walking, running and cycling routes for new residents. Such measures may form part of a package that positively manages additional recreation pressure on local resources, as well as the SSSIs described above..

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

### **Cheltenham Flood And Drainage Panel**

*26th May 2020*

See **Appendix 6**

## **Environmental Health**

*13th May 2020*

After considering the documentation submitted as part of this proposal there are only very minor issues of concern from an Environmental Health perspective as per the previous revisions of this application. As such I would recommend approval subject to the following condition being attached to any approved permission:

'No development shall take place until a site specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- Arrangements for liaison with the Council's Pollution Control Team.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Procedures for emergency deviation of the agreed working hours.
- Method of prevention of mud being carried onto highway.
- Waste and material storage.
- Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.

## **Gloucestershire Badger Trust**

*27th May 2020*

See **Appendix 7**

## **Section 106 Officer**

*5th June 2020*

See **Appendix 8**

**The Woodland Trust**

*15th June 2020*

See **Appendix 9**

**County Archaeology**

*7th May 2020*

Thank you for consulting me concerning the above planning application. I wish to make the following observations regarding the archaeological implications of this scheme.

I advise that in connection with a previous development proposal on this site a programme of archaeological desk-based assessment, geophysical survey and trial-trenching was undertaken. Reports on the results of these investigations were submitted in support of application 18/02171/OUT.

No significant archaeological remains were observed during the investigations, and on that evidence it is my view that the application site has low potential to contain such remains.

In addition, I note from the current application details that the ice-house will be preserved within open ground, and will remain in situ and undisturbed should the development proceed.

Therefore, I confirm that in my view the proposed development will have no impact on archaeological remains, and I recommend that no further archaeological investigation or recording should be required in connection with this scheme.

**Minerals And Waste Policy Gloucestershire**

*7th May 2020*

All of the details set out within this section are made by officers on behalf of Gloucestershire County Council in its capacity as the Mineral and Waste Planning Authority (MWPA): -

All major planning applications (10 or more dwellings, residential sites of 0.5ha or more and other development in excess of 1,000m<sup>2</sup> or over 1ha) should be accompanied by an appropriately detailed Waste Minimisation Statement (WMS).

The production of a WMS is a specific requirement of the development plan for Gloucestershire as set out under WCS Core Policy 02 - Waste Reduction. It is needed to show how waste arising during the demolition (including site preparation), construction and occupation of development will be minimised and managed, and how recycling during the occupational life of the development will be provided for.

**Recommended action**

Not engaging or providing insufficient information in respect of waste minimisation matters could put at risk the acceptability of proposed development. The failure to address waste minimisation may be a reasonable ground for a decision maker to refuse planning permission. Therefore a Waste Minimisation Statement should be requested.

Conditions recommended by officers on behalf of the MWPA (if advised)

Condition:

No development shall commence until a detailed Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall identify the main waste materials expected to be generated by the development during the construction phase and set out measures for dealing with such materials so as to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy. The detailed Site Waste Management Plan must include: -

- i) Information on the type and amount of waste likely to be generated prior to and during the construction phase;
- ii) Details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation; and
- iii) Details of the measures for ensuring the delivery of waste minimisation during the construction phase.

The Site Waste Management Plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: To ensure the effective implementation of waste minimisation in accordance with Gloucestershire Waste Core Strategy: Core Policy WCS2 - Waste Reduction.

### **County Ecologist**

*2nd June 2020*

Original comments provided – updated on *2<sup>nd</sup> September 2020* - See **Appendix 10**

*8<sup>th</sup> September 2020* - New Ecological Information

You have asked me to comment on new ecological information recently received by the Local Planning Authority in connection with application 20/00683/OUT. The new information is as follows:

- Bioscan letter to you dated 29/07/2020
- Bioscan prepared 'Gloucestershire Key\* Wildlife Site Assessment Sheet'
- Aspect Ecology 'Botanical Survey 2020, Technical Briefing Note TN09: Results of Botanical and NVC Survey' dated 05/08/2020
- Aspect Ecology letter to you dated 10/08/2020
- Gloucestershire Wildlife Trust letter to you, Aspect Ecology and myself dated 07/08/2020 • Gloucestershire Wildlife Trust letter CBC Planning dated 01/09/2020

These documents are of a technical nature and I have considered these in detail. I have also had the opportunity to visit the site on 06/08/2020. I am familiar with Defra's draft Biodiversity Net Gain metric 2.0 and its use in a number of recent planning matters. I also have experience of the selection process for Local Wildlife Sites (I was a member of the Selection Panel when it was last active under the formerly named 'Key' Wildlife Site system).

I have come to the following conclusions.

1. The site was much as I had expected it to be and my advice to you in my memo dated 01/06/2020 does not require revising.
2. After reading all the recent submissions and visiting the site I am inclined to agree more with Aspect Ecology's assessments and assertions than those of Bioscan. Defra's Biodiversity Net Gain Metric 2.0 is not the finished product and has a number of short comings. The metric is only a rough guide and is no substitute for full assessment by

professional ecologists. Unfortunately Bioscan's use of the metric includes some errors and their conclusions undervalue the merits of allowing the development.

3. In my opinion there was no convincing ecological case for the meadow to be designated a new Local Wildlife Site. The meadow is poor quality MG1 grassland (Mesotrophic Grassland Type 1 of the National Vegetation Classification) and of low conservation value.
4. The Local Wildlife Site Selection Panel recent decision to designate the site on the basis of its Value for Learning which is most relevant given the location of the adjacent school. A Local Wildlife Site designation does not preclude appropriate development and the Wildlife Trust letters reflects this point. The development provides an opportunity to secure the long-term conservation and enhancement of local biodiversity. A large area of the site would become better managed and provide an improved educational resource for the adjoining school.
5. Compared to previous development schemes for this site (17/00710/OUT & 18/02171/OUT) there will be fewer units and greater retention of habitats and features. There is to be extensive tree/shrub planting, additional new habitat features and improved meadow management. Overall a biodiversity net gain can be secured with appropriate conditions and planning obligations in place as I have previously advised.
6. The development if consented would be compliant with NPPF paragraphs 8, 170, 175 or 180. The proposal avoids significant harm to biodiversity and protects veteran trees. It makes effective use of the land and also provides a mechanism to secure a better more resilient future for biodiversity. Biodiversity improvements have been designed into and around the development. Given policy HD4 of the newly adopted plan [see below], the type and scale of the development appears to me to be appropriate for the location.
7. The development if consented would be compliant with JCS policy SD9. The development provides appropriate mitigation for some unavoidable effects but importantly positively conserves and enhances biodiversity overall which are relevant to the location.
8. The development if consented would be compliant with policy HD4 in the recently adopted Cheltenham Local Plan. The development provides for long-term protection of mature trees and hedgerows on site, better commuting corridors and foraging areas for bats, and is an opportunity to enhance biodiversity overall.

\*Renamed Local Wildlife Sites in January 2019

### **Contaminated Land Officer**

*20th May 2020*

No adverse comments.

### **Ancient Trees Forum**

*15th June 2020*

The Ancient Tree Forum (ATF) is a charity which has pioneered the conservation of ancient and veteran trees and their associated habitats such as ancient wood pasture and parkland. The ATF seeks to secure the long-term future of ancient and veteran trees and associated habitats through advocacy of no further avoidable loss, good management, the

development of a succession of future ancient and veteran trees, and seeking to raise awareness and understanding of their value and importance.

The ATF objects to this application because the way veteran trees have been identified means that trees, which should be protected by planning policy and meet the criteria set out by the guidance (National Planning Policy Framework glossary (2018), Standing Advice (2019) and Planning Policy Guidance (2019)), have been wrongly excluded. They are a significant factor in considering this application.

We set out our rationale for identification of ancient and veteran trees in relation to NPPF in Annex 1. In line with the government guidance, it is our view that for a tree to be categorised as a veteran, it should primarily have key decay features (including branch death or hollowing) and such features should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality). NPPF glossary states that a veteran tree does not need to be old enough to be ancient but does not define any specific size or age criteria to be met. However, it is our interpretation of the guidance, that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop.

The ATF therefore interprets the guidance to mean that trees which have the appropriate key decay features and are also mature or ancient should be considered as irreplaceable habitat and are the trees to which the policy in para 175c of the NPPF applies.

We strongly disagree with the categorisation methodology used in the tree survey. The first step of the applicant's tree consultant's methodology is to eliminate trees which do not have a "very large girth" before consideration of veteran characteristics. In our view this step is not justified by NPPF or other government guidance.

It is our view that at least two trees should be re-categorised as irreplaceable veterans and protected from harm by appropriate buffer zones. They are the mature trees numbered T3010 and T3014

The Tree Survey states that T3010 is mature tree and has "Fistulina hepatica fruiting body on root buttress at ground level east. Laetiporus sulphureus on old branch loss wound at 2 metres south. Numerous habitat holes within branch structure indicating heartwood fungal decay is well progressed." Decay or hollowing evidenced by heart-rot decay fungi is a clear criterion for veteran categorisation and the applicant's tree consultant accepts this too. Although it is the view expressed in the tree survey that this tree may not survive long term, there is no indication why it is judged not to be able to survive long-term nor what time period that might be. There is no reference to life expectancy/longevity of the tree in the NPPF and therefore this should be disregarded in categorising a tree as a veteran. The extra protection that a buffer zone would provide, and should be allocated to this tree, would mitigate the possibility of deterioration resulting from development pressures - the very purpose for which it is intended. According to Standing Advice the Buffer Zone should be "at least 15 times larger than the diameter of the tree. The buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter." Due to the proximity of this tree to proposed buildings the Buffer Zone may need to be greater than the minimum to avoid future intervention on the grounds of risk.

Tree number 3014 is recorded as OM/over-mature in the survey. It is recorded as having a stem diameter of 930mms and in the Raven assessment as 148 years old and not of an 'age or size to merit veteran descriptor'. We assume the OM label is a error. However, it is recorded as mature and having "bark wounding after historic lightning strike seen as broad tongue of bark loss from ground level south extending into upper crown structure, exposed and desiccated non-functional heartwood within the affected stem section comprises large volume dead wood Scattered dead wood and smaller distal decline." It



is quite clear from this description and images on the Ancient Tree Inventory that the trunk of this tree is hollowing and has a large volume of deadwood in the trunk. This tree definitely has substantial and long-lasting veteran characteristics which accord with Standing Advice, it is mature and therefore is a veteran tree and should be given proper protection by an appropriate Buffer Zone.

Other mature trees on site may also be veteran trees but we do not have enough information on which to confirm their status but the LPA must be assured one way or another. The Ancient Tree Inventory is a citizen science project and has not required surveyors to assess trees according to NPPF as it started in 2005 which is well before the planning policy changes in 2018. The tree records on it however are good indicators of whether trees are ancient or veteran. For example, T3015 is listed as a veteran on the Ancient Tree Inventory and the record states that it has hollowing branches - substantial enough features on such a large tree to be good veteran characteristics. In addition, the Tree Survey, provided with the application, confirms that there are "large dead limbs scattered through the crown". Dead branches are given as a key veteran tree criterion in Standing Advice. It is very likely that this mature oak is a veteran for the purposes of NPPF and therefore should be given the protection of an appropriate buffer zone.

We would strongly recommend that the trees on site are resurveyed to identify whether other veteran trees have been overlooked.

Annex 1: The Ancient Tree Forum's interpretation of the application of National Planning Policy Framework's protection measures for ancient and veteran trees.

The National Planning Policy Framework (NPPF) in England refers to ancient and veteran trees in three places:

1) in Conserving and enhancing the natural environment document, para 175c:

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;

2) and in Annex 2: Glossary:

Ancient or veteran tree. A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees,...

In terms of applying the NPPF to a development proposal and to relevant trees, the first step must be to identify if a tree is ancient or veteran. The glossary, to be used in this context, describes three characteristics i.e. age, size and condition, which contribute to the stated values of biodiversity, cultural and heritage value of both ancient and veteran trees. There is no guidance on the parameters of age (except that veterans can be younger than ancient trees), or size or the meaning of condition.

In relation to ancient trees, the ATF considers ancient is a life-stage indicated by the chronological age of the trunk, using trunk girth only as a guide. Trees in this ancient life-

stage usually also have well-developed key veteran decay features as a consequence of ageing. It is ATF's view that all ancient trees are exceptional and irreplaceable for their cultural and heritage values, but specifically, for the application of NPPF policy 175c, they all have irreplaceable habitat.

In relation to veteran trees, the NPPF glossary only distinguishes by age those trees that 'are not old enough to be ancient, but are old relative to trees of the same species.' Planning Policy Guidance (2019 and FC & NE Standing Advice (2018) give some further guidance in relation to age (see bold below) and also condition (see underlined below):

PPG: Ancient trees are trees in the ancient stage of their life. Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species.

Standing Advice: A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity

Both of the above documents provide examples of relevant features relating to condition i.e branch death and hollowing. But, neither these nor the NPPF glossary, give guidance or information on the amount, volume or quality of these features. In line with the available guidance, the ATF consider, that a tree to be categorised as a veteran for the application of NPPF policy 175(c) should have key decay features (including branch death or hollowing) which should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality).

For a tree to have developed decay features of branch death or hollowing which could be judged to be irreplaceable habitat, it will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop. Threshold dimensions for veteran characteristics are recommended in the Veteran Trees Initiative: Specialist Survey Method but these may not be appropriate for all species of tree, especially those of a smaller stature (Fay, N. and de Berker, N. (1997): Veteran Trees Initiative: Specialist Survey Method. English Nature, Peterborough, UK). For example, in terms of dead wood in the crown of the tree the unit of value is "each 1m length over 15cm in diameter".

According to the glossary, a veteran tree does not need to be old enough to be ancient. However, it is likely that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in a mature life-stage.

In conclusion

All ancient trees of whatever species or size should receive the level of protection stated in para 175c.

Mature trees, where they have the appropriate key decay features, should be considered as irreplaceable habitat and therefore veterans to which the policy in para 175c of the NPPF applies.

## 5 PUBLICITY AND REPRESENTATIONS

5.1 On receipt of the application 383 letters were sent out to individual addresses site notices were posted at the entrance to Oakhurst Rise and on London Road, near the entrance to St Edwards School and an advert was published in the Gloucestershire Echo. In response to the

publicity, and at the time of writing, 248 representations have been received, 140 of which were objecting to the scheme and 108 of which are in support.

5.2 The main objections raised in the objections include, but are not limited to:

- Impact on wildlife/protected species
- Loss of trees and hedgerow
- Impact on local road network/inadequate access/gradient
- Access to public transport is not good
- Increased risk of flooding & surface water run-off/subsidence
- Impact on local infrastructure – doctors and schools
- Lack of access to local facilities
- Size and design of dwellings
- Noise and disturbance
- Impact on air quality
- Loss of recreation/school and community use of the site
- Loss of green space
- Impact on landscape
- No need for the development
- Impact on archaeological remains
- No significant change from dismissed appeal

5.3 The comments raised in support of the scheme include, but are not limited to:

- Need for homes
- Need for affordable housing
- Within built up area of Cheltenham
- Opportunity for school
- Biodiversity net gain
- Reduction in flood risk
- Benefit to the local economy
- Complies with planning policies
- Well-designed scheme with plenty of open space

It is worth of note that a number of the letters of support for this application are from properties outside of the District.

## 6 OFFICER COMMENTS

### 6.1 Determining Issues

6.1.1 The main considerations when determining this application are considered to be the principle of developing the site for housing; impact on the historic environment; impact on trees and hedgerows; wildlife and biodiversity; access and highway safety; landscape and visual impact; drainage and flooding; design and layout; impact on neighbour amenity; affordable housing and other planning obligations.

### 6.2 Policy background/principle of development

6.2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is reiterated in paragraph 47 of the NPPF which also reiterates that decisions on planning applications should be made as quickly as possible.

- 6.2.2 Paragraph 11 of the NPPF sets out a “*presumption in favour of sustainable development*” which in decision taking means:
- “(c)*approving development proposals that accord with an up-to-date development plan without delay; or*
  - (d)*Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:*
    - i. *The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
    - ii. *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.*
- 6.2.3 The development plan comprises a small number of saved policies of the Cheltenham Borough Local Plan Second Review 2006, the Cheltenham Plan which was adopted in July 2020 and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (JCS).
- 6.2.4 Material considerations include the National Planning Policy Framework (NPPF) and Planning Practice Guide (PPG).
- 6.2.5 Policy HD4 of the newly adopted Cheltenham Plan allocates this site for housing development. The policy outlines the following site specific requirements:
- A minimum of 25 dwellings, subject to masterplanning (in accordance with policy SD4 of the JCS) which demonstrates that the development can be achieved whilst accommodating:
  - Safe, easy and convenient pedestrian and cycle links within the site and to key centres
  - A layout and form that respects the existing urban characteristics of the vicinity
  - A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development
  - Protection to key biodiversity assets and mature trees
  - New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor.
  - Long term protection of mature trees and hedges
  - Any development on the site should secure improvements to the Ice House.
- 6.2.6 By virtue of this policy, the development of the application site for housing must be considered acceptable in principle.

- 6.2.7 It is acknowledged that the policy states a minimum of 25 dwellings, whereas the proposal is for 43 dwellings. There is no conflict in policy given that the number of dwellings is stated as a minimum. There is no reason why the site could not accommodate more, provided the scheme is found to be acceptable, based on the policy framework as outlined above. In section 11 of the NPPF (Making Effective Use of Land), it states that planning policies and decisions should support development that makes efficient use of land. It goes on to say that where there is an existing shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. Given the constraints of the site, the developable area is limited and therefore the density overall is relatively low in any event. As such in the opinion of officers the proposed number of dwellings is acceptable in principle.
- 6.2.8 Also of relevance is the fact that the Council is currently unable to demonstrate a five year housing land supply. At the last calculation the figure stood at 3.7 years. At the time of the appeal for 18/02171/OUT the figure stood at 4.6 years. As such the shortage is more acute than it was in considering the previous application. The current proposal would make a valuable contribution of 43 dwellings and this is a significant benefit of the scheme.
- 6.2.9 In the appeal decision for 18/02171/OUT the Inspector stated that at the time the emerging policy HD4 could be accorded only little weight compared with the policies of the adopted development plan. He said that whilst there was no objection in principle to residential development on the appeal site, the proposal fell to be assessed and determined primarily with respect to the adopted development plan, subject to its consistency with the National Planning Policy Framework.
- 6.2.10 The situation with respect to the development plan has clearly changed in the intervening time period with the Cheltenham Plan having now been adopted. The presumption in favour of sustainable development in the Framework for decision making means: *“approving development proposals that accord with an up-to-date development plan without delay”* and in cases whereby the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites, granting permission unless either paragraph 11(d)(i) or 11(d)(ii) of the Framework as set at 6.2.2 above apply.
- 6.2.11 As mentioned at 1.9 the Inspector dismissed the appeal primarily based on the adverse impact to the significance of designated heritage assets by way of less than substantial harm. He also identified harms in relation to trees, biodiversity and access although he acknowledged that these harms would not collectively or separately have outweighed the benefits of the scheme. Whilst this report will cover all relevant considerations, these are considered to be the most crucial in determining whether previous concerns have been overcome.

### 6.3 Impact on the historic environment

- 6.3.1 JCS policy SD8 requires both designated and undesignated heritage assets and their settings to be conserved and enhanced as appropriate to their significant, and is consistent with paragraph 192 of the NPPF that advises that in determining planning applications, local planning authorities should take into account:
- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
  - *the positive contribution that conservation or heritage assets can make to sustainable communities including their economic vitality; and*
  - *the desirability of new development making a positive contribution to local character and distinctiveness.*

- 6.3.2 Additionally, Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA), in considering whether to grant planning permission to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. In this case, it is the setting of the listed buildings that must be considered.
- 6.3.3 Framework paragraph 193 gives great weight to the conservation of designated heritage assets (the more important the asset, the greater the weight should be). Paragraph 194 provides that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Further paragraphs 194 – 6 consider harm to designated heritage assets in terms of whether it would be substantial or less than substantial. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.3.4 The significance of a heritage asset is defined to include its archaeological, architectural, artistic or historic interest, derived not only from its presence but its setting, in which it is experienced. The PPG refers to the extent and importance of the setting to the visual relationship between the asset and proposed development. Views of or from an asset will play an important part. The contribution a setting makes to the significance of an asset is not dependant upon public access.
- 6.3.5 There are two listed buildings in close proximity to the application site; Charlton Manor, a grade II listed building located to the northeast of the site within the Battledown estate, and Ashley Manor, a grade II\* listed villa within the school grounds to the southeast. Additionally an historic Ice House is also located within the application site itself. Whilst the site is physically separated from these listed buildings, there are clear views into the site from these heritage assets.
- 6.3.6 Policy HD4 of the Cheltenham Plan contains specific requirements with regards to heritage assets:
- **A layout and form of development that respects the character, significant and setting of heritage assets that may be affected by the development** – This will be discussed further below.
  - **Securing improvements to the Ice House.** - The current proposal would see the Icehouse situated within an area of open land, as opposed to the appeal scheme which saw it surrounded on 3 sides by road and to the south by a footpath and pond. This will ensure it remains legible as a feature within the landscape and visually linked to Ashley Manor. Specific improvements to the Icehouse are proposed including the selective clearance of scrub, whilst retaining the mature trees in order to reveal the mound more clearly. It is also proposed to provide an interpretation board providing information as to the history of the Icehouse.
  - **New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building.** – The plans clearly indicate that this has been achieved through the current layout.
  - **Provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor** – To the rear boundary of Charlton Manor there is over 65m to the nearest part of the development and over 70m to the nearest dwelling. A landscaping belt is provided along the eastern edge of the development which varies in width between 8 – 30m. This is curved to leave an

undeveloped area around the Icehouse and is approximately 30 – 90m from the rear boundary of Charlton Manor.

- 6.3.7 In the appeal decision relating to 18/02171/OUT the Inspector concluded that the harm to the settings of Ashley Manor and Charlton Manor, whilst less than substantial in terms of Framework paragraph 196, was nonetheless significant. With regards to Ashley Manor the Inspector stated that the land has a functional relationship with the manor as farmland (as opposed to managed parkland) and as the site of the Ice House. He also observed that presently direct views are available from Ashley Manor onto the currently mainly open, eastern part of the site, including the Ice House. The site, rising to the north provides a green backdrop to the Manor in distant views. With regards to Charlton Manor, views are available across the site and beyond. He therefore recognised an historic and visual association between the application site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. The application site, including the Ice House contribute to the historic and visual settings of both these designated heritage assets.
- 6.3.8 With regards to Ashley Manor the Inspector found that proposed landscape planting on the southern boundary would obstruct the relationship of the Manor to this part of its setting. Some of the plots of the previous application(27 – 30) would have intervened prominently in views to the north from the Manor House, impeding appreciation of the Ice House and rural backdrop. He concluded that these effects on the visual relationship between the Grade II\* Ashley Manor and the application site would have a very significant adverse impact upon the setting of the Listed Building.
- 6.3.9 With regards to Charlton Manor the main effects identified were the partial obscuration of distant views and the obscuration of the Ice House by intervening dwellings (plots 31 – 34 of the previous application). The Inspectors concluded that views of the manor from within its setting to the west would also have been compromised. As with Ashley Manor it was considered that these effects on the visual relationship between the Grade II Charlton Manor and the application site would have a very significant adverse impact also upon the setting of this Listed Building.
- 6.3.10 The scheme now under consideration has made significant changes to the layout in an attempt to address the issues raised within the appeal decision. Further to the points outline in 6.3.8 above; the proposed landscape planting on the southern boundary has been removed. There are now no buildings proposed in the areas of plots 27 – 30 as previously proposed and a large area of open grassland would be retained north of Ashley Manor, continuing up the site. This has had the effect of vastly improving the visual relationship between Ashley Manor and the site.
- 6.3.11 Similarly with Charlton Manor, the plots mentioned have been removed and there would be a clear view from Charlton Manor towards the Ice House across the retained grassland.
- 6.3.12 The Conservation Officer has provided a thorough assessment of the proposals. The comments acknowledge the changes which have been made in order to address the concerns; limiting built form the north-west of the application site, preserving the existing rural setting to the north of Ashley Manor and a notable finger of land to the southern section of the site. The introduction and reinforcement of extensive landscaping between the development and retained rural setting softens the impact. The visual link to the Ice House is retained, as its rural setting.
- 6.3.13 However it is fully acknowledged that the proposal does result in a loss of part of the wider open backdrop and the character of the remaining setting is changed from large open fields to one where the open space is diminished and strong bands of trees become more prominent. Whilst the proposed landscaping scheme becomes established there may also be views of the proposed dwellings from the listed buildings. The views across the field

from Charlton Manor would be truncated and its open setting reduced. It is therefore considered that there is a measure of less than substantial harm which will need to be weighed against the public benefits of the proposal.

- 6.3.14 The overall planning balance will be considered below, however given the improvements which have been made to the scheme, and the benefits arising, the conservation officer does not object to the proposal.
- 6.3.15 Historic England (HE) has objected to the proposal. They acknowledge that the proposal represents a less intensive form of development than the previous scheme, however they still consider that the severance of the setting of Ashely Manor and the encroachment of development and associated landscaping towards the Grade II\* building is harmful and an unacceptable quantum and form of development. They state that it is their continued view that it is the entire application site which makes an important contribution to the setting of the Grade II\* listed building and not just the areas closest to it.
- 6.3.16 HE acknowledge the allocation of the site for housing through policy HD4 of the Cheltenham Plan but consider the proposal does not achieve an acceptable level of respect to the setting of heritage assets and that significant adjustments need to be made to demonstrate how allocation HD4 can be delivered in a way that the setting is not harmed to this extent.
- 6.3.17 Whilst the concerns of HE are understood, officers disagree with their conclusions. The site is the subject of a housing allocation and in delivering this it is inevitable that the setting of these listed buildings will be changed. The scheme has made some significant changes directly resulting from the specific concerns of the previous appeal inspector and complies with the measures outlined in policy HD4 which were designed to lessen the impact upon the setting of these buildings. Furthermore in the opinion of officers, HE do not acknowledge the public benefits of the scheme which include the delivery of market and affordable housing, net gains to biodiversity, benefits from long term management of mature trees and hedges, economic benefits from employment during construction and indirect employment following occupation and improvements to the ice house.

### 6.4 Impact on trees and landscaping

- 6.4.1 Cheltenham Plan policy G12 states that the Council will resist the unnecessary felling of trees on private land. For protected trees the Council require any tree which has to be felled to be replaced where practicable and pruning, where it is necessary to be undertaken so as to minimise harm to the health or appearance of the tree. Cheltenham Plan policy G13 states that development which would cause permanent damage to trees of high value will not be permitted. 'High Value' means a sound and healthy tree with at least 10 years of safe and useful life remaining, which makes a significant contribution to the character or appearance of the locality. These policies are consistent with the aims and objectives of JCS policy INF3 which provides additional advice in respect of green infrastructure.
- 6.4.2 Paragraph 175 (c) of the NPPF advises that planning permission should be refused for development resulting in the loss of ancient or veteran trees *"unless there are wholly exceptional reasons and a suitable compensation strategy exists."*
- 6.4.3 The current application with its revised layout has allowed more trees to be retained than were previously proposed. It was previously proposed that a TPO tree; tree 3014, a mature oak, would be removed. This tree would now be retained. The revised layout also removes all construction from veteran tree buffers and removes all gardens from within veteran tree buffer zones.
- 6.4.4 Some trees would be removed as part of the proposal however all of the high quality category 'A' trees would be retained. One Ash and One sycamore, both of approximately 14m in height would be the only trees within the moderate 'B' category to be removed. 90%



of category B trees would be retained. There are a number of 'low quality' or category C trees to be removed. These are considered to be unremarkable, in impaired condition or have a primary 'collective value'. The Tree Officer has raised no objection to the proposal subject to conditions including tree protection measures, provision of detailed planting plans, details of veteran tree buffer, landscape management plan, details of foundation design.

- 6.4.5 The tree officer suggested that a landmark tree could be provided within the eastern portion of the site. This request was considered in conjunction with the conservation officer, however it was considered that the planting of a large 'feature' tree might interfere with the visual link between the two listed buildings and the ice house and the remainder of the open land in this area.
- 6.4.6 The Woodland Trust (WT) and The Ancient Tree Forum (ATF) have both objected to the proposal on the grounds that some trees have been misclassified and should be classified as veteran trees and therefore given greater protection through increased buffer zones. The applicant's Arboriculturist has provided a response to the representations received. To summarise; they disagree that any tree has been wrongly excluded from the list of those identified as veterans. They use an ancient, veteran and notable tree recognition system known as RAVEN to assist in classifying trees. WT and ATF have questioned the validity of this system. However in the appeal decision for 18/02171/OUT, the Inspector considered that the assessment covered all the trees on the site in the light of the applicable definition of veteran and ancient trees in the glossary of the NPPF which is as follows:

*"A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage."*

- 6.4.7 The applicant's arborist considers that the ATF in their comments rely too heavily on the condition of the tree without considering the age and size, as required by the NPPF definition. Similar comments have been made in response to the WT comments which, they say, misidentifies a number of trees as veteran.
- 6.4.8 It is clear that this is an area in which there is a degree of subjectivity, however the classification system which has been used in this case is the same as that which was found to be appropriate by the Inspector at appeal. Officers are confident that the trees have been correctly classified, having regard for the definition within the NPPF.
- 6.4.9 Reason for Refusal number 2 on the previous refusal reads as follows:

*The proposed development would result in the loss of a number of trees within the application site, including a significant TPO'd tree which has some valuable characteristics and features of a Veteran tree. The scale of the development on this valuable site would also be likely to result in the deterioration of the retained Veteran trees, which would fail to be outweighed by wholly exceptional reasons. The development would therefore be contrary to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017), and paragraph 175(c) of the National Planning Policy Framework (2019).*

- 6.4.10 The Inspector did not dismiss the appeal on the grounds of the impact on trees. At para. 65 he confirmed that he was satisfied that the measures proposed to safeguard the long term welfare of the retained protected and veteran trees from the potential impacts of the proposed built development have a reasonable prospect of success. He did, however state that there was a degree of risk to the longevity of these trees, given the relative density of the proposed development and the additional access and activity in close proximity. This led him to conclude that there was an element of conflict with policies GE6, GE5 and INF3. These concerns added weight to his conclusion that the scheme should be refused

although he made clear that they would not, alone, have outweighed the benefits of the proposal.

- 6.4.11 As mentioned above the TPO tree that would have been removed in the previous application is now retained and the buffer zones for the veteran trees would be kept clear of any development, including being located within domestic curtilages and of any construction work. Therefore it is considered that the risk factors identified by the inspector have been largely overcome, subject to appropriate conditions being attached.
- 6.4.12 Although 'landscaping' is a reserved matter, the application is accompanied by a detailed Landscape Strategy which indicates the provision of high quality landscaping and new tree planting throughout the site.
- 6.4.13 Bearing in mind all of the above, officers are of the view that the proposal now accords with the relevant policy criteria in relation to trees and landscaping as identified above.

### **6.5 Wildlife and biodiversity**

- 6.5.1 JCS policy SD9 and advice set out within the NPPF at Section 15 seeks to ensure that development contributes to, and enhances the natural and local environment; and that important habitats and species are protected. Where developers are unable to avoid harm to biodiversity, mitigation measures should be incorporated into the design of the development.

#### Cotswolds Commons and Beechwoods Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC)

- 6.5.2 Policy BG1 of the Cheltenham Plan relates to the Cotswold Beechwood Special Area of Conservation Recreation Pressure. It states that development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site Network and the effects cannot be mitigated. All development within the borough that leads to a net increase in dwellings will be required to mitigate any adverse effects.
- 6.5.3 It is known that residential developments, alone or in combination with other development, have the potential to result in increased recreational pressures. Natural England (NE) advised that without appropriate mitigation the application would have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation and damage or destroy the interest features for which the Cotswold and Commons Beechwoods Site of Special Scientific Interest has been notified.
- 6.5.4 To ensure these harms are not realised the LPA have prepared an 'Appropriate Assessment' (AA), a draft of which was agreed with Natural England. This AA has now been adopted by the LPA. It concluded that, either alone or in combination with other plans and projects, the proposed development would not adversely affect the integrity of the SAC subject to conditions requiring the implementation of further precautionary measures and the provision of a homeowner's information pack.

#### Trees and Hedgerows

- 6.5.5 The Hedgerows were resurveyed in April 2020. Hedge 1, to the west of the site is confirmed as still being important using the Hedgerow Regulations methodology. Hedge 2 is not considered to meet the importance test under the regulations. The hedgerows will suffer some degree of loss. The other hedgerows on the site are poorer quality and fragmented already. The proposed landscaping will improve the situation and the connectivity provided by hedgerows will be improved by significant new planting for a range of animal species. The residual impact of the modest tree and hedgerow loss will have little residual impact on biodiversity and a net gain overall.

## Protected Species

6.5.6 Reason for refusal number 4 of the previous decision reads as follows:

*The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of the site which the application proposes to be relocated as part of the development. Paragraph 175(a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the relocated sett. The development would have a negative impact upon this valuable habitat of hedgerows and pasture, and biodiversity across the site generally. The proposed development would therefore be contrary to adopted policy SD9 of the Joint Core Strategy (2017), paragraph 175(a) of the National Planning Policy Framework (2019) and Natural England's Standing Advice.*

The Local Authority did not pursue this reason for refusal at the inquiry.

## Badgers

6.5.7 Badgers and their setts are protected under the Protection of Badgers Act 1992, the purpose of which is to protect the species from persecution.

6.5.8 An updated survey was carried out in April 2020. A previous survey carried out in October 2018 recorded a total of 5 badger setts. The main sett (BS1) had 15 active entrances, a smaller sett (BS5) has two entrances and is also considered to be active. The remaining setts (BS2, 3 & 4) were found to be inactive at the time of the survey. BS3 is in the vicinity of the icehouse and is unaffected by the development, however the remainder; BS1, BS2, BS4 and BS5 are all located at least partly within the proposed development footprint and would therefore be directly impacted by construction. As such it is proposed that these setts be permanently closed to facilitate the proposals.

6.5.9 Sett BS1 would be of high importance to the local Badger population and without mitigation the loss of this sett would significantly negatively affect Badgers within the local area. It is therefore proposed to create an artificial sett within the north east of the site to compensate for the loss of BS1. This is closer to the existing sett than the previously proposed sett. The closure of the existing sett will require a licence from Natural England. Sett BS5 is considered to be of low importance and is not used for breeding activities.

6.5.10 The foraging area for Badgers would be reduced by way of the development however it is considered unlikely that this would have a significant impact on the local badger population.

6.5.11 The ecological report sets out a mitigation strategy along with measures to lessen the impact upon the Badger population. It concludes that these measures will result in the status of the Badger Clan being maintained.

6.5.12 The County Ecologist has reviewed the survey and proposals and state that the revised proposals for mitigating any effect upon and conserving local badgers are acceptable.

6.5.13 Badger Trust Gloucestershire has raised concerns that insufficient attention has been paid to the presence of badgers or to any mitigation strategy should consent be granted for this application.

6.5.14 Paragraph 175 of the NPPF provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated, or as a last resort, compensated for, planning permission should be refused. Given the location of the main

badger sett it has not been possible to avoid it completely, especially bearing in mind the other constraints of the site. Therefore a combination of mitigation and compensation is proposed.

- 6.5.15 The process of moving the badgers is regulated by Natural England who issue licenses to interfere with setts for development purposes.
- 6.5.16 Officers are satisfied that the measures proposed are acceptable and given the retained area of grassland as part of this proposal represent an improvement upon previous proposals.

### Bats

- 6.5.17 All bat species, their breeding sites and resting places are protected by law as they are European Protected Species. A variety of bat species have been recorded on site and within the wider area.
- 6.5.18 The proposals will result in a few gaps in existing hedgerows however there is significant reinforcement planting proposed, along with the proposed tree belt which means that the overall impact upon bats would be positive. Conditions will be necessary to ensure the mitigation and enhancement measures outlined in the Ecological Appraisal are provided and to ensure no inappropriate lighting is provided.

### Birds

- 6.5.19 Nesting birds are protected by The Wildlife and Countryside Act 1981, and vegetation clearance should take place outside of the bird nesting season March to August, or the vegetation should be surveyed for nesting birds by a suitable qualified ecologist prior to works commencing.
- 6.5.20 The survey work demonstrates that a good variety of birds are present in the general area and on site mainly utilising the boundary trees and hedgerows. There are much potential nesting sites present but much of this will be retained. A number of mitigation and enhancement measures are proposed. The development would have a short term adverse impact but in the long-term there would be a positive overall outcome.

### Reptiles

- 6.5.21 Grass snakes and slow worms are protected by UK law. The surveys which have been carried out on the site have found a low population of reptiles consisting of only very few individual slow worms and grass snakes. The proposed mitigation and enhancement measures in addition to the proposed new landscaping should have a neutral - positive impact overall.

### Local Wildlife Site

- 6.5.22 In July 2020 Gloucestershire Wildlife Trust received a request to consider whether the application site might qualify as a local wildlife site (LWS).
- 6.5.23 Following a site visit and a subsequent meeting of the LWS selection panel on 1<sup>st</sup> September it was decided that the site passed the Gloucestershire Local Wildlife Site Selection Criteria 2015 under point 9. Value for learning – “*c. the site is exceptionally well-placed to offer educational opportunities either by its proximity to a school or other place of learning, or its easy accessibility for study of the species and habitats present without causing unacceptable damage or disturbance*”. The Panel also consider that the site may also pass the criteria for MG1 grassland plant species. Two sets of plant species data that were provided for the site by Aspect Ecology (applicants representative) and Bioscan

(Charlton Kings Friends representative) differ but between them provide a match for 22 species from table H5c of the LWS criteria.

- 6.5.24 Policy SD9 of the JCS states that development within local-designated sites will not be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated.
- 6.5.25 Gloucestershire Wildlife Trust has provided comments on the biodiversity mitigation proposed as part of the application. The site is currently assessed as 'poor quality semi natural grassland.' However it would be possible to raise the quality to 'unimproved grassland' through more appropriate management of the site. There is an area of ladies bedstraw which the GWT suggest should be preserved. The applicant has committed to this. A significant area of grassland is retained through the proposals and this would not be accessible by the general public. There should be management plans in place to ensure that access is restricted, and to secure the proposed enhancements. Subject to these conditions GWT's view is that the mitigation and enhancements for the habitats and species recorded on site are adequate to achieve no net loss of biodiversity. The GWT and County Ecologist both suggest a covenant be placed on the remaining grassland preventing its development in perpetuity. Officers have sought legal advice on this suggestion and have been advised that such a clause would be unenforceable and is also unnecessary given that any development would require planning permission, bringing it into the control of the LPA.

### Overall impact on Biodiversity

- 6.5.26 A letter submitted by Bioscan, Ecologists acting for Charlton Kings Friends, asserts that the development is not compliant with JCS policy SD9 as it would result in a loss of biodiversity of 31.90%. They offer the view that the revised scheme provides no greater protection of biodiversity on the site than the previous scheme. This is based on their use of the Natural England metric which is currently available in a beta version for consultation.
- 6.5.27 In the appeal decision the Inspector attached little weight to the results of conflicting metric assessments although he did conclude overall that the net effect of the appeal scheme on biodiversity was likely to be either neutral or negative to some degree. However this did not form the main basis of his dismissal of the appeal and states that it would not have outweighed the significant benefits to the supply of affordable and market housing.
- 6.5.28 The applicant's ecologist has responded to Bioscan's assertions. They point out that the revised scheme is considerably reduced with increased areas of greenspace along with improvements to the ecological proposals and therefore the conclusion the scheme provides no greater protection of biodiversity than the previous scheme is inherently flawed. With regards to the use of the matrix they point out that with the measurement of the baseline: a) a more accurate measuring of the site should be used, b) the existing pond has been omitted and should be included, c) scattered scrub has been coded as 'other mixed woodland' in 'moderate condition' whereas this should be assigned to 'scrub' in 'poor' condition. With regards to the post-development inputs to the matrix they point out that: a) it is assumed that all habitats will be lost and recreated whereas the grassland will be retained and enhanced, b) the proposed pond has been omitted and should be included, c) the central hedgerow is ascribed as 'poor' condition where as it should be considered 'good' as it will be controlled by way of a conservation management plan.
- 6.5.29 These changes to the parameters in the metric would result in a biodiversity net gain of 1.47%. The applicant's ecologists say that the metric is known to undervalue woodland creation and therefore they anticipate the net gain would be higher under the final version of the metric when it is released.
- 6.5.30 Officers have sought the advice of the County ecologist on this matter and he has stated that he is more inclined to agree with the applicant's ecologist. He points out that there are

a number of short comings in the metric and unfortunately Bioscan's use of the metric includes some errors and their conclusions undervalue the merits of allowing the development.

6.5.31 The County Ecologist offers the following conclusions:

- Compared to previous development schemes for this site (17/00710/OUT & 18/02171/OUT) there will be fewer units and greater retention of habitats and features. There is to be extensive tree/shrub planting, additional new habitat features and improved meadow management. Overall a biodiversity net gain can be secured with appropriate conditions and planning obligations in place as I have previously advised.
- The development if consented would be compliant with NPPF paragraphs 8, 170, 175 or 180. The proposal avoids significant harm to biodiversity and protects veteran trees. It makes effective use of the land and also provides a mechanism to secure a better more resilient future for biodiversity.
- Biodiversity improvements have been designed into and around the development. Given policy HD4 of the newly adopted plan [see below], the type and scale of the development appears to me to be appropriate for the location
- The development if consented would be compliant with JCS policy SD9. The development provides appropriate mitigation for some unavoidable effects but importantly positively conserves and enhances biodiversity overall which are relevant to the location.
- The development if consented would be compliant with policy HD4 in the recently adopted Cheltenham Local Plan. The development provides for long-term protection of mature trees and hedgerows on site, better commuting corridors and foraging areas for bats, and is an opportunity to enhance biodiversity overall.

6.5.32 Officers are therefore satisfied that the proposal has an acceptable impact upon wildlife and biodiversity.

### **6.6 Access and highway safety**

6.6.1 The proposed access is one of the 'fixed' elements of this outline planning application

6.6.2 Adopted JCS policy INF1 advises that planning permission will be granted only where the impacts of the development are not severe. The policy also seeks to ensure that all new development proposals provide safe and efficient access to the highway network; and provide connections to existing walking, cycling and passenger transport networks; and provide connections to existing walking cycling and passenger transport networks, where appropriate. The policy reflects advice set out within Section 9 of the NPPF. It is repeated in Policy HD4 of the Cheltenham Plan which states "*safe, easy and convenient pedestrian and cycle links within the site and to key centres*" as a site specific requirement.

6.6.3 Planning application 17/00710/OUT (the scheme for 90 dwellings) was refused for the following reason (amongst others):

*The proposed access via Oakhurst Rise would have an unacceptable impact on the local highway network, and the amenity of local residents. Additionally, the steep incline within the cul-de-sac would fail to encourage the use of sustainable modes of transport and would likely result in a reliance on the use of private motor vehicles. Alternative potential vehicular access routes do not appear to have been fully explored. The access would therefore be at odds with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 108 - 110 of the National Planning Policy Framework (2018).*

- 6.6.4 The subsequent application (18/02172/OUT – 69 dwellings) was not refused specifically on highway grounds. In the appeal decision the Inspector did consider access and traffic. He acknowledged that there were no technical objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility or existing traffic flows. He was satisfied that an increase in traffic flow would not have a significant impact on the wider highway network. He did however express a view that the access route was ‘tortuous’ and ‘far from ideal’. Whilst he did not dismiss the appeal on grounds of access and stated that this concern either alone, or in combination with some other issues would not outweigh the benefits of the scheme, he did find that they supported his overall conclusion that the appeal should be dismissed.
- 6.6.5 The proposal has been assessed by the Local Highways Authority who have provided detailed comments which are provided in full. To briefly summarise, they conclude that the access, via Oakhurst Rise, is acceptable, as is the internal layout within the site. They acknowledge the gradient of the site and that it will be necessary to consider this when formulating detailed road design, however there are earthwork techniques which can be adopted to adequately deal with this. The parking provision shown on the indicative drawing is acceptable and cycle parking can be secured via condition. A non-motorised user’s assessment was undertaken which identified deficiencies in the surroundings walking/cycling network and routes to destinations which should be improved for non-motorised user’s accessibility, safety, comfort and convenience. Some improvements to pedestrian crossings are required and a condition is suggested to secure these improvements. The trip generation and impact on surrounding networks is reduced from previous applications and is considered to be acceptable. A Travel Plan will be prepared with the aim of increasing the use of public transport, car sharing, walking and cycling. The Highway Authority conclude that no objection should be raised subject to conditions.
- 6.6.6 Officers are content that the highways and access arrangements are successful; whilst members did not refuse the most recent application on these grounds, it is clear that the reduction in number of dwellings proposed on the site will lessen the impact further and the indicative plans show a scheme which would achieve the aims of JCS policy INF1 and Cheltenham Plan policy HD4.

### **6.7 Landscape and visual impact**

- 6.7.1 JCS policy SD6 advises that all development proposals must consider the landscape and visual sensitivity of the area in which they are located or which they may affect. As previously noted, the application site is not located within the Green Belt or Cotswold Area of Outstanding Natural Beauty, but does sit in an elevated position above the town.
- 6.7.2 As part of the consideration of previous applications and pre-application proposals, an independent landscape appraisal was undertaken by a chartered landscape architect at the request of the LPA. In their appraisal, the landscape architect identified the site’s topography and notable slope as a key landscape feature, and highlighted that, whilst it is not designated landscape, its elevated position affords views out across the town and provides the backdrop to a number of large properties within the Battledown Estate. Based on the information available to him at that time, the landscape consultant did not consider the site to be ‘valued landscape’ in terms of paragraph 170 of the NPPF which seeks to protect and enhance valued landscapes.
- 6.7.3 The NPPF does not define what is meant by ‘valued landscape’ but there is relevant case law on this subject. In this instance, officers do not consider that the site should be considered ‘valued landscape’ for the purposes of paragraph 170. Whilst the landscape clearly has a value attached to it, particularly by local residents, it is not considered to have any intrinsic features that specifically set it aside from other areas of non-designated landscape.

6.7.4 The previous application on this site (18/02171/OUT) was refused for the following reason:

*The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB. The proposal would therefore be contrary to saved policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).*

6.7.5 The Local Authority did not pursue this reason for refusal at the inquiry. However the Inspector did comment on visual impact stating that he did not consider that the appeal proposal would cause harm to the appearance and character of the nearby Cotswold AONB.

6.7.6 The current proposal results in the retention of a large area of open grassland, additional landscaping and increased landscaping. As such officer are confident that the proposal has an acceptable visual impact within the landscape.

### **6.8 Drainage and flooding**

6.8.1 Adopted JCS policy INF2 and Section 14 of the NPPF seeks to ensure that new development is not inappropriately located in areas at high risk of flooding, and to ensure that development does not increase flood risk elsewhere and, where possible, contributes to a reduction in existing flood risk.

6.8.2 The application site located in Flood Zone 1 and is therefore assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). Additionally, the Environment Agency's Flood Risk Map below identifies the entire site as being at a 'very low' flood risk from surface water flooding, although it does identify some areas in close proximity to the site that are at a higher risk of surface water flooding. The LLFA also acknowledged in previous comments that there are significant surface water accumulations, and recorded incidents of flooding in the lower reaches of this catchment. It is therefore important to ensure that appropriate measures are provided to safely manage the flood risks arising from the increased run off from the development.

6.8.3 The application has been accompanied by a detailed Flood Risk Assessment (FRA) and drainage strategy which have been reviewed by the County Council, as the Lead Local Flood Authority (LLFA) responsible for managing the risk of flooding from surface water, groundwater and ordinary watercourses. The level of detail submitted to date is appropriate for an outline planning application.

6.8.4 The LLFA are satisfied that the information which accompanies this outline application "adequately describes a feasible strategy for the management of surface water on and from the development site" and raises no objection subject to a condition which requires additional detail, including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development, to be submitted and agreed at a later stage.

6.8.5 A representation has been received from the Cheltenham Flood and Drainage Panel which is critical of the submitted Flood Risk Assessment. This representation has been discussed with the LLFA who have provided the following response:

*Planning application 20/00683/OUT is an outline planning application with all matters reserved, as such I believe that the information provided through the FRA and drainage strategy is adequate at this stage in the planning process. Detailed drainage design can be conditioned and as requested in my response.*



*The comments from the group referring to themselves as Cheltenham Flood and Drainage Panel are proposal that we would expect to see addressed in the application for discharge of the condition requested. Many of the points will not be able to be addressed at this stage and it would be unreasonable to expect them to be answered for an outline permission.*

*In fact the level of detail for an outline proposal is quite comprehensive and there is certainly enough information to indicate that the site can be safely developed and surface water managed without putting the site or areas outside the site at increased risk of flooding. The proposal includes detail of where surface water will go, at what rates and how it can be controlled within the space available in the developed site to achieve that objective.*

- 6.8.6 None of the 2 preceding applications were refused on flooding and drainage grounds. The Inspector touched on it within the appeal decision stating there was insufficient evidence to show that a detailed scheme could not be satisfactorily drained.
- 6.8.7 Therefore officers are confident that the scheme is acceptable on flooding and drainage grounds.

### **6.9 Design and layout**

- 6.9.1 Layout and scale, together with the proposed access arrangements are 'fixed' elements of the scheme; however appearance is reserved for future consideration (as is landscaping).
- 6.9.2 JCS policies SD3 and SD4 set out the design requirements for new development proposals. These policies seek to ensure that development proposals are designed and constructed so as to maximise the principles of sustainability, and to ensure that all new development responds positively to, and respects the character of, the site and its surroundings. The policies are consistent with advice set out within Section 12 of the NPPF which emphasizes at paragraph 124 that "Good design is a key aspect of sustainable development..."
- 6.9.3 Additionally, JCS policy SD11 highlights the need to ensure that new housing developments provide an appropriate mix of housing to meet the local needs.
- 6.9.4 Policy HD4 of the Cheltenham Plan includes as site specific requirements; a layout and form that respects the existing urban characteristics of the vicinity; and a layout and form of development that respects the character, significance and setting of heritage assets which may be affected by the development.
- 6.9.5 The appeal scheme was not refused on design and layout grounds and the Inspector did not specifically touch on them, other than in respect of how they relate to the main issues. However the form of development now proposed has changed significantly since the previous submission with the most obvious change being the retention of a large area of open grassland in the south and western parts of the site and the provision of a significant landscaped belt between this area and the proposed development. The main route through the site is similar to the appeal application however due to the reduced developed area there are now three cul-de-sacs leading off this, rather than linked roads.
- 6.9.6 The appeal scheme included a number of small apartment blocks with associated car parks. The current scheme proposes primarily houses, mostly detached, semi-detached or in short terraces of 3 dwellings, with a small number maisonettes. No parking courts are proposed with the parking all proposed on, or very near to the associated dwelling. This results in a layout which more closely reflects the grain and layout of the adjoining residential areas. It is regrettable that the scheme does not include a wider variety of housing types. In terms of urban design, cul-de-sacs are not always the most successful form of development as they do not encourage connectivity and permeability across the site, although the constraints of the site mean this is unavoidable. However it is considered

that overall the proposal would result in a high quality residential environment, benefitting from generous landscaping and providing well laid out, comfortable homes.

- 6.9.7 A building scale plan has been provided which shows that most of the dwelling (27) would be 2 storeys with the remainder (16) being 2.5 storeys. 'Appearance' is a reserved matter and as such the design of individual houses is not known at this stage. However indicative plans have been provided which give an idea of how the houses could look. The indicative drawings of the 2.5 storey dwellings show a room in the roof served by velux windows. The final design would be the subject of a reserved matters application. However officers are confident that the scale of buildings proposed is appropriate for the site.

### **6.10 Neighbour amenity**

- 6.10.1 Policies SD14 of the JCS and SL1 of the Cheltenham Plan require that development does not cause unacceptable harm to the amenity of adjoining land users and living conditions in the locality.
- 6.10.2 Whilst it is acknowledged that outlook from some neighbouring properties would undoubtedly be altered by the development, officers are satisfied that the proposed layout would not result in any overbearing effect, nor loss of privacy or outlook; all properties achieve the minimum 10.5 metres distance to site boundaries. Additionally, the topography of the site, distances to boundaries, and general arrangement of the housing would not result in any significant impact on daylight or sunlight.

### **6.11 Affordable housing and other planning obligations**

#### Affordable Housing

- 6.11.1 Cheltenham Borough Council, together with the other JCS authorities, adopted the Community Infrastructure Levy (CIL) in October 2018, and introduced charging on 1st January 2019. This development would be liable for CIL.
- 6.11.2 CIL is now the tool to help local authorities to deliver infrastructure to support new development in the area, and is a tariff-style charge which is calculated per square metre of new development. In Cheltenham, the CIL rate for residential developments of between 11 and 449 dwellings is £200 per m<sup>2</sup>; however, there are some exceptions, for example, those parts of a development which are to be used as social housing, and selfbuild housing.
- 6.11.3 CIL sits alongside S106 agreements, which are still used to secure site-specific obligations which are needed to make a development acceptable in planning terms, particularly affordable housing.
- 6.11.4 Adopted JCS policy SD12 is the relevant policy for the provision of affordable housing in new developments. In Cheltenham, outside of Strategic Allocation sites, a minimum of 40% affordable housing is sought on sites of 11 dwellings or more. Where possible, the policy requires the affordable housing to seamlessly integrated and distributed throughout the development. The proposed scheme is compliant with the requirements of the policy.
- 6.11.5 The proposal has been the subject of discussion with the Council's Housing Strategy and Enabling Officer and the affordable housing now proposed is as a result of these negotiations. The comments of the Officer are provided in full.
- 6.11.6 The scheme delivers 18 affordable housing units (42%) and is therefore considered to be policy compliant. The mix of affordable dwellings on this site would be as follows:

42%	Social Rent	Affordable Rent (Capped at LHA levels)	Shared Ownership	Total	%
1b2p Ground Floor Maisonette M4(2) Cat 2 (50m <sup>2</sup> )-	2	0	0	2	28%
1b2p Upper Floor Maisonette (50m <sup>2</sup> )	2	0	0	2	
1b2p House M4(2) Cat 2 (50m <sup>2</sup> )	1	0	0	1	
2b4p GF Maisonette, M4(2) Cat 2, 71m <sup>2</sup>	0	1	0	1	44%
2b4p Upper Floor Maisonette, 71m <sup>2</sup>	0	1	0	1	
2b4p House, M4(2) Cat 2, 79m <sup>2</sup>	0	3	0	3	
2b4p House (67m <sup>2</sup> )	0	0	3	3	
3b5p House (82m <sup>2</sup> )	0	1	2	3	22%
3b6p House (95m <sup>2</sup> )	0	1	0	1	
4b7p House (108m <sup>2</sup> )-	1	0	0	1	6%
Total:	13		5	18	100%
	72%		28%		

6.11.7 The mix of dwellings proposed here is more reflective of Cheltenham's affordable housing needs than previously proposed dwelling mixed. A number of flats were originally proposed and they have been replaced with maisonettes and a house which allowed tenants to have their own front door, fostering a sense of belonging and community that is fundamental to creating a strong and sustainable community.

6.11.8 The layout was amended to ensure the affordable housing was better distributed around the site and to ensure that every affordable home has access to private outdoor space.

6.11.9 The provision of these affordable homes is a significant benefit of the proposal. As of May 2020, Cheltenham Borough had 2,190 households waiting for affordable housing on the Council's housing register. The affordable dwellings proposed here would go some way to addressing this need.

6.11.10 The affordable housing provision would be secured through a s.106 agreement.

#### S.106 agreement.

6.11.11 A request for an education contribution has been received from the County Council for contributions towards education as follows:

- **Primary** – Holy Apostles C of E primary school and/or primary places in the Charlton Kings Primary Planning Area - **£241,305.09**
- **Secondary** – Cheltenham Secondary Planning Area – **£250,743.48**
- **Libraries** - **£38,428.00**

6.11.12 This has been agreed by the applicant and would be secured through a legal obligation, either by the County Council entering an agreement with the applicant or the applicant meeting the requirement through a unilateral undertaking.

6.11.13 In addition to the above a s.106 agreement with the Borough Council will secure the provision of a Landscape and Ecological Management Plan. It will also provide for the establishment of a management company and a management regime for the retained grassland, including limiting access, in line with the request from Gloucestershire Wildlife Trust. This s.106 agreement will also provide for the provision of the affordable housing as detailed above.

### 6.12 Other Matters

#### Environmental Impact Assessment (EIA)

6.12.1 The Local Planning Authority was originally requested, in August 2017, to adopt a screening opinion to determine whether the proposed development on this site would constitute 'EIA' development, under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017; i.e. determine whether the project is of a type listed in Schedule 1 or Schedule 2 of the Regulations.

6.12.2 The proposed development is not Schedule 1 development. Additionally, whilst the development is listed in column 1 of Schedule 2 of the 2017 Regulations (Part 10 Infrastructure Projects, (b) Urban development projects), the proposed development does not exceed the following thresholds set out in column 2 of the Schedule:

- (i) the development does not include more than 1 hectare of urban development which is not residential development;
- (ii) the development does not include more than 150 dwellings;
- (iii) the overall area of the development does not exceed 5 hectares.

6.12.3 Additionally, the site is not located within a "sensitive area" as defined by Regulation 2(1). Therefore, the proposed development is not Schedule 2 development and an EIA is not required.

### 7 Planning Balance

7.1 In planning applications such as this the Planning Authority must exercise its judgement and consider potentially conflicting issues to decide whether planning permission should be granted. This 'balancing exercise' is at the heart of the planning process.

7.2 The principle of the proposal is acceptable as the site is allocated for housing within the Cheltenham Plan. The consideration of the proposal above has identified harms and benefits of allowing the proposal which must be weighed up in the 'planning balance'. As explained at para. 6.2.10 above this balance must be 'tilted', due to the lack of a 5 year housing land supply.

7.3 The benefits of the scheme are considered to be:

- Provision of market housing

- Provision of affordable housing
- Net gain in biodiversity including management of retained grassland.
- Economic benefits including jobs during construction and benefits to local economy from future residents using local goods and services.
- Long term management of mature trees and hedgerows

Substantial weight should be given to the delivery of market and affordable housing. The remainder of the benefits identified should be given moderate weight in the balancing exercise.

7.4 The harms arising from the scheme are considered to be:

- The loss of 2 mature trees
- The impact on the setting of two designated heritage assets

Great weight should be given to the conservation of heritage assets. The proposal results in less than substantial harm to its significance, although as detailed above this harm is considered to be significantly reduced when compared to the appeal scheme. The loss of the mature trees is regrettable and this consideration carries moderate weight in the balancing exercise, however mitigation is proposed and no protected or category A trees are to be removed.

7.5 The other harms which were identified by the Inspector in the appeal decision are considered to have been overcome through amendments to the scheme or enhanced protection or mitigation.

7.6 In the appeal, the Inspector concluded that the harm to heritage assets outweighed the benefits of the scheme, identified by him as the provision of market and social housing. The harm to heritage assets has significantly reduced through the revised scheme and the shortfall in provision of affordable and market housing has worsened in the meantime to significantly below a 5 year supply (3.7 years at latest calculation). Therefore Officers conclude that in balancing the key issues, the benefits of the proposal outweigh the harms. Therefore, in accordance with para 11 (d) of the NPPF, planning permission should be approved.

## **8. Public Sector Equalities Duty (PSED)**

8.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED. In this instance the affordable homes specifically will be required to be accessible and adaptable, making it suitable for a range of potential occupants.

In the context of the above PSED duties, this proposal is considered to be acceptable.

## 9 CONCLUSION AND RECOMMENDATION

9.1 This site has a history of refused applications. The most recent application was the subject of an appeal and the Inspectors decision is a material consideration.

9.2 Since the appeal was determined the Cheltenham Plan has been adopted which allocates the site for housing. Members will be aware that decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

9.3 The current scheme has sought to respond to the requirements of the newly adopted policy and to respond to the comments and observations made by the Inspector in his decision. This has led to a number of changes to the proposal as outlined above including the reduction in number of houses, reduction in developed area, retention of open space, introduction of additional landscaping in indicative plans, improvements to biodiversity protection and mitigation and greater retention and protection of trees.

9.4 As outlined above the Inspector's primary reason for dismissing the appeal was the impact on heritage assets. It is acknowledged that despite significant changes to the proposal, some harm has still been identified, although the heritage specialists differ as to how significant this harm is resulting in differing recommendations.

9.5 The Inspector identified other areas of concern although he stated that they would not, either alone, or collectively have outweighed the benefits of the scheme.

- **Loss of protected tree and risk to those retained** – The protected tree is now to be retained and protection measures improved
- **Potential net loss of biodiversity** – The current scheme has been found to result in no net loss of biodiversity
- **Nature of highway access** – The access is unchanged although the proposal would generate less traffic than previous applications.

9.6 Policy HD4 in the recently sets out a number of site specific requirements. The above analysis shows that these are all achieved through the current proposal. As such, according to the NPPF the proposal should be approved without delay. Further, as the Council is unable to demonstrate a five year supply of housing paragraph 11(d) of the NPPF remains relevant and permission is to be granted unless either paragraph 11(d)(i) or 11(d)(ii) applies. It is not considered that there are any clear reasons for refusing permission under paragraph 11(d)(i) or that there would be adverse impacts that would significantly and demonstrably outweigh the benefits. As such it is concluded that planning permission should be granted.

9.7 The recommendation is to permit the application subject to the signing of a s.106 agreement.

## 10 CONDITIONS / INFORMATIVES

- 1 The outline planning permission hereby granted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Application(s) for approval of the reserved matters (appearance and landscaping) must be made not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 The outline planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 4 The application for approval of landscaping as a reserved matter shall include full details of the surface water drainage proposals; and the information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage works shall thereafter be implemented strictly in accordance with approved details, prior to the commencement of any building works above ground level.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, and to minimise the risk of pollution for the lifetime of the development, in accordance with adopted policy INF2 of the Joint Core Strategy (2017). The detailed surface water drainage proposals are required at reserved matters stage as they form an inherent part of the landscaping proposals.

- 5 No works shall commence on site on the development hereby permitted until details of highway improvements consisting of the installation of a connecting section of footway (2m wide) with tactile dropped crossing point between Beaufort Road and Ewens Road (north side), extension to the footway (2m wide) and dropped kerb tactile crossing point across Charlton Court Road, and a bus shelter to serve Bus Stop ID: glodtwmt located on Beaufort Road have been submitted to and approved in writing by the Local Planning Authority and no occupation/opening to the public shall occur until the approved works have been completed and are open to the public.

Reason: To ensure that safe and suitable access to the site can be achieved for all users and that the priority is first given to pedestrian and cycle movements, both within

the scheme and with neighbouring areas; and secondly, so far as possible, to facilitating access to high quality public transport, in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 6 Prior to commencement of the development hereby permitted details of a construction management plan or construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- Routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles; and
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: To minimise disruption on the public highway and adjacent land users and to accommodate the efficient delivery of goods and supplies during the course of the construction works in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework. Approval is required upfront because without proper mitigation the construction works could have an unacceptable highway impact.

- 7 No development shall commence until a detailed Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall identify the main waste materials expected to be generated by the development during the construction phase and set out measures for dealing with such materials so as to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy. The detailed Site Waste Management Plan must include: -

- i) Information on the type and amount of waste likely to be generated prior to and during the construction phase;
- ii) Details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation; and
- iii) Details of the measures for ensuring the delivery of waste minimisation during the construction phase.

The Site Waste Management Plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: To ensure the effective implementation of waste minimisation in accordance with Gloucestershire Waste Core Strategy: Core Policy WCS2 - Waste Reduction.

- 8 No building or use hereby permitted shall be occupied or use commenced until the means of access for vehicles, pedestrians and/or cyclists have been constructed and completed in accordance with the approved plans.

Reason: To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the scope for conflict between traffic and cyclists and



pedestrians, and to establish and maintain a strong sense of place to create attractive and comfortable places to live, work and visit in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108, 110 and 127 of the National Planning Policy Framework.

- 9 No building or use hereby permitted shall be occupied or use commenced until the car/vehicle parking area and turning space associated with each building within the development (including garages and car ports where proposed) shown on the approved plans PL005 Rev B and SK25 Revision: F has been completed and thereafter the area shall be kept free of obstruction and available for the parking of vehicles associated with the development.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 10 The development hereby permitted shall not be occupied until cycle storage facilities for a minimum of 2 no. bicycles per dwelling have been made available for use and those facilities shall be maintained for the duration of the development.

Reason: To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 11 Prior to occupation or use commenced, evidence that the pre-occupation elements of the approved Travel Plan have been put in place shall be prepared, submitted to and approved in writing by the Local Planning Authority.

The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan to the satisfaction of Local Planning Authority unless agreed in writing by the Local Planning Authority.

Reason: The development will generate a significant amount of movement; and to ensure that the appropriate opportunities to promote sustainable transport modes are taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 111 of the National Planning Policy Framework.

- 12 The individual vehicular accesses hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2 metres back along each edge of the access, measured from the carriageway edge, extending at an angle of 45 degrees to the footway, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level and shall be maintained as such for the duration of the development.

Reason: To reduce potential highway impact by ensuring that adequate visibility is provided and maintained and to ensure that a safe, secure and attractive layout which minimises the scope for conflicts between pedestrians, cyclists and vehicles is provided in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 13 The development hereby permitted shall not be first occupied until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. The electric

vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

Reason: To ensure that the development incorporates facilitates for charging plug-in and other ultra-low emission vehicles in accordance with paragraph 110 of the National Planning Policy Framework.

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property and ancillary domestic storage without the grant of further specific planning permission from the Local Planning Authority.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 15 Prior to the commencement of the development hereby permitted including ground works and vegetation clearance a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. Any modifications to the approved details for example as a result of requirements of a protected species license must be submitted to and agreed in writing by the Planning Authority. The CEMP shall include final details of the following items:

Ecology:

- (i) Outline Mitigation Strategy based on Section 4.6 of the Confidential Badger Appendix by Aspect Ecology dated April 2020.
- (ii) Other Mitigation Measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees), MM3 (update Preliminary [tree] Roost Assessment), MM4 (Bat Survey and Soft-felling of Trees), MM5 (Re-installation of any affected Retained Bat Boxes), MM7 (Wild Mammal Construction Safeguards), MM8 (Habitat Manipulation/Destructive Search for Reptiles & Amphibians) and MM9 (Timing of Works to avoid Nesting Birds) based on the Ecological Appraisal by Aspect Ecology dated April 2020.
- (iii) Adherence to the Tree Protection Plan incorporating arboricultural methods (iv) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) and other responsible persons plus lines of communication

Other Items:

- (iv) Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- (v) Arrangements for liaison with the Council's Pollution Control Team.
- (vi) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites which shall be used to minimise noise disturbance from construction works.
- (vii) Procedures for emergency deviation of the agreed working hours.

- (viii) Waste and material storage.
- (ix) Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
- (x) Measures for controlling the use of site lighting whether required for safe working or for security purposes.

Reason: To protect the local environment including its landscape and biodiversity value, to ensure that adequate mitigation/compensation measures are provided in order to safeguard protected species, and to reduce any potential impact on local residents, in accordance with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policies SD9 and SD14 of the Joint Core Strategy (2017) and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This information is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species and the amenity of adjoining land users at the beginning of construction.

- 16 Notwithstanding previously submitted details, prior to the commencement of development, drainage plans for the disposal of foul water shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage shall be implemented in accordance with the approved details prior to first occupation of the development

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution in accordance with adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront as any works on site could have implications for drainage, flood risk and water quality in the locality.

- 17 Prior to the commencement of development, a Lighting Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on mitigation measure MM6 (Sensitive Lighting) within the Ecological Appraisal by Aspect Ecology dated April 2020, and shall include the following details:

- (a) the position, height and type of all lighting;
- (b) the intensity of lighting and spread of light as a lux contour plan;
- (c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux; and
- (d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

The approved scheme shall be implemented for the duration of the development and thereafter maintained in accordance with the manufacturer's recommendations and scheme details.

Reason: To provide adequate safeguards for protected species on the site, and to ensure that foraging and commuting of bats is not discouraged at this location, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 18 Prior to the commencement of development, plans showing the existing and proposed ground levels and slab levels of the proposed and adjacent buildings shall be submitted

to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented strictly in accordance with the agreed details.

Reason: To ensure a satisfactory relationship between the proposed development and adjacent buildings and land, having regard to saved policies SL1 and D1 of the Cheltenham Plan (2020) and adopted policies SD4 and SD14 of the Joint Core Strategy (2017). Approval is required upfront to allow the impact of the development to be accurately assessed.

- 19 Prior to the commencement of development, a method statement for the building foundation design, which takes account of existing soil types and adjacent trees so as to prevent future subsidence to new buildings and demands for the removal or heavy pruning of retained trees, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GI2 and GI3 of the Cheltenham Plan (2020), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 20 Prior to the commencement of the development a Landscape and Ecological Management Scheme based on the Landscape Strategy drawing 19216.101 revision D dated 14-04-20, Proposed New Tree Planting Management Plan - Head of Terms and the Ecological Appraisal dated April 2020 (Ecological Enhancements EE1 to EE8 inclusive) shall be submitted to and approved by the Planning Authority. The scheme shall comprise of a drawing and document that covers:

- (a) Aims and objectives of the scheme including conservation of protected and priority species and a net gain for biodiversity appropriate green infrastructure;
- (b) A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;
- (c) Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;
- (d) Provision for educational but not public access;
- (e) A work and maintenance schedule for 5 years and arrangements for beyond this time;
- (f) Monitoring and remedial or contingency measures;
- (g) Organisation or personnel responsible for implementation of the scheme;
- (h) Issue of a homeowner's information pack on local recreational opportunities and the sensitivity of the Cotswolds Beechwoods SAC.
- (i) Measures to achieve the retention and enhancement of the Ladies Bedstraw population within the site.

The Scheme shall also include details of the legal and funding mechanisms by which the long-term implementation of the scheme will be secured by the developer with the management body responsible for its delivery. The scheme shall be implemented as approved by the Planning Authority.

Reason: To conserve and enhance the landscape and biodiversity value of the land and in accordance with JCS policies SD6 and SD9, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.

- 21 Prior to the commencement of any above ground works, a scheme for the provision of fire hydrants (served by mains water supply) shall submitted to and approved in writing

by the Local Planning Authority. No dwelling shall be occupied until the hydrant serving that property has been provided.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with adopted policy INF6 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework.

- 22 Notwithstanding the submitted details, prior to the commencement of any building works above ground level, details of a scheme for the provision and future maintenance of multi-functional green infrastructure to include areas of informal play shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development.

Reason: To ensure that the development makes a positive contribution towards green infrastructure and provides opportunities for play and recreation in accordance with adopted policies INF3 and INF6 of the Joint Core Strategy (2017) and paragraphs 69 and 109 of the National Planning Policy Framework.

- 23 Notwithstanding previously submitted details, prior to the commencement of any building works above ground level, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the number and location of all new trees and hedges to be planted; their species, size, spacing/density of hedges, root types, tree pit details (including details of introduced soil amelioration plans); and protection from deer and other predators as well as protection for the street trees from vehicles etc. The scheme shall also include: a. a short, medium and long term management for all trees to be planted; b. details of the restoration and remedial surgery to parts of the existing hedge to be retained; c. details of the proposed pond to the south of the site; and d. wild flower strips in the public open spaces. All hard landscaping works shall be carried out in accordance with the approved details prior to first occupation of the development unless otherwise agreed in writing by the Local Planning Authority. All soft landscaping shall be carried out in the first planting and seeding season following completion of the development or first occupation of the development (whichever is sooner). Any trees which within a period of 5 years, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of the same size or species unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area in accordance with saved policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017). Approval is required upfront because the landscaping is an integral part of the development and its acceptability.

- 24 All works including paths, parking areas and other forms of hard landscaping that fall within Root Protection Areas (RPAs) of the retained trees shall be constructed using a no-dig method as per the submitted drawings. Prior to the commencement of development, full details of the proposed no-dig method shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented strictly in accordance with the details so approved.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 25 No trees, shrubs or hedges within the site which are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed, without the prior written permission from the Local Planning Authority. Any retained trees, shrubs or hedges removed without such permission, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted, shall be replaced with trees, shrubs or hedge plants of a similar size and species during the next planting season unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework.

- 26 The development shall be implemented in accordance with the Tree Protection Plan drawing 38-1036.03-A dated 17.04.20 which incorporates arboricultural methods and supervision details. All protective structures installed shall be maintained until construction work has been completed. No materials, soils, or equipment shall be stored under the canopy of any retained tree or hedgerow within the application site.

Reason: To prevent unnecessary loss of amenity and biodiversity value of trees and shrubs to be retained in accordance with Policies GI2 and GI3 of the Cheltenham Plan (2020), ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175.

- 27 No tree and/or hedge clearance shall be carried out during bird nesting season (1st March to 31st August inclusive) unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has first been submitted to and approved in writing by the Local Planning Authority. Any such scheme shall be implemented in accordance with the approved details.

Reason: To provide adequate safeguards for protected species on the site in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraph 118 of the National Planning Policy Framework.

- 28 No construction works and/or ancillary operations which are audible at the site boundary shall be carried out on site outside the following hours:

Monday to Friday - 8am to 6pm  
Saturday - 8am to 1pm

There shall be no working on Sundays or Public or Bank Holidays. Deliveries to, and removal of plant, equipment, machinery and waste from, the site shall only take place within the permitted hours detailed above.

Reason: To ensure that any impact on the amenity of the occupiers of adjacent dwellings is minimised and controlled in accordance with saved policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 29 No external facing or roofing materials shall be applied unless in accordance with: a) a detailed written specification of the materials; and b) physical samples of the materials. The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy D1 of the Cheltenham Plan (2020),

adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 30 No boundary treatments, including boundary walls, fences or other means of enclosure shall be constructed unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the approved details prior to first occupation of the development hereby permitted.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy D1 of the Cheltenham Plan (2020), adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 31 Prior to first occupation of the development, details of a Homeowner's Information Pack resource providing information on recreation resources in the locality shall be submitted to and approved in writing by the Local Planning Authority. The pack should reference:

- Alternative local recreation opportunities (off site), e.g. website information for Cotswolds AONB and recreation 'offer' <https://www.cotswoldsaonb.org.uk/visiting-and-exploring/>
- Relevant adopted Cheltenham, Gloucester and Tewkesbury JCS policy (e.g. INF3 green infrastructure) and supporting text (e.g. 5.4.6 re. Green Infrastructure strategy 'vision') and Policy BG1 of the Cheltenham Plan 2020.

Each dwelling shall be provided with an approved Homeowner Information Pack on occupation.

Reason: To ensure that appropriate measures to mitigate for any adverse effects to the Cotswold Beechwoods SAC that could potentially occur as a result of the proposal, are suitably addressed in accordance with adopted policy SD9 of the Joint Core Strategy (2017), policy BG1 of the Cheltenham Plan 2020 and paragraphs 175, 176 and 180 of the National Planning Policy Framework.

- 32 Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have first been submitted to and approved in writing by the Local Planning Authority. The storage facilities shall thereafter be retained for that purpose.

Reason: In the interests of sustainable waste management and recycling, having regard to Policy W36 of the Gloucestershire Waste Local Plan.

- 33 Prior to first occupation of the development, leaf guards for the guttering and down pipes of the dwellings shall be installed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority, and shall be maintained as such thereafter.

Reason: To reduce levels of tree-related inconvenience experienced by residents during the occupancy of the development.

### INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise

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

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

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

- 2 The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out.

Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk) allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Council's costs in undertaking the following actions:

- i. Drafting the Agreement
- ii. A Monitoring Fee
- iii. Approving the highway details
- iv. Inspecting the highway works

Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

- 3 The development hereby approved includes the construction of new highway. To be considered for adoption and ongoing maintenance at the public expense it must be constructed to the Highway Authority's standards and terms for the phasing of the development. You are advised that you must enter into a highway agreement under Section 38 of the Highways Act 1980. The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980.

Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk). You will be required to pay fees to cover the Council's cost's in undertaking the following actions:

- I. Drafting the Agreement
- II. Set up costs
- III. Approving the highway details
- IV. Inspecting the highway works

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You should enter into discussions with statutory undertakers as soon as possible to coordinate the laying of services under any new highways to be adopted by the Highway Authority.

The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a



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Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

- 4 The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at [Network&TrafficManagement@gloucestershire.gov.uk](mailto:Network&TrafficManagement@gloucestershire.gov.uk) before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.
- 5 The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.

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## Appeal Decision

Inquiry Opened on 20 August 2019

Site visit made on 19 August 2019

**by B J Sims BSc(Hons) CEng MICE MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 September 2019**

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**Appeal Ref: APP/B1605/W/19/3227293**

**Land at Oakhurst Rise, Charlton Kings, Cheltenham, GL52 6NR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by William Morrison (Cheltenham) Limited and The Trustees of the Carmelite Charitable Trust against the decision of Cheltenham Borough Council.
  - The application Ref 18/02171/OUT, dated 24 October 2018, was refused by notice dated 22 March 2019.
  - The proposed development is described in the original application as 'outline application for residential development of up to 69 dwellings (revision to application reference 17/00710/OUT')
  - The Inquiry sat for 4 days on 20 to 23 August 2019.
- 

### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

#### ***Rule 6 Party***

2. Charlton Kings Friends (CKF) were represented at the Inquiry under Rule 6 of the Inquiries Procedure Rules.

#### ***Outline Application***

3. The application and appeal are in outline but with matters of Access, Layout and Scale for consideration in detail at this stage.

#### ***Council Consideration, Amended Scheme and Basis of Decision***

4. Cheltenham Borough Council (CBC) officers recommended approval of the original submitted scheme for up to 69 dwellings but the Planning Committee refused the application for five reasons related, briefly, to planning policy, trees, heritage, ecology and visual impact. However, this appeal is decided on a fresh and independent appraisal of the cases for and against the proposed development.
5. Following the refusal of the original application, the Applicants, William Morrison (Cheltenham) Limited and The Trustees of the Carmelite Charitable Trust (now the Appellants) amended the proposed scheme and put forward a revised layout for up to 68 dwellings. This was in response to post-Hearing

advice by the Inspector currently examining the draft Cheltenham Plan, proposing a Main Modification (MM) to the allocation of the appeal site for residential development, to reduce the area for built development. To date, the MMs to the emerging Plan are not agreed for public consultation. However, a MM suggested by CBC to the allocation of the site is made public strictly for the purpose of this appeal. I return to this matter of emerging policy in connection with the description of the amended proposal and the issue of the principle of the development, below.

6. CBC did not publish the amended development proposed for consultation. However, the Appellants themselves undertook public consultation on the modified scheme. CBC accepts that this consultation was equivalent to a statutory consultation on the revised application. It was agreed by all parties at the Inquiry that, in the circumstances, the amended scheme should form the basis for the determination of this appeal.
7. I am satisfied that the revision of the proposals is within the parameters of the well-known *Wheatcroft* judgment and that no injustice would result to any party from this approach. Accordingly, I consider the appeal and base my decision on the amended proposal, as described below.
8. Whilst the original application was expressly made in terms of the original scheme for up to 69 dwellings and the modified proposal for up to 68 dwellings, the application was submitted as a modification to a previously refused scheme for 90 dwellings. For the avoidance of doubt, the modified proposal for up to 68 dwellings now forms the basis of this decision on a fresh assessment of its individual merits, in the light of current planning policy and circumstances.
9. Although the matter of layout is for detailed consideration, the description, in terms of 'up to' 68 dwellings, provides an acceptable degree of latitude for adjustment of the internal configuration of the several blocks of dwellings in any future application for approval of the reserved matter of design.

### ***Reasons for Refusal and Other Representations***

10. Subsequent to its original determination of the application, CBC subsequently withdrew its fourth and fifth reasons for refusal on ecology and visual impact. CKF, as Rule 6 Party, continue to object on grounds of ecology as well as heritage. All oral and written representations by CKF and other interested third parties are taken into account in this decision.

### ***Planning Obligation***

11. The appellants have provided a planning obligation under Section 106 of the Act (as amended) to construct 40% of the dwellings as affordable housing units, in response to adopted policy provisions. The planning obligation has been executed as a deed in compliance with the relevant legal requirements. Its provisions are considered further below in connection with the planning benefits of the proposed development.

### ***Site Visit***

12. By agreement with the main and Rule 6 parties, I conducted an accompanied visit to the appeal site with their respective representatives on the day before the Inquiry opened. This was necessary to inform myself properly of the

features of the site and neighbouring Listed Buildings before hearing the evidence. I viewed Ashley Manor from the carriage drive and entered both Ashley Manor and Charlton Manor to observe views from windows facing the appeal site, variously at ground and upper floor levels. I also toured the wider area to observe more distant viewpoints and I drove via the local road network leading to the access point at Oakhurst Rise. It was left open at the start of the Inquiry whether a further accompanied site visit would take place but, by the close, no further site visit was requested or deemed necessary.

### **Description of the Site and Surrounding Area**

13. The principal part of the appeal site is an undeveloped area of land, which extends to 4.29ha. It is located in the eastern part of the Principal Urban Area of Cheltenham, some 2km south east of the town centre, in an elevated position above the town, within Charlton Kings.
14. The site is mainly grassland, divided into two areas by an outgrown hedgerow running approximately north to south and now incorporating a number of large, mature trees. There are other mature trees around and on the site. The area to the west of the hedgerow amounts to about one third of the total site. The site is largely bounded on three sides by the rear gardens of residential properties fronting Birchley Road and Ashley Road to the north and east and Oakhurst Rise to the west. Adjacent to the south are the functional grounds of St Edward's Preparatory School.
15. Currently, the appeal site forms part of the wider St Edward's School grounds, being leased to the School by its owners, the co-Appellant, Carmelite Charitable Trust.
16. The larger, eastern part of the appeal site slopes generally southward and the smaller western area has a relatively steeper gradient to the west.
17. The buildings of St Edward's School lie directly to the south east of the appeal site and include the Grade II\* listed Ashley Manor, now the School administration block, facing approximately west and approached via a winding carriage drive from the main London Road. The most northerly School building is a modern nursery block which stands closer than the Manor to the south east corner of the appeal site.
18. Adjacent to the eastern appeal site boundary, occupying one of three large residential curtilages, is the Grade II listed Charlton Manor.
19. A former Ice House, now infilled and identifiable as a mound with trees above, occupies a central position within the eastern part of the site.
20. Some 46% of the trees on the site are subject to Tree Preservation Order (TPO) No1 1981, covering 18 individual and 8 groups of trees.
21. In the central northern part of the site is a large badger sett (BS1) with outlying setts in other parts of the site, including within the hedgerow to the west and at the Ice House to the east.
22. The appeal site also includes two narrow strips of land to the south west within the School grounds to facilitate the connection of drainage runs to the sewerage system.

### **Description of the Amended Proposal**

23. The amended outline proposal now at appeal is for 68 dwellings with access, layout and scale defined in detail.
24. The sole access would be from the end of the present cul-de sac of Oakhurst Rise, in the north western corner of the site.
25. The dwellings would be arranged in groups, pairs and terraces fronting a network of access roads and would range in size from one- to six-bedroom flats and houses in buildings from one to three storeys. The 40% (28 No) affordable units would be distributed throughout the development.
26. The Ice House mound would be left between the west of plots 31-34 and the estate road, as an historic feature with public interpretative information available.
27. The development would include the removal under licence of the main badger sett, which is situated roughly north of proposed plots 48-50 and south of plots 40-42. The proposal includes the creation of an artificial, relocated badger sett near the south west corner of the site.
28. The development, in particular plots 48-50, would require the felling of a protected tree, Ref 3014, from the central part of the site. The trunk of this tree would be removed to the south west of the site and retained as a feature and 'monoxyle' wildlife habitat. All other protected trees would be retained.
29. Toward the south eastern site boundary there would be a water feature, annotated as a 'rill', and a surface water drainage attenuation pond.
30. Compared with the original 69-dwelling scheme, the built development would be arranged to leave a landscaped space south of plots 16-17 in the southernmost part of the site, to the north west of the front of Ashley Manor. There would be a further landscaped space between the easternmost plots 31-34 and the western boundary with Charlton Manor. These aspects of the amended layout were introduced after the submission of the application in response to the post-Hearing advice of the Inspector conducting the draft Cheltenham Plan examination.

### **Main Issues**

31. On consideration of all the written and oral evidence from the Main and Rule 6 parties and other interested persons, including the several statements of common ground, I consider that the main issues in the appeal are:
  - i. the acceptability of the proposed development in principle, having regard to adopted and emerging planning policy,
  - ii. the potential effect of the development on protected trees,
  - iii. the effect the development would have on the settings of neighbouring heritage assets, in particular the listed Charlton Manor and Ashley Manor and the associated Ice House,
  - iv. the effect of the development on biodiversity, with particular respect to protected badgers and reptiles on the site,

- v. the provision of access and the effects of road traffic that would be generated by the development, and
  - vi. any benefits of the proposed development and, in particular, its contribution to the market and affordable housing land supply in Cheltenham, in the context of a housing land supply agreed to be less than five years.
32. I also consider matters of flood risk and drainage, visual impact in the vicinity of the Cotswolds AONB, adequacy of community infrastructure and residential amenity (noise and disturbance, education, sports, health care).

## **Reasons**

### ***Principle of Development***

#### *Adopted Policy*

- 33. The current statutory development plan comprises saved policies of the Cheltenham Borough Local Plan Second Review 2006 (CBLP) and the adopted Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS).
- 34. The appeal site lies within the defined Principal Urban Area of Cheltenham but is not allocated for any form of development. However, neither is the site subject to any policy restriction on development.
- 35. There is accordingly no objection to the principle of residential development on the appeal site with respect to adopted policy.

#### *Emerging Policy*

- 36. In terms of emerging policy, the whole of the present appeal site is allocated, by Policy HD4 of the draft Cheltenham Plan, for approximately 25 dwellings, to a layout that respects the existing urban characteristics of the vicinity and the character, significance and setting of heritage assets that may be affected by the development, subject also to protection of key biodiversity assets.
- 37. At the Hearings within the ongoing Examination of the Cheltenham Plan, draft allocation HD4 has been considered in the light of conflicting expert heritage evidence. On consideration of this evidence, the Examination Inspector has issued post-Hearing advice to the Council that:

*'there is good reason to amend the boundaries of the development area from that proposed in the draft Plan and to require new tree planting around the east and south boundaries to safeguard the settings of both listed buildings. New housing should be located away from the setting of the west elevation of Ashley Manor. This could be achieved through the amendment to the southern boundary of the allocation site so that it continues in a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development, the eastern boundary of the site should be repositioned at least 30 metres west of the rear boundary with Charlton Manor. The Ice House would remain within the confines of the site, but its future could be secured. A MM is required to Policy HD4 to identify the boundaries of the site as suggested above; to identify the level of new housing which could*

*realistically be accommodated within the new site boundary; to identify the need for new tree planting around the east and south boundaries of the site; and to require the improvements to the Ice House ..... .’*

38. It was in response to this advice that the amended 68-dwelling scheme now under consideration was put forward. The Council has meanwhile suggested a MM to Policy HD4 stipulating a ‘minimum of 25 dwellings’ with a series of additional criteria to constrain any built development in the same terms as the post-Hearing advice and, in addition, to require the long-term protection of mature trees and hedges.
39. However, at the time of the Inquiry, the Examination Inspector had not yet agreed the MMs for public consultation and ultimately all proposed MMs to the draft Cheltenham Plan must be subject to full public consultation before the Inspector reaches any final conclusion on the soundness of allocation Policy HD4 or the draft Plan as a whole.

#### *Conclusions on the Principle of the Development*

40. It is evident that, before formulating the post-Hearing advice, the Examination Inspector visited the appeal site but did not find it necessary to enter the adjacent listed buildings. In terms of normal practice, that approach was proportionate to the appraisal of the draft allocation of the site in the local plan, as distinct from a specific application or the current appeal for planning permission now for determination.
41. In the circumstances, whilst the emerging allocation Policy HD4 and the associated post-Hearing advice and suggested MM are material to the present appeal, they can be accorded only little weight, compared with the policies of the current adopted development plan, in this fresh assessment of the amended scheme and the detailed evidence for and against its approval.
42. It follows that, whilst there is no objection in principle to residential development on the appeal site, the proposal now subject to appeal falls to be assessed and determined primarily with respect to the adopted development plan, subject to its consistency with the National Planning Policy Framework (the Framework).

#### **Protected Trees**

##### *Policy and Guidance*

43. The development plan policy of greatest relevance to the loss of protected trees is GE6 of the CBLP. This resists the loss to development of sound and healthy protected trees of high value with at least ten years of life remaining and which make a significant contribution to the character and appearance of the locality of the site or locality. Policy GE6 expressly provides for retention of trees and planting of new trees in conjunction with development, as well as adequate measures to protect trees during construction. Policy GE6 is cross-referenced to BS5837:2005 for guidance on trees in relation to construction.
44. Policy GE5 of the CBLP is also cited in the refusal of the application as well as in several previous appeal decisions<sup>1</sup> as a development management policy resisting the unnecessary felling of healthy and safe protected trees on

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<sup>1</sup> Core Documents E11-13



private land, where they are causing no harm. Policy GE5 applies even to dead trees that are contributing to biodiversity. Notwithstanding the expressed view of the Appellants in connection with this appeal that Policy GE5 is inapplicable as unrelated to new development, it appears to be consistently and appropriately applied in this case, as in previous appeals, as a provision also relevant to development proposals.

45. Policy INF3 of the JCS essentially supports the aims of Policies GE5-6 in terms of avoidance of impact on protected trees and the incorporation into development of measures to mitigate any loss of trees on the site or in its immediate environs.
46. These policies are not entirely consistent with the thrust of the Framework, which makes allowance at paragraph 175 for wholly exceptional circumstances, including public benefit, to justify significant harm even to veteran trees. Any departure from these adopted policies will be subject to consideration in the light of other material circumstances in any event, under section 38(6) of the Act, as amended.
47. Other guidance on trees in relation to construction is contained within the now applicable BS5837:2012 as well as in Natural England and Forestry Commission Standing Advice on protecting veteran and ancient trees.

*Loss of Protected Tree Ref 3014*

48. Tree 3014 (T11 in the TPO) is a mature oak. It falls within Category B, of moderate quality, in terms of BS5837, due to impaired condition but still with estimated remaining life expectancy of at least 20 Years. That is not to say that it cannot be regarded as a tree of high value in terms of Policy GE6.
49. The tree is not regarded as more than a successional veteran even by CBC, despite displaying some veteran characteristics, due to current absence of longevity. However, it is assessed as having a potential retained life expectancy of at least 40 years by the Appellants and up to 100 years by CBC.
50. The location of Tree 3014, within a private site of over 4ha, constrains its visual amenity value to external receptors, albeit the site is periodically open for public events associated with the adjacent School.
51. Notwithstanding its current non-veteran status and impaired condition however, the tree plainly contributes to the rural character of the site and provides amenity value in terms of the greening of the appeal site. This would be of potential benefit to future residents if the site were ultimately developed in line with draft allocation Policy HD4 of the Cheltenham Plan, which would not necessarily require its removal.
52. On a balanced assessment of the evidence of the main parties to the appeal, Tree 3014 is of high value and its loss would be harmful and contrary to Policy GE6 of the CBLP, as well as to the aims of Policy GE5 of the CBLP and INF3 of the JCS.
53. That harm would be mitigated to some extent due to the 'moderate' categorisation of the tree in terms of BS5837 and by the retention of its trunk as a 'monoxyle' habitat, with relevance also to biodiversity, considered below.

54. It remains, in any event, to take account of the adverse effect of the loss of Tree 3014 in the overall balance of planning considerations in the appeal.

*Retained Protected and Veteran Trees*

55. It is first appropriate to note the evidence of the Woodland Trust that a significant number of veteran and ancient trees on the appeal site have not been identified as such in the assessment submitted by the arboricultural consultants to the Appellants, including Tree 3014.
56. That assessment is based upon the in-house identification system of the consultants, known as RAVEN<sup>2</sup>. Criticism is based upon the Ancient Tree Inventory of the Ancient Tree Forum and Natural England standing advice for ancient woodland. It turns, in part, on alleged over-reliance by RAVEN, upon the mere size of the tree in assessing its veteran or ancient status.
57. However, it is apparent that the assessment covered all the trees on the site in light of the applicable definition of veteran and ancient trees in the Glossary of the Framework, in terms of age and condition, as well as size, in relation to biodiversity, cultural or heritage value. Furthermore, many trees referenced by the Woodland Trust are retained in the proposal now at appeal.
58. The scheme as a whole, and its measures to protect existing trees in particular, must be considered primarily in relation to the policies of the development plan and the Framework and a realistic assessment of its impacts. I therefore consider it appropriate to proceed on the basis of the agreement between the main parties that the veteran and other trees for retention on the site have been properly identified. The question to be addressed is whether the trees proposed to be retained in the development would be protected effectively.
59. At the Inquiry, it was equally established that there was no substantive dispute among all parties to the appeal that the root protection areas (RPAs) and veteran tree buffers (VTBs) of the trees proposed to be retained in the development have also been correctly defined in terms of BS5837 and Natural England standing advice.
60. It is clear from the detailed amended layout that, in a number of cases, built development would stand relatively close to veteran trees. In some cases, proposed private gardens would extend into the VTB or RPA of a veteran tree and certain elements of construction would take place even potentially among the roots of a veteran tree.
61. For example, a significant part of the RPA of Tree 3007, an oak, would be within the garden of plot 35 at the north east corner of the site. In a further example, a raised walkway and parking bays would occupy about 5% of the VTB of Tree 3018, also an oak, situated towards the north west part of the site. In the case of Tree 3021, an ash, there would be drains constructed within the RPA as well as potential increased public access after development.
62. CBC maintains that these incursions are contrary to the relevant protective planning policies because of their departure from the strict terms of BS5837 and Natural England Standing Advice. However, these advice documents expressly make provision for professional judgement in their application.

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<sup>2</sup> Recognition of Ancient, Veteran and Notable Trees

63. In relation to the foregoing examples, the detailed specialist evidence of the Appellants includes assurance that the crown of Tree 3007 covers less than 25% of the RPA, that the raised walkway partly within the VTB of Tree 3018 would be constructed by 'no-dig' methods and its design would have a minimal ground footprint. Drainage works within the RPA of Tree 3021 would be undertaken by 'trenchless' working and 'below-root boring' techniques and a footpath placed relatively distant from the tree itself. Furthermore, permitted development rights applicable to dwellings and their curtilages would not override the safeguarding provided by the TPO.
64. There is no dispute that the foregoing working arrangements are based upon tried and tested methodologies. The question is whether it can be judged, in this particular case, that they would be effective.
65. On balance overall, I am satisfied that the measures proposed to safeguard the long-term welfare of all the retained protected and veteran trees from the potential impacts of the proposed built development have a reasonable prospect of success. However, that cannot be certain. I am persuaded that there would remain some degree of risk to the longevity of the trees concerned, given the relative degree of density of those parts of the proposed development closest to those concerned, leading to greater public access and activity in close proximity.
66. To that extent, with respect to the retained protected and veteran trees, I find the proposed development to be in some conflict with Policies GE6, GE5 and INF3. This potential harm counts in some measure against the approval of the scheme. The degree to which this conflict will affect the overall planning balance will depend on whether a development of the layout and density proposed is acceptable in terms other planning effects.

### **Heritage Assets**

#### *Policy and Law*

67. Policy CP3 of the CBLP and SD8 and SD10 of the JCS together provide that development should protect, conserve, sustain and enhance designated heritage assets and their settings and avoid harm to views into and out of areas of acknowledged importance, including with respect to listed buildings.
68. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) contains a statutory duty to have special regard to the desirability of preserving the setting of listed buildings.
69. Framework paragraph 193 gives great weight to the conservation of designated heritage assets and paragraphs 195-6 consider harm to heritage assets in terms of whether it would be substantial or less than substantial. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The significance of a heritage asset is defined to include its archaeological, architectural, artistic or historic interest, derived not only from its presence but its setting, in which it is experienced. National Planning Practice Guidance (PPG) refers to the extent and importance of the setting to the visual relationship between the asset and proposed development, including that views of or from an asset will play an important part. The PPG also notes that

the contribution a setting makes to the significance of an asset is not dependent upon public access.

70. It is now trite law<sup>3</sup> that this less than substantial harm must be accorded considerable weight in the overall planning balance. However, the judgment in the case of *Shimbles*<sup>4</sup>, with reference also to the earlier *Palmer*<sup>5</sup> case, makes clear that, whilst there is no allowance for any sub-categories of harm within the Framework definition, planning judgement must be exercised. That is with regard to the level of the less than substantial harm, the great weight accorded to the conservation of the asset and the extent of the public benefits.

*Contribution of the Site and the Ice House to the Settings of Listed Buildings*

71. The appeal site was historically and remains in the same ownership as Ashley Manor. Although the land evidently was never part of the managed parkland of the Manor, it had a functional relationship with the Manor as farmland, and as the location of its Ice House, which survives as an historic feature.
72. It is disputed whether there was ever a substantial tree belt along the southern appeal site boundary, visually separating the rural appeal site from the formal grounds of the Manor in views from its front, the approaches over the carriage drive from the south or from further afield. That remains a moot point; but whether or not there has, from time to time, existed such a visual barrier, the historical association is beyond dispute.
73. The present circumstances are that the Manor and the site are intervisible through the current boundary vegetation and direct views are available from at least one north-facing window onto the currently mainly open, eastern part of the site, including the tree-covered mound of the Ice House. I observed this for myself, unlike the Inspector dealing merely with the draft allocation Policy HD4. Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views.
74. At the more recently constructed Charlton Manor, against the eastern boundary of site, there has been historic variation in the degree to which this boundary has been vegetated and screened. The main entrance to the house is on its south-facing side and its road entrance is to the east. However, its western elevation, directly facing the appeal site contains its ground floor kitchen as well as significant habitable rooms on the first and second floor.
75. The windows of the upper rooms especially afford open views across the appeal site, past the Ice House mound and as far as the mountains of South Wales on the far side of the Severn Estuary. Again, unlike the Inspector examining the draft Cheltenham Plan, I was able to experience these views personally.
76. I recognise an historic and visual association between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I refer above, I consider that the appeal site, with the Ice House it encompasses, contributes

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<sup>3</sup> *Barnwell C1/2013/0843*; *Forge Field [2014] EWHC 1895 (Admin)*; *Forest of Dean [2016] EWHC 421 (Admin)*; *Jones and Mordue [2015] EWCA Civ 1243*

<sup>4</sup> *Shimbles v City of Bradford et al [2018] EWHC 195*

<sup>5</sup> *Palmer v Herefordshire Council and Anr [2016]*

importantly to the historic and current visual setting of both these listed buildings, as designated heritage assets.

77. In the proposed scheme, the Ice House itself would not be directly affected by built development and would potentially be promoted with information on its history and significance as an aid to its public appreciation.

*Effect on the Setting of Ashley Manor*

78. By avoiding built development in the southernmost part of the site, the amended layout mitigates to some extent the effect of the proposed development on the setting of the west-facing, former Ashley Manor House and its surrounding associated buildings and carriage drive. However, the proposed introduction of new landscape planting, screening that boundary, would obstruct the relationship of the Manor to this part of its setting.
79. Moreover, that part of the development comprising plots 27-30, in the south eastern corner of the site, would intervene prominently in views to the north from the Manor House, including from its interior, impeding appreciation of the historic Ice House and the rural backdrop the site currently provides.
80. I recognise that the main front of the Ashley Manor House does not face directly towards the appeal site and that the character of its immediate surroundings has been altered by the addition of modern school buildings, including that closest to the appeal site boundary and north of the Manor itself.
81. Nevertheless, I consider that these effects on the visual relationship between the Grade II\* Ashley Manor and the appeal site would have a very significant adverse impact upon the setting of the Listed Building.
82. Having regard to the statutory duty under s66 of the PLBCA, this would be contrary to the protective aims of Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.

*Effect on the Setting of Charlton Manor*

83. The amended scheme avoids built development within 30m of the curtilage of Charlton Manor and provides for intervening landscaping to soften the appearance of the new houses in views from the Manor, as advised by the examining Inspector regarding draft allocation HD4.
84. Be that as it may, the presence of the new built development would still be visible from Charlton Manor and prominent in views available from its important west-facing windows. Distant views would be partly obstructed and, furthermore, the Ice House would be obscured by the intervening dwellings on plots 31-34. The appreciation of the Manor in views from within its setting to the west would be compromised, including for residents and members of the public living in or visiting the proposed dwellings.
85. As in the case of Ashley Manor, I consider that these effects on the visual relationship between the Grade II Charlton Manor and the appeal site would have a very significant adverse impact also upon the setting of this Listed Building. Having regard to the statutory duty under s66 of the PLBCA, the effect of the development on the setting of Charlton Manor also would be

contrary to Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.

*Overall Conclusions regarding Heritage Assets*

86. The high significance of Ashley Manor is primarily indicated by its Grade II\* listing and the recognition in its statutory list entry as one of the finest villas in Cheltenham. Charlton Manor, although more recent and listed Grade II, is also of high significance, being the first house erected on the Battledown Estate, taking advantage of its elevated position and belonging to the Victorian Gothic Revival, of which it remains a complete and well preserved example.
87. Thus, the harm to the settings of both these designated heritage assets, whilst less than substantial in terms of Framework paragraph 176, is nonetheless also significant. It requires consideration against the significance of the assets themselves as well as that of the level of any public benefit resulting from the development, in the final planning balance, addressed below.
88. I give no significant weight to the prospect of public access to and information upon the Ice House, as a mere an incidental to the development.

***Biodiversity***

*Policy*

89. Policy SD9 of the JCS encourages biodiversity enhancement and Policy NE2 of the CBLP seeks to safeguard protected species. These aims are consistent with Framework paragraph 170, which states that planning decisions should contribute to and enhance the natural environment, including by protecting and enhancing valued sites of biodiversity, minimising impacts on and providing net gains for biodiversity. Paragraph 175 also encourages net gains in biodiversity. Paragraph 175 further provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated or, as a last resort, compensated for, permission should be refused.

*Badgers*

90. The amended development layout proposed would require the removal of the major, central badger sett, Ref BS1, and its replacement with an artificial sett of detailed design for future approval. On the evidence, I am satisfied that this is tried and tested methodology in common use and that the artificial sett could be provided with sufficient chambers to accommodate displaced badgers choosing to use it and constructed to floor and entrance levels high enough to avoid any local flooding.
91. The badger population currently resident and breeding in BS1 would be removed under licence. Badgers are common, subject even to official culling and legislative protection mainly for their welfare and against illegal and cruel persecution. That is not to say that any harm to them would not give rise to a planning objection, just as in the case of any other protected species.
92. Moreover, from the standpoint of CKF, as objectors to the housing scheme as a whole, it is understandable that they submit that the layout ignores the

'avoid-mitigate-compensate' sequence of Framework paragraph 175, in placing built development and access roads so close to BS1 in the first place. However, if the layout is necessary to the development of the site for other reasons, the question becomes whether the mitigation and compensation measures would be effective.

93. In practice, the evidence is that badgers displaced under licence are as likely to remove to outlying setts or create new ones as they are to inhabit the artificial one provided; also, if they inhabit the artificial sett, that they would potentially extend it and add more chambers themselves.
94. Even though this level of compensation is not strictly necessary and direct harm to the protected badgers could be avoided, the remaining badger population would potentially be subject to more human pressure and interference and their present foraging area would be substantially reduced by the presence of the proposed housing. This implies a reduction in the biodiversity value of the site in respect of its currently resident badger population.

### *Reptiles*

95. In response to local concern, the Appellants undertook a reptile survey shortly before the Inquiry. This, visual observation and local information provides little evidence of the presence of protected reptiles, other than a family of slowworms and a single grass snake.
96. The survey is criticised by CKF in terms of its seasonal timing, the hours and number of survey visits made and the size of the 'refugia' used to attract and count any reptiles present. The Appellants pointed out that a greater number of smaller 'refugia' were used to increase the likely count and that the number of visits accorded with accepted practice. At the same time, the Appellants agreed, at the Inquiry, that the timing of the survey had been sub-optimal in comparison with established guidance. However, there is no countervailing evidence to indicate a greater presence of reptiles on the site.
97. It is further evident that only 14 key wildlife species have been recorded on the site, compared with the 20 required for its consideration of a Key Wildlife Site.
98. On balance, I do not consider it likely that protected reptiles are present on the appeal site to justify objection to the amended outline scheme on grounds of harm to such species. I consider that it would be sufficient to require, by planning condition, a full ecological survey and assessment to be submitted, with measures for the protection and management of any protected species found, and its submission to the Council for approval before any development could commence.

### *Overall Effect on Biodiversity*

99. It is possible that some incidental, improvement to biodiversity could result from the positive management of the site, including the retention of the main part of felled Tree 3014 as ecological habitat.
100. On the other hand, CKF determine that there would be a measurable reduction in biodiversity due to the occupation of much of the site by housing development. However, this is calculated using a metric approach, criticised

by the Appellants and not established as accepted methodology, whereas other professional metric assessment would show enhancement.

101. It is my impression that little weight can currently be given to the results of such conflicting metric assessments, at least in as much as they represent evidence to the present appeal.
102. Overall, I consider that the net effect of the proposed development on biodiversity is likely to be either neutral or negative to some degree and certainly not an enhancement as sought by the thrust of current national and local policy. This factor militates to a degree against the appeal proposal.

### ***Access and Traffic***

103. The route to the sole access point to the appeal site is over a network of residential access roads via an established housing area, with much on-street parking in place for much of the time. The cul de sac of Oakhurst Rise, which would be extended to form the on-site access roads to the proposed development, has a steep gradient.
104. I acknowledge that there are no technical objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility, or existing traffic flows.
105. However, such technical issues are not the only consideration in the assessment of the suitability of the access arrangements for new development. In this case, there are genuine local concerns that the additional traffic from the proposed development, amounting to a likely 30 or so vehicle movements in any peak period, would add to congestion and inconvenience to existing frontage residents.
106. I am satisfied that such an increase in traffic flow would not have a significant impact on the wider highway network.
107. However, it is telling that one resident of Oakhurst Rise has been officially advised that an ambulance required to transport a person with mobility difficulties on a regular basis would no longer attend due to difficulty in parking at the frontage once the road was extended. That is a transient personal matter of relatively little planning weight and might be at least assisted by the provision of an additional turning head proposed within the site. However, it helps to illustrate that the access route, as a whole, is tortuous and far from ideal.
108. Notwithstanding the lack of any objection from the highway authority, this factor militates to some degree against the grant of permission for built development of the scale now proposed for the appeal site.

### ***Benefits***

#### *Affordable Housing and the Planning Obligation*

109. The Appellants put forward a considerable body of written evidence that there is a particularly acute need for more affordable housing in Cheltenham. It is undisputed that there is identified need for 231 affordable homes per annum, in a range of size and tenure, equivalent to 1,155 from 2014-18, compared with a delivery 182 in that period and only 507, in the past 18 years, 76 of these in Charlton Kings.



110. A contribution of 40%, or some 28 units, of the proposed housing would be secured by the completed planning obligation. At the Inquiry CBC accepted, and I agree, that this benefit carries very considerable weight in the balance of planning considerations.

#### *Market Housing*

111. It is common ground that, for the purposes of this appeal, the Cheltenham Borough housing land supply amounts to 4.6 years, calculated with reference to the requirement of the currently adopted development plan in relation to available sites. That is as compared with the minimum five year supply sought by Framework paragraph 73. Accordingly, the proposed development would make a significant, beneficial, 68-unit contribution to the overall housing supply.

#### *Other Benefits*

112. There would be a number of other potential benefits, as discussed above, in relation to heritage and biodiversity, but these would not offset negative impacts of the development for the reasons explained in connection with those main issues.

#### **Other Matters**

##### *Flood Risk and Drainage*

113. I recognise public concern regarding local flooding and drainage issues. However, there is insufficient evidence to show that a detailed scheme could not be satisfactorily drained. Surface water discharge could be limited to existing run-off rates by the attenuation pond indicated on the layout plan, once designed in detail to provide suitable capacity. Foul water would be connected, within the grounds of Ashley Manor, to the main sewerage system, also as indicated on the submitted layout plan. Wider local concerns expressed at the Inquiry regarding the matter of flood risk are outside the scope of this appeal.

##### *Visual Impact*

114. The elevated site is widely visible in distant views within the attractive, undulating landscape and its development would have significant visual impact on its immediate surroundings, close to the listed buildings and residential properties, considered above. However, any built development on the site would be relatively well vegetated and enclosed from the wider area. I do not therefore consider that it would cause harm to the appearance and character of the nearby Cotswolds AONB.

##### *Community Infrastructure*

115. There is no substantive evidence to justify objection to the introduction by the proposed development of up to 68 households to justify a planning objection on grounds of a lack of community infrastructure with respect to education, sports or health care facilities.

##### *Residential Amenity*

116. Details of the design and landscaping of the development are for later determination as reserved matters. At that stage I consider that it would be

possible to ensure, by appropriate design, that there would be no unacceptable harm to the amenity of the new residents or those already living at the surrounding properties, such as by way of noise, disturbance, overlooking or overshadowing. That is in the context of an already largely residential area within the Principal Urban Area of Cheltenham.

### ***Balance of Planning Considerations***

#### *Policy*

117. At the heart of the Framework is the presumption in favour of sustainable development, which paragraph 11 requires to be applied in planning decisions. Paragraph 11d(i) requires permission to be granted where the development plan policies which are most important for the determination of the appeal are out of date, unless the application of Framework policies that protect areas or assets of particular importance, including designated heritage assets, provide a clear reason for refusal.
118. Footnote 7 to the Framework makes clear that for housing proposals, as in this case, the lack of a five year housing land supply renders development plan housing provisions out of date and causes the balance set down by paragraph 11d(i), now commonly termed the tilted balance, to be engaged.
119. However, Framework paragraph 11d(ii) provides, in the alternative, for granting permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies of the Framework as a whole.

#### *Overall Assessment*

120. It is established above that the less than substantial harm to designated heritage assets that would be caused by the proposed development carries considerable weight. In my judgement, for the reasons explained above, this harm is of a very significant level and both Listed Buildings whose settings would be harmed are themselves of very high significance. I therefore consider that the less than substantial harm identified amounts to the requisite clear reason to dismiss this appeal, in terms of Framework paragraph 11d(i).
121. However, very considerable weight is also to be accorded to the contribution the development would make to the supply of affordable housing in the face of an acute shortage. The contribution to market housing also carries significant weight, in the absence of a current overall five year housing land supply for Cheltenham. These are the net total of benefits identified in favour of the amended proposal now at appeal.
122. In my overall judgement, the adverse impact by way of the less than substantial harm to the significance of designated heritage assets in this case would alone outweigh these benefits to housing. I therefore consider that dismissal of the appeal is warranted on that ground, with respect to Framework paragraph 11d(ii).
123. Moreover, it is also appropriate to take into account the harms I have identified by way of the loss of a protected tree and the degree of long-term risk to those trees to be retained, the potential net loss of biodiversity and the disadvantage due to the less than ideal nature of the highway access to the

appeal site. I do not consider that these further adverse effects would, either individually or jointly, outweigh the significant benefits to the supply of affordable and market housing. Nevertheless, they do further support the case for dismissal of this appeal.

124. Finally, the weight to be ascribed to the benefit to housing supply is fairly to be regarded as being constrained by the prospect that, even if the present proposal is rejected, there is still potential for the site to be developed in line with an emerging local plan allocation, albeit for a lesser scheme, as well as by the likelihood that, within the foreseeable future, the Cheltenham Plan, currently under examination, will be adopted, with a resultant increase in housing land supply for Cheltenham to above five years. These prospects too, although conjectural and not determinative, still militate against the approval of the current proposal.

**Overall Conclusion**

125. For the reasons explained, I conclude overall that this appeal should be dismissed.

*B J Sims*

Inspector

## **APPEARANCES**

### FOR CHELTENHAM BOROUGH COUNCIL

Mr G A Grant of Counsel

He called:

Ms L Mulraine Tech Cert (Arbor A) TMAA  
Senior Arboriculturalist – Environmental Dimension Partnership Limited

Mr C Morris BA(Hons) BTP MSc(HistCon) PostCertUD  
Senior Heritage and Conservation Officer, Cheltenham Borough Council

Mr R Williams BTP MRTPI MRICS  
Manging Director – Asbri Planning Limited

### FOR WILLIAM MORRISON (CHELTENHAM) LIMITED AND THE TRUSTEES OF THE CARMELITE CHARITABLE TRUST CHELTENHAM BOROUGH COUNCIL - APPELLANTS

Mr S Choongh of Counsel

He called:

Mr A Colebrook MICF MAA MRFS  
Associate Director – Forbes-Laird Arboricultural Consultancy Limited

Ms L Markham BA PGDip PGCert MRTPI IHBC  
Associate – Montague Evans Chartered Surveyors

Mr A Baxter BA(Hons) MA (Oxon) MSc CEcol CEnv MCIEEM  
Director – Aspect Ecology

Mr P J Frampton BSc(Hons) TP MRICS MRTPI  
Director - Frampton Town Planning Ltd

Mr M Glaze LLB(Hons) Eng Tech MIHE  
Associate Director - Cotswold Transport Planning

Mr A de Croos BEng  
Associate - Simpson Associates Consulting Engineers LLP

### FOR CHARLTON KINGS FRIENDS – RULE 6 PARTY

Mr L Glenister of Counsel

He called:

Mr P Bell BA MA PDD IHBCo  
of Asset Heritage Consulting

Mr S T Watson BSc(Hons) MICEEM  
Principal Ecologist – Bioscan (UK) Limited

## OTHER THIRD PARTIES AND INTERESTED PERSONS

Mrs S Walker

Mr P Walker and

Mr A Walker of Charlton Kings Friends also spoke on their own behalves

Cllr L Savage also on behalf of Mr A Chalk MP for Cheltenham and Cllr M Babbage

Cllr B Fisher

Cllr P McCloskey

Cllr S Harvey

Ms E Gilmartin and

Mr J Taylor on behalf of The Woodland Trust

Mr R Wilbourn on behalf of The Trustees of the Battledown Estate

Mr T R Gander on behalf of Cheltenham Flood and Drainage Panel

Mr D Edwards MICE

Mr M J Bowles – local resident and arboriculturalist

Mrs J Waite – local resident

Mr A Thurlow – local resident

Mrs L Lythgoe – local resident

Mr C Lythgoe – local resident

Mr R Grimshaw

## **PLANS**

Dwg No PL004 Revision A Proposed Block Plan

Dwg No PL005 Revision D Proposed Site Layout

Dwg No PL006 Revision A Indicative Mass Building Plan

Dwg No PL007 Revision A Affordable Housing Distribution

Dwg No PL010 Revision A Indicative Street Scenes

Dwg No PL011 Revision A Indicative Street Scene

Dwg No PL014 Revision A Nolli Plan

Dwg No 38-1036.03-B Tree Protection Plan

Dwg No 19073.101 Landscape Strategy

## **DOCUMENTS**

### *General and Interested Persons*

- 1 Letter of Notification of the Inquiry
- 2 St Edward's Schools Trust - letter of support
- 3 Mr Alex Chalk MP and Cllrs Savage and Babbage - written statement
- 4 Mr Wilbourn, Trustees Battledown Estate – transcript
- 5 Mrs Waite – transcript
- 6 Mr P Walker – transcript
- 7 Cllr Fisher – transcript
- 8 Mr Edwards – transcript
- 9 Mr A Walker – transcript
- 10 Mr Thurlow – transcript
- 11 Mrs Lythgoe – transcript
- 12 Mr Lythgoe – transcript
- 13 Mr Taylor and Ms Gilmartin, Woodland Trust – transcript
- 14 Mr Bowles – transcript
- 15 Mr Gander, CFDP – transcript
- 16 Planning Obligation
- 17 Suggested Conditions
- 18 Scott Schedules
- 18A Draft suggested MM to Cheltenham Plan allocation HD4

### *Submissions*

- 19ab CBC Opening and Closing Statements
- 20ab Appellants Opening and Closing Statements
- 21ab CKF Opening and Closing Statements

### *CBC Proofs and Appendices*

- 22abc Ms Mulraine
- 23ab Mr Morris

24ab Mr Williams

25 *number not used*

*Appellants Proofs and Appendices*

26ab Mr Colebrook

27abc Ms Markham

28ab Mr Baxter

29ab Mr Frampton

Mr Glaze (Mr Frampton Appendix 4)

Mr de Croos (Mr Frampton Appendix 2)

30abc Mr A Moger BA(Hons) MA MRTPI– Affordable Housing evidence taken as read

*CKF Proofs and Appendices*

31abc Mr Bell

32ab Mr Watson

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## Oakhurst Rise Application- 20/00683/OUT

### Level of Affordable Housing Provision:

The Joint Core Strategy Policy SD12: Affordable Housing states that 'on sites of 11 dwellings or more, or sites with a maximum combined gross floor space of greater than 1000 sqm; a minimum of 40% affordable housing will be sought within the Borough of Cheltenham'

This application will comprise of 43 residential units. The proposed scheme delivers 18 affordable housing units (42% affordable housing) and is therefore considered to be policy compliant.

The latest LHNA that has been commissioned requires a mix of approximately 70:30 rented to intermediate affordable provision.

### Dwelling Mix:

Therefore, having regard to local needs we would therefore seek and have agreed with the applicant to provide the following mix of affordable dwellings on this site:

42%	Social Rent	Affordable Rent (Capped at LHA levels)	Shared Ownership	Total	%
1b2p Ground Floor Maisonette M4(2) Cat 2 (50m <sup>2</sup> )-	2	0	0	2	28%
1b2p Upper Floor Maisonette (50m <sup>2</sup> )	2	0	0	2	
1b2p House M4(2) Cat 2 (50m <sup>2</sup> )	1	0	0	1	
2b4p GF Maisonette, M4(2) Cat 2, 71m <sup>2</sup>	0	1	0	1	44%
2b4p Upper Floor Maisonette, 71m <sup>2</sup>	0	1	0	1	
2b4p House, M4(2) Cat 2, 79m <sup>2</sup>	0	3	0	3	
2b4p House (67m <sup>2</sup> )	0	0	3	3	
3b5p House (82m <sup>2</sup> )	0	1	2	3	22%

3b6p House (95m <sup>2</sup> )	0	1	0	1	
4b7p House (108m <sup>2</sup> )-	1	0	0	1	6%
Total:	13		5	18	100%
	72%		28%		

The Joint Core Strategy states that where there is an issue relating to the viability of development that impacts on delivery of the full affordable housing requirement, developers should consider:

Varying the housing mix and design of the scheme in order to reduce costs whilst having regard to the requirements of other policies in the plan, particularly Policy SD4, and the objective of creating a balanced housing market.

Securing public subsidy or other commuted sums to assist delivery of affordable housing (whilst being mindful of the terms and conditions set out by Homes England's latest SOAHP Prospectus).

If a development cannot deliver the full affordable housing requirement, a viability assessment conforming to an agreed methodology, in accordance with Policy INF6 will be required. Viability assessments will be published in full prior to determination for all non-policy compliant schemes except in exceptional circumstances when it can be proven that publication of certain specific information would harm the commercial confidentiality of the developer to no public benefit. Where necessary CBC will then arrange for them to be independently appraised at the expense of the applicant.

The council considers that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants should do so in the knowledge that this will be made publicly available alongside other application documents.

The council will allow for exceptions to this in very limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. Given the significant benefits associated with the availability of information to the public as part of the decision making process, and the other factors identified above, the councils anticipate that there would be very few exceptions.

If an applicant wishes to make a case for an exceptional circumstance in relation to an element of their assessment, they should provide a full justification as to the extent to which disclosure of a specific piece of information would cause an 'adverse effect' and harm to the public interest that is not outweighed by the benefits of disclosure. The council will consider this carefully, with reference to the 'adverse effect' and overriding 'public interest' tests in the EIR, as well as the specific circumstances of the case.

The viability of a site may enable additional levels of affordable housing to be delivered above the requirements set out in the Joint Core Strategy. In this case the authority will

negotiate with developers to find an appropriate balance to deliver affordable housing and infrastructure needs.

**Dwelling Mix/Tenure:**

The intermediate housing should be shared ownership and we have proposed this within a mix of dwelling types as this best meets local needs.

JCS Policy SD11: Housing Mix and Standards stipulates that- “development should address the needs of the local area, as set out in the local housing evidence bases, including the most up-to-date Local Housing Needs Assessment”.

Accordingly, the Council has consulted at length with a number Registered Providers active in Cheltenham Borough to inform the affordable housing mix and general negotiations on this scheme, as well as drawing upon a range of evidence bases (as per JCS Policy SD11) which included the Council’s Housing Register, the latest Local Housing Needs Assessment and Shared Ownership need informed by data provided by Help to Buy South Agent 3.

As of May 2020, Cheltenham Borough has 2,190 households waiting for affordable housing on the Council’s Housing Register. Of these, 53 households (2%) fall into Emergency Band, 65 households (3%) fall into Gold Band, 505 households (23%) fall into Silver Band and 1,567 households (72%) fall into Bronze Band. Clearly, these statistics reflect a significant need for affordable housing in the Borough which the agreed mix will help to address.

The Council was keen to ensure that a range of dwelling types and sizes were provided on this scheme to meet a range of affordability and need requirement as set out by JCS SD11. The initial dwelling mix proposed by the applicant included a mix of 1-3 bedroom affordable homes, however, after detailed negotiations with the applicant, a more appropriate mix of 1-4 bedroom affordable homes has been agreed that meets housing needs (captured in the dwelling mix table found on Page 1). In the Council’s view, the agreed mix is far more reflective of Cheltenham’s affordable housing needs, as set out in the Council’s Housing Register.

The applicants original proposals included a number of 1 bedroom flats. The Council consulted with a number of RP’s on this matter, and eventually negotiated with the developer on the basis of providing 4 x 1b2p Maisonettes and 1x 1b2p House. From the Council’s perspective, this is a positive result that will meet both need and aspirations of affordable tenants. The NPPF sets out that ‘developments should function well in the long-term’ and that developers should look to create ‘mixed and balanced communities’. In this vein, by allowing all affordable tenants to have their own front door, this will foster a sense of belonging and community that is fundamental to creating a strong, sustainable community. It is also notable that the agreed mix also ensures that all affordable homes are provided with their individual allocation of private outdoor space (the provision of which is well-established to contribute towards positive mental and physical health outcomes).

In regards to Shared Ownership, the Council has drawn upon data from Help to Buy South Agent 3 regarding the need for Shared Ownership in Cheltenham, as well as discussing the Council’s proposed mix with a number of RP Shared Ownership Sales teams active in the area to inform negotiations. The Council is satisfied that the agreed mix meets Shared Ownership preferences in the Cheltenham area. Case and point, of 653 households

registered with Help to Buy South with a Local Connection to Cheltenham, 389 households stated a preference for a 2 bedroom property. Of these 389 households, 284 stated their preference for a 2 bedroom Shared Ownership house. Additionally, data from Help to Buy South reflects a fairly significant 3 bedroom need, with 137 households declaring their interest in a 3 bedroom Shared Ownership property. The figures outlined above correlate with the agreed mix, and hence meet Cheltenham's Shared Ownership needs.

### **Affordable Housing Layout:**

In line with JCS Policy SD12, affordable housing should be provided on-site and should be seamlessly integrated and evenly distributed throughout the development scheme to promote the creation of mixed and balanced communities. The Council would also expect that the on-site Affordable Housing should also be provided in accordance with the Council's clustering strategy, found in the JCS AHP Precedent S.106.

The Council has conducted extensive discussions with both the applicant and Registered Providers operating in Cheltenham Borough regarding the layout of the affordable housing on this scheme. The original proposed layout ran in conflict with the JCS Policy SD12: Affordable Housing, as the referenced layout located the affordable homes almost exclusively at the front of the development; this can hardly be classified as 'seamlessly integrating' affordable housing across the development scheme.

Further to this point, the Council also raised concerns with the applicant regarding the substantial number of large (3 and 4 bedroom) affordable homes in close proximity to each other in the original proposed plans. Discussions with RP's have reflected the fact that locating large affordable homes in close proximity to each other will often lead to housing management problems in the long-term, as well as stifling social interaction between people who might not otherwise come into contact with each other (as per NPPF Paragraph 91a).

This point is reinforced further by NPPF Paragraph 127a, which stipulates that planning decisions should ensure that developments will function well over the lifetime of the development.

Following negotiations with the applicant, the amended affordable housing layout meets policy requirements under JCS Policy SD12 and JCS Policy SD11 respectively. The applicant has moved a cluster of affordable homes to the North East of the site, to separate the affordable homes.

As per the Council's request, the applicant has provided private outdoor space for all affordable homes (although it is recognised that this is constrained for the 1 bedroom flats due to the natural constraints of the site) as well as accepting a mix that allowed all affordable tenants to have their own front door, which will help to foster a strong sense of belonging amongst tenants.

The design of affordable housing should meet required standards and be equal to that of market housing in terms of appearance, build quality and materials. For clarity's sake, this requirement encompasses surrounding green spaces, parking provision and the surrounding built environment, as well as soft and hard landscaping; this is with the aim of ensuring that the affordable housing is indistinguishable from the market housing, so the whole development is 'tenure blind'.

## Rents:

The 2015 SHMA Update Note indicated a substantial need for rented affordable housing in Cheltenham Borough with particular emphasis upon the need for social rented homes. Case and point, of 707 households in need of affordable housing each year in Cheltenham, Table A1.12 states that 76% of Cheltenham Borough Councils total affordable housing delivery (537 Affordable Homes per annum) should be Social Rent, compared to 15% for Affordable Rent respectively.

Examining our forthcoming evidence base, (the 2020 Gloucestershire LHNA), which is currently in final draft format but awaiting sign-off, Figure 86 sets out that 88% (1325/1511) of Cheltenham Borough Council's rented affordable housing need between 2021-2041 should be provided in the form of Social Rented homes.

The Council has identified that delivering social rented homes on this scheme will be particularly beneficial to single parent households, households with dependent children, households in part time work/relying upon agency work and individuals on zero-hour contracts, as these households are unlikely to have their full housing benefit covered by LHA Affordable Rented homes.

However, in recognition of the extensive planning history of this particular scheme (with the applicant going through two appeal processes with correspondingly reduced scheme delivery, from 90 to 69 to 43), scheme viability was a genuine consideration, and a practical approach was required from both the perspective of the developer and the Council.

Accordingly, the Council focused upon the acute affordability pressures surrounding 1 bedroom and 4 bedroom affordable housing need when negotiating on social rented provision with the applicant, securing 33% of the total affordable housing delivery on this site at social rented levels.

The Council is reassured that the 1 x 4b7p affordable home will be delivered at social rented levels, as this provides the Council with confidence that these households will not be adversely impacted by the Benefit Cap. Outside of London, the benefit cap is £384.62 per week (£20,000 a year) for a couple or a single parent living with children. In practice, Affordable Rents, even capped at LHA rates, will not be affordable for larger households in affordable housing need due to this cap.

The 2020 Gloucestershire LHNA identifies a serious affordability issue with 1 bedroom affordable rented stock for a range of family types, and the Council negotiated with the developer on the basis of addressing these acute affordability issues. Figures 35 and 38 of the 2020 Gloucestershire LHNA identifies a minimum shortfall of £792 per year, rising to a maximum shortfall of approximately £2,971 per year for a single person aged 35+ when comparing maximum housing benefit rates for the Cheltenham BRMA with annual income required to rent affordable rented properties in Cheltenham.

Therefore, on these grounds, the Council is satisfied with the agreed mix, whereby all provision of all 1 bedroom (and 4 bedroom) affordable homes are at social rented levels; this will also provide households with greater disposable income that will reduce the likelihood of households falling into 'housing stress' as well as enabling households to improve their quality of life with the increased disposable income.

From the perspective of the Registered Providers, letting affordable homes at social rented levels will help provide them with assurance that they can recoup the money spent on securing the affordable homes, as well as aligning the costs of purchasing the units with the long-term returns they may expect to receive.

Having spoken with our Preferred Providers, they have been very supportive of increasing Social Rented provision, and a number of Registered Providers active in the Cheltenham area have provided letters of support for the scheme mix and layout.

To ensure that the affordable rented contingent of this scheme is affordable in perpetuity as per JCS Policy SD12, the Council also conducted affordable housing negotiations on the grounds of ensuring that the affordable rented homes did not exceed Local Housing Allowance (LHA) rates. This point has been agreed with the applicant, and will be enshrined within the S.106 agreement for this scheme, providing the Council with assurances that these affordable tenancies will be affordable in perpetuity, and that rents will be fully covered by Housing Benefit.

### **Service Charges**

Any service charges on the affordable dwellings should be eligible for Housing Benefit.

Service charges should be kept minimal. This can be achieved through the design and we would be happy to refer you to RP's for further input if necessary. This is supported by the fact that RP's have provided feedback to the Council which reflects that areas requiring intensive upkeep may reduce the financial offer the RP's are willing to bid on a site.

The Council would also require that, where service charges arise, for details of the financial costs of these service charges to be made fully transparent to both the Council, the Registered Providers and the residents living in the allocated affordable homes.

### **Shared Ownership Units:**

The intermediate housing should be Shared Ownership dwellings should be let at a level that is affordable, having due regard to local incomes and local house prices; the Council would expect that the allocation and affordability of Shared Ownership homes will be made in line with the Capital Funding Guide (CFG).

Owing to the high land values surrounding this scheme, the Council would remind RPs to be mindful of the provisions of the Capital Funding Guide (CFG) which allows initial equity shares to be marketed from anywhere between 25% to 75% respectively.

Provision should be made, where possible to ensure that housing will remain at an affordable price for future eligible households, or that subsidy will be recycled for alternative housing provision.

### **Car Parking:**

Parking provision for affordable homes will be expected to be made on the same basis as that provided for market dwellings.

### **Affordable Housing Standards:**

We would expect all the affordable housing to meet minimum gross internal floor area size measurements, space, design and quality standards as described by Homes England.

Having discussed the proposed sizes with the Registered Providers, the Council would highlight that all 4 bedroom 7 person dwellings should be built to meet a minimum of 108m<sup>2</sup>, in line with the JCS AHP Precedent Guidance Note, instead of the 107.5m<sup>2</sup> currently proposed within the planning layout.

Living in an insufficiently sized home can have serious direct and indirect impacts upon the physical and mental health, educational attainment, relationships and social cohesions which may ultimately have a damaging impact upon the quality of life of affordable housing tenants.

For the sake of clarity, the minimum standards expected and agreed with the applicant for affordable homes of all tenures are contained within the dwelling mix table contained on Page 1.

Amendments to M4 (1), M4 (2) and M4 (3) of schedule 1 to the Building Regulations 2010 took effect on 1<sup>st</sup> October 2015 therefore we would seek the following:

The Council would expect that all general needs accommodation should, at the bare minimum, be designed to meet or exceed the sizes specified in the JCS AHP Precedent Guidance Note, with the negotiated provision of M4(2) Category 2 accessible and adaptable housing on this specific site being found in the Council's proposed dwelling mix on Page 1.

In terms of the Council's adopted policy and rationale justifying this approach and the agreed mix, JCS Policy SD11: Housing Mix and Standards encourages new homes (including affordable homes) to be designed to be accessible and adaptable as far as compatible with local context and other JCS policies. Further to this point, the latest PPG on housing for older and disabled people states that- "Accessible and adaptable housing enables people to live more independently, while also saving on health and social costs in the future".

Accordingly, the latest LHNA sets out, in Paragraph 9.111, that 67% of all housing should meet M4(2) Category 2 requirements, and preferably more to account for the lack of provision in the existing housing stock.

Examining the population projections included within the latest LHNA, Cheltenham's population is projected to grow by 9,802 households between 2021-2041 (Figure 83), of which 79% of this total growth (7,782) will be in the 65+ age demographic. It is also significant that, as household circumstances change, for instance, through the addition of household members with disabilities, the onset of a progressive illness, or a sudden accident that limits mobility, and frailty increases with age, affordable housing should be adaptable to such circumstances.

Considering the health and social benefits of building homes to M4(2) Category 2 standards, NHS England has been clear in emphasising the positive benefits of households and individuals remaining in their current homes and communities wherever possible to reduce the strain upon the NHS and the Social Care system. From a practical perspective, the provision of accessible and adaptable M4(2) Category 2 homes in line with identified needs can also help to prevent trips and falls and enable tenants to have complete access to their property- again, taking pressure off of the NHS and Social Care resources.

In this vein, the agreed mix, whilst not reaching the LHNA's recommendations due to issues with the comparatively limited space on this site and concerns about viability, does nevertheless provide a significant contingent of M4(2) Category 2 dwellings that will make a significant contribution to meeting both current and future needs for these properties in the Borough.

Any wheelchair user dwellings should be designed to meet the 2015 amendments of M4(3) Category 3 Building Regulations. As the gross internal areas in this standard will not be adequate for wheelchair housing, additional internal area would be required to accommodate increased circulation and functionality to meet the needs of wheelchair households.

There is no longer a requirement for a specific level of code for sustainable Homes Standard to be achieved to meet Homes England standards for new affordable homes. This is therefore to be negotiated with the developer.

In light of the above, the Council would therefore encourage the developer to ensure that the affordable homes are built to a minimum of energy efficiency EPC B Standards or above, to ensure that the affordable homes provided help to keep tenants warm and well, as well as saving them money on heating costs (thus helping to tackle fuel poverty and the negative impacts this can have on physical and mental health).

#### **Full Planning Application:**

On submission of a full planning application we would require an Affordable Housing Plan as part of the application, detailing the location of both the market and affordable homes in terms of their type, tenure and size as well as highlighting parking spaces and the dwellings they serve.

The Council will also require that floor plans for both the market and affordable homes are provided with the submission of a full planning permission.

#### **Registered Providers**

All affordable housing should be provided by a Registered Provider who will be expected to enter into a nominations agreement with the Local Authority, providing 100% nominations on first letting/sale and 75% of all subsequent lettings thereafter and will also be expected to market the Shared Ownership units through Help to Buy South Agent 3. This will assist the Local Authority in meeting its statutory housing duties under the Housing and Homelessness legislation.

A list of Registered Providers managing accommodation in Cheltenham can be made available if needed.

**Ewan Wright**

**Housing Strategy and Enabling Officer**

**17<sup>th</sup> June 2020**





		Highways Development Management Shire Hall Gloucester GL1 2TH	
<b>Emma Pickernell</b> <b>Cheltenham Borough Council</b> <b>P.O. Box 12</b> <b>Municipal Offices</b> <b>Promenade</b> <b>Cheltenham Glos</b> <b>GL50 1PP</b>		<b>Email: devcoord@gloucestershire.gov.uk</b>	
<b>Our Ref: B/2020/045171</b>		<b>Your Ref: 20/00683/OUT</b>	<b>Date: 26 June 2020</b>
<b>Proposal:</b>	Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration  Land Adjacent To Oakhurst Rise Cheltenham Gloucestershire	<b>Received date:</b>	4 May 2020
<b>Recommendation:</b>	No objection	No objection (Subject to conditions)	✓
	Refusal	Further information	
<b>Document(s), drawing(s) and reference(s):</b>	<ul style="list-style-type: none"> <li>- Application form</li> <li>- Covering letter</li> <li>- Planning Statement</li> <li>- Design &amp; Access Statement Rev B</li> <li>- Site photographs</li> <li>- Supporting photographs</li> <li>- Transport Assessment</li> <li>- NMU Context Report</li> <li>- Stage 1 Road Safety Audit Report &amp; Mobility Audit</li> <li>- Stage 1 Road Safety Audit Report &amp; Mobility Audit Report &amp; Mobility Audit Designer's Response</li> <li>- Travel Plan</li> <li>- LA01 Revision: N</li> </ul>	<b>Planning history ref(s):</b>	<ul style="list-style-type: none"> <li>- 17/00710/OUT</li> <li>- 17/01778/FUL</li> <li>- 18/02171/OUT (APP/B1605/W/19/322 7293)</li> </ul>

	<ul style="list-style-type: none"> <li>- PL001</li> <li>- PL003</li> <li>- PL004 Rev B</li> <li>- PL005 Rev B</li> <li>- PL010 Rev B</li> <li>- SK01 Revision: U</li> <li>- SK09 Revision: X</li> <li>- SK25 Revision: F</li> <li>- SP01 Revision: W</li> <li>- SP02 Revision: T</li> <li>- SP07 Revision: E</li> </ul>		
<p><b>Details of recommendation:</b></p>	<p><b><u>Local Transport Network</u></b></p> <p>The site is located to the east of Cheltenham town centre within Charlton Kings. The site is bound to the north, east and west by existing residential development and to the south by St. Edward's Preparatory School. The proposed development site will be accessed directly from Oakhurst Rise. Oakhurst Rise is a publicly maintainable historic cul-de-sac that has safely served some 30+ residential dwellings for a number of years, connecting to Ewens Road and Beaufort Road at its southern extent in the form of a simple priority junction. Oakhurst Rise and all of the other roads in the locality have pedestrian footways to both sides of the highway and feature street lighting.</p> <p><b><u>Existing &amp; Proposed Land Uses</u></b></p> <p>The site is currently 4.29 hectares of pasture. The proposed land use will change to occupy 43 residential dwellings comprising of:</p> <ul style="list-style-type: none"> <li>- 4 1 bedroomed maisonettes;</li> <li>- 2 2 bedroomed maisonettes;</li> <li>- 1 1 bedroomed house;</li> <li>- 8 2 bedroomed houses;</li> <li>- 9 3 bedroomed houses; and</li> <li>- 19 4 bedroomed houses</li> </ul> <p><b><u>Accessibility – Public Transport, Walking &amp; Cycling</u></b></p> <p>The site is sustainably located and is deemed to be within acceptable walking distance of local amenities. In addition the site is also accessible to high quality public transport facilities located nearby with the nearest bus stops located on Beaufort Road to the south-west and slightly further afield on the A40 to the south. The bus serving the stop on the A40 London Road operates regularly at peak hours with services connecting to centre of Cheltenham Town.</p>		

## Access

Vehicular access to the site will be provided from Oakhurst Rise, via a continuation of the existing cul-de-sac. Oakhurst Rise is a class 4 highway with a carriageway width of approximately 5.5m and is subject to the sign posted 20mph speed limit. The continuation of carriageway into the site will remain at a width of 5.5m with 2m wide footways on both sides of the carriageway.

## Layout

The proposed internal layout will primarily be 5.5m wide carriageways with 2m footways on either side throughout the layout which is sufficient width to accommodate the passing of two private estate vehicles and ensures that conflict with vulnerable users is minimised in accordance with Paragraph 110 of the National Planning Policy Framework (NPPF). The remaining areas within the site will be shared surface and vary in width between circa 6.8m - 7.5m; full height kerbed footways are tapered transitioning pedestrians into these shared areas with transitional rumble strips / ramps indicating drivers that they are entering areas with a change in highway user priority.

As two private estate cars can pass one another simultaneously throughout the site forward visibility is only required for larger vehicles (such as a refuse vehicle) and a car where they cannot safely pass simultaneously. As drivers of larger vehicles typically sit further forward than in a car due to the bonnet length being reduced this provides them with enhanced forward visibility. Therefore with the aforementioned and the infrequency of two such vehicles meeting it is deemed that speeds and the required visibility in these locations will be low.

Refuse vehicle swept path analysis (SPA) shown on plan ref. SP01 Revision: W demonstrates that an 11.2m 3-axle refuse vehicle can safely enter, manoeuvre through and egress the site in forward gear without conflict. The SPA has demonstrated that where a car is unable to pass a refuse vehicle adequate levels of driver to driver inter-visibility can be achieved to allow one another to give way. The refuse vehicle can also get within 25m of all refuse storage points.

Forward visibility of 25m commensurate with the design speed of 20mph has been demonstrated (plan ref. SK01 Revision: U) around all bends throughout the main estate layout.

As the site has a gradient, when a planning application is submitted the developer will have to bear in mind how they propose to construct the carriageways to an acceptable gradient. There are many ways that the required gradients can be achieved through various earthwork techniques. However, at planning stage technical details such as carriageway gradients are not assessed as this will take place once planning permission has been established through the technical approval process.

Gloucestershire County Council's Technical Specification for New Streets provides guidelines for adoptable gradients and geometries and these must be achieved if the roads are to be adopted. Even if the developer does not want the carriageways and footways within the site to be adopted they must still be constructed to an adoptable standard.

## Parking

As there are currently no local car parking standards in Gloucestershire, the suitability of the parking provision will instead be assessed against the methodology set out in the NPPF. A further Ministerial statement published in March 2015 stated that Local Planning Authorities should only impose local parking standards for residential and non-residential

development where there is a clear and compelling justification that it is necessary to manage their local road network.

Residential parking provision should be compliant with Paragraph 105 of the NPPF, a part of that methodology looks at forecast local demand of car ownership levels based upon the 2011 census data.

In total the proposed development will provide a total of 86 parking spaces for the 43 dwellings with a mix of garages, driveway car parking spaces and, in addition 8 visitor car parking spaces will also be provided. The overall allocated spaces equates to an average of 2 parking spaces per dwelling, which is in excess of the local car ownership Census data levels. The 2011 local car ownership Census data identified an average car ownership within area E01022104:Cheltenham 012B of approximately 1.20 cars per dwelling.

<u>Car / Van</u>	<u>Number</u>	<u>%</u>
All categories: Car or van availability	721	100.0
No cars or vans in household	122	16.9
1 car or van in household	349	48.4
2 cars or vans in household	200	27.7
3 cars or vans in household	37	5.1
4 or more cars or vans in household	13	1.8

In addition the site will provide a minimum of 2 secure cycle storage facilities per dwelling. Cycle storage provision will encourage an active lifestyle and can act as a suitable substitute to the private car over short distances. A 3 mile utility cycle is a convenient distance for cyclists of all abilities whilst longer journeys of 5 miles or more according to LTN 2/08 allows experience cyclists to commute to work as well as provide scope to combine with alternative modes of sustainable transport to create longer environmentally friendly journeys. Cycling does have the ability to create a modal shift away from the private motor car.

Cycle storage for the houses and maisonettes can be accommodated within a rear garden shed, the shed should have a stand secured to the foundations and fixed lockable door. They should be positioned as such to allow for overlooking from a habitable room, this will allow for passive surveillance and help to reduce potential crime. The cycle storage serving the apartments can be provided by way of an appropriately positioned external store located close to pedestrian entrances and accesses. The store must be safe, secure and covered. Cycle storage facilities will be secured by way of planning condition.

**Road Safety Audit**

A Stage 1 Road Safety Audit (RSA) was undertaken for the site layout in accordance with Design Manual for Roads and Bridges (DMRB) GG-119. All issues raised within the audit

have been agreed to within the designer's response and demonstrated on plan refs. SK01 Revision: U, SP01 Revision: W, SP02 Revision: T and SP07 Revision: E which have addressed the road safety issues raised.

## **Non-Motorised Users**

A non-motorised user's assessment was undertaken based on the principals of DMRB GG 142 'Walking, Cycling & Horse-Riding Assessment and Review' with an aim to identify any shortfalls in pedestrian facilities and whether it would be reasonable to secure off site mitigation of the routes identified within the report. The report identifies deficiencies in the surrounding walking/cycling network and routes to destinations which should be improved for non-motorised user's accessibility, safety, comfort and convenience.

Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas which residents may access comfortably on foot. However, this is not an upper limit and Planning Policy Statement 13 Transportation and Land Use document states that walking offers the greatest potential to replace short car trips, particularly those under 2km. Manual for Streets encourages a reduction in the need to travel by car through the creation of mixed-use neighbourhoods with interconnected street patterns, where daily needs are within walking distance of most residents.

Whilst it is acknowledged that in a couple of cases the distances between the site and destination walking distances were slightly underestimated, based on IHT guidelines which states that an average walking speed is approximately 1.4m/s, when distances are increased they would still coincide with the preferred maximum suggested walking distances.

The overall outcome of the assessment review identified that the existing routes were of a good standard with only a small number of pedestrian crossing improvements required. These have been secured by way of suitably worded planning condition.

## **Vehicle Trip Generation**

During scoping discussions, the Highway Authority stated that the TRICS (Trip Rate Information Computer System) trip generation data presented by the applicant's transport consultant was not comparable to the proposed development site. The Highway Authority requested a local validation survey should be undertaken to determine the forecast trip generation. It was agreed that an Automatic Traffic Count (ATC) survey could be undertaken on Charlton Court Road, as this was considered to provide a typical trip rate for the area which could be used to forecast vehicular trips at the proposed site. As Charlton Court Road is of a similar geometry it is considered to be robust for the purposes of estimating the projected trip rates from the proposed development.

The use of the donor site (Charlton Court Road) is considered to be robust for the purposes of estimating the trip generation from the proposed development. The daily trip generation from the local donor site is approximately 25% higher than the daily trip generation presented in the scoping report presented by the applicants transport consultant, derived from the TRICS database.

The donor site recorded a two-way AM peak hour trip generation of 0.44 trips per dwelling consisting of 0.11 arrivals and 0.33 departures and a two-way PM peak hour trip generation 0.48 trips consisting of 0.31 arrivals and 0.17 departures per dwelling (based on 35 dwellings). For a 43 dwelling development, based on the donor site figures, the development would generate 19 AM peak hour trips consisting of 5 arrivals and 14

departures and 21 PM peak hour trips consisting of 13 arrivals and 7 departures.

## **Distribution & Traffic Impact**

Based on the 2011 Census Journey to Work Travel data, the proposed vehicle distribution can be determined. 51.8% of development traffic will be distributed left out of Oakhurst Rise onto Beaufort Road and Charlton Court Road, travel west along the A40 towards Cheltenham, 22.1% will be distributed right out of Oakhurst Rise, travel west along Ewens Road towards the B4075 Hales Road, 11.7% will turn left out of Oakhurst Rise onto Beaufort Road and Charlton Court Road, travel west along the A40 towards Cheltenham and turn left onto the A435 and the remainder will turn left out of Oakhurst Rise onto Beaufort Road and Charlton Court Road, travel east along the A40 towards Charlton Kings.

Four broad route choices have been identified as use of a “quickest” route choice for traffic travelling to/from the development site and each Middle Layer Super Output Area (MSOA), noting the small variations between AM and PM routes to account for one-way and banned turning movements in Cheltenham.

1. A40 W (London Road) and A40 S (Old Bath Road / Sandford Mill Road) – to access MSOA locations to the south and west of the site including Cheltenham town centre;
2. Ewens Road and residential streets surrounding the site – to access MSOA locations to the north;
3. A435 S (Cirencester Road) – to access MSOA locations to the south and east of the site; and
4. A40 E (London Road) – to access MSOA locations to the east of the site.

As this application is for 43 dwellings, and therefore 25 dwellings less than sought previously, based on the reduced projected number of trips the site will generate and subsequent reduction in the percentage of these trips assigned and distributed along the quickest routes it is not deemed necessary to revisit the off-site junction modelling assessments that have previously been assessed.

## **Personal Injury Collisions**

Personal injury collision statistics have been presented for a study area which covers the A40 London Road to the east, A435 to the south and Old Bath Road to the west.

Five collisions were recorded within the study area over the 5 year period with two recorded as serious. These collisions are considered to have occurred as a result of driver, pedestrian or cyclist error rather than being attributable to the geometry of the local highway network.

There has been no personal injury collisions recorded on Oakhurst Rise and therefore nothing to suggest that this highway is unsafe nor anything to suggest that the traffic generated by additional dwellings would make this section of highway unsafe. Overall it is reasonable to conclude that there is not an excessive amount of personal injury collisions on the wider network and those collisions that do occur are spread. Therefore it is reasonable to conclude that the additional traffic generated by the development will not have a material impact on general road safety in the area.

## **Residential Travel Plan**

The Department for Transport (DfT) defines a travel plan as “a long term management strategy that seeks to deliver sustainable transport objectives through positive action”. Such plans could include; car sharing schemes, commitment to improving cycle facilities,

dedicated bus services or restricted parking allocations. A successful Travel Plan should offer users whether they are employees, residents or visitors a choice of travel modes from sites or premises.

The submitted Travel Plan for this application aims to reduce the dependence upon single occupancy private car travel when accessing the site and in order to do so the Travel Plan aspires to;

- Reduce the percentage of residents travelling by single occupancy private car to and from the site.
- Generate increase in the percentage of residents utilising active modes (walking/cycling), public transport and car sharing.

In order for the Travel Plan to achieve these aims a number of actions and measures will need to be implemented. The applicant will appoint a Travel Plan Coordinator, whose duty it is to oversee the implementation and monitoring of the Travel Plan. The Coordinator will be appointed prior to the dwellings being occupied.

The Travel Plan will obtain the base survey data once 30% of the dwellings have been occupied, with initial targets set at a 10% reduction in single occupancy car journeys based on Census travel to work data in the interim. Targets can then be updated once the baseline travel survey has been undertaken. Once base survey data has been obtained at 30% occupancy the Travel Plan Coordinator will review the Travel Plan annually associated targets and measures adjusted accordingly. The Travel Plan aims to reduce single occupancy private car use year on year. A 5 year period is acceptable for this type and size of development. The Travel Plan can be secured by way of planning condition.

### **Recommendation**

**The National Planning Policy Framework (NPPF) states at paragraph 109 that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. The Highway Authority considers that this development will not have a severe impact on the local highway network. The NPPF also states that “safe and suitable access to the site can be achieved for all users”, “appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location”, and that “any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree”. It is considered that the development proposals will meet these criteria. The Highway Authority recommends that no highway objection be raised subject to the following conditions being attached to any permission granted:**

### **PCC1 Works affecting the Highway**

No works shall commence on site on the development hereby permitted until details of highway improvements consisting of the installation of a connecting section of footway (2m wide) with tactile dropped crossing point between Beaufort Road and Ewens Road (north side), extension to the footway (2m wide) and dropped kerb tactile crossing point across Charlton Court Road, and a bus shelter to serve Bus Stop ID: glodtwmt located on Beaufort Road have been submitted to and approved in writing by the Local Planning Authority and no occupation/opening to the public shall occur until the approved works have been completed and are open to the public.

Reason: In the interest of highway safety and to ensure that all road works associated with the proposed development are: planned; approved in good time (including any statutory processes); undertaken to a standard approved by the Local Planning Authority and are completed before occupation.

## **PCC2 Construction Management Plan**

Prior to commencement of the development hereby permitted details of a construction management plan or construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- Routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles; and
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.

## **POC1 Completion of Vehicular Access – Shown on the approved plans**

No building or use hereby permitted shall be occupied or use commenced until the means of access for vehicles, pedestrians and/or cyclists have been constructed and completed in accordance with the approved plans.

Reason: In the interest of highway safety.

## **POC5 Completion and Maintenance of Car/Vehicle Parking – Shown on approved plans**

No building or use hereby permitted shall be occupied or use commenced until the car/vehicle parking area and turning space associated with each building within the development (including garages and car ports where proposed) shown on the approved plans PL005 Rev B and SK25 Revision: F has been completed and thereafter the area shall be kept free of obstruction and available for the parking of vehicles associated with the development.

Reason: To ensure that there are adequate parking facilities to serve the development constructed to an acceptable standard.

## **POC6 Completion and Maintenance of Cycle Provision**

The development hereby permitted shall not be occupied until cycle storage facilities for a minimum of 2 no. bicycles per dwelling have been made available for use and those facilities shall be maintained for the duration of the development.

Reason: To ensure the provision and availability of adequate cycle parking.

## **POC10 Travel Plan – Submitted**

Prior to occupation or use commenced, evidence that the pre-occupation elements of the approved Travel Plan have been put in place shall be prepared, submitted to and approved



in writing by the Local Planning Authority.

The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan to the satisfaction of Local Planning Authority unless agreed in writing by the Local Planning Authority.

Reason: To support sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking and cycling.

### **POC12 Provision of Pedestrian Visibility Splays**

The individual vehicular accesses hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2 metres back along each edge of the access, measured from the carriageway edge, extending at an angle of 45 degrees to the footway, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level and shall be maintained as such for the duration of the development.

Reason: To ensure motorists have clear and unrestricted views of approaching pedestrians when pulling out onto the adopted highway, in the interest of highway safety.

### **POC15 Electric Vehicle Charging Points**

The development hereby permitted shall not be first occupied until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

Reason: To promote sustainable travel and healthy communities.

### **POC19 Retention of Garage/Car Parking Space(s)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property and ancillary domestic storage without the grant of further specific planning permission from the Local Planning Authority.

Reason: To retain garage/car space for parking purposes.

### **Notes & Advice:**

### **A4 Works on the Public Highway**

The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out.

Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk) allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Councils costs in undertaking the following actions:

- i. Drafting the Agreement
- ii. A Monitoring Fee
- iii. Approving the highway details

## iv. Inspecting the highway works

Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

### **A6 Highway to be adopted**

The development hereby approved includes the construction of new highway. To be considered for adoption and ongoing maintenance at the public expense it must be constructed to the Highway Authority's standards and terms for the phasing of the development. You are advised that you must enter into a highway agreement under Section 38 of the Highways Act 1980. The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980.

Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk). You will be required to pay fees to cover the Council's costs in undertaking the following actions:

- I. Drafting the Agreement
- II. Set up costs
- III. Approving the highway details
- IV. Inspecting the highway works

You should enter into discussions with statutory undertakers as soon as possible to co-ordinate the laying of services under any new highways to be adopted by the Highway Authority.

The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

### **A8 Impact on the highway network during construction**

The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at [Network&TrafficManagement@gloucestershire.gov.uk](mailto:Network&TrafficManagement@gloucestershire.gov.uk) before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.

### **A17 Construction Environmental Management Plan (CEMP)**

It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full, but particularly reference is made to "respecting the community" this says:

Constructors should give utmost consideration to their impact on neighbours and the public

- Informing, respecting and showing courtesy to those affected by the work;
- Minimising the impact of deliveries, parking and work on the public highway;
- Contributing to and supporting the local community and economy; and
- Working to create a positive and enduring impression, and promoting the Code.

The CEMP should clearly identify how the principle contractor will engage with the local community; this should be tailored to local circumstances. Contractors should also confirm how they will manage any local concerns and complaints and provide an agreed Service Level Agreement for responding to said issues.

Contractors should ensure that courtesy boards are provided and information shared with the local community relating to the timing of operations and contact details for the site

coordinator in the event of any difficulties. This does not offer any relief to obligations under existing Legislation.

CEMP can include but is not limited to:

- A construction programme including phasing of works;
- 24 hour emergency contact number;
- Hours of operation;
- Expected number and type of vehicles accessing the site;
  - Deliveries, waste, cranes, equipment, plant, works, visitors;
  - Size of construction vehicles;
  - The use of a consolidation operation or scheme for the delivery of materials and goods;
  - Phasing of works;
- Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction):
  - Programming;
  - Waste management;
  - Construction methodology;
  - Shared deliveries;
  - Car sharing;
  - Travel planning;
  - Local workforce;
  - Parking facilities for staff and visitors;
  - On-site facilities;
  - A scheme to encourage the use of public transport and cycling;
- Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residual roads;
- Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- Location for storage of plant/waste/construction materials;
- Arrangements for the turning of vehicles, to be within the site unless completely unavoidable;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Swept paths showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available;
- Any necessary temporary traffic management measures;
- Measures to protect vulnerable road users (cyclists and pedestrians);
- Arrangements for temporary facilities for any bus stops or routes;
- Highway Condition survey;
- Method of preventing mud being carried onto the highway; and
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

<b>Required consultation:</b>	<b>ITU</b>		<b>Highways Records</b>	
	<b>Rd Safety</b>		<b>Fire Service</b>	
	<b>PROW</b>		<b>Structures</b>	
	<b>LHM</b>		<b>Police</b>	

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## **CK Friends Objection (health warning – contains photographs of reptiles)**

This outline application offers clear cut choice between two value propositions:

1. the commercial book value of the land being increased (with the promise of future housing, including a policy compliant level of social / affordable housing).
2. the inherent ecological, heritage, educational and social value of the land being protected (as benefits all Gloucestershire county primary school pupils, thousands of residents of Charlton Kings, and the wider Cheltenham community).

Those supporting this application will claim both the above can be true. National experience of land banking strategies provides a rather gloomier perspective. This site has intrinsic community value that would be impossible to influence further, if outline planning permission is granted and the land passes from charitable to private ownership.

Our objection comes on the back of a clear cut appeal just 7 months ago where residents invested considerable time and money in supporting CBC's position, objecting to 68 houses.

Residents remain implacably opposed to the unsustainable development of this special site; we welcome the application for a similar number of houses in Bouncers Lane (also with policy compliant social housing) and supported the development of a nearby brownfield site currently occupied by Tim Fry Landrover (application refused).

Our objection runs deeper, due to profound unease over the case presented. **The baseline data associated with this application has been unsound from the outset, in almost every area**, despite detailed evidence submitted to clarify or more often correct. If the data is wrong, modelling and desk based studies by county authorities produce flawed results. This impacts sustainability, trees, transport, flood risk and ecology.

Not one of the county consultees has referred to evidence from residents (including our detailed Rule 6 submissions to the inspector during the appeal, which are no longer available through the planning portal). Residents voices are the only challenge to inaccurate data and outright misdirection, and they are being ignored – that is not reasonable.

On every area of contention associated with this new application, new or different data has been generated to claim policy compliance. For example, the applicants are on their 4<sup>th</sup> heritage consultant, each of whom has taken a different position. The tree report (version 2 associated with the new application post lockdown) contradicts itself on the felling of TPO'ed trees. The drainage strategy has changed again, but without further comment or risk assessment. The transport data is demonstrably wrong.

Conversely, the objections have been consistent. An experienced planning inspector made his views extremely clear in October 2019. Historic England remain implacably opposed to this latest iteration. Friends have said the same things in commentary on 3 applications and one appeal.

**We, like HE, see the same site and flaws and we ask CBC planning department to assess the evidence, not the history**, in advising the planning committee. **The case now presented in opposition, particularly on ecology, is significantly stronger than that represented to the inspector in August.**

In particular, new research informs:

- the importance of hedgerow ash trees without dieback<sup>1</sup>; they **appear to be more disease resistant than woodland trees** and therefore are **increasing valuable; assertions they have a limited lifespan are unfounded.**
- the badger population; minimum **5 adults plus cubs**, not a single breeding pair as represented to the inspector. Only a single artificial sett is provided for.
- the importance of nature connectedness in urban communities; **Natural England's research** published 16 March 2020 reinforces the critical benefits of access to nature sites such as these for both mental health and personal benefit, but also to influence long term behaviours around sustainable living and climate change.
- the unique biodiversity of the existing wildflower meadow; including **legally protected species not mentioned in the applicants' assessment of biodiversity harm**, records of the chimney sweeper moth not recorded in the borough since 1964 (itself an indicator species of high value grassland), and presence of a range of protected species.
- The level of importance of the biodiversity of the site; it qualifies for consideration as a key wildlife site. Since the appeal in only August 2019, a further 6 sedge and wildflower species have been identified, meeting the criteria of 20 grassland species required to make a case for a KWS. Being next to a school strengthens the case.
- The extreme limitations of the transport plan (on top of repeated challenge to inaccurate baseline data) **Allowing this data to stand in a Covid world risks negligence claims.** [Gloucestershire Highways commentary on peak capacity excess should have informed the local plan].

We contend that the original arguments stand as a backdrop:

- Increased flood risk, from surface water flooding, springs and inadequate sewerage capacity
- Lack of school places, particularly at primary level, and of any GP capacity (noting the problems we will face as a community post Covid)
- Impact on the AONB and the CK conservation area (exacerbated by the new roof profile at the top of the site)
- Loss of amenity to local residents

More detailed analysis is attached. To assist, quotes from the inspectors report on the planning inquiry are in **green**. Quotes from the developer's consultancy reports are in **red**.

And finally, the timing of this application is regrettable; a number of affected residents are in shielded households, some without internet. They remain disenfranchised and with heightened anxiety at an already difficult time. While the Covid crisis is unprecedented, any consideration of the impact on existing residents might have given rise to a different approach and timing. This community engagement is mandated in the NPPF, and its absence here is notable, although sadly predictable.

CK Friends  
3 June 2020

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<sup>1</sup> Landscape epidemiology of ash dieback, Journal of Ecology, published 15 April 2020

**Detailed objections**

**A. This is not plan led**

1. It is contrary to the development plan which is now awaiting adoption, exceeding the (albeit approximate) planned site allocation of 25 by 72%. This excess affects every area of strategic planning; the local road infrastructure that Gloucestershire Highways admit is already over capacity, overstretched GP services, and unavailable (particularly primary) school places.

36. "Policy HD4 of the draft Cheltenham Plan, **for approximately 25 dwellings, to a layout that respects the existing urban characteristics of the vicinity and the character, significance and setting of heritage assets that may be affected by the development, subject also to protection of key biodiversity assets**"

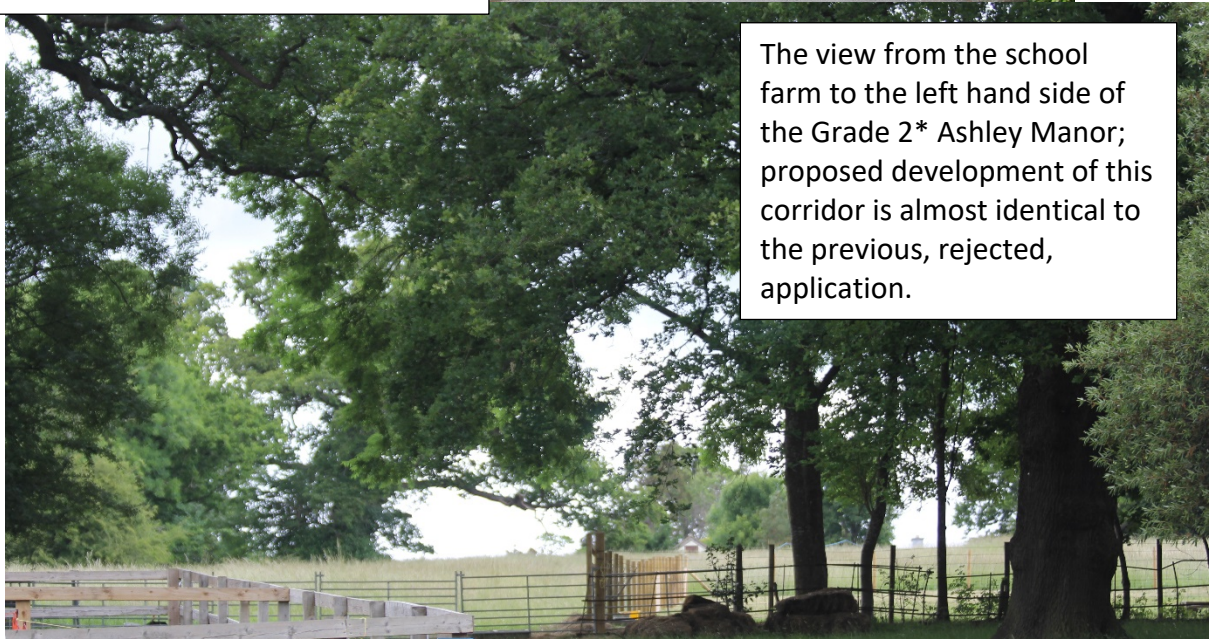
2. We have an application for 43 dwellings, which does not respect the character, significance and setting of heritage assets, particularly the Grade 2\* Ashley manor, and that ignores, let alone fails to protect, key biodiversity assets from wildflower meadow to important hedgerow to legally protected and nationally declining species. This is not plan led – and plan led decisions are at the heart of the NPPF.

**B. It causes unnecessary heritage harm, in contravention of CBC's statutory duties<sup>2</sup>**

3. This application causes harm to the setting of a Grade II\* listed building, and to the setting of a Grade II listed building. National policy (NPPF para 184 and 193) requires any harm to a heritage asset or its setting to have a clear and convincing justification; none is presented above the delivery of affordable housing **at the level required by local policy**. A tilted balance cannot be invoked where heritage assets are involved.
4. The impact on the setting of Ashley Manor (Grade II\* listed) was clearly identified as unacceptable by the inspector in August 2019; this application is very similar **in its domination of the setting of Ashley Manor, as seen from the grounds and entrance of the Manor itself, and from Charlton Kings village and the AONB**.



Grade 2\* Ashley Manor, proposed development site visible through the trees

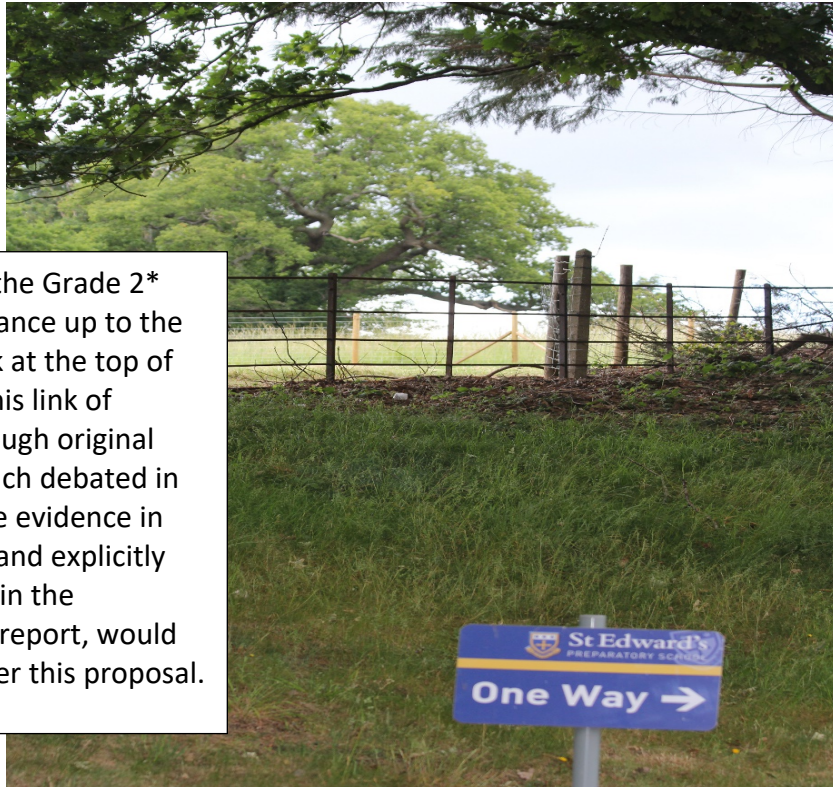


The view from the school farm to the left hand side of the Grade 2\* Ashley Manor; proposed development of this corridor is almost identical to the previous, rejected, application.

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<sup>2</sup> The full Inspector's ruling on harm to Ashley Manor at annex 1





View from the Grade 2\* school entrance up to the veteran oak at the top of the field. This link of setting through original fencing, much debated in the heritage evidence in the appeal and explicitly referenced in the inspector's report, would be lost under this proposal.

5. The issue, accepted by the inquiry, of night time urban street lighting framing what is currently a dark and rural setting, has not been addressed. Heavy screening will to break the relationship between Ashley Manor and its setting. Heritage planning guidance is explicit that screening is not in itself, sufficient. Perversely, this new design puts the highest ridge lines (9.7m) at the top of the site, thereby **increasing the impact** on the setting of the two adjacent listed properties as compared with previous applications. The impact will be clearly visible from both the AONB and from the Charlton Kings conservation area. The Inspector only 9 months ago reinforced that position – **“Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views”**



X = felled trees and hedgerow, build area (approximated)

View from A435 (AONB) entering Cheltenham



View from Charlton Kings common (AONB)

6. The inspector also noted the harm to the setting of Charlton Manor, “the presence of the new built development would still be visible from Charlton Manor and prominent in views available from its important west-facing windows... The appreciation of the Manor in views from within its setting to the west would be compromised, including for residents and members of the public living in or visiting the proposed dwellings.” This application moves the build line back just 30 metres and proposes a dense screen of trees which would take decades to mature.
7. Historic England are categorical in their continued objection to the harm from this development, in language that is consistent with the inspector’s findings 9 months ago. Authorising the over development of the grounds of a Grade II\* asset (the top 10% of heritage assets in the country), against the position of the statutory consultee on heritage, is in clear contravention of NPPF para 11di and para 192, and of SD8.
8. Loss of the setting of the grade II\* building will impact on the public ability to experience, often in a formative way, a key Cheltenham heritage asset. Objections have been raised by Whitefriars old boys from the 1960s who still recall their cross country runs past the Grade II\* manor house and up and around the ice house. Hundreds of children and their families get that opportunity each year, from all backgrounds. Although the cross-country competitions are held at a private preparatory school, they are open to primary and senior school children from across the county. Thousands of locals also get to appreciate the asset during the annual fireworks event, with the bonfire taking place on the proposed development site. Para 184 of the NPPF notes that heritage assets are “an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”. **This heritage asset and its setting would not be enjoyed in the same way, or used in the same memorable way, nor be open to the public in the same way, if the land were to transfer from charitable to private ownership on approval of the outline permission.**

**C. Biodiversity is permanently and significantly reduced, including unacceptable impact on protected species.**

Policy SD9 of the JCS encourages biodiversity enhancement and Policy NE2 of the CBLP seeks to safeguard protected species. These aims are consistent with Framework paragraph 170, which states that planning decisions should contribute to and enhance the natural environment, including by protecting and enhancing valued sites of biodiversity, minimising impacts on and providing net gains for biodiversity. Paragraph 175 also encourages net gains in biodiversity. Paragraph 175 further provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated or, as a last resort, compensated for, permission should be refused.

9. The ecology reports have repeatedly under-reported the biodiversity of the site, yet still claim harm to biodiversity is both possible and policy compliant. “In summary, the proposals have sought to minimise impacts on biodiversity, and subject to the implementation of appropriate avoidance, mitigation and compensation measures, it is considered unlikely that the proposals will result in significant harm to biodiversity.” CP3 relates to sustainable development and states: *Development will be permitted only where it would: (c) conserve or enhance the best of the.. natural environments; (d) safeguard and promote biodiversity.* The CBC policy is not to “consider it unlikely to cause significant harm”. It is to safeguard and promote, conserve and enhance.

10. The site design statement records that “**the open spaces within the site comprise unkempt grass**”. They fail to mention the minimum 65 different grasses, rushes and wildflowers present; the Lidar imagery showing historical ridge and furrow (evidencing this site having not affected by modern farming techniques). Or that the meadow meets the **qualification standard for consideration as a Gloucestershire key wildlife site**, being covered through the spring and summer with wildflowers, **including the legally protected English bluebell and 20 species from the KWS listings for grassland**. Arguments that ‘wildflower meadow / parkland will be created’ are specious – it is already in existence.
11. Failing to mention clearly visible and identifiable legally protected species is a considerable oversight in three years of notional ecological study. Other limitations in the ecology work include denying the presence of amphibians, downgrading the grassland, failing to mention the existing species range in the wildflower meadow, and avoiding any industry standard reptile surveys. The ‘avoid – mitigate – compensate’ hierarchy cannot be met when protected species already present have not been properly surveyed or accounted for. Residents’ reporting through lockdown has been lodged with GCER (Gloucestershire Centre for Environmental Records), based on recordings of birdsong, video and photographs, GPS records to geo-locate the sightings, and has been validated by various expert county recorders. **Amongst the legally protected species on the site there are English bluebells, common toad, grass snake and slow worms, at least 8 protected or conservation listed birds, the badgers, smooth newts and at least 5 different bats of conservation concern (all invoking policy SD9 2i).**

Policy NE1 relates to habitats and legally protected species and states: *‘Objective O18: Development which would materially harm, either directly or indirectly, a site supporting any legally protected species **will not be permitted unless safeguarding measures can be provided through conditions or planning obligations to secure its protection.**’*

It is impossible to safeguard species that have as yet not been acknowledged in the design. **The failure to contemplate safeguarding of 16 legally protected species** is sufficient grounds to refuse permission for this scheme outright.

**Policy NE3 relates to biodiversity and geodiversity of local importance and states:** *Development which would harm, either directly or indirectly, a habitat, species or geological site of local importance (note 1) will only be permitted where: the features of interest can be maintained within the development, or suitable measures of mitigation or compensation can be provided.*

The claims of mitigation across the site are in competition with one another; and the mitigation for removal of the important hedgerow (in and of itself an ecologically significant habitat) involves the destruction of bluebell populated wildflower meadow, reptile habitats and badger foraging, to offset with tree planting.

12. The badger sett that is on the field occupies an estimated 1 acre of subterranean space, according to the Badger Trust. They have 4 hectares of foraging and are rarely in conflict with people or traffic. A constrained artificial sett, recognised as rarely effective, a constrained foraging area (with stock proof fencing to protect the school land and primary school pupils) and the close proximity of traffic, according to the planning inspector, “**implies a reduction in the biodiversity of the site in respect of its current badger population**”. Video demonstrates the minimum population is now 5 badgers, plus any offspring, vice the 2 plus offspring reported to the inspector.

**Warning – reptile pictures on next page. All residents' sightings were recorded of photographed on 2 weekends in May 2020, and therefore can be assumed to be a fraction of the total ecology of the site.**

**Birds identified by sight or by sound** using the Android Birdnet app during a single May weekend (plus Aspect data). Sound recordings have GPS data attached if required. All were situated within the 10 acres of fields off Oakhurst Rise, Cheltenham. GR SO9621

Species	Date	Sight	Sound	conservation status
Treecreeper	02/05/2020	x		
Chiffchaff	02/05/2020		x	
Dunnock	03/05/2020	x	x	amber
Magpie	03/05/2020	x	x	
Green woodpecker	03/05/2020	x	x	
Great tit	03/05/2020	x	x	
Yellowhammer	03/05/2020		x	red
European Blackcap	03/05/2020	x	x	
Blue tit	03/05/2020	x	x	
Woodpigeon	04/05/2020	x	x	
Blackbird	04/05/2020	x	x	
Eurasian Wren	04/05/2020	x	x	
Song thrush	04/05/2020	x	x	red
European Robin	04/05/2020	x	x	
Long tailed tit	04/05/2020	x	x	
		x		legally protected
Red kite	04/05/2020			
Buzzard	04/05/2020	x		
Tawny Owl	04/05/2020		x	amber
Lesser Woodpecker	Aspect report			red
Cuckoo	04/05/2020		x	Red
House Sparrow	Aspect report			red

1 of many grass snakes routinely seen by residents north of the ice house, this one snapped by an Oakhurst Rise resident, basking by the pond



Slow worm and common toad (both NERC priority species) – daily features of locals' lockdown exercise

**D. This application requires the removal of mature TPO'ed trees and important hedgerow**

13. The tree report states that the concerns of the Woodland Trust, the inspector and local residents about the ancient and veteran trees have been noted. "Given the Inspector's endorsement of the RAVEN method for identification of ancient, veteran and notable trees, the list of which trees qualify under these headings remains unchanged."

14. This is somewhat at odds with the inspector's report which states:

"It is first appropriate to note the evidence of the Woodland Trust that a significant number of veteran and ancient trees on the appeal site have not been identified as such in the assessment submitted by the arboricultural consultants to the Appellants, including Tree 3014. That assessment is based upon the in-house identification system of the consultants, known as RAVEN. Criticism is based upon the Ancient Tree Inventory of the Ancient Tree Forum and Natural England standing advice for ancient woodland. It turns, in part, on alleged over-reliance by RAVEN, upon the mere size of the tree in assessing its veteran or ancient status."

15. As an example in the table on page 6 (of 13) in the tree report, tree 3015 (oak classified by the Woodland Trust as veteran, but not assigned a tree root buffer appropriate to a veteran tree) is explained away as *not veteran* saying it: "qualifies by size and age [268 years old] but lacks sufficient features for descriptor to apply". The RAVEN methodology to qualify veteran trees is unique to this consultant.

16. Page 4 of the arboriculturist report states "...Tree Preservation Order protects a number of the existing trees on the site. All such trees would be retained". And the design statement says "in developing the revised layout, we have sought to ensure that the scheme doesn't require the loss of any protected trees." However, in the table (line 4) it states that tree under TPO 6 is to be felled.

17. The tree report states that "JCS Policy SD9 seeks inter alia to avoid harm to biodiversity through on-site mitigation where possible. In the present case, there is a theoretical risk of harm to biodiversity from adverse impacts on ancient and other veteran trees and accordingly SD9 is engaged". It fails to mention that 40m of important hedgerow is removed and some mature trees have been denied their proper veteran status. It is an actual risk of harm to biodiversity. The application is silent on how this would be avoided, and is therefore not compliant with the policy.

18. Policy HD4 requires all mature trees and hedges to be protected and maintained. There are two notable ash trees (not yet affected by ash dieback, one under TPO already) and about 40 metres of important hedgerow that will be taken out to facilitate the development. All the mature trees over the badger sett are slated for removal; these form a significant feature in local views and can be clearly seen from the AONB (photos above and below), in contravention of policy GE12 and GE13.

19. Recent scientific research notes that hedgerow ash are less vulnerable to ash dieback and are therefore more important for conservation, not less (this new scientific research will presumably change the CBC view that ash trees are by definition of limited lifespan).

Theoretical risk:

- a. Gloucester Highways refuse to consider future risk of road injury or death in debating the safety concerns on the roads, saying there has to be evidence within the local area.
- b. The tree officer is happy to consider future risk of infection in trees to validate the fell list associated with the application, despite there being no sign of ash dieback in these trees.

**These two positions are in complete conflict.**

**E. This application increases flood risk and has not addressed surface water flooding, the presence of springs, or sewerage limitations,**

Friends endorse the expert submission of the Cheltenham Flood and Drainage panel, and have not repeated those points here. In general terms, for completeness:

20. Flood risk from surface water run off and constrained sewerage capacity has not been properly addressed despite the evidence of Charlton Court Road residents on the their already inadequate sewerage provision. There were significant concerns over two rejected applications, but this proposal has **further reduced the flood risk management measures** as compared with previous applications.
21. Springs are unmentioned despite previous assertions in front of the planning committee that mitigation would be put in place. As in other areas, this application has **reduced** protection compared with previous attempts, despite residents' concerns and challenges to the desk based assessments of risk. The application fails to meet para 155 of the NPPF.

**F. Development of the site at this level is the definition of unsustainable development. It cannot be accessed other than by car. In a Covid-19 world, that makes it unsafe – for our community and for residents. It is a car only development and runs completely counter to the CBC commitment to become carbon neutral.**

22. The travel plan claims '**excellent walking, cycle routes and public transport**'. However, the distances to local shops have been underestimated by 20-40%, walking times ignore gradient, and the transport plan cites the 2018 version of the bus timetable for the now radically changed local 'route B' service. The travel plan bears no relation to reality or local experience. There are no cycle routes within a mile, and the only access point is steeper than the hardest part of the Tour de France circuit. It is a car only development, completely inaccessible to anyone who is very young, elderly, infirm or disabled in the event of car journeys being impossible (this is not theoretical – it is every ice or snow event, every COVID lockdown). Gross errors in the data underpinning the transport plan include:

- The transport plan states there are 2 local buses, both running every two hours. This is the most recent timetable (Monday to Saturday only) for the only service to Ewens Farm:



Cheltenham, Pittville Street 08:30 11:30 14:30

Ewens Farm, Oakhurst Rise 08:55 11:55 14:55

Cheltenham, Pittville Street 09:27 12:27 15:27

- “Within the local context of the site, this can be assessed against the proximity to local services and amenities, which residents and/or visitors may require access to on a day-to-day basis”. The ‘transport plan’ then cites travel distances and times (Table 3.1). **These are not factual.** The walking distances to the town centre (2.5km), and to Balcarras (1.9km) are at the outer reaches or in excess of DfT maxima.
- Based on google maps, it is 1000m walk from 29 Oakhurst Rise (the entrance to this new development) to Holy Apostles School; not **760m**. St Edwards prep school is 1200m, not **680m**. These are journeys that residents will undertake by car – putting every other conclusion drawn at risk.

If the baseline data is wrong, the conclusions are wrong. Given we have evidenced this from the outset, one has to question why there is so much resistance to putting the right data in. **The transport plan is unsound.**

23. Paras 5.17 and 5.19 of the transport assessment states that **each property will have space for two cars, and one bike**, in contradiction with the design statement “**each dwelling will have adequate space for secure cycle storage commensurate with the anticipated number of occupants within the dwellings**”. This is a car led development, not a sustainable development.
24. A refuse vehicle or emergency vehicle cannot pass a normal sized estate car on the slope of Oakhurst Rise. Highways stated that it was financially not viable for Oakhurst Rise to be re-graded despite the 14% gradient and that cyclists would need to look out for ‘motorists flashing their headlights’ before proceeding down the hill. That position is in clear violation of the highway code, but still the access is deemed ‘technically’ satisfactory and safe. It is not. Legal precedent transfers any future negligence liability to the planning committee – we presume CBC has taken legal advice on this point?
25. **The access route is not safe, particularly for wheelchair users, cyclists and pedestrians.** NPPF para 108b cannot be met, nor can policy SD4(vi / vii). **Safe and suitable access to the site CANNOT be achieved for all users. In a COVID world, that is unacceptable.**
26. The statements from Gloucestershire Highways on junction performance explain the consternation of both planning committee members and the Charlton Kings parish council at the position claimed in previous applications. For the first time the data published reveals that the London Road and Sixways junctions are operating “**well over absolute capacity in all scenarios**” but then says “**the introduction of development traffic does not result in an unacceptable or severe impact**”. **If the roads in Charlton**



**Kings are not adequate, any increase is unacceptable and in breach of national planning policy.** The line being taken is not a viable position.

27. On risk, the transport assessment states “**There has been no personal injury collisions recorded on Oakhurst Rise and therefore nothing to suggest that this highway is unsafe nor anything to suggest that the traffic generated by additional dwellings would make this section of highway unsafe. Overall it is reasonable to conclude that there is not an excessive amount of personal injury collisions on the wider network and those collisions that do occur are spread. Therefore it is reasonable to conclude that the additional traffic generated by the development will not have a material impact on general road safety in the area.**” **Oakhurst Rise is a cul de sac, and the steepest road in the area by some margin. Increasing traffic from zero cars to the traffic (residential and industrial) associated with 43 homes will materially change the risk profile – that is basic statistics.**

#### **G. Concern over S106 conflicts in the current climate**

28. Previous applications argued that anything less than 69 homes could not be made financially viable given the constraints of the site. This reduced application fails to explain how the shortfall will be met by building only 43 properties including 40% affordable housing, but once again no financial viability assessment is provided. Given the site is only viable with significant S106 payments towards schooling and ecological offsets, and still claims affordable housing commitments, all of which are in potential conflict, we would ask that the council challenge these assertions before losing a local asset from public benefit through a successful outline application.

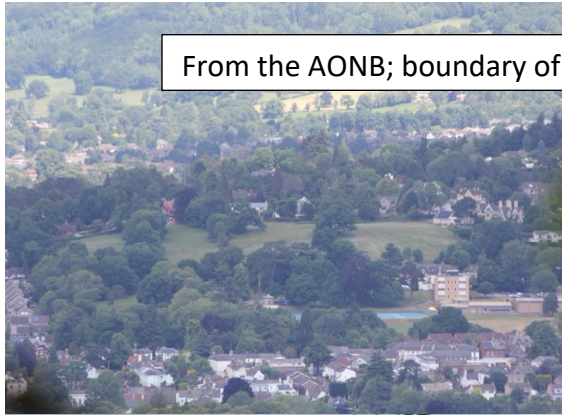
#### **H. Contradictions inherent in the design**

29. The site design statement says ‘**the development of the site enables a significant amount of open green space to be available to the residents**’. Elsewhere the green space is assigned to use by St Edwards School (which would preclude residential access, on child safety grounds). Elsewhere it is assigned as wildflower meadow to offset biodiversity losses elsewhere. Elsewhere it is assigned as badger foraging, or for reptiles. It would be helpful to clarify which land use is going to be primary, given the inherent conflicts between different land users.

#### **I. Visual impact**

30. As presented to the inspector, the site is clearly visible from the local area; photos attached at annex show the view from the CK conservation area including St Mary’s church, from Greenway Lane, on the approach to Cheltenham, and from the Leckhampton AONB. The site design statement claims “**Due to its elevated position, the site can be seen from a few public vantage points around the town, but because of the density of residential development around the site it is not very visible from public vantage points within the town itself or the roads within the immediate vicinity of the site**”. The site is above the build line in Cheltenham therefore stands out, and is clearly visible from a range of entry points into Charlton Kings (photographs below). It is also the framing of the view down the St Mary’s conservation area in Charlton Kings village, the central point of the view

from Charlton Kings Common, and clearly visible from Ashley Road and Greenway Lane.



From the AONB; boundary of CK common



From the A 435



From Charlton Kings common



From Old Bath Road



St Marys Church and the CK conservation area, visually leading to the St Eds meadow and ice house. This view would be dominated by the high rooflines of new development above the existing tree line and proposed 'screening'. The mature trees to the top left of the picture would be removed, to be replaced with houses..

**J. Loss of local amenity and impact on health inequality**

31. At appeal, the inspector noted that “ it is telling that one resident of Oakhurst Rise has been officially advised that an ambulance required to transport a person with mobility difficulties on a regular basis would no longer attend due to difficulty in parking at the frontage once the road was extended”. Now policy SD14 has been adopted, we note it states that new development must “cause no unacceptable harm to local amenity, including the amenity of neighbouring occupants” (this being specific to health inequality). It is difficult to consider a stronger personal case than the loss of community care to someone who otherwise is housebound. The turning circle promised at appeal by Mr. Frampton to mitigate this loss of amenity has been removed from the current application. Other aspects of SD14 would also be invoked on development of this site, given the total quietness and dark of the site in its current form.

## Annex 1: Inspector's ruling on harm to Ashley Manor

Policy CP3 of the CBLP and SD8 and SD10 of the JCS together provide that development should protect, conserve, sustain and enhance designated heritage assets and their settings and avoid harm to views into and out of areas of acknowledged importance, including with respect to listed buildings.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) contains a statutory duty to have special regard to the desirability of preserving the setting of listed buildings.

Framework paragraph 193 gives great weight to the conservation of designated heritage assets and paragraphs 195-6 consider harm to heritage assets in terms of whether it would be substantial or less than substantial. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The significance of a heritage asset is defined to include its archaeological, architectural, artistic or historic interest, derived not only from its presence but its setting, in which it is experienced. National Planning Practice Guidance (PPG) refers to the extent and importance of the setting to the visual relationship between the asset and proposed development, including that views of or from an asset will play an important part. **The PPG also notes that the contribution a setting makes to the significance of an asset is not dependent upon public access.**

It is now trite law<sup>3</sup> that this **less than substantial harm must be accorded considerable weight in the overall planning balance.** However, the judgment in the case of *Shimbles*<sup>4</sup>, with reference also to the earlier *Palmer*<sup>5</sup> case, makes clear that, whilst there is no allowance for any sub-categories of harm within the Framework definition, planning judgement must be exercised. **That is with regard to the level of the less than substantial harm, the great weight accorded to the conservation of the asset and the extent of the public benefits.**

### *Contribution of the Site and the Ice House to the Settings of Listed Buildings*

"The appeal site was historically and remains in the same ownership as Ashley Manor. Although **the land evidently was never part of the managed parkland of the Manor, it had a functional relationship with the Manor as farmland,** and as the location of its Ice House, which survives as an historic feature."

"The present circumstances are that the **Manor and the site are intervisible through the current boundary vegetation** and direct views are available from at least one north-facing window onto the currently mainly open, eastern part of the site, including the tree-covered mound of the Ice House. I observed this for myself, unlike the Inspector dealing merely with the draft allocation Policy HD4. **Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views.**"

"I recognise an historic and visual association between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I refer above, I consider that **the appeal site, with the Ice House it encompasses, contributes importantly to the historic and current visual setting of both these listed buildings, as designated heritage assets.**"

### *Effect on the Setting of Ashley Manor*

**“the proposed introduction of new landscape planting, screening that boundary, would obstruct the relationship of the Manor to this part of its setting.”**

**“I recognise that the main front of the Ashley Manor House does not face directly towards the appeal site and that the character of its immediate surroundings has been altered by the addition of modern school buildings, including that closest to the appeal site boundary and north of the Manor itself. Nevertheless, I consider that these effects on the visual relationship between the Grade II\* Ashley Manor and the appeal site would have a very significant adverse impact upon the setting of the Listed Building.”**

**“Having regard to the statutory duty under s66 of the PLBCA, this would be contrary to the protective aims of Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.”**

**Annex 2: Inspector's report with respect to biodiversity harm**

Policy SD9 of the JCS encourages biodiversity enhancement and Policy NE2 of the CBLP seeks to safeguard protected species. These aims are consistent with Framework paragraph 170, which states that planning decisions should contribute to and enhance the natural environment, including by protecting and enhancing valued sites of biodiversity, minimising impacts on and providing net gains for biodiversity. Paragraph 175 also encourages net gains in biodiversity. Paragraph 175 further provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated or, as a last resort, compensated for, permission should be refused.

*Badgers*

90. The amended development layout proposed would require the removal of the major, central badger sett, Ref BS1, and its replacement with an artificial sett of detailed design for future approval. On the evidence, I am satisfied that this is tried and tested methodology in common use and that the artificial sett could be provided with sufficient chambers to accommodate displaced badgers choosing to use it and constructed to floor and entrance levels high enough to avoid any local flooding.
91. The badger population currently resident and breeding in BS1 would be removed under licence. Badgers are common, subject even to official culling and legislative protection mainly for their welfare and against illegal and cruel persecution. That is not to say that any harm to them would not give rise to a planning objection, just as in the case of any other protected species.
92. Moreover, from the standpoint of CKF, as objectors to the housing scheme as a whole, it is understandable that they submit that the layout ignores the 'avoid-mitigate-compensate' sequence of Framework paragraph 175, in placing built development and access roads so close to BS1 in the first place. However, if the layout is necessary to the development of the site for other reasons, the question becomes whether the mitigation and compensation measures would be effective.
93. In practice, the evidence is that badgers displaced under licence are as likely to remove to outlying setts or create new ones as they are to inhabit the artificial one provided; also, if they inhabit the artificial sett, that they would potentially extend it and add more chambers themselves.
94. Even though this level of compensation is not strictly necessary and direct harm to the protected badgers could be avoided, the remaining badger population would potentially be subject to more human pressure and interference and their present foraging area would be substantially reduced by the presence of the proposed housing. **This implies a reduction in the biodiversity value of the site in respect of its currently resident badger population.**

*Reptiles*

95. In response to local concern, the Appellants undertook a reptile survey shortly before the Inquiry. This, visual observation and local information provides little evidence of the presence of protected reptiles, other than a family of slowworms and a single grass snake.
96. The survey is criticised by CKF in terms of its seasonal timing, the hours and number of survey visits made and the size of the 'refugia' used to attract and count any reptiles present. The Appellants pointed out that a greater number of smaller 'refugia' were used to increase the likely count and that the number of visits accorded with accepted practice. At the same time, the Appellants agreed, at the Inquiry, that the

timing of the survey **had been sub-optimal in comparison with established guidance**. However, there is no countervailing evidence to indicate a greater presence of reptiles on the site. [Photographs and residents' evidence of slow worms and grass snakes have now been provided to GCER].

“It is further evident that only 14 key wildlife species have been recorded on the site, compared with the 20 required for its consideration of a Key Wildlife Site.” **[A further 6 sedge and wildflower species have been identified in just one morning of study; therefore the site now meets the criteria for consideration as a grassland key wildlife site, in addition to the important hedgerow, protected herptiles and bats, and red list birds.** Sites close to education facilities can be qualify as “key” when they are just short of the criteria – but this site meets the criteria outright. **Oakhurst Rise has reached the threshold to be considered as a Key Wildlife Site.]**

“On balance, I do not consider it likely that protected reptiles are present on the appeal site to justify objection to the amended outline scheme on grounds of harm to such species. I consider that it would be sufficient to require, by planning condition, a full ecological survey and assessment to be submitted, with measures for the protection and management of any protected species found, and its submission to the Council for approval before any development could commence.” **[Protected reptiles have been repeatedly identified during lockdown in some numbers; amphibians are also present** despite statements that the site is not suitable for them’.]

#### *Overall Effect on Biodiversity*

“Overall, **I consider that the net effect of the proposed development on biodiversity is likely to be either neutral or negative to some degree and certainly not an enhancement as sought by the thrust of current national and local policy.** This factor militates to a degree against the appeal proposal.” [This before the most recent ecological records had been provided by Bioscan and residents, and Key Wildlife Status criteria had been met].

### Annex 3: Inspector's report on access

The route to the sole access point to the appeal site is over a network of residential access roads via an established housing area, with much on-street parking in place for much of the time. The cul de sac of Oakhurst Rise, which would be extended to form the on-site access roads to the proposed development, **has a steep gradient.**

I acknowledge that there are no technical objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility, or existing traffic flows.

**However, such technical issues are not the only consideration in the assessment of the suitability of the access arrangements for new development.** In this case, there are genuine local concerns that the additional traffic from the proposed development, amounting to a likely 30 or so vehicle movements in any peak period, would add to congestion and inconvenience to existing frontage residents.

I am satisfied that such an increase in traffic flow would not have a significant impact on the wider highway network.

However, it is telling that one resident of Oakhurst Rise has been officially advised that an ambulance required to transport a person with mobility difficulties on a regular basis would no longer attend due to difficulty in parking at the frontage once the road was extended. That is a transient personal matter of relatively little planning weight and *might be at least assisted by the provision of an additional turning head proposed within the site [this has been removed in the new application]*. However, **it helps to illustrate that the access route, as a whole, is tortuous and far from ideal.**

Notwithstanding the lack of any objection from the highway authority, this factor militates to some degree against the grant of permission for built development of the scale now proposed for the appeal site.





Ms Emma Pickernell  
Senior Planning Officer  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Bioscan (UK) Ltd  
The Old Parlour  
Little Baldon Farm  
Little Baldon  
Oxford  
OX44 9PU

Tel: +44 (0) 1865 341321  
bioscan@bioscanuk.com  
www.bioscanuk.com

29<sup>th</sup> July 2020  
Our ref: SW20/E1986/EPL1  
Planning application ref: 20/00683/OUT

Dear Ms Pickernell,

### **Land off Oakhurst Rise, Cheltenham – Review of Submitted Ecological Appraisal**

Following receipt of the ecological appraisal report produced by Aspect Ecology in support of the recently re-submitted planning application for the above site, I have been instructed by the Charlton Kings Friends (CKF) to comment on the likely ecological impacts of the revised scheme.

#### *Biodiversity loss*

You may be familiar with my involvement in this site as part of the 2019 planning appeal at which I presented evidence to the Inquiry that led, in part, to the Inspector's dismissal of the appeal. A particular focus of the Inspectors deliberations regarding ecology, was the assessment I undertook of the net effect of the proposal on biodiversity based on the application of a recognised biodiversity metric<sup>1</sup>. Ultimately the Inspector in his decision found that "*the net effect of the proposed development on biodiversity is likely to be either neutral or negative to some degree and certainly not an enhancement as sought by the thrust of current national and local policy*".

Shortly before the close of the Inquiry, Natural England published a beta version (i.e. consultation draft) of their new metric (Metric 2.0) for review by the industry. Despite reference to this being made in oral evidence at the Inquiry, the applicant's ecologists have once again elected not to apply any form of metric to the conclusions in their current ecological appraisal in respect of the revised scheme. Given the current direction of travel of Government policy (towards mandating use of such metrics to demonstrate delivery of at least 10% 'Net Gain'), and the prominence of this issue at the previous appeal, at best, this seems an oversight.

It has therefore fallen to us, on behalf of CKF, to repeat this exercise for the revised scheme now before you. The attached Figures 1 and 2 show the pre and post construction habitats which I have entered into the new metric. The output from inputting these data into the metric is provided in Tables 1 and 2 below. In summary, based on the Metric 2.0, the development would result in a loss of 10.95 biodiversity units (from 34.32 to 23.37), or a loss of 31.90%. By this measure the revised scheme provides no greater protection of biodiversity on the site than the previous scheme and, as the Inspector found previously, continues to fly in the face of national planning policy and guidance which requires development to not

<sup>1</sup> <https://www.warwickshire.gov.uk/biodiversityoffsetting>

only protect biodiversity but to go further and deliver “net gains for biodiversity”<sup>2</sup>. It is similarly not compliant with local planning policies such as policy SD9 of the Joint Core Strategy<sup>3</sup>, which also require the protection and enhancement of biodiversity as part of development proposals. Relevant parts of this state (emphasis added):

- “1. The biodiversity and geological resource of the JCS area will be protected and enhanced in order to establish and reinforce ecological networks that are resilient to current and future pressures. Improved community access will be encouraged so far as is compatible with the conservation of special features and interests
- ...
5. Development within locally-designated sites will not be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated
6. Harm to the biodiversity or geodiversity of an undesignated site or asset should be avoided where possible. Where there is a risk of harm as a consequence of development, this should be mitigated by integrating enhancements into the scheme that are appropriate to the location and satisfactory to the Local Planning Authority. If harm cannot be mitigated”

#### *Habitat assessment*

As part of my evidence to the Inquiry, reference was made to the Gloucestershire Key Wildlife Sites (KWS) selection criteria. At that time, 14 ‘key species’<sup>4</sup> had been identified in the grassland, close to the threshold of 20 needed for the site to be of sufficient diversity to be designated as KWS. As part of my current appointment by CKF I have revisited the site in 2020 in order to continue to catalogue the ecological interest present, focusing in particular on the floral diversity of the grassland. A further seven species have been recorded in the grassland in 2020 (see table 3) bringing the total to a minimum of 21. On the basis of this, not only has the site recently been formally put forward to the KWS selection panel for designation as a KWS, but, moreover, it is clear that the appellants ecological consultants have once again failed to accurately represent the true ecological value of this site. Indeed, they have now failed in both 2019 and 2020 to record many of the floral species present, and as a direct consequence, have materially undervalued the diversity and therefore value of the grassland. On the facts, the site clearly has significant ecological value and certainly well above the “site context” frame of geographical reference that is suggested by Aspect in their report.

#### *Conclusion*

The revised scheme does not overcome the inescapable fact, as previously found by the appeal inspector, that the site is of higher valued than the appellant’s ecologists claim, and that as a consequence the proposed development would, notwithstanding the revisions made, still result in a demonstrable and significant loss of biodiversity, contrary to a raft of national and local planning policies. It has fallen to CKF, via ourselves, to document the value of the site in an accurate and properly representative manner and to expose omissions made by the appellant’s ecologists and on which flawed assessments have been made. In

---

<sup>2</sup> Paragraph 170 of the National Planning Policy Framework

<sup>3</sup> Other polices include NE2 and NE3 of the adopted Local Plan (2006).

<sup>4</sup> As listed on Table H5c of assessment criteria H5.2.

the process of doing so, it has become apparent that the site in fact exceeds the qualification criteria for designation as a Key Wildlife Site, underlining that the impact of the scheme should be assessed in the context of the site being of at least District and more likely County (i.e. Gloucestershire) value for biodiversity. In light of these matters, there can be no other conclusion than significant harm to biodiversity would occur due to the proposed development, and with the backdrop of the previous Inspectors comments, it is clear that this planning application should be refused.








Regards

FOR AND ON BEHALF OF BIOSCAN (UK) LTD



Samuel Watson MCIEEM  
Principal Ecologist

# Key

-  Site boundary
-  Semi-improved, neutral grassland - 3.42ha
-  Dense, continuous scrub - 0.21ha
-  Scattered scrub 0.08ha
-  Hedgerows - 0.58ha
-  Pond - 0.003ha
-  Wall - 0.004ha

Base mapping is from Aspect - Habitats and Ecological Features, drawing ref: 5487/ECO2 dated April 2020



DO NOT SCALE

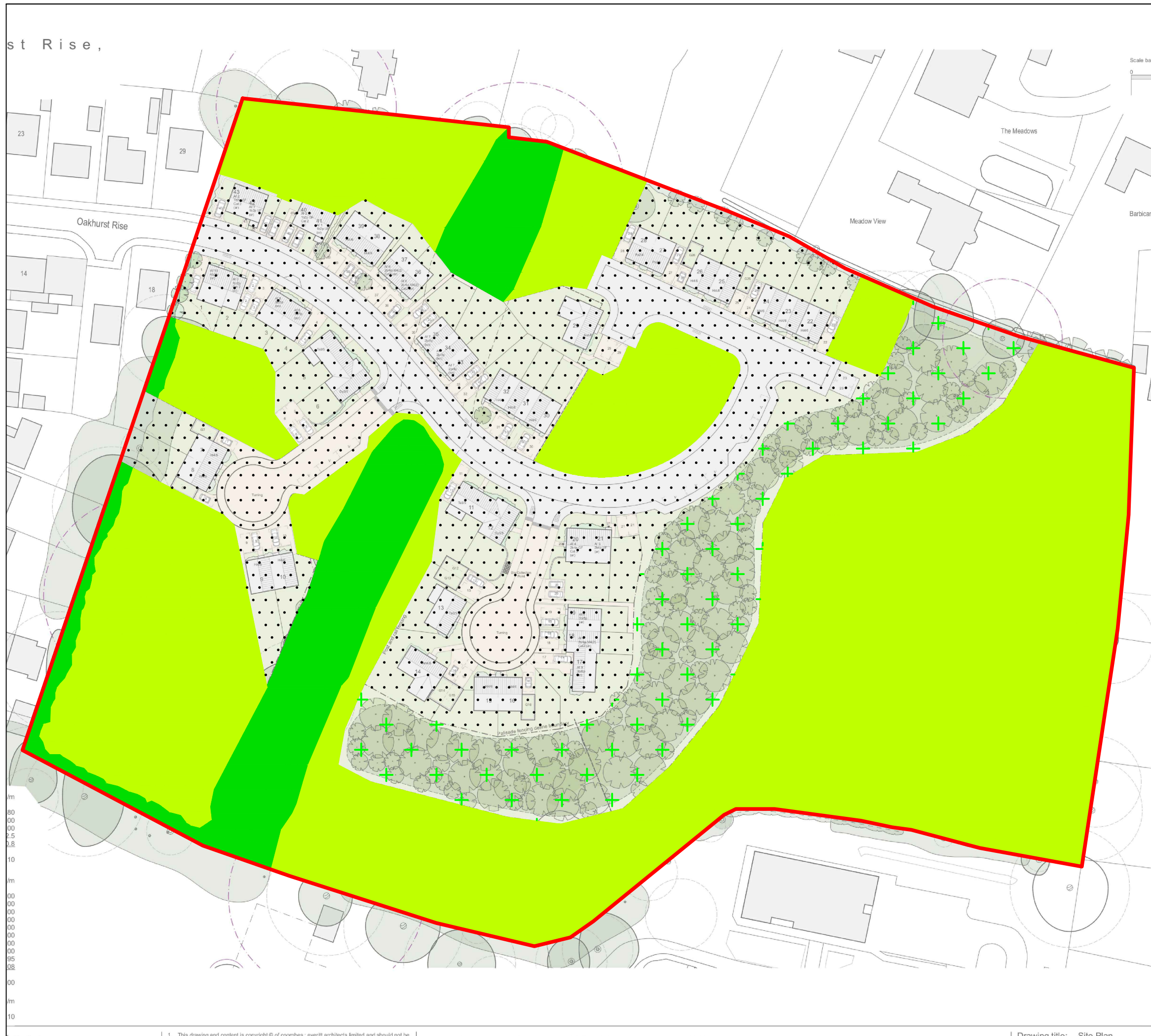
<b>Title</b> Existing habitats		
<b>Project</b> Land off Oakhurst Rise	<b>Client</b> Charton Kings Friends	
<b>Drawing No.</b> Figure 1	<b>Revision</b> A	<b>Project No.</b> E1986
<b>Drawn</b> SW	<b>Checked</b> SW	<b>Date</b> July 2020

**Bioscan (UK) Ltd**  
The Old Parlour,  
Little Baldon Farm,  
Little Baldon,  
Oxford,  
OX44 9PU.








T: +44 (0) 1865 341321  
bioscan@bioscanuk.com  
www.bioscanuk.com

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# Key

-  Site boundary
-  Neutral grassland - 2.16ha
-  Development - 1.29ha
-  Scrub/young tree planting - 0.49ha
-  Retained trees - 0.35ha



DO NOT SCALE

<b>Title</b>		
Post development habitats		
<b>Project</b>	<b>Client</b>	
Land off Oakhurst Rise	Charlton Kings Friends	
<b>Drawing No.</b>	<b>Revision</b>	<b>Project No.</b>
Figure 2	A	E1986
<b>Drawn</b>	<b>Checked</b>	<b>Date</b>
SW	SW	July 2020

**Bioscan (UK) Ltd**  
 The Old Parlour,  
 Little Baldon Farm,  
 Little Baldon,  
 Oxford,  
 OX44 9PU.  
 T: +44 (0) 1865 341321  
 bioscan@bioscanuk.com  
 www.bioscanuk.com



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Table 1 - Pre-development baseline

Ref	Habitats and areas			Habitat distinctiveness		Habitat condition		Ecological connectivity			Strategic significance			Suggested action to address habitat losses	Ecological baseline Total habitat units
	Broad Habitat	Habitat type	Area (hectares)	Distinctiveness	Score	Condition	Score	Ecological connectivity	Connectivity	Connectivity multiplier	Strategic significance	Strategic significance	Strategic position multiplier		
1	Grassland	Grassland - Other neutral grassland	3.42	Medium	4	Moderate	2	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same broad habitat or a higher distinctiveness habitat required	27.36
2	Heathland and shrub	Heathland and shrub - Bramble scrub	0.21	Medium	4	Moderate	2	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same broad habitat or a higher distinctiveness habitat required	1.68
3	Woodland and forest	Woodland and forest - Other woodland; mixed	0.08	Medium	4	Moderate	2	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same broad habitat or a higher distinctiveness habitat required	0.64
4	Woodland and forest	Woodland and forest - Other woodland; broadleaved	0.58	Medium	4	Moderate	2	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same broad habitat or a higher distinctiveness habitat required	4.64
<b>Total site area ha</b>			<b>4.29</b>											<b>Total Site baseline</b>	<b>34.32</b>

Table 2 – Post-development baseline

Post development/ post intervention habitats																	
Proposed habitat	Area (hectares)	Distinctiveness	Score	Condition	Score	Ecological connectivity			Strategic significance			Temporal multiplier		Difficulty multipliers		Habitat units delivered	
						Ecological connectivity	Connectivity	Connectivity multiplier	Strategic significance	Strategic significance	Strategic position multiplier	Time to target condition /years	Time to target multiplier	Difficulty of creation category	Difficulty of creation multiplier		
Grassland - Other neutral grassland	2.16	Medium	4	Good	3	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	15	0.586	Low	1	15.19	
Urban - Suburban/ mosaic of developed/ natural surface	1.29	Low	2	Good	3	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	5	0.837	Low	1	6.48	
Woodland and forest - Other woodland; Young Trees planted	0.49	Medium	4	Poor	1	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	25	0.410	Low	1	0.80	
Woodland and forest - Other woodland; broadleaved	0.35	Medium	4	Good	3	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	32+	0.320	Medium	0.67	0.90	
<b>Totals</b>	<b>4.29</b>											<b>Total Units</b>	<b>23.37</b>				

Table 3 – Cumulative KWS species list

Scientific name	Common name
<b>Species recorded in 2019</b>	
<i>Carex spicata</i>	Spiked sedge
<i>Centaurea nigra</i>	Lesser knapweed
<i>Conopodium majus</i>	Pignut
<i>Galium verum</i>	Lady's bedstraw
<i>Lathyrus pratensis</i>	Meadow vetchling
<i>Leontodon hispidus</i>	Rough hawkbit
<i>Leucanthemum vulgare</i>	Oxeye daisy
<i>Lotus corniculatus</i>	Common bird's-foot-trefoil
<i>Lotus pedunculatus</i>	Greater birds-foot-trefoil
<i>Luzula campestris</i>	Field wood-rush
<i>Potentilla sterilis</i>	Barren strawberry
<i>Primula veris</i>	Cowslip
<i>Tragopogon pratense</i>	Goat's beard
<i>Trisetum flavescens</i>	Yellow oat-grass
<b>Species recorded in 2020</b>	
<i>Carex flacca</i>	Glaucous sedge
<i>Hyacinthoides non-scripta</i>	Bluebell
<i>Hypochaeris radicata</i>	Cats-ear
<i>Primula vulgaris</i>	Primrose
<i>Ranunculus bulbosus</i>	Bulbous buttercup
<i>Rhinanthus minor</i>	Yellow rattle
<i>Viola riviniana</i>	Common dog violet

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## CHELTENHAM FLOOD AND DRAINAGE PANEL (previously Charlton Kings Flood Action Group)

### COMMENTS

It is very disappointing to note that similar to earlier FRAs for this site, this latest FRA - "Revision M"- is still inadequate, unsafe, and non-compliant with national policy and guidelines.

We urge the Council to take into consideration all the very material and valid neighbourhood concerns voiced about flood risks relating to this development site.

We cannot support approval of this proposal at this stage of the process because the FRA is not yet fit for purpose.

The plan has not demonstrated satisfactorily that the drainage and SuDS structure proposed conforms with legislation and DEFRA standards and consequently - until it does so - it should be deemed unsafe to adjacent neighbouring properties and downstream communities.

The Water Management Act requires the planning proposal to be declined if the FRA and drainage plans are not acceptable.

### KEY FRA PLAN AND DRAINAGE POLICY DEFECTS

#### OVERLAND FLOWS NOT PROPERLY CONSIDERED

As in previous submissions, overland Flows have been completely ignored in the calculations made by the FRA authors.

- No allowance has been made for the control and attenuation of overland surface water flows onto the site's built drainage (the "positively drained" area) from the slopes above the development onto the respective roads and pavements - or for water flowing from the green spaces of the site onto the built area that is positively drained.
- This omission is in breach of the Non Statutory Technical Standards for Sustainable Drainage which requires under Paragraph 3.4 that any drainage proposal must accommodate surface water flows from the entirety of the site, including both permeable and impermeable areas so as to not increase flood risk to neighbours or residents and it also requires that any drainage proposal must consider overland flows on to the site.
- Because of this omission, the pre-development run off measures applied are understated and unreliable and this also invalidates the model calculations that are used to select the safe level of attenuation storage capacity.
- To calculate run off the consultants have only input into their model the surface area covered by the "impermeable" built area of the development which they state is 7,500 square meters.
- It is unclear how the consultants have arrived at this figure for the drained surface area.
- The FRA is misleading when it states in para 4.3 of the FRA that the remaining area of the development site will be made of permeable soft landscaping and planting . The site is not permeable and no allowance has been made by the consultants for this in their calculations.

#### STORAGE CAPACITY PLAN IS INADEQUATE

- The omission highlighted above means that the planned attenuation storage tanks capacity will not be adequate for the site drainage requirement in storm conditions, and are also not yet designed to deliver capacity levels that allow a proper statutory climate change allowance to be applied to the entire development site surface water running onto, falling onto, and draining from the site.
- The model used for calculating surface water run-off and storage needs also does not allow the input of any adjustment that allows the slope of the site to be taken in to consideration. This is a known weakness of this model.
- Because this site is a steeply sloping site, the velocity of run off is an important factor to be considered when considering flood risk safety. It is important that this velocity is properly considered in the design of the drainage and storage capacity to ensure the control mechanisms are not overwhelmed and to make sure that neighbouring properties are not endangered and put at increased risk of flooding post development.

The failure to adjust the model outcomes and storage capacity to correct for the sloping site, run off velocity, and impermeability of the slope geology represents a serious and potentially dangerous weakness of the current design and drainage strategy.

### CLIMATE CHANGE FACTOR CONSIDERATIONS

The FRA recommends an inadequate storage capacity for run off; the storage tank capacity currently proposed for the site is very unlikely to be adequate to accommodate climate change factors over the 100 year lifetime of the project .

- The developer has not disclosed any justification to reduce the lifetime of this development to a shorter period - therefore the lifetime of this residential development must be considered to be 100 years.
- This development is located within the Severn River Basin. This is highly relevant because we have a responsibility not only to local residents but to all residents living downstream in the Severn River basin catchment area to reduce the risk of flooding to their properties where possible.
- Climate Change Allowances have recently been updated by the Environment Agency in March 2020
- If we want to protect neighbouring and downstream properties from the risk of flooding for the 90th percentile of the current rainfall projections for the next 100 years, then prudence requires that a 70% climate change allowance should be applied to this development. This 70% allowance is the current total percentage climate change anticipated by DEFRA for the years 2070 to 2015 for the Severn River Basin.
- This allowance recommendation is especially important given the very specific characteristics of this site and its neighbourhood. Because this development is located on a sloping impermeable site neighbours located adjacent to, below, and in proximity to this development are at increased risk of flooding as the storm frequency and intensity increases with Climate Change. In these conditions the velocity of surface water flowing can be very rapid such that any SuDS structure with inadequate storage capacity or drainage infrastructure is highly likely to be overwhelmed.
- The SUDS agency CIRIA acknowledged that the model used to calculate run off does not make any allowances for slopes. Slopes generate increased flood risk in storm conditions because the velocity of run off is accelerated and no allowance has yet been made for this model shortcoming in the plan.

### EXCEEDENCE MANAGEMENT

The FRA and Drainage Plans do not show how surface water flood flows will be safely directed off the site in the case of Capacity Exceedence or SuDS failure. It is a fundamental requirement of sound SuDs design that Exceedence routes to channel surface water safely off a site must be shown on the drainage plan.

- There are no contingency plans disclosed in the FRA to manage water safely away from neighbouring properties in the event of the blockage or failure of the system or storage structures - this dangerous omission is not compliant with SuDS Policy.
- Exceedence (overflow) flood water management safely off the development is not disclosed - an essential Suds component and basic requirement for all sustainable drainage models.
- Because no Exceedence strategy has been considered or disclosed, neighbouring properties to the development site residing in and on Oakhurst Rise, Charlton Ct Road, and properties "downhill" from the development site are all potentially being put at risk of increased surface water flooding in storm conditions.
- Neighbours need to know where this overflow surface water will be discharged from the development site so that they can assess whether the proposal is safe. Since the plans do not disclose this they are clearly not yet fit for purpose and should be rejected as it is important this matter is clearly disclosed and agreed to be safe and acceptable before allowing any plans to proceed.

### POTENTIAL RISKS TO NEIGHBOURS, AND THE SCHOOL,

The omission of an Exceedence management strategy is a serious shortcoming and very material as the plan does not disclose what the contingency plans are to make sure that the adjacent (downhill) property. This omission is particularly concerning given that a prep school is located immediately below the planned location for the SuDs structure.

- We note that the plans include the building of a pond at the foot of the development site on the shared open boundary with St Edwards School it is not clear how any storm overflow from this pond (for whatever reason) will be channelled safely away from the school grounds.
- We also note that the SuDs flood control and storage units are also proposed to be situated just above the boundary adjacent to the St Edwards School grounds.
- In the event that the pond, and or the SUDS storage capacity fails to accommodate storm water flows due to insufficient capacity, or a failure of the SUDS infrastructure controls, the flood waters may suddenly flow directly downhill onto and over the St Edwards School property and if this flood water is travelling at speed the personal safety of children and staff could be significantly compromised and the property of the school may also be very vulnerable to sudden inundation.
- Given these tangible potential risks we would strongly recommend that the School Trustees/Governors who are supportive of the development consider appointing their own expert flood risk consultant to advise them as to the safety of the drainage scheme proposed for the development above them to satisfy themselves that the plans are robust and will not endanger the school children or community.
- The point that we make below regarding maintenance of this installation is also very relevant to the school's risk assessment process.

### NO DETAILS OF SUDS MAINTENANCE PLANS

No details have been provided about who will maintain and pay for the repair and upkeep of the proposed SUDS drainage structure, tanks, and flow control equipment over the expected 100-year lifetime of the development.

- The plan, similar to all the previous FRAs for this site, is completely silent on specifying the planned lifetime of the structure, another breach of planning requirements and policy for SuDs.
- The LLFA in their comments on this plan has explicitly stated that it is up to the Council to deal with who will be responsible for the future safe management of the proposed SuDs systems.
- Maintenance requirements will include regular checking, service and clearing of the storage tanks of silt and settlement that would otherwise reduce storage capacity. It also requires regular servicing of all related connections keeping them free from blocking and silting up to ensure all the devices installed can reliably manage and control drainage and flow velocity.
- The maintenance costs provisions, resources and ongoing responsibilities for the safe maintenance of storage structures are not disclosed in the FRA or the documents accompanying the application. The costs of this maintenance over the lifetime of the development will be material.
- Before approving a plan like this the community deserves to have absolute clarity as to whether it is intended that the Cheltenham Council (and its taxpayers) will take on responsibility for these currently unbudgeted and unfunded costs. We should also know what those costs will be so that a properly informed decision can be made about how these will be funded.
- Given that the school is particularly exposed to potentially elevated surface water flood risk if these structures proposed are not well maintained, the Trustees of the School who support this development should share our concern that this matter be resolved before plans are approved and progressed. This is especially relevant because a subsequent failure of the structure arising from maintenance shortcomings might expose the school to considerable flood risk, dangers to its students and staff safety, and potentially significant flood rebuilding costs.

### LOCAL FLOOD EVENT HISTORY

The LLFA and planning function do not appear in the past to have properly properly considered the impact of this development on the neighbouring areas that have experienced flooding in the past .

The developer states in Para 5.14 The CBC has shown that 3 incidents of flooding from sewers have occurred in the vicinity of the site when looking at the postal area GL52 6. It is assumed that due to the low number of occurrences the site is at low risk of sewer flooding.

- Please can the LLFA or Council advise if this is an acceptable average, how many people and households were affected by these "incidents" and how and who decides that this evidence demonstrates a low risk of flooding and if the LLFA have records of what happened? The council must reject the notion that this data can be used in any way to justify the conclusion drawn that flood risk is low?
- The Letter from 12 Haywards Road also describes in significant detail the history of flood events in this area that needs to be taken into consideration.

### FAULTY DRAINAGE PLAN SPECIFICATIONS

Highlighting how poorly drafted these plans are, the drainage strategy mapped out in the Document titled Drawing 1 - Drainage Strategy dated 28 April 2020 the

consultants have planned a surface water drainage pipeline under Road 2 which will require water to "drain" uphill.

- The drainage plan shows surface water draining uphill under road 2 which has a particularly steep gradient of up to 8%. The surface water drainage pipe also appears to signal run off moving in the opposite direction to the exceedence flow path. Ref drainage emanating from map reference point CL.111.29,IL109.69.
- Map reference point CL. 106.90, IL 102.32 shows the location of the planned hydrobrake control. If this control fails or is bypassed (e.g. if it has a blockage or silts up) the plan shows no detail of how the flood water will be safely drained away from the site without inundating the school and neighbouring properties located downhill from the development site.

### SEVERN TRENT WATER (STW) LETTER ATTACHED TO FRA

Where will the Surface water go? A STW surface water sewer, land drainage or a watercourse?

- The Developer's consultant is misreporting the validity and the position of Severn Trent Water (STW) and their willingness to accept these new surface water flows into their drainage infrastructure. The STW letter concerning this proposed development is out of date and invalid as the validity of the STW advice expired in 2017.
- Furthermore, the STW letter was conditioned that all surface water from the development had to be drained in a sustainable way to the nearest watercourse or "land drainage channel"- and this means NOT to their sewerage network.
- There was no explicit acceptance of surface water flows to their structures. So, in fact the STW has not yet accepted in any way the drainage of the surface water run off to their sewerage infrastructure and they have not yet confirmed whether or not their drains have the capacity to accept these additional flows.
- In the STW letter of 28 November 2016 the section dealing with Surface Water Drainage states very explicitly that STW expect all surface water from the development to be drained in a sustainable way to the nearest watercourse or land drainage channel.
- STW states in Para 3.5 of their code of practice that they are not responsible for maintaining road gullies, highway drains, land drainage, ground water, watercourses, culverted watercourses or rivers.
- STW's letter states - In this connection the LLFA is accountable for ensuring that a climate factor is applied to the full run off of water from the site.
- As the developer has not yet properly calculated or estimated the quantity run off onto the entire site from overland flows the LLFA cannot be in a position to validate the developer's claim that pre development run off rate had been properly calculated as they claim.
- And, because they do not have a reliable or sensible starting point to calculate post development surface water run off rates, it follows they also do not yet have a reliable climate change factor estimate to be applied to control flows from the site.

### STW SURFACE WATER SEWER CONNECTION

If the water is discharged to a STW sewer, which sewer will be used?

- The STW Letter also refers to the location of Surface Water Sewers in the vicinity. The Developer's plan states that they intend to connect the surface water run off through one pipe to a Severn Trent Structure that on their drainage drawing appears to plan to connect the surface water run off drains to a structure titled "EXTG STW SMH S096213402".

- The Severn Trent Letter refers to their records showing sewers running along Oakhurst Rise MH ref S096213601 that might be used (by the developer) as a last resort.
- As the development plan and the Severn Trent Water letter have two completely different references for surface water drainage sewers it is clearly not possible to state with any certainty that the STW will accept the connection to a different referenced structure to the one referred to in their letter even as a last resort.

### STW SEWER CAPACITY IMPACT

Surface Water Sewer Capacity - It is also not clear whether or not the STW installation that the developer wants to connect to has the capacity for their new additional flows.

- The parish council and another respondent to this plan residing at 4 Charlton Court Road have told the planning function that Severn Trent confirmed the sewer capacity was already fully utilized in 1971. And that no capacity increase has been put in place since then. This feedback further undermines the developer's suggestion that the drainage infrastructure is adequate or that STW have agreed to any use of their drainage assets for this development. The letter from 4 Charlton Court Road raises a number of extremely detailed concerns about the capacity of the local drainage infrastructure to cope with the additional volumes pressure created by this development.
- Letters from 19 Oak Avenue and 21 Charlton Court road also highlight the lack of consideration of this very important matter.
- We are disappointed that the LLFA have not looked at this proposal against the backdrop of the historic flood database and this vital local knowledge. The drainage capacity issue for this development and also the development from Cromwell Rise must be reviewed together to ensure that a clear view can be taken as to whether the infrastructure can accommodate these additional flows.

### LLFA ROLE IN PLANNING MEETING

It is not clear why the LLFA has not raised or responded to previous and current flood risk concerns voiced about this development given the well-known flood issues associated with this site.

- The last occasion when a development plan for this site was scrutinized the flood risks were discussed at some length by Councillors but the LLFA did not attend the planning meeting - the Councillors were unable to hear how the LLFA got comfortable with the plans presented back then and also were unable to hear how the LLFA intended to address the community concerns that they raised.
- Inexplicably, despite the concerns flagged in numerous flood risk comments on the plan, and discussed in that meeting (which remained unanswered) the council did not cite flood risk as a reason for declining the proposal. It now has an opportunity to correct this oversight.
- If the Council now approve the plan unchanged then in the event that subsequent surface water flooding at this location causes loss, injury or damage to people and or neighbouring properties it will be difficult for the LLFA or the Council to deny liability given that the flaws in the current flood risk management plans have been voiced repeatedly and are now so very well documented.

### LLFA COMMENTS ON THIS PLAN VERSION

How should the public and the council interpret the LLFA's latest comments on the developer's plans?

- The LLFA choice of words is non-committal and provides no evidence to substantiate their comments.
- In this plan the LLFA statement says "...Information supplied .... adequately describes a feasible strategy for the management of surface water on and from the development site".
- By calling the plan "feasible" the LLFA asserts that they believe the developer might be able to construct to this design - nothing more and nothing less.
- The LLFA does not state whether or not this design is fully compliant with public policy or planning guidelines, or whether the calculations have been checked and are reliable, or that the models used are up to date and fit for purpose, or that the design is SuDs compliant as outlined in CIRIA, or that the planned structure is safe to neighbours, or that if the design fails overflow water management will still be safe, or that the drainage infrastructure has capacity to cope with increased volumes and more surface water flooding velocity. The plan has not described any safe exceedence management strategy. The LLFA comments also do not provide any warranty or confidence that immediate neighbours living adjacent to or close to the development will not be exposed to the potential dangers arising from increased surface water flooding risk if this plan is progressed without significant amendment.
- All points that that the community have challenged in this process and previous reviews of plans for this site that to this day remain unanswered by the LLFA or the CBC planning function.
- The LLFA then state that the strategy described will require further detail before development commences including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development.

If the committee follows the LLFA advice and allows deferring settlement of this matter into the future for post approval discussions this allows these matters to be decided later behind closed doors . This is undemocratic and carries the risk that the existing already inadequate controls and safeguards may be further diluted by the developer and agreed to by the LLFA beyond the scrutiny of the public or planning committee.

### CONCLUSION AND RECOMMENDATION

Our panel is not opposed to sustainable development or house building in Cheltenham, we support the development of good quality homes to meet our community's needs and our growing population.

We have no doubt that a sound, sustainable, and safe FRA and Drainage strategy can be presented and put in place for this development site. The plan to hand fails to do this.

All that is required is for the developer's consultants to follow national SuDs policy, and use best practice to present a sound plan and build a robust flood control infrastructure which takes proper account of the very specific characteristics of this site and the impact of this proposed development design on its neighbours. It is also essential that , if the neighbourhood drainage infrastructure is not upgraded, any development for this site is scaled to be of a size that does not overwhelm the existing drainage infrastructure.

Because the current plan is not yet fit for purpose, we recommend that Councillors refuse any further progress of this application until an FRA and drainage plan is presented that:

- complies with national, county and council policy and the spirit of that policy,
- applies sensible and site-appropriate surface area details for the calculation of all surface water run-off and drainage storage capacity
- uses appropriate EA recommended model methodology,
- has storage tank volume capacity adequate to hold a 90%th percentile scenario level of stormwater which applies a 70% climate change factor to ensure to a high degree of confidence that the school and neighbouring properties will not be inundated in storm conditions
- provides betterment to relieve the town's overburdened and aging drainage infrastructure ,
- clarifies and documents safe exceedence management arrangements to prevent accidents happening at the prep school downhill from the site and to other properties adjacent or in the neighbourhood of the development ,
- calculates run off for the whole impermeable area of the site including overland flows into the site from uphill,
- complies with SUDs best practice as per CIRIA,
- clarifies ownership and management and demonstrates robust - ring fenced - funding arrangements for the SuDs structure post development for the lifetime of the development (100years at least)
- complies with latest SWT requirements who must confirm they have the capacity to manage any resultant additional flows to their sewers if there is no alternative available.
- demonstrates convincingly that run off flows from the development site do not put neighbours or other areas at increased risk of flooding.



**Cheltenham Borough Council planning application:**

**20/00682/OUT Land Adjacent To Oakhurst Rise**

REF: Aspect Ecology - Ecological Appraisal April 2020 : Confidential Badger Appendix  
5487/3

**Badger Trust Gloucestershire**



**General Background Information**

NPPF – Planning Policy

The likelihood of disturbing a badger sett, or adversely affecting badgers foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions.

The loss of foraging habitat could also be considered as cruel treatment of badgers. Main roads may prevent badgers from accessing their setts. Severance of territory and pathways may also result in road casualties and potential traffic accidents.

Legal Protection Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it a criminal offence to kill, injure or take badgers or to interfere with a badger sett.

Under the Act it is a criminal offence to:

*Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof*

*Intentionally or recklessly disturb a badger when occupying a badger sett*

**From the Cheltenham Plan 2011 – 2031**

*Harm to the biodiversity or geodiversity of an undesignated site or asset should be avoided where possible. Where there is a risk of harm as a consequence of development, this should be mitigated by integrating enhancements into the scheme that are appropriate to the location and satisfactory to the Local Planning Authority*

and 2<sup>nd</sup> Review of Local Plan

*Policy NE1 relates to habitats and legally protected species and states: 'Objective O18: Development which would materially harm, either directly or indirectly, a site supporting any legally protected species will not be permitted unless safeguarding*

*measures can be provided through conditions or planning obligations to secure its protection.'*

### **Site visit 08.05.2020**

Badger Trust Gloucestershire made a further visit to this site 8<sup>th</sup> May 2020 to refresh our previous appraisal at the request of local residents during summer 2017. At this time badger activity on site in the form of well used paths, snuffle holes and one active and one partly disused sett were identified. Our comments at the time are reproduced below (Appendix 1).

The site continues to display clear evidence of regular use by badgers foraging across the area of pasture with paths and snuffle holes. There is evidence of frequently used badger paths crossing the site and entering gardens of adjoining properties. The main sett is located at the northern end of Hedge 1 shown on the plans included in the Ecological Appraisal produced by Aspect Ecology and has over 20 entrances with c.15 being in current use as shown by tracks and bedding in the vicinity. During this brief visit we weren't able to confirm whether the partially disused sett under the oak in the remains of the old Ice House is showing any evidence of occupation by fox or badger.

The designation of the badger sett as a main sett is based both on the number of entrances and the level of activity, which in this case indicates that a large badger social group (clan) are present.

It should be expected that badgers from the clan living in this sett will maintain a territory that would include not only the land within the site boundary but also gardens and open spaces beyond its borders. Removal of c.40% of Hedge 1 will necessitate relocation of this main sett which should only be contemplated when other options for mitigation have been exhausted. Even the best designed artificial setts have c.60% success in attracting badgers to use them

Loss of habitat and disturbance to this site is likely to cause badgers to increasingly forage across gardens and also dig subsidiary setts in gardens causing damage and potentially causing financial loss to householders if badger excavations undermine structures and licenced closure of setts and underpinning of buildings is necessary.

Increased road traffic, even at low speeds will result in more casualties not only to badgers but to other protected species such as slow worms, which were recorded particularly in the North West quadrant of the site.

As before, Badger Trust Gloucestershire is duty bound to state that badgers have statutory protection under the Protection of Badgers Act, 1992 and that any unlicensed disturbance or harm to them or to their setts constitutes a criminal offence under the Act. We note with concern that the ecological report supplied makes very little mention of badgers despite their clear presence on site. We also note that the main appendix referring to badgers is not available except 'on application'. We regard this as a serious attempt to minimise the presence of a major protected species on site.

We recognise that badger mitigation strategies are not only mandatory but also very expensive and make a general observation based on scrutiny of many planning applications that developers often wish to avoid these costs. Badger Trust Gloucestershire is therefore not satisfied that sufficient attention has been paid to presence of badgers or to any mitigation strategy should consent be granted for this application.

Furthermore, the Trust disputes the continual references in this ecological report to the land

in question being 'poor quality grassland' and 'semi-improved'. The perceived 'quality' of this land is a direct result of enduring neglect by the current landowner, not any inherent deficiency in the land itself.

In the early stages of abandonment it will be the case that a few plant species will begin to dominate. The ecological survey attempts to present this fact as an 'inherent' deficiency in terms of biodiversity but in fact, over time, the biodiversity will improve as the complex processes of nature gain a better hold of the site and begin to repair and restore it from the state it was left in by previous owners. Badgers themselves are one component of this biodiversity improvement as they spread seeds from various plants and nuts in their diet.

Ironically, the habit of developers and landowners to deliberately neglect land to create the impression of lack of quality tends to have the reverse effect in terms of biodiversity. As soon as neglect begins the process biodiversity repair also begins. This unintended re-wilding often creates more problems for the developer than it solves.

This land is not 'semi-improved' it is simply neglected as a deliberate choice on the part of the current owner. The consideration for the planning committee is not what condition the land is in now but what condition it could or should be in, now or in the future. The land has many potential uses and could be maintained and enhanced in many ways for the benefit and amenity of the local community and environment through a more proactive management effort. It does not have to remain in its current state of neglect and building houses is clearly not 'the only option' for its future. A better use, given the Council's obligations to the Climate Crisis and carbon capture might be to use this site to plant trees.

What is clear is that it is inappropriate for an applicant to deliberately attempt to lower the quality of a piece of land by neglect and then claim that this is somehow a reason why it should be developed for profit in the form of housing. We would hope decision makers are not taken in by this practice.

We have read the Confidential badger appendix 5487/3 and note that the presence of a well developed and long established badger colony is not disputed by the developer's ecologists. We are concerned by statement 4.2.4 "*Badger setts BS2, BS3, and BS4 are inactive and therefore regardless of whether they are lost or retained are not considered further in terms of disturbance to a sett.*" This betrays a lack of understanding of how badgers occupy setts over time or use apparently 'disused' setts in certain circumstance i.e. as alternate locations in times of disturbance or as clan numbers increase. It generally takes only a few hours digging for badgers to reoccupy and ready an old sett for new use.

We are also concerned that badger setts BS2, BS1 and BS5 may be connected by long tunnels. This would have to be established by a Ground Penetrating Radar (GPR) survey. We note again the attempt to minimize the significance of the wildlife presence on this site and the impact of any future development will have on it. The current infrastructure of all the setts on this site is part of a 'cohesive whole' in terms of how it is used by the badgers present. The significance of any one part of it cannot be separated or 'picked away' from the totality of it. Any disturbance here will likely cause complete disruption to the badger colony currently on site and to the surrounding colonies. It may well be the case that a modified reoccupation of the site by badgers may occur in the future but this would be much reduced in scope

In conclusion Badger Trust Gloucestershire objects to this proposed development on the grounds of loss of habitat generally and because it will cause material harm to badgers (*Meles meles*) as a protected species (Protection of Badgers Act, 1992). The density of housing is too high to retain any meaningful amount of wildlife or local amenity for residents.

The dislocation and removal of badgers will indubitably cause difficulties and expense for neighbouring properties. We note also that there is sufficient housing land elsewhere in better, more appropriate and more sustainable locations to fulfil the council's housing obligations and that in these times of pandemic the availability of open space and amenity for the public has become a significant public concern. This means the 2006 Natural Environment and Rural Communities Act is a material consideration in determining this application.

We are also concerned that this application, if successful, will be part of a phased development of the whole site once the principle of development has been established. That is to say that the diminution of its ecological and amenity value will be used in future applications as an excuse to cover the whole site in housing.

*Julie Douglass* - Field Officer

*Peter Martin* - Chairman

### **Badger Trust Gloucestershire**



### **Appendix 1**

#### **17/00710/OUT Outline application for residential development of up to 100 dwellings including access with all other matters reserved for future consideration. Land Adjacent To Oakhurst Rise Cheltenham Gloucestershire**

The Badger Trust (Glos) has recently been consulted on this application.

#### **General Background Information**

NPPF – Planning Policy

The likelihood of disturbing a badger sett, or adversely affecting badgers foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions.

The loss of foraging habitat could also be considered as cruel treatment of badgers. Main roads may prevent badgers from accessing their setts. Severance of territory and pathways may also result in road casualties and potential traffic accidents.

Legal Protection Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it a criminal offence to kill, injure or take badgers or to interfere with a badger sett.

Under the Act it is a criminal offence to:

- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when occupying a badger sett **Land Adjacent To Oakhurst Rise, Cheltenham, Gloucestershire Comments on the preliminary survey works on site** We are concerned to hear from local residents that intrusive surveys were carried out on site in January and February 2017. These involved the use of heavy plant and equipment in close proximity to the badger sett and appear to have been without the necessary statutory consents in place to do so. We understand the intrusive survey works close to the main sett were we reported to Gloucestershire Constabulary and Natural England. The main sett was not damaged and remains active. We are now monitoring this sett and treating it as one at high risk of further disturbance. The Application Application number 17/00710/OUT provided an ecological appraisal prepared by All Ecology in September 2016. This appraisal identified the presence of the large main sett on the site and we note it mentions a confidential badger survey was prepared, we have not seen details of this. The loss of foraging habitat for a local group of badgers may cause knock-on issues for nearby residents with changes in badger activity. So it is therefore important to check thoroughly to see how badgers may be displaced by any development as extensive as outlined in this application. We note that All Ecology propose to close the main sett and rehouse the badgers elsewhere on site. Proposing to close a longstanding main sett and remove a major part of the badger group's foraging territory at the same time will inevitably disturb the badgers at this site to the extent that they could not realistically continue to inhabit the site.

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Artificial setts are rarely successful. Dispersal of badgers will inevitably result in them creating new setts elsewhere, which could well include in residential gardens and on commercial/public properties.

This application illustrates the relocation of badgers is an expensive and time consuming process. It can also have the potential to depreciate the value of surrounding properties. As a result of this Badger Trust Gloucestershire recommends that, should consent be granted, it must be on condition that a bond be given or some kind of indemnity insurance be taken out by the applicant to cover the cost of any appropriate mitigation works relating to badgers incurred by any third party within one mile of the site as a result of displacement, for a period of at least 5 years from completion of the development or until it can be proven from regular site surveys that the badger group are again settled.

Development on this site would cause a comprehensive loss of foraging territory and the badgers will be forced to forage further afield crossing roadways as they do so. This would bring them into conflict with vehicles in the vicinity and presents both a danger to the badgers and to the local residents driving at night.

The loss of trees on site will also be a further loss of the vital habitat for the badgers forcing a change in their behaviour as they search for new green spaces and wildlife corridors. It is very difficult to predict these changes particularly when All Ecology is only providing advice based on an outline site development plan. Site density, flood alleviation schemes, traffic calming measures and protection of the historical features may significantly squeeze the areas available for the badgers.

Access to drinking water at the pond at the northern point of the site is also critical for badgers and must be maintained at all times, if consent granted. Attention must also be given to contamination of the pond during construction and mitigation put in place to prevent it.

This site is highly unusual as it appears to have been undisturbed by development for several hundred years. Badger setts have been known to be centuries old and this sett could easily be one of them. In which case we would support the creation of an SSSI to protect this sett as a significant and historic feature of the landscape.

Any development on the site must allow clear and appropriately sized wildlife corridors to allow both continuity of occupation of existing wildlife and transit from this area to new foraging areas. This would apply to all mammal species such as hedgehogs, foxes as well as badgers and other mustelid species.

Badger Trust Gloucestershire objects in principle to this application as the inherent loss of wildlife habitat and 'green space' cannot be easily or economically mitigated whatever consent is given, and that best course of action would be to refuse consent.

### **Good Practice during construction (if consent is granted)**

We would recommend a Method Statement for the construction work would include the following:

Create an appropriate buffer between the works and the sett. Current standing advice does not stipulate distances from occupied setts at which licensing is or is not likely to be required, but it indicates that one should be satisfied that an activity is not likely to disturb a badger before carrying it out. To assist in that decision making process, reference is often made by developers to former guidance issued by English Nature (now Natural England) which indicated that licensing was likely to be necessary, or should be considered, when using heavy machinery within 30m of a badger sett, lighter machinery (generally wheeled vehicles) within 20m, and for light work such as hand digging or scrub clearance within 10m.

Security fencing should be kept away from the setts so access for the badgers is not impeded, any works fencing should not impede the entrance/exit points of the badger or their primary paths at any time. Badger access points must be created under both temporary and permanent fencing.

The badgers will be using this site for regular access to the pond, so it is important that any buffer or security fences enable this access to continue any works on site.

Implement site speed limits/reduce traffic flow in the vicinity of the sett, if appropriate.

Badger sett & path advice to be included in the construction method statement including clear instructions regarding the protection of the badger setts to the on-site contractors. Good working practices need to be employed by the developers and contractors.

Materials and chemicals should be stored well away from the setts (over 30m) and water courses and any site compounds should be fenced to ensure that no badger can obtain access.

Should any trenches need to be left open overnight a means of escape should be provided such as a suitably placed plank of wood.

Use of heavy machinery within 30m of the badger sett should be kept to a minimum (licence may be required) Machinery should not be left idling within the vicinity of the sett to minimise vibration and exposure to exhaust fumes.

No night work (badgers are nocturnal).

### **Long Term important considerations for this and any subsequent planning amendments**

#### *Boundary treatment*

Access for badgers from setts into surrounding land and to the water courses should not be blocked or restricted in any way. If any new fencing is required, it should incorporate badger gates or large enough gaps for badgers to pass underneath easily. There should be a restrictive condition on consent that no close-boarded or other kind of fences impenetrable to wildlife should be allowed on this site.

#### *Greenspace*

It is advised that Badger Trust Gloucestershire is consulted regarding the landscaping across the rest of the site in order to maximise site connectivity for wildlife and the provision of supplementary foraging through appropriate planting. In particular the badgers should have access to the nearby fields and streams. They will be forced to forage further afield across roadways if this development proceeds. So incorporating crossing points via road tunnels would be best practice.

Prior to decisions on boundary treatment/landscaping/land profiling a badger specialist should be consulted in order to ensure permeability of the site and retention of essential corridors. This is particularly important in view of loss of foraging space which this large development removes.

#### *Surveys*

It is recommended that regular annual surveys are carried out of the badger population at this site for at least 5 years or until it is possible to demonstrate that they are once again settled in their new habitat.

11 September 2017

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## Gloucestershire County Council Community Infrastructure Planning Application Representations

<b>Date:</b> 04 June 2020
<b>To Case Officer:</b> Emma Pickernell
<b>From:</b> GCC Developer Contributions Investment Team
<b>Application Ref:</b> 20/00683/OUT
<b>Proposal:</b> Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration
<b>Site:</b> Land Adjacent To Oakhurst Rise Cheltenham
<b>Summary:</b> Contributions will be required to make the development acceptable in planning terms

### SECTION 1 – General Information

This application has been assessed for impact on various GCC community infrastructures in accordance with the “Local Developer Guide” (LDG) adopted 2014 and revised 2016. The LDG is considered a material consideration in the determination of the impact of proposed development on infrastructure.

<https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-local-developer-guide-infrastructure-and-services-with-new-development/>

The LDG is being updated and is currently out for public consultation Spring/Summer 2020.

The assessment also takes account of CIL Regulations 2010 (as amended)

In support of the data provided please note the following: -

#### Education

- The School Place Strategy (SPS) is a document that sets out the pupil place needs in mainstream schools in Gloucestershire between 2018 and 2023. The SPS examines the duties placed upon GCC by the Department for Education (DfE) and it explains how school places are planned and developed. This document is currently being reviewed and updated.

<https://www.gloucestershire.gov.uk/media/2085281/gloucestershire-school-places-strategy-2018-2023-final-web.pdf>

- Cost Multipliers - The DfE have not produced cost multipliers since 2008/09, so in the subsequent years we have applied the annual percentage increase or decrease in the BCIS Public Sector Tender

Price Index (BCIS All-In TPI from 2019/20) during the previous 12 months to produce a revised annual cost multiplier in line with current building costs, as per the wording of the s106 legal agreements. We calculate the percentage increase using the BCIS indices published at the start of the financial year and use this for all indexation calculations during the year for consistency and transparency.

Pupil Yields – GCC is using the updated Pupil Yields supported by two studies in 2018 and 2019. The updated pupil product ratios for new housing are; 30 pre-school children, 41 primary pupils, 20 secondary pupils and 11 post-16 pupils per 100 dwellings. All data/research produced is available from:

<https://www.gloucestershire.gov.uk/media/2093765/gloucestershire-county-council-ppr-report-703.pdf>

- The new LDG will include the most up-to-date PPR.
- This assessment is valid for 1 year, except in cases where a contribution was not previously sought because there were surplus school places and where subsequent additional development has affected schools in the same area, GCC will reassess the Education requirement.
- Any contributions agreed in a S106 Agreement will be subject to the appropriate indices.

### **Libraries:**

- Gloucestershire County Council has a statutory duty to provide a comprehensive and efficient library service to all who live, work or study in the County.
- New development will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In doing so careful consideration will be given to current levels of provision compared against the nationally recommended benchmark of the Arts Council - formerly put together by Museums, Libraries and Archives Council (MLA).
- The nationally recommended benchmark is now available in the following publication: Public Libraries, Archives and New Development A Standard Charge Approach (May 2010) It sets out a recommended library space provision standard of 30 sq metres per 1,000 population. This is costed at £105 per person. The current GCC figure of £196 reflects the uplift in costs since 2010.
- A Strategy for Library Services in Gloucester 2012. This strategy for providing library services is set in the context of two main drivers for change; the technological revolution and the financial situation.

<https://www.gloucestershire.gov.uk/libraries/library-strategy-and-policies/>

[https://www.gloucestershire.gov.uk/media/3413/updated\\_strategy1\\_-64623.pdf](https://www.gloucestershire.gov.uk/media/3413/updated_strategy1_-64623.pdf)

<b>SECTION 2 – Education and Library Impact - Site Specific Assessment</b>
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SUMMARY: Developer Contributions for: Land Adjacent To Oakhurst Rise Cheltenham- 20/00683/OUT

A summary of the likely contributions is found below (note these figures can be subject to change over time because of for example; updated multipliers and education forecasts).

Please note that on the potential granting of planning permission a decision will be made between the LPA and Gloucestershire County Council (GCC) as to whether the contributions will be secured via S106 or via CIL.

This is an updated assessment based on the new Pupil Yield data.

**Education:**

Please also see attached document showing full summary table as below

**SUMMARY: S106 Developer Contributions - Land adjacent to Oakhurst Rise, Cheltenham**      -      -      -

Phase of Education	Name of closest non-selective school and/or the education planning area.	No of qualifying dwellings	Pupil Yield	Max Contribution (£)	Contribution Requested	Contribution
Pre-school	EY provision in the Charlton Kings Primary Planning Area	39	11.70	£176,564.70	<b>£0.00</b>	<i>TBC - we do not currently think a contribution will be required.</i>
Primary	Holy Apostles CofE Primary School and/or primary places in the Charlton Kings Primary Planning Area	39	15.99	£241,305.09	<b>£241,305.09</b>	Full contribution requested
Secondary - 11-18	Cheltenham Secondary Planning Area	39	12.09	£250,743.48	<b>£250,743.48</b>	Full contribution requested

Calculation: Multiplier\* x Pupil Yield = Maximum Contribution)

\*Multipliers 2019 (DfE per pupil):

£15,091.00 – Pre-school/Primary

£19,490.00 – Secondary 11-16yrs

£23,012.00 – Secondary 16-18yrs

GCC has included the planning area for each of the phases of education as without further investigation of the schools, an appropriate project may not be achievable on a particular site.

**Pre-school:** There is currently enough local capacity to accommodate the additional pre-school numbers arising from this development therefore a pre-school contribution is not required.

**Primary:** This development is proposed in a very popular primary planning area, the closest school Holy Apostle's CofE Primary School is currently over capacity and whilst there appears to be a small amount of forecast surplus based on current children/babies registered with local GP's this is below the recommended 5-10%. Therefore a full primary contribution will be required towards Holy Apostles CofE Primary School and/or primary places in the Charlton Kings Primary Planning Area.

**Secondary:** The closest secondary school is forecast to be full or over capacity across year groups 7-11, with a little spare in years 12 and 13. Therefore a full secondary contribution will be required naming the Cheltenham Secondary Planning Area.

Please note the contribution amounts stated above are higher than the contribution requests stated previously relating to (18/02171/OUT) because the current assessment is based on the new pupil product ratios. In support of the increased yields, GCC commissioned an independent review of pupil yields from housing developments in 2018 and the findings of this report were supported by a second review undertaken in collaboration with housing developers carried out in 2019. Prior to these reviews pupil yields had remained unchanged for a number of years.

### **Library :**

The nearest Library is Charlton Kings Library

Detailed guidance within the GCC Developer Guide states that:

*“New development will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In doing so careful consideration will be given to current levels of provision compared against the nationally recommended benchmark of the Arts Council - formerly put together by Museums, Libraries and Archives Council (MLA)”.*

The scheme will generate additional need for Library resources calculated on the basis of £196.00 per dwelling. A contribution of 38,428.00 (43 dwellings x £196) is therefore required to make this application acceptable in planning terms, in accordance with the GCC LDG.

The nationally recommended benchmark is now available in the publication Public Libraries, Archives and New Development A Standard Charge Approach (May 2010). It sets out a recommended library space provision standard of 30 sq metres per 1,000 population. This is costed at £105 per person. The current GCC figure of £196 reflects the uplift in costs since 2010.

In accordance with the Library Strategy (“A Strategy for Library Services in Gloucestershire 2012, and any updates), where development occurs it will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In this case the proposed development and increase in population will have an impact on resources at the local library and a contribution is required.

### **SECTION 3 – Compliance with CIL Regulation 122 and paragraph 204 of the NPPF (2019)**

The Community Infrastructure Levy (CIL) is a charge which can be levied by local authorities on new development in their area.

Where planning applications are capable of being charged the levy, they must comply with the tests set out in the Regulation 122 of the CIL Regulations. These tests are as follows:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

As a result of these regulations, Local Authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly' related to the development'. As such, the regulations restrict Local Authorities ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests, it is 'unlawful' for those obligations to be taken into account when determining an application.

Amendments to the Community Infrastructure Levy Regulations 2010 were introduced on 1 September 2019. The most noticeable change in the amendments is the ‘lifting’ of the ‘pooling restriction’ and the ‘lifting’ of the prohibition on section 106 obligations in respect of the provision of the funding or provisions of infrastructure listed on an authority’s published ‘regulation 123 list’ as infrastructure that it intends will be, or may be, wholly or partly funded by CIL (as a result of the deletion of Regulation 123).

Any development granted planning permission on or after 1 September 2019 may now be subject to section 106 obligations contributing to infrastructure that has already benefited from contributions from five or more planning obligations since 6 April 2010 and authorities are allowed to use funds from both section 106 contributions and CIL for the same infrastructure. However, the tests in Regulation 122 continue to apply.

The Department for Education has updated its guidance in the form a of document entitled “Securing developer contributions for education (November 2019), paragraph 4 (page 6) states that:

*“In two-tier areas where education and planning responsibility are not held within the same local authority, planning obligations may be the most effective mechanism for securing developer contributions for education, subject to the tests outlined in paragraph 1 [ the 3 statutory tests set out in 1.3 above]. The use of*

*planning obligations where there is a demonstrable link between the development and its education requirements can provide certainty over the amount and timing of the funding you need to deliver sufficient school places. We recommend that planning obligations allow enough time for developer contributions to be spent (often this is 10 years, or no time limit is specified)”*

Phasing of payments will be by agreement. It will be expected to be paid in advance of the impact arising, to allow sufficient time for expenditure. Payments will relate to identifiable triggers. The number of triggers/phases will depend on the scale of the development.

The education contributions which are based on up to date pupil yield data are necessary to fund the provision of the additional pre-school, primary and secondary school places generated by this development because there is a lack of capacity in the relevant education sectors to address the increase in the numbers of children needing a place at a local school arising directly from this development. There will be an additional 16 pupils in the primary sector and 12 pupils in the 11-18 secondary sector all needing a place at a local school.

The developer contributions are directly related to the proposed development in that the contributions have been calculated based on specific formulas relative to the numbers of children generated by this development and will be allocated and spent towards improving capacity at the local schools/planning area to enable children from this development to attend a local school .

The contributions are fair and reasonable to mitigate the impacts of the proposed development because they only relate to the additional pupils arising directly from this development to cover the costs of the extra places that will be required. The scale of growth is based only on the numbers of additional pupils arising from the proposed qualified dwellings.

Libraries:

The contribution towards the nearest library which is Charlton Kings is necessary to make this development acceptable in planning terms.

The contribution is directly related to the development in that it would be used towards expansion, increased opening hours/stock and improved facilities to mitigate the impact of increasing numbers of users of the library services and facilities directly arising from this development.

The contribution is reasonable and fair in scale being calculated by reference to the Public Libraries, Archives and New Development A Standard Charge Approach (May 2010).

### **SECTION 4 – CIL/S106 Funding Position**

There are currently no mechanisms or mutually agreed financial arrangements in place between the LPA as CIL Charging Authority and GCC to fund GCC strategic infrastructure from the CIL regime to mitigate the impact of this development as it occurs.

The level of CIL charged on a development is unlikely to cover the amount of developer contributions that would be required to contribute towards the strategic infrastructure necessary to mitigate the impact of this development.

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Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA

12<sup>th</sup> June 2020

Dear Ms Pickernell,

**Planning application: 20/00683/OUT**

**Proposal: Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration | Land Adjacent To Oakhurst Rise, Cheltenham, Gloucestershire**

**Objection – damage and deterioration of veteran trees**

The Woodland Trust is the UK's leading woodland conservation charity. The Trust aims to protect native woods, trees and their wildlife for the future. We own over 1,000 sites across the UK, covering around 24,000 hectares (59,000 acres) and we have 500,000 members and supporters.

The Trust objected to a previous application (18/02171/OUT) for a housing development on this site on account of impacts to a number of veteran trees. We were also involved in the consideration of this previous application at appeal. While some positive changes have been made compared to the previous application, namely the retention of T3014, there are still some outstanding areas of concern that we consider have not been resolved since the previous application.

As such, the Trust **objects** to this application on the basis of adverse impacts to veteran trees. Below is a table outlining the trees of concern and their respective numbers on the Ancient Tree Inventory (ATI).

Tree no.	ATI no.	Species	ATI Categorisation	Grid reference
3010	167742	Oak	Veteran	SO9658821654
3014	167746	Oak	Veteran	SO9652021628
3015	167745	Oak	Veteran	SO9653121639
3018	167747	Oak	Veteran	SO9650321690
3022	167756	Oak	Veteran	SO9644021558
3027	167751	Oak	Veteran	SO9639621605
3030	167748	Oak	Veteran	SO9644521702

## Ancient and Veteran Trees

There are a number of trees within this site that are listed on the Ancient Tree Inventory (ATI), most being classified as veteran, though with a couple of ancient specimens as well.

Planning Policy Guidance (PPG) for the 'Natural environment', which is intended to clarify and interpret the NPPF, and was updated on 21<sup>st</sup> July 2019, states<sup>1</sup>: *"Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. **Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species.**"*

Natural England's standing advice for ancient woodland, ancient trees and veteran trees<sup>2</sup> states: *"Ancient and veteran trees can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks or other areas. They are often found outside ancient woodlands. They are irreplaceable habitats with some or all of the following characteristics."*

*"An ancient tree is exceptionally valuable for its: great age, size, condition, biodiversity value as a result of significant wood decay habitat created from the ageing process, and cultural and heritage value."* It states further: *"All ancient trees are veteran trees, but not all veteran trees are ancient. A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity, cultural and heritage value."*

Veteran features are not necessarily a product of tree age or size; they also develop as a result of a tree's life or environment. This is particularly emphasised within the PPG, in which the key characteristics of size, age or condition are considered separately. However, this is not taken into account in the applicant's 'RAVEN' system<sup>3</sup>. The applicant's surveys impose a requirement for 'very large size' on trees before they can be further assessed for veteran features. The basis for this is ecologically unsound and, unfortunately, facilitates removal of trees or their inadequate protection.

A key function of the term 'veteran' is to capture trees that have exceptional habitat value as well as those with cultural and heritage value. The term is not a true ecological grouping, and serves to help us to identify trees which are important for biodiversity in their own right, and as part of a wider assemblage; veteran trees are important for the accumulation of features that are unable to be replicated within our lifetime. Identifying and evaluating veteran features requires the application of knowledge, experience and judgement. We acknowledge that government definitions do not provide precise, measurable parameters against which to easily recognise veteran trees. However, Natural England's standing advice, planning policy

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<sup>1</sup> <https://www.gov.uk/guidance/natural-environment>

<sup>2</sup> <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>

<sup>3</sup> <https://www.flac.uk.com/wp-content/uploads/2018/08/RAVEN.pdf>

guidance, and expert reference texts<sup>4</sup> do provide clear instruction that tree girth should not be used as the main qualifier for veteran classification.

A particular example of this is tree T3014, an oak tree that has not been identified as a veteran tree by the applicants and so a Veteran Tree Buffer (VTB) zone has not been applied to this tree. We had the opportunity to assess this tree in August 2019. At that time, we noted a number of veteran features despite the tree girth not reaching a very large size<sup>5</sup>. This oak tree features a historic lightning strike, exposed heartwood, decay cavities, evidence of invertebrate use and presence of fungal fruiting bodies (please see Appendix 1 for further details and images).

### **Planning Policy**

National Planning Policy Framework (NPPF), paragraph 175 states: *“When determining planning applications, local planning authorities should apply the following principles:*

*c) 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;”*

Exceptional reasons are defined in Footnote 58 as follows: *“For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.”*

We consider that the impact of the development on veteran trees does not fit these criteria and as such should be refused on the grounds it does not comply with national planning policy.

Paragraph 5.4.12 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 supports paragraph 175c of the NPPF stating: *“Ancient woodland and veteran trees will be protected in accordance with the NPPF.”*

Cheltenham Borough Council has recently submitted the new Local Plan for inspection to the Planning Inspectorate. Within the Cheltenham Plan ‘Policy GI3: Trees and Development’ the following is stated: *“Development which would cause permanent damage to trees of high value (Note 1) will not be permitted.”* Note 1 is defined in the following manner: *“‘High value’ means a sound and healthy tree with at least 10 years of safe and useful life remaining, which makes a significant contribution to the character or appearance of a site or locality.”* The fact that veteran trees recorded on the ATI have not been recognised by the applicant and afforded appropriate buffer zones means that they are not being adequately protected, and that the proposals are therefore contrary to this policy.

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<sup>4</sup> Lonsdale, D. (ed.) (2013). Ancient and other veteran trees: further guidance on management. The Tree Council, London 212pp.

<sup>5</sup> FLAC impose a requirement for ‘very large girth for species’ on trees before they can be further assessed for veteran features.

### **Impacts on Veteran Trees**

Ancient and veteran trees are a vital and treasured part of the UK's natural and cultural landscape, representing a resource of great international significance. The number of ancient and veteran trees on this relatively small site, makes the site and the assemblage of trees taken together particularly valuable for wildlife. The existing values will not be able to be sustained if the site is developed to this intensity as we consider that existing ancient and veteran trees will deteriorate and it will not be possible to provide for the continuity of appropriate trees that could become veterans of the future.

The trees listed in the above table are all recorded on the ATI as veteran specimens. However, the applicant has not recognised these trees as veterans and therefore not afforded them buffer zones; in line with Natural England's standing advice veteran trees should be afforded a buffer zone of 15 times the stem diameter or 5m beyond the crown, whichever is greater. Therefore, it is apparent that numerous elements of the development, such as buildings, roads and gardens will encroach on their RPAs. It is, however, helpful to see that trees which are recognised as veterans by the applicant have now been afforded buffer zones without encroachment from the proposed development.

Trees can be vulnerable to the changes caused by nearby construction/development activity. Development within the RPAs and/or canopy of ancient and veteran trees can result in adverse impacts as the tree's root system is adversely affected by soil compaction and direct root damage. The potential direct and indirect impacts of development on ancient and veteran trees are clarified in Natural England's standing advice, including:

- *damaging roots and understorey (all the vegetation under the taller trees)*
- *damaging or compacting soil around the tree roots*
- *polluting the ground around them*
- *changing the water table or drainage of woodland or individual trees*
- *increasing the amount of pollution, including dust*
- *increasing disturbance to wildlife from additional traffic and visitors*

Furthermore, new development close to such trees increases the targets and risks associated with people and property in proximity to them, thereby compromising their long-term retention.

The British Standards guidelines 'Trees in relation to design, demolition and construction (BS5837:2012)' clarify that construction work often exerts pressures on existing trees, as do changes in their immediate environment following construction works. Root systems, stems and canopies, all need allowance for future growth and movement, and should be taken into account in all proposed works on the scheme through the incorporation of the measures outlined in the British Standard. However, it is important to also consider the guidance within Natural England's standing advice when specifically taking the protection of ancient and veteran trees into consideration. This standing advice identifies mitigation measures that can

be implemented where nearby development may result in impacts on ancient and veteran trees, including:

- *putting up screening barriers to protect woodland or veteran trees from dust and pollution*
- *a buffer zone at least 15 times larger than the diameter of the tree, or 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter*
- *protecting veteran trees by designing open space around them*
- *identifying and protecting trees that could become veteran trees in the future*

The need to ensure that ancient and veteran trees are afforded appropriate space for their long-term health is supported by the BS5837 guidelines which states in paragraph 5.2.4 that *"particular care is needed regarding the retention of large, mature, over-mature or veteran trees which become enclosed within the new development"* and that *"adequate space should be allowed for their long-term physical retention and future maintenance"*.

Veteran trees typically feature significant deadwood habitat of great value for biodiversity, e.g. retained deadwood in the crown, broken/fractured branches and trunk cavities/wounds. The level and type of usage of such a high density residential development will increase the health and safety risks associated with these trees leading to a requirement to manage them more intensively resulting in loss of habitat and/or consequential decline or removal.

Our concerns regarding the increased risk that veteran trees can pose when more exposed to human contact is supported by the guidance within David Lonsdale's 'Ancient and other Veteran Trees: Further Guidance on Management' (2013), which states in paragraph 3.5.2.1 *"...avoid creating new or increased targets: as happens for example following the construction of facilities (e.g. car parks or buildings) which will bring people or property into a high risk zone. Not only does this create targets, it also harms trees and therefore makes them more hazardous"*.

The Trust requests that the council's tree officer and planning officer take our comments and government guidance into consideration and ensures that the applicant is applying suitable buffers to those veteran trees identified as such on the ATI. Where development encroaches on the RPAs of these trees the layout of the development should be altered to prevent such impacts. If this is not possible then the proposals should be refused planning permission as the encroachment and subsequent impact of the development on the trees' root systems would directly contravene local and national planning policy and government guidance.

The significant concentration of ancient/veteran trees within the development site means that damage to veteran trees could lead to their failure and ultimately a reduction in the available habitat for species reliant on dead and decaying wood habitat, i.e. saproxylic invertebrates, bats and certain species of birds. In its current form the development would result in damage to a number of veteran trees on the site, which would be highly deleterious to the wider environment of mature and veteran trees that may harbour rare and important species.

**Conclusion**

Ancient and veteran trees are irreplaceable; the habitat that they provided cannot be re-created. Development resulting in the damage or long-term deterioration of such trees is unacceptable and contrary to national planning policy.

In summary, the Woodland Trust **objects** to this application on the basis of damage and deterioration of seven veteran trees.

While the applicant has recognised some of these trees as veteran we do not consider that they have fully recognised the qualities and importance of all the trees on site and appropriately categorised them as veterans. As such, a number of trees have not been afforded the suitable RPA that their veteran status warrants, leaving them vulnerable to adverse impacts. We ask that measures continue to be explored to ensure that veteran trees are fully recognised and that adverse impacts to such trees are avoided in line with Natural England's standing advice.

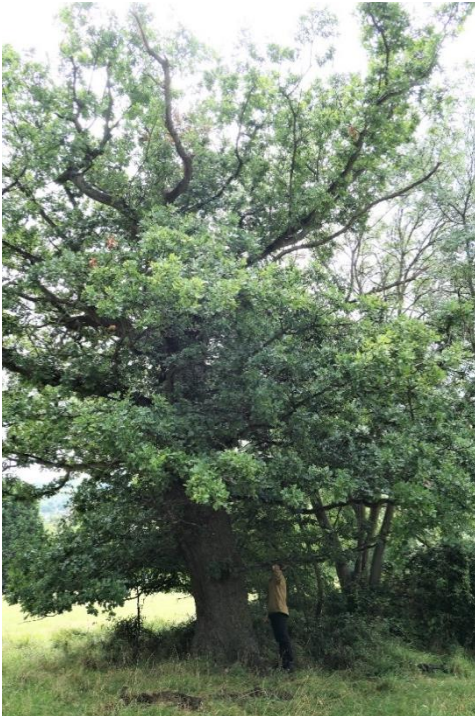
We hope you find our comments to be of use to you. If you are concerned about any of the comments raised please do not hesitate to get in contact with us.

Yours sincerely,

Jack Taylor  
Lead Campaigner – Woods Under Threat

**Appendix 1. Veteran features of tree 3014 identified in August 2019**

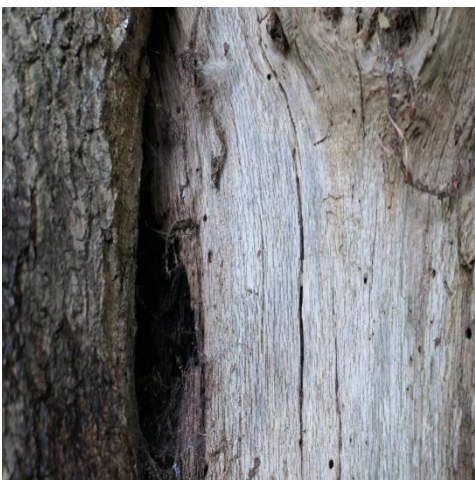
- A) Wide view of tree 3014, showing condition of crown, with some large diameter dead wood and potential for retrenchment of upper crown.
- B) Historic lightning strike resulting in significant portion of exposed heartwood.
- C) Decay holes/ dry habitat space developing between sapwood and exposed heartwood.
- D) Large, accessible cavities high within tree crown
- E) Evidence of invertebrate activity including 'exit holes' in heartwood and accumulating decaying wood/ litter
- F) Fungal fruiting bodies of *Stereum gausapatum*, a heart rot species.



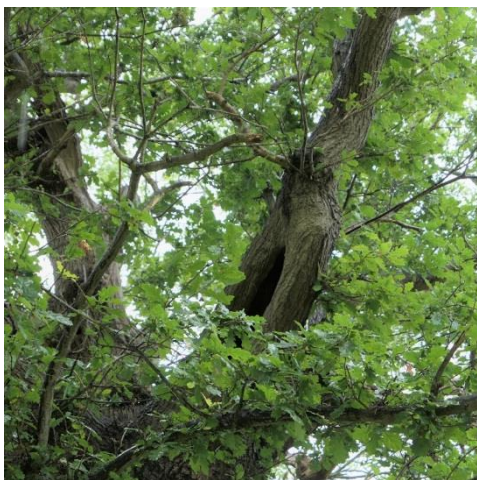
**Image A**



**Image B**



**Image C**



**Image D**



**Image E**



**Image F**





## ECOLOGY (BIODIVERSITY) OBSERVATIONS ON A PLANNING APPLICATION

<b>To:</b> Emma Pickernell Senior Planning Officer, Cheltenham BC	<b>Date:</b> 02/09/2020 <b>My Ref:</b> 20(030A)
<b>From:</b> Gary Kennison, Principal Ecologist	
20/00683/OUT Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration, Land Adjacent To Oakhurst Rise, Cheltenham, Gloucestershire GL52 6JU Grid Ref (approx.) 396492 221592	

*Based on inspection of submitted drawings and other documents including ecological reports (and letters)*

### 1. SUMMARY OF RECOMMENDATION

No observations and/or minor observations	
<b>No objections, subject to reserved matters (conditions) and informatives</b>	✓
Further information and/or clarification required	
Refusal (for the reasons set out below if details remain unchanged)	
Consider enforcement or other action	

### 2. Advice by Topic

Item (Topic)	Coverage	General Observations
Ecological Reports	Ecological Appraisal (April 2020) by Aspect Ecology	Updates previous site surveys/assessments between 2016 and 2018. Aspect Ecology added a botanical survey of the grassland in July 2019 and an overview survey of the site in April 2020.
Designated Sites	Cotswold Beechwoods Special Area of Conservation (SAC)	The SAC is about 8km away to the south west and there is potential for increased recreational disturbance to occur on this European Site. To make sure this development is not harmful the Appropriate Assessment stage of HRA must be triggered by the LPA.  If the LPA after consulting Natural England is able to conclude in its Appropriate Assessment (HRA) that there

Item (Topic)	Coverage	General Observations
		<p>would be no adverse effect on the integrity of the SAC then planning permission could be approved if no other matters warranted refusal.</p> <p>The developer's consultant Aspect Ecology has commented on HRA at paragraph 3.1.3 of the Ecological Appraisal. It references the previous HRA process for application 18/02171/OUT and the associated submitted document entitled 'Information to inform a Habitats Regulations Assessment' dated November 2018. This is relevant to the Appropriate Assessment that the LPA needs to carry out for the current application which is for less residential units (reduced from 69 to 43). In summary the developer's ecologist conclusions are that the latest development is also unlikely to have an adverse effect on the integrity of the SAC. A homeowner's information pack has been proposed previously by Natural England (application 18/02171/OUT) and this is included in my recommended LEMP condition (reserved matter) below.</p>
	Site of Special Scientific Interest (SSSI)	If potential significant effects on the SAC (above) from recreational disturbance can be avoided then they would also be on the Cotswold Commons and Beechwoods SSSI too.
	Local (Key) Wildlife Site (LWS)	Nearest is KWS is Glenfall Wood (almost 1km away to the east). Further distant is Ashgrove Meadow and Charlton Kings Railway Line to the south west and south. Development unlikely to significantly affect these KWSSs if the SAC is also deemed to be materially unaffected (see above).
	National or Local Nature Reserve (NNR or LNR)	Part of the Cotswold Commons & Beechwoods SSSI is an NNR (so above comments apply). Nearest LNR is Griffiths

Item (Topic)	Coverage	General Observations
		Avenue (about 4km to the west). Development unlikely to significantly affect these sites if the SAC is also deemed to be materially unaffected. (see above)
	Regionally Important Geological Site (RIGS)	Development unlikely to significantly affect such sites. None are nearby
Conservation Road Verges (CRVs)	As in current version of the Highways Authority's register	Nearest CRV is Colegate Farm, Dowdeswell.  Development unlikely to significantly affect it.
Priority Habitats (including hedgerows)	Hedgerows	<p>See also trees below.</p> <p>The condition of the hedgerows H1 and H2 was checked in April 2020 in comparison to a previous survey in 2017. Hedge 1 is re-confirmed as still being important using the Hedgerows Regulations methodology. Hedge 2 is again not considered to meet the importance test under the Hedgerow Regulations.</p> <p>H1 and H2 will suffer some loss (comparing the Landscape Strategy drawing with the Habitats &amp; Ecological features drawing in the ecology report). H3 to H6 are poorer quality and are fragmented already. Proposed landscaping will improve this situation somewhat but importantly the connectivity provided by the site hedgerows will be improved by significant new tree/shrub planting for a range of animal species (birds, mammals and invertebrates). Given this the residual impact of the modest tree and hedgerow loss proposed will have little residual (if any) impact on biodiversity and a net gain overall.</p> <p>The Tree Protection Plan (Dwg No. 38-1036.02 Rev B) provides details for the protection of all retained trees and hedges during the construction phase.</p>

Item (Topic)	Coverage	General Observations
Trees	Many, various species	<p>See also hedgerows above.</p> <p>Trees (including aged or veteran ones) on site. The consultant ecologist states that all of the veteran trees will be retained. The Planning Statement at 3.10 says there will be “the loss of two mature trees (3016 ash; 3017 sycamore), as well as one mature tree deemed unsuitable for retention (3004). There is a good chance that the ash will be lost to ash die-back disease in the coming decade even if the development does not go ahead. These trees are situated up against the northern hedgerow H4. Additionally a few shrubs not obviously of retained hedgerows may also be lost but most will probably be retained.</p> <p>It is crucial that the retained trees (the vast majority on site) are properly protected during the construction and occupation phases along the lines of government advice and British Standard ‘BS 5837, Trees in relation to design, demolition and construction.’ The Tree Protection Plan (Dwg No. 38-1036.02 Rev B) provides details for the protection during development of all retained trees and hedges. The application also comes with proposed significant new tree and shrub planting (landscape strategy drawing) and a proposed Management Plan for these. Most of the new trees will form a relatively wide native woodland belt of great potential future value for biodiversity</p> <p>There will be a small negative impact on trees and an improvement upon the previous schemes. Taking an ecological viewpoint the landscape proposals if</p>

Item (Topic)	Coverage	General Observations
		<p>implemented as soon as possible would be good mitigation for the immediate limited impact on trees (as a habitat) in the medium to long-term.</p> <p>Conditions are needed to confirm and successfully implement the landscape strategy and tree protection plan which incorporates the arboricultural methods and supervision.</p>
Other habitats / features of interest	Several	<p>Scrub, semi-improved grassland, ruderal vegetation &amp; standing water (temporary) occur in places. Grassland reported to be grazed informally and also annually mown in places with arisings not being removed. A bonfire site with creeping thistle and stinging nettle has also been noted. Current management and use of the site is not likely to conserve or enhance biodiversity value long-term. Most of these site features mentioned are relatively common in Gloucestershire and not of particularly high value for biodiversity.</p> <p>The pond (which has no aquatic vegetation and dries out very regularly) will be lost by the proposals but well replaced by a new (surface water attenuation) pond towards the south of the site. Although this may be dry at times it is of a design that at least marginal plant species and associated fauna will be able to establish there. About 57% of the semi-improved grassland will be lost but the remaining will be retained as green space for use by a nearby school. The area of semi-improved grassland and ruderal vegetation to be lost to new housing , roads and gardens is a biodiversity loss that needs factoring in but the overall long-term outcome for biodiversity is likely to be</p>

Item (Topic)	Coverage	General Observations
European Protected Species (EPS)	Bats – Some common pipistrelles but a few soprano pipistrelles, noctules, serotines, <i>Myotis</i> species and lesser horseshoe recorded in the vicinity/nearby	<p>positive (see below).</p> <p>A variety of species have been recorded on site and in the general area - which is to be expected given the location and habitat features on site. The site certainly has some value for commuting and foraging bats due to presence of hedgerows and trees with associated grassland.</p> <p>Aspect Ecology carried out an updated Preliminary Roost Assessment of the trees with Potential Roosting Features (PRFs) in April 2020. Table 5.1 in the ecology report provides a useful summary. It updates the information in All Ecology's June 2018 detailed survey of trees to see which might be being used by bats (application 18/02171/OUT). Plan 2 within the All Ecology report shows the location of trees (labelled T1 to T19). The updated assessment of trees by Aspect Ecology in April 2020 reports only 2 notable changes from 2018 and that was that trees T12 and T14 now had lower potential for roosting bats (5.1.12). T6 which had a single common pipistrelle bat roosting in it in 2017 is not of high conservation significance but it is being retained as part of the proposed development. The two trees proposed for removal (an ash and sycamore –see trees above) have not been identified as likely to harbour bat roosts.</p> <p>The proposals will produce a few gaps in existing hedgerows H1 &amp; H2 (see above) but due to the additional and reinforcement planting elsewhere (not least the new woodland belt) the impact on bat movements and foraging overall will be positive. This is conditional on no unnecessary obtrusive lighting. A suitable lighting scheme that does not adversely impact on existing</p>

Item (Topic)	Coverage	General Observations
		<p>and increased bat activity of the site is entirely possible. The scheme must ensure that the majority of the retained and habitats/features are available for bats to use.</p> <p>It is noted that additionally some bat boxes will also be provided so that roosting opportunities will be as good if not better than the current situation (see EE4 and Appendix 5487/4 in the ecology report). These are proposed for erection on trees <u>and integrated into a proportion of the new buildings</u>. This will boost the value of the site as until new trees mature roosting opportunities will be limited.</p> <p>Mitigation measures MM1 to MM6 plus ecological enhancements EE1 to EE4 are appropriate and relevant to conserve and enhance bats on site. These can be secured within a CEMP and LEMP (see recommended conditions below)</p>
	Dormouse	Unlikely to be present and the development is unlikely to significantly affect them.
	Great Crested Newt (GCN)	GCN District Licencing mapping indicates the area impacted by development works site is within an amber risk zone for GCNs. I am content to accept the justification that the development is unlikely to adversely affect great crested newts (ecology report 5.4.2 to 5.4.4 & 5.8.2).
	Otter	Unlikely to be present and the development is unlikely to significantly affect them.
Apply 3 derogation tests? [Habitats Regs for EPS licencing]	Although quite unlikely given the revised proposals the need for a bat licence cannot be completely ruled. There is only a low risk of an unknown roosts being discovered that may be affected by the development works.	If the assertions of the ecological assessments are correct then the 3 derogation tests in the Habitats Regulation do not need to be considered. See 'Bats' above.

Item (Topic)	Coverage	General Observations
Other Protected Species	Water vole	Unlikely to be present and the development is unlikely to significantly affect them.
	Badger	The effect or not on badgers from the proposed development site has been reviewed by additional updated surveys and reported in a separate confidential appendix (Aspect Ecology October 2018) that has been submitted to the LPA. The revised proposals for mitigating any effect upon and conserving local badgers are acceptable in my view.
	Reptiles	In addition to previous on site surveys Aspect Ecology carried out an artificial refugia survey for reptiles between July and August 2019. Reptiles and evidence of them being present was also directly searched in suitable places/features. I can accept that there is only a low population of reptiles present consisting of only very few individual slow worms and grass snakes. The mitigation and enhancement measures (MM8, EE2, EE3, EE6 & EE7) plus proposed new landscaping should have a neutral to positive impact overall.
	Nesting birds	A good variety of birds are present in the general area and on site mainly utilising the boundary trees and hedgerows. There are much potential nesting sites present but much of this will be retained. Measures MM1, MM2, MM9, EE1, EE2, EE3, and EE5 are protective and beneficial for birds. In the long term the development would likely to have a short term small adverse impact but in the long-term a positive overall outcome is certain.
Priority Species	Hedgehog (for house sparrow and lesser spotted woodpecker see birds above)	Hedgehogs are use hedgerows and nearby gardens. A small population may use the proposed development site. However overall with the mitigation measures MM1, MM2, MM6, MM7 and enhancement measures EE1,



Item (Topic)	Coverage	General Observations
		EE2, EE6 and EE7 the proposed development is unlikely to affect the local population which is likely to be enhanced. This excludes the fact there will be gardens which may have additional accessible habitat.
Invertebrates	Generally	A number of species have been recorded in the vicinity but none are particularly rare or are protected by law. A reasonable invertebrate assemblage is likely to be associated with the trees, scrub and hedgerows. The presence of old trees with some rotting wood is an important feature for some not common invertebrates. Compensation for lost habitat and enhancement for invertebrates is offered. Measures MM1, MM2, MM6, EE1, EE2, EE3, EE6, EE7 and EE8 are appropriate and relevant for invertebrates. Overall the development should be beneficial for invertebrates including pollinating insects.
Mitigation (Compensation) included?	Yes	<p>The mitigation/compensation and enhancement proposals are set out as measures in Section 6 of the Ecological Appraisal. Mitigation measures MM1 to MM9 and enhancement measures EE1 to EE8 are appropriate and relevant to the site and development.</p> <p>Enhancements include extensive native tree/shrub planting, new wildflower grassland, creation of wetland habitat, bat and bird boxes, and also features for reptiles, amphibians and invertebrates.</p>
Landscaping/Aftercare included?	Yes	<ul style="list-style-type: none"> <li>• Landscape Strategy drawing 192.16.101 Rev. D</li> <li>• Further details of aftercare need to follow as part of reserved matters, i.e. production of a LEMP (Landscape &amp; Ecological Management Plan)</li> <li>• Funding and aftercare</li> </ul>

Item (Topic)	Coverage	General Observations
		management responsibilities will need to be secured through a S106 agreement if the development is approved
<b>Biodiversity Net Gain (BNG)?</b>	Yes	<ul style="list-style-type: none"> <li>• Losses to biodiversity have been reduced compared with previous proposals for the site.</li> <li>• Tree planting and a good variety of other landscape features are being proposed, these including new hedgerows, wildflower (meadow) planting and a new wetland feature.</li> <li>• In my view BNG would be achieved given proposals and safeguards (including a S106 agreement).</li> </ul>
<b>Further information/action including survey work required before determination?</b>	Yes	Cheltenham Borough Council needs to complete an Appropriate Assessment (HRA) of this development proposal.
<b>Planning conditions and/or Informatives (Advice Notes)?</b>	Yes	See below but cannot be confirmed until an HRA (AA) has been completed and agreed with by Natural England.

### 3. Additional Comments on Advice (above)

If this development is allowed and does not commence before the end of April 2022 then there is a need to repeat the preliminary tree roost assessment. The ecology report includes this as mitigation measure MM3. This is in accordance with British Standard BS 42020:2013 and is captured in one of the recommended conditions below (CEMP).

Compared to previous development schemes for this site (17/00710/OUT & 18/02171/OUT) there will be fewer units and more retention of habitats and features which is welcomed. Together with mitigation measures, extensive planting and additional new feature proposals net gains for biodiversity are likely.

### 4. Assessment against Legislation, Policy and Guidance

Relevant legislation, policy and guidance considerations have been taken into account as part of this response, including as relevant the following:

- *Wildlife and Countryside Act 1981 (as amended)*
- *The Conservation of Habitats and Species Regulations 2017 (as amended)*
- *Natural Environment and Rural Communities Act 2006*
- *Protection of Badgers Act 1992*
- *Biodiversity – Code of practice for planning and development BS 42020:2013*
- *Natural England's Standing Advice*
- *National Planning Policy Framework and Planning Practice Guidance*

- *ODPM Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System*
- *Local Development Plan(s)* <https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/>

### 5. Conclusion

The appeal decision of earlier application 18/02171/OUT cites some uncertainty that biodiversity value overall could be conserved into the occupation phase. This current application 20/00683/OUT is for a smaller number of residential units (now 43 down from 69) and so conservation and enhancement of biodiversity is very likely. It is my conclusion that the latest development proposal would not have a significant adverse effect upon biodiversity overall and with the proper addressing of reserved matters including a S106 agreement a biodiversity net gain would accrue.

### 6. Recommended Action

The following items should be addressed to be able to consent this development.

#### Pre-determination:

1. Item - The LPA must complete an Appropriate Assessment which is Stage 2 of Habitats Regulations Assessment (HRA). A draft must be sent to Natural England to see if they agree with its conclusions before the HRA is confirmed. In my view a conclusion of no adverse effect on a European Site's integrity could be affirmed to make the development acceptable in law.

#### Determination:

If given consideration of all matters the LPA is minded to grant consent for this outline development then the reserved items such as the following below are recommended:

1. Condition – *The development shall be implemented in accordance with the Tree Protection Plan drawing 38-1036.03-A dated 17.04.20 which incorporates arboricultural methods and supervision details. All protective structures installed shall be maintained until construction work has been completed. No materials, soils, or equipment shall be stored under the canopy of any retained tree or hedgerow within the application site.*

**Reason:** *To prevent unnecessary loss of amenity and biodiversity value of trees and shrubs to be retained in accordance with Local Plan Policy X, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175.*

2. Condition – *No development shall take place until a Lighting Scheme is submitted to the Planning Authority for approval. The Scheme is to be based on mitigation measure MM6 (Sensitive Lighting) within the Ecological Appraisal by Aspect Ecology dated April 2020. The scheme shall include the following details:*

- (a) the position, height and type of all lighting;*
- (b) the intensity of lighting and spread of light as a lux contour plan;*

(c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux;  
(d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

The approved scheme shall be implemented for the duration of the development and maintained in accordance with the manufacturer's recommendations and scheme details.

**Reason:** To ensure that foraging and commuting of bats is not discouraged at this location and in accordance with Local Plan Policy X, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 170, 175 and 180 and Section 40 of the Natural Environment and Rural Communities Act 2006 which confers a general biodiversity duty upon Local Authorities whilst exercising their functions.

3. Condition – Prior to the commencement of the development hereby permitted including ground works and vegetation clearance a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. Any modifications to the approved details for example as a result of requirements of a protected species license must be submitted to and agreed in writing by the Planning Authority. The CEMP shall include final details of the following items:

Ecology

(i) Outline Mitigation Strategy based on Section 4.6 of the Confidential Badger Appendix by Aspect Ecology dated April 2020.

(ii) Other Mitigation Measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees), MM3 (update Preliminary [tree] Roost Assessment), MM4 (Bat Survey and Soft-felling of Trees), MM5 (Re-installation of any affected Retained Bat Boxes), MM7 (Wild Mammal Construction Safeguards), MM8 (Habitat Manipulation/Destructive Search for Reptiles & Amphibians) and MM9 (Timing of Works to avoid Nesting Birds) based on the Ecological Appraisal by Aspect Ecology dated April 2020.

(iii) Adherence to the Tree Protection Plan incorporating arboricultural methods

(iv) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) and other responsible persons plus lines of communication

Other Items

xvi) [insert relevant text here for other items as deemed necessary, e.g. hours of working, visual impact, dust, noise, water management, travel plan, management of hazardous substances]

**Reason –** To protect the local environment including its landscape and biodiversity value in accordance with Local Plan Policy X and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.

4. Condition – Prior to the commencement of the development a Landscape and Ecological Management Scheme based on the Landscape Strategy drawing 19216.101 revision D dated 14-04-20, Proposed New Tree Planting Management Plan – Head of Terms and the Ecological Appraisal dated April 2020 (Ecological Enhancements EE1 to EE8 inclusive) shall be submitted to and approved by the Planning Authority. The scheme shall comprise of a drawing and document that

covers:

(a) *Aims and objectives of the scheme including*

*conservation of protected and priority species and a net gain for biodiversity appropriate green infrastructure;*

(b) *A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;*

(c) *Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;*

(d) *Provision for educational but not public access;*

(e) *A work and maintenance schedule for 5 years and arrangements for beyond this time;*

(f) *Monitoring and remedial or contingency measures;*

(g) *Organisation or personnel responsible for implementation of the scheme;*

(h) *Issue of a homeowner's information pack on local recreational opportunities and the sensitivity of the Cotswolds Beechwoods SAC.*

*The Scheme shall also include details of the legal and funding mechanisms by which the long-term implementation of the scheme will be secured by the developer with the management body responsible for its delivery. The scheme shall be implemented as approved by the Planning Authority.*

**Reason:** *To conserve and enhance the landscape and biodiversity value of the land and in accordance with Local Plan Policy X, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.*

5. Planning Obligation (S106) [Linked to recommended condition above] – Funding and aftercare responsibilities need to be put in place to ensure the long-term management of landscaping and other installed [ecological] features so that important biodiversity is conserved and a net gain achieved. The arrangements must adequately ensure for the maintenance of habitats, trees, hedgerows and artificial biodiversity features. There should be a guarantee that the site will be used for educational and biodiversity conservation purposes and not be developed in the future.

6. Advice Note - *In relation to the County Council's Service Level Agreement with the Local Biological Records Centre and to assist in the strategic conservation of countywide biodiversity, all species and habitat records from the ecological work commissioned by the applicant should be copied [if not already] to the Gloucestershire Centre for Environmental Records (GCER).*

It is my view that the above advice is in accordance with the National Planning Policy Framework (NPPF), Planning Policy Guidance (PPG), National Design Guide (N1 to N3), ODPM Circular 06/2005, Natural England's Standing Advice, and with Section 40 of the Natural Environment and Rural Communities Act 2006 which confers a general biodiversity duty upon Local Authorities whilst exercising their functions. Opportunities to produce measureable gains for biodiversity have been explored (NPPF paragraph 175(d)).

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<b>APPLICATION NO: 20/00683/OUT</b>		<b>OFFICER: Mrs Emma Pickernell</b>	
<b>DATE REGISTERED:</b> 29th April 2020		<b>DATE OF EXPIRY :</b> 29th July 2020	
<b>WARD:</b> Battledown		<b>PARISH:</b> CHARLK	
<b>APPLICANT:</b>	W Morrison (Chelt) Ltd & Trustees Carmelite Charitable Trust		
<b>LOCATION:</b>	Land Adjacent To Oakhurst Rise Cheltenham		
<b>PROPOSAL:</b>	Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration		

### REPRESENTATIONS

Number of contributors	<b>248</b>
Number of objections	<b>140</b>
Number of representations	<b>0</b>
Number of supporting	<b>108</b>

Cedar House  
20B Ledmore Road  
Charlton Kings Cheltenham  
Gloucestershire  
GL53 8RA

**Comments:** 23rd June 2020

There is a shortage of family and affordable properties in Charlton kings. This development would help address that, without spreading the village wider.

Brecon House  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

**Comments:** 25th June 2020

I am supporting because Cheltenham lacks affordable houses for young people and I feel these houses will benefit these people.

**Comments:** 25th June 2020

I am supporting this application as it will provide affordable houses for young people, which Cheltenham lacks. Especially Charlton kings. As a young adult myself I am worried that young people won't be able to live/work in Cheltenham in the future because of the obscene prices. I don't think the "objectors" seem to understand this or think from a young persons perspective of what a huge benefit this would be to Cheltenham.

It will also benefit St Edwards School which is in desperate need of some support.

I really do hope some "objectors" will try to be more open minded, less selfish and think of others futures in Cheltenham not just theirs.

Brereton House  
Andoversford  
Gloucestershire  
GL54 4JN

**Comments:** 29th June 2020

I am in full support of this development. It is needed in the area and the school will benefit from the money if it goes ahead.

It's good location for the development and will benefit the area greatly.

46 Pinewood Drive  
Cheltenham  
Gloucestershire  
GL51 0GH

**Comments:** 30th June 2020

Having found it impossible to find a property in Cheltenham, including the Charlton Kings area recently, (so building our own now) it is obvious we need more housing, especially affordable housing, so if this development can provide these I fully support the application at Oakhurst.

Mount view  
Gretton fields  
Cheltenham  
GL54 5hh

**Comments:** 4th July 2020

Affordable homes are desperately needed in Cheltenham for younger couples and those that want to move away from rented properties. There are over 2500 people in Cheltenham on the waiting list for affordable homes and this needs to change.

Pages  
Chargrove Lane  
Cheltenham  
GL51 4XB

**Comments:** 7th July 2020

This development will deliver in short order 25 private homes and crucially a mixture of 18 affordable homes which has got to be a good thing for Cheltenham The school and the land owners will be in favour of this application going ahead. Both my children attended St Edwards school and I know that using this area of the site will not diminish the schools ability to carry out all the usual activities that it does today and on the positive side the school will hopefully gain some funding to help keep it maintained. They will still retain 35 acres - the land that they actually use.

I am also very pleased to hear that the attenuation system is being put in place which will reduce the flash flood risk.

267 Bath Road  
Worcester  
WR5 3AH

**Comments:** 14th July 2020



I think this application is a good idea, I have no objections.

Gray House  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PR

**Comments:** 5th August 2020

We write to object very strongly against this proposed development for a reduced number of houses.

This reduction does nothing to address the factors against the original two applications. The site is so steep from Oakhurst Rise that there is bound to be flooding whatever the developer tries to do. The climate is changing and when it does rain it's extremely heavy compared to years ago, so more concrete will exacerbate the situation.

Also surely you cannot consider putting more cars out onto the London Road so near the Six Ways junction which is a nightmare at the best of times, let alone rush hour.

The name Six Ways speaks for itself!

Please listen to this and refuse this application completely.

The Flower House  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PD

**Comments:** 5th August 2020

My wife and I strongly object to the above planning application.

The vehicular access to and from the proposed development is entirely inadequate.

The roads approaching the site always have many parked vehicles on both sides of the approach roads!

The access to Oakhurst Rise has a one way system and the surrounding roads layout are overused.

Many families with young children would have more pollution spilling from more vehicles and small children, in particular, who are lower to the ground, would have vehicle exhausts puffing pollutants in their faces!

This is a 'landlocked' site with no escape routes in an emergency situation.

Many thanks for your consideration of this matter.

21 Gabell Road  
Cheltenham  
Gloucestershire  
GL53 9FA

**Comments:** 17th June 2020

I supported this application in an earlier iteration for the same reason that I am supporting this revised and reduced application - Affordable Housing.

Cheltenham has a dismal record of delivering Affordable Housing and this application provides much needed affordable homes for the over 2000 people who remain on the housing waiting list.

The needs of the many in this town far outweigh the few privileged objectors many of whom already own their own homes.

Southern Lawn  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 9th August 2020

I strongly object to this scheme. Even with a reduction to 43 up-market very large houses, with the strong likelihood that each property will own two or three vehicles, there will be a major traffic problem. Living on Ashley Road, each property has at least three vehicles, and sometimes 5, so the roads will have upwards of an extra 120 vehicles using the roads most days, and the vehicles tend to be large 4x4s etc. Beaufort Road already is a very well-used rat run, with speed restrictions and lots of vicious speed bumps in place. However the road is not fully one way, but has restricted access to vehicles from one side, so it has a virtually continuous one way traffic flow. However this many vehicles will often mean that lots of vehicles will go against the prevailing traffic, causing major snarl ups, during peak morning and evening times, as with cars parked on this road, it will not be possible for two way traffic to operate normally. I also frequently cycle along this route and it is already quite hazardous for cyclists with many vans and heavier vehicles using this short cut to avoid the traffic lights at the London Rd and Cirencester Road junction.

23 Wordsworth Avenue  
Cheltenham  
Gloucestershire  
GL51 7DY

**Comments:** 29th May 2020

There is a Badger family, Foxes who have 6 cubs, the beautiful roe deer in the meadow, among other species of wildlife that are now at risk of losing their homes, through a planning proposal to build luxury homes which will destroy the ancient meadow and their homes. They won't survive this. The planning application has been turned down twice, but it appears that the building corporation, have slyly put in another application during lock down. The planning reference is REF: 20/00683/ for Oakhurst Rise.

I believe any further housing developments would be detrimental to the area as well due to the inadequate road system which already cannot cope since the building of the other new housing estates

34 Lechlade Road  
Highworth  
SN67HQ

**Comments:** 7th June 2020

Our youngest son spent a short time at St Edwards Prep School and from all our return visits to see friends we know just how special the land in question is. Many hours have been spent playing in the field and many amazing bugs and creatures have been seen up close by very excited boys. Evenings have been spent waiting to see what would emerge and we have never been disappointed. I can not imagine the damage and loss of habitat any construction work would have on this area. It's incredibly disappointing that this is once again even being considered.

Ancient Trees Forum

**Comments:** 15th June 2020

The Ancient Tree Forum (ATF) is a charity which has pioneered the conservation of ancient and veteran trees and their associated habitats such as ancient wood pasture and parkland. The ATF seeks to secure the long-term future of ancient and veteran trees and associated habitats through advocacy of no further avoidable loss, good management, the development of a succession of future ancient and veteran trees, and seeking to raise awareness and understanding of their value and importance.

The ATF objects to this application because the way veteran trees have been identified means that trees, which should be protected by planning policy and meet the criteria set out by the guidance (National Planning Policy Framework glossary (2018), Standing Advice (2019) and Planning Policy Guidance (2019)), have been wrongly excluded. They are a significant factor in considering this application.

We set out our rationale for identification of ancient and veteran trees in relation to NPPF in Annex 1. In line with the government guidance, it is our view that for a tree to be categorised as a veteran, it should primarily have key decay features (including branch death or hollowing) and such features should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality). NPPF glossary states that a veteran tree does not need to be old enough to be ancient but does not define any specific size or age criteria to be met. However, it is our interpretation of the guidance, that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop.

The ATF therefore interprets the guidance to mean that trees which have the appropriate key decay features and are also mature or ancient should be considered as irreplaceable habitat and are the trees to which the policy in para 175c of the NPPF applies.

We strongly disagree with the categorisation methodology used in the tree survey. The first step of the applicant's tree consultant's methodology is to eliminate trees which do not have a "very large girth" before consideration of veteran characteristics. In our view this step is not justified by NPPF or other government guidance.

It is our view that at least two trees should be re-categorised as irreplaceable veterans and protected from harm by appropriate buffer zones. They are the mature trees numbered T3010 and T3014

The Tree Survey states that T3010 is mature tree and has "Fistulina hepatica fruiting body on root buttress at ground level east. Laetiporus sulphureus on old branch loss wound at 2 metres south. Numerous habitat holes within branch structure indicating heartwood fungal decay is well progressed." Decay or hollowing evidenced by heart-rot decay fungi is a clear criterion for veteran

categorisation and the applicant's tree consultant accepts this too. Although it is the view expressed in the tree survey that this tree may not survive long term, there is no indication why it is judged not to be able to survive long-term nor what time period that might be. There is no reference to life expectancy/longevity of the tree in the NPPF and therefore this should be disregarded in categorising a tree as a veteran. The extra protection that a buffer zone would provide, and should be allocated to this tree, would mitigate the possibility of deterioration resulting from development pressures - the very purpose for which it is intended. According to Standing Advice the Buffer Zone should be "at least 15 times larger than the diameter of the tree. The buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter." Due to the proximity of this tree to proposed buildings the Buffer Zone may need to be greater than the minimum to avoid future intervention on the grounds of risk.

Tree number 3014 is recorded as OM/over-mature in the survey. It is recorded as having a stem diameter of 930mms and in the Raven assessment as 148 years old and not of an 'age or size to merit veteran descriptor'. We assume the OM label is a error. However, it is recorded as mature and having "bark wounding after historic lightning strike seen as broad tongue of bark loss from ground level south extending into upper crown structure, exposed and desiccated non-functional heartwood within the affected stem section comprises large volume dead wood Scattered dead wood and smaller distal decline." It is quite clear from this description and images on the Ancient Tree Inventory that the trunk of this tree is hollowing and has a large volume of deadwood in the trunk. This tree definitely has substantial and long-lasting veteran characteristics which accord with Standing Advice, it is mature and therefore is a veteran tree and should be given proper protection by an appropriate Buffer Zone.

Other mature trees on site may also be veteran trees but we do not have enough information on which to confirm their status but the LPA must be assured one way or another. The Ancient Tree Inventory is a citizen science project and has not required surveyors to assess trees according to NPPF as it started in 2005 which is well before the planning policy changes in 2018. The tree records on it however are good indicators of whether trees are ancient or veteran. For example, T3015 is listed as a veteran on the Ancient Tree Inventory and the record states that it has hollowing branches - substantial enough features on such a large tree to be good veteran characteristics. In addition, the Tree Survey, provided with the application, confirms that there are "large dead limbs scattered through the crown". Dead branches are given as a key veteran tree criterion in Standing Advice. It is very likely that this mature oak is a veteran for the purposes of NPPF and therefore should be given the protection of an appropriate buffer zone.

We would strongly recommend that the trees on site are resurveyed to identify whether other veteran trees have been overlooked.

Annex 1: The Ancient Tree Forum's interpretation of the application of National Planning Policy Framework's protection measures for ancient and veteran trees.

The National Planning Policy Framework (NPPF) in England refers to ancient and veteran trees in three places:

1) in Conserving and enhancing the natural environment document, para 175c:

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;

2) and in Annex 2: Glossary:

Ancient or veteran tree. A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees

are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

**Irreplaceable habitat:** Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees,...

In terms of applying the NPPF to a development proposal and to relevant trees, the first step must be to identify if a tree is ancient or veteran. The glossary, to be used in this context, describes three characteristics i.e. age, size and condition, which contribute to the stated values of biodiversity, cultural and heritage value of both ancient and veteran trees. There is no guidance on the parameters of age (except that veterans can be younger than ancient trees), or size or the meaning of condition.

In relation to ancient trees, the ATF considers ancient is a life-stage indicated by the chronological age of the trunk, using trunk girth only as a guide. Trees in this ancient life-stage usually also have well-developed key veteran decay features as a consequence of ageing. It is ATF's view that all ancient trees are exceptional and irreplaceable for their cultural and heritage values, but specifically, for the application of NPPF policy 175c, they all have irreplaceable habitat.

In relation to veteran trees, the NPPF glossary only distinguishes by age those trees that 'are not old enough to be ancient, but are old relative to trees of the same species.' Planning Policy Guidance (2019 and FC & NE Standing Advice (2018) give some further guidance in relation to age (see bold below) and also condition (see underlined below):

**PPG:** Ancient trees are trees in the ancient stage of their life. Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species.

**Standing Advice:** A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity

Both of the above documents provide examples of relevant features relating to condition i.e. branch death and hollowing. But, neither these nor the NPPF glossary, give guidance or information on the amount, volume or quality of these features. In line with the available guidance, the ATF consider, that a tree to be categorised as a veteran for the application of NPPF policy 175(c) should have key decay features (including branch death or hollowing) which should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality).

For a tree to have developed decay features of branch death or hollowing which could be judged to be irreplaceable habitat, it will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop. Threshold dimensions for veteran characteristics are recommended in the Veteran Trees Initiative: Specialist Survey Method but these may not be appropriate for all species of tree, especially those of a smaller stature (Fay, N. and de Berker, N. (1997): Veteran Trees Initiative: Specialist Survey Method. English Nature, Peterborough, UK). For example, in terms of dead wood in the crown of the tree the unit of value is "each 1m length over 15cm in diameter".

According to the glossary, a veteran tree does not need to be old enough to be ancient. However, it is likely that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in a mature life-stage.

In conclusion

All ancient trees of whatever species or size should receive the level of protection stated in para 175c.

Mature trees, where they have the appropriate key decay features, should be considered as irreplaceable habitat and therefore veterans to which the policy in para 175c of the NPPF applies.

Tanglin  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 16th June 2020

I am writing to OBJECT to the latest application for the development of land adjacent to Oakhurst Rise.

I object on three primary grounds;

- The negative effects on the local community of Oakhurst Rise in particular, and the Ewens Farm estate in general, caused by a permanent rise in traffic, increased risk of flooding, and the greatly reduced chance of a doctor's appointment and loss of their quiet space due to increased noise caused by 43 new families, their friends, visitors and additional businesses run from this new site, which cannot be underestimated
- The loss of the current use of the site for recreational and educational use. These green spaces within the town's boundaries become even more important as the development of green-field sites continues unabated
- There is actually no necessity to develop this site. Draft proposals to build a new community/village to the west of Swindon Village comprising thousands of homes - a significantly large number of which will be affordable - should be fast-tracked by the Council who should coordinate with Highways for England to ensure that this plan is delayed no longer.

The fact that the developer is applying again after two failed attempts and a damning refusal at Appeal proves, if proof were needed, that this application is driven purely by self-interest and an attitude of "build at any and all costs", regardless of any and all objections made by the local community, so as to recoup the losses incurred thus far by previous failed applications.

4 Tivoli Walk  
Cheltenham  
Gloucestershire  
GL50 2UX

**Comments:** 24th June 2020

I would like to support this application. Cheltenham is desperate for more homes, especially in the Charlton Kings area. It will provide opportunity and progression for the young, families and the older generation. The demand for private and affordable homes is very strong, and many hard-working people are deserving of their chance to have houses in this area.

There are no valid reasons for this application not to be approved. The school and the landowners require the application to go ahead. The school can improve its facilities and sort out needed maintenance. There is actually a net bio diversity gain if the site is built. The attenuation

system will reduce the flood risk as it captures and stores flash flood rainwater, and is a system which is needed far more in Cheltenham due to rises in rainwater volume from global warming. Also, with the local and national economy in pieces, the House Building Industry is vital in the recovery. These houses need to be built, to display that Cheltenham is intent on improving the lives of young people, while creating more employment and future progression.

2 Norwich Drive  
Cheltenham  
Gloucestershire  
GL51 3HE

**Comments:** 30th June 2020

I wish to support this application specifically assisted housing.

Houses in Cheltenham is expensive. I had personal experience when my children were trying to buy and ended up having to leave Cheltenham

The government are about to put forward a development plan which this would fit well in.

Ridge and Partners  
Regent House  
Rodney Road  
Cheltenham  
GL50 1HX

**Comments:** 2nd July 2020

Letter attached.

154 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8NR

**Comments:** 6th July 2020

Seems to be a very good idea providing essential private and affordable housing whilst also providing a financial boost for the school

75 Drayton Gardens  
London  
SW10 9QZ

**Comments:** 14th July 2020

Nice looking houses in a place where I would want to move to and live and bringing up my family

Flat 13  
Osborne Lodge  
99 The Park Cheltenham  
Gloucestershire  
GL50 2RW

**Comments:** 20th July 2020

## Page 200

I have learnt that planning will have a disastrous impact on wildlife in the region which is unacceptable. In the world of increased sustainability, this will reflect badly on Cheltenham.

Stanley Park  
Selsley  
Stroud  
GL5 5LE

**Comments:** 22nd July 2020

I believe that this is a good scheme - which should be supported - to provide more housing which Cheltenham needs, especially in Charlton Kings (where I lived for 20 years).

40 Pilley Lane  
Cheltenham  
Gloucestershire  
GL53 9ER

**Comments:** 16th June 2020

Due to lack of affordable housing I have had to move back to my parent's home, so it would be great to have the opportunity get on the property ladder in such an area.

26 Hatherley Court Road  
Cheltenham  
Gloucestershire  
GL51 3AG

**Comments:** 22nd June 2020

More affordable housing needed in Cheltenham.

Highclere  
Cirencester Road  
Birdlip  
GL4 8JL

**Comments:** 23rd June 2020

- 1) Cheltenham desperately needs decent homes for many people (both able and disabled), the young, families and the old/infirm, not least in Charlton Kings where the demand for both private and affordable homes is both incredibly strong and unsatisfied. This development will deliver in short order 25 private homes and crucially a mixture of 18 affordable homes, to the approval of at least six Housing Associations. The application is supported by the CBC Planning Department.
- 2) We all understand local residents objecting, no one likes change, however they have their houses and are attempting to stop other people just as deserving having theirs, in affect the well-heeled objectors are attempting to pull the "housing ladder" up behind them!!!!.

This is a must for cutting down commuting distance to work and as I understand it the school could do with the money made from the sale of the land to improve the school facilities.



1 St Margarets Road  
Alderton  
Tewkesbury  
Gloucestershire  
GL20 8NN

**Comments:** 29th June 2020

As a 22 year old graduate engineer looking to venture into the housing market, it is clear the desperate lack of affordable housing within the Charlton Kings area, as highlighted in the local plan. This development offers 18 new affordable houses to enable people like myself a genuine opportunity at entering the housing market which is currently as difficult as ever. Also, as an engineer, the idea that the development will propose a flood risk 'downstream' is far from the case. Modern attenuation systems are in high demand on a national scale, due to the increase in frequency and severity of rainfall events due to anthropogenic climate change. This development offers a good opportunity to add in this needed attenuation systems to the benefit of the local community.

Westwell, Main Road  
Shurdington  
Cheltenham  
GL51 4US

**Comments:** 2nd July 2020

Cheltenham needs more affordable homes and in all the different areas of Cheltenham.

Brookford cottage  
Shipton Oliffe  
Cheltenham  
GL544JF

**Comments:** 4th July 2020

As we all know affordable housing is desperately needed, this is a great opportunity for this to happen.

I think it will be a massive financial benefit to St Edwards School and long term guarantee/secure there future, this would also be the case for some of the businesses at six ways, some of which have struggled for years, this would definitely be a bonus for them and more houses/people near by can only help and add to these businesses survival.

The wildlife will greatly benefit and improve there, which too will be a huge value to the pupils at the school,

The uncontrolled flood risk which is currently there will be controlled and massively reduced.

7 Naseby House  
Cromwell Road  
Cheltenham  
Gloucestershire  
GL52 5DT

**Comments:** 7th July 2020

Cheltenham is in desperate need of affordable housing for young, families and the old/infirm, especially in Charlton Kings where the demand for both private and affordable homes is both

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incredibly strong and unsatisfied. This development will deliver in 25 private homes and crucially a mixture of 18 affordable homes, to the approval of at least six Housing Associations. I can't stress how much the need The application is supported by the CB council Both the School and the landowners, both. CharitableTrusts, require the planning

Wyndways  
104 Charlton Lane  
Cheltenham  
Gloucestershire  
GL53 9EA

**Comments:** 7th July 2020

The key issue for my support is the construction of 18 affordable homes for the local people of Charlton Kings, who are currently finding it difficult to find affordable housing in an area where many grew up. In turn as their parents grow older and need support and care , this part of the development will allow families to offer support in close proximity.

Change is never well received and because of the site of this development more so , in turn with no impact on the running or the facilities of St Edwards school , it has plenty of positives to recommend it .

43 Hanover Court  
Elkstone Close  
Worcester  
WR4 9XH

**Comments:** 14th July 2020

I have no objections to this planning application.

37 Salix Court  
Up Hatherley  
Cheltenham  
Gloucestershire  
GL51 3WH

**Comments:** 8th July 2020

Always good to see more affordable homes, and any extra business for local trades will certainly help particularly in the current climate

49 Moorend Park Road  
Cheltenham  
Gloucestershire  
GL53 0LA

**Comments:** 14th July 2020

Any initiative which has the potential to reduce flood risk to property going forward can only be of benefit to individual homeowners and the wider community. This is certainly an issue which is likely to increase over time, with the climate becoming wetter and warmer.

In addition, particularly in the current climate, it would seem prudent to build affordable housing, particularly in an area that sees consistently high demand for housing.

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Finally, as an ex-St Edwards parent I would like to support this application as it would afford the school the opportunity to improve facilities for the benefit of the pupils.

58 Alfred Rd  
Alfred Road  
Feltham  
TW13 5DJ

**Comments:** 22nd July 2020

We would be very interested in moving back to this area if affordable homes such as those proposed were available.

37 Beeches Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NL

**Comments:** 6th May 2020

I wish to object to this application on the following grounds:

- (a) Roads - I don't think that the roads around the site will support the likely number of vehicle movements that 43 more dwellings would generate. They are narrow and are already dangerous for motorists, pedestrians and cyclists, with cars parked on both sides in places, blocking sight lines and narrowing the roads still further. There is no reason to believe that the proposed development would have fewer cars per dwelling than the surrounding area (in spite of the generous offer of £750 per dwelling for electric bicycles...). For that reason, access and movement around the proposed development seem unlikely to be as good as described in the Gloucestershire Highways Development Management report that accompanied the most recent previous application (ref: B/2018/041670 ), even taking into account the fact that fewer dwellings are being planned. I would not want to be an ambulance driver trying to access the top of Oakhurst Rise in a hurry at the moment, never mind with 43 more dwellings' worth of cars moving around in the area.
- (b) The same report describes the site as being 'accessible to high quality public transport'. Any form of halfway decent public transport is only so accessible if you are a good walker - the hill approaching the site is steep and, in winter, treacherous (not gritted). The buses that actually run through Ewen's Farm are infrequent - describing them as 'high quality public transport' is imaginative in the extreme. The B bus (on the London Road) is better, but what the impact of COVID on local public transport will be remains to be seen. I realise that this is speculation, but I will be surprised if the B bus returns to pre-COVID levels of regularity.
- (c) Accessibility to local amenities is also only available to the fit or to those with cars - they are all at the bottom of the self-same hill - or further away, at Oakley!
- (d) The ecological survey of the site suggests that replanting should be 'native species'. That's all well and good, but at the end of the day what people plant in their own garden can't be controlled - changes to the amount of water in the soil and to the chemical balance of the soil could easily endanger the ancient trees and hedgerow that are primary points of interest on this site.
- (e) Flooding - I understand that the area is already at risk of flooding. Concreting over yet more land, and adding further waste water to the drains in the area, is only going to make that worse.

11 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

**Comments:** 8th May 2020

I am a council tenant next to Oakhurst Rise. The meadow has been an integral part of my community life, with my son winning his gold medal for cross country there. And respectfully recording the flora and fauna within this area and the unique symbiosis of this oasis nestled in an urban area, which makes it unique. My life times work with ecology and it's health importance, sees me as a Qualified Hedgehog first aid person, years of experience at vale wildlife hospital as a volunteer, badger conservationist and hedgehog conservationists and wildlife gardener. It has never been more imperative at this crucial time, to acknowledge the importance of preserving nature and it's health, that working with David Attenborough's program is high on my agenda to keeping this space for the natural world to continue to flourish, with an ancient badger sett, a healthy deer population, red kites nesting to name but a few of the local residents here, who's ancestors have been here since medieval times and before. I ask that great consideration is given over to a healthy wildlife population, who in truth will not be able to deal with being displaced. I monitor the badgers, who are a frequent visitor to my garden as well as hedgehogs, foxes and birds of prey who all visit me from the meadow. On a practical side, my home has been under pinned due to subsidence, and flooding, but will leave that to the experts, high lighting a on going problem. Please consider leaving this ecological wonder to the future of our children, the health towards our planet and consider not leaving relegating it to history in favour of a concrete, and lifeless wonder of what use to be. Thank you

Wadleys Farm  
Ham Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NJ

**Comments:** 21st May 2020

Letter attached.

32 Barbridge Road  
Cheltenham  
Gloucestershire  
GL51 0BX

**Comments:** 12th June 2020

This scheme ticks all the boxes in terms of policy compliance. Cheltenham and especially Charlton Kings need the homes so hopefully the nimby's won't succeed in stopping these desperately needed houses.

Viking  
Walton Lane  
Bosham  
PO18 8QF

**Comments:** 12th June 2020

I no longer live at the above address but have been lodging in Ashley Road (GL52) during lockdown and have walked endless Covid-miles around the surrounding area and the site. I moved out of Bosham prompted in part by the ruination of the area by a relentless series of local planning applications by well-heeled developers which took up a disproportionate amount of cash-strapped planners' time and eventually led to their capitulation - I trust CDC are made of sterner stuff.

There is no evidence that these applicants have any interest in or understanding of the site other than for short term material gain; if the site with outline permission were land-banked, any personal assurances/statements of intent would of course be worthless and public trust in the allocation of affordable housing is long gone; gaming of the system with secret 'viability assessments' has seen to that.

Repeated inconsistencies in the supporting documentation suggest at best incompetence, but possibly bad faith? In the Design and Access Statement, the applicants claim that their design 'respects the urban characteristics of the vicinity.' Later on in the same document they promote their sensitivity to the 'parkland setting'... with plans for post and rail fencing. (The displaced badgers would appreciate that - more gardens to dig up but they are savage if threatened - a pet dog or cat would stand no chance; something that would probably not appear in sales promotion for houses on the site? )

The description of the site as 'unkempt grassland' is presumably meant to disparage; it shows a complete lack of understanding. The extraordinary range of flora and fauna thrives on this site precisely because it is not cultivated, and the carbon sequestration that the grassland and trees quietly get on with should be treasured in a post-Covid world where air-quality will be of paramount importance. The air quality on London Road/Sixways is below standard at peak times; this development would exacerbate the situation.

As for the single attenuation pond (not ponds as stated in the text of the application), its siting as shown on the latest plan beggars belief; on clay subsoil with nearby houses in Charlton Court Road having already experienced historical movement? On the boundary with St.Edwards School, downhill of the site, where surcharged water will flood? A planning authority has a statutory duty to cause 'no unacceptable harm to local amenity including the amenity of neighbouring occupants' and must 'ensure that the flood risk is not increased elsewhere'. Add to that the civil liability set out in Kane vs New Forest District Council: (CA June 2001) where the Court of Appeal decided that NFDC could not shelter behind technical compliance with planning law in order to evade normal civil liability, and CDC should be rightly concerned. They have been alerted to flooding issues, particularly of unpredictable springs, in normal weather; there is no evidence that 'normal' will be the pattern for the foreseeable future. Equally important are the real difficulties of residents in Oakhurst Rise with regard to the proposed access road which by any reasonable view is difficult in normal conditions and downright dangerous in extreme weather (the inspector described it as 'tortuous'). No amount of delegation or desk-top assessment can remove that knowledge from the planning authority or erase their ultimate responsibility.

This site would be expensive to develop, very expensive to develop well. With mounting costs (and the possibility of more - (judicial review? Another appeal?) the prospect of providing housing that fulfils a local need diminishes, assuming that was ever a genuine intention.

60 Mendip Road  
Cheltenham  
Gloucestershire  
GL52 5EF

**Comments:** 18th June 2020

Best schools in county but catchment area is currently too small due to lack of housing. New affordable housing needed.

Hillside  
Undercliff Avenue  
Cheltenham  
Gloucestershire  
GL53 9AA

**Comments:** 23rd June 2020

I fully support this Application as it clearly meets all Council Guidelines and Policies.

There is a particular need for affordable homes in this area of town and opportunities of this nature are rare so the Council must take advantage and follow the recommendations of its Planning Officers by GRANTING PERMISSION.

The Applicant has addressed previous concerns and no reason for Refusal on Planning Grounds.

28 Robert Burns Avenue  
Cheltenham  
Gloucestershire  
GL51 6NT

**Comments:** 1st July 2020

I am writing to let you know my objections to the building of forty-three houses, adjacent to Oakhurst Rise.

The main reason for the objection is the threat to the wildlife on the land. Any sort of building will wipe out protected species as bats, newts, slow worms and adders. Also a lot of bird species will be lost. Old oak trees and hedgerows will go or be damaged. Also the organic meadow will be lost. Having this wildlife environment near or in an urban area is very important for it's wellbeing.

There are lots of reasons the planed development is not good for this area, flash flooding and traffic impact. Also impact on GP surgerys and schools.

We only hope the Planning Committee do the right thing and not let this development go ahead.

12 Malleson Road  
Gotherington  
Nr Cheltenham  
Gloucestershire  
GL52 4ER

**Comments:** 18th June 2020

I have been waiting to buy a new house in this area for some time now and there is nothing of any quality available. This will make a fantastic place to live for a lot of people and is exactly what the area needs.

Valley View House  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

**Comments:** 24th June 2020

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This is a long awaited and needed development that includes valuable affordable homes. This development is supported by the Cheltenham Borough Council. Environmentally this development will reduce the risk of flooding to the homes down stream. Also environmentally many trees will be planted. There will still be a lot of open space.

Many of the objectors who are living around this site are in very comfortable properties and may be looking after themselves rather than thinking of helping the wider community.

Having the support of the CBC is so important. If this has to go to appeal again it is the local tax payers who will have to subsidise this massive cost - more people who could potentially lose out.

37 Pegasus Gardens  
Quedgeley  
Gloucester  
GL2 4NP

### **Comments:** 10th July 2020

I would like to object to this application for outline planning permission on the land adjacent to Oakhurst Rise for the following reasons:

Oakhurst Rise has a very steep gradient which in the winter months becomes very icy and almost impossible to use for the current residents, luckily due to the fact that most of the current residents are retired this doesn't pose too much of a problem, however if you add another 43 dwellings aimed at families and young people most of whom will need to drive out down the steep, narrow road of Oakhurst Rise at least once a day I believe this will cause more accidents along this road. The increase in traffic as most of these new dwellings will have 2 or more cars will change the currently very quiet and peaceful road to a busy and noisy road and cause chaos as it is a very steep, narrow and twisty road with very little opportunity to allow cars to pass side by side, the entrance to Oakhurst Rise is practically a blind entrance and this has to be taken into account.

Due to the steep gradient of Oakhurst Rise it is unlikely that many people will choose to walk or cycle up and down it there is very limited public transport in Ewan's Farm currently so again this is not likely to encourage people to use this method of transport therefore more vehicles is the only viable option for most of the potential residents meaning that there will be a vastly increased number of vehicles using Oakhurst Rise which was only ever designed for the small number of bungalows in the street currently, I believe that this development would bring between 75 and 100 more vehicles along Oakhurst Rise everyday excluding deliveries not a viable option really the road won't be able to cope with the increased traffic.

There is only one road in and out of this proposed development so all construction traffic will be using Oakhurst Rise which currently even the ambulances struggle on occasion to access due to the narrowness of the road.

All the utilities will have to come through Oakhurst Rise causing further disruption to the residents.

The wildlife on the site currently will be lost during the building stage and won't have homes to return to once work is complete. My understanding is that there is currently a badger sett on the land which they intend on removing and relocating the badgers too this is not ideal. There are also adders, slow worms, deer and many species of birds that nest and feed on the land many of which will be lost forever.

I am all for providing affordable houses however this is not the place for it.

5 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

**Comments:** 16th May 2020

I am writing to object to the plans as they will have considerable impact on the road - Oakhurst Rise which is very steep and inadequate for the increased traffic.

As well as creating the issue adjoining Beaufort Road which is already a problem for the current residents as it is a tight corner that joins the heavy traffic that runs through the estate.

We are also very concerned regarding the wildlife that this will impact that live there and have done for generations.

Glenwhittan  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 22nd May 2020

I write to object to the above planning application, on the grounds of the serious damage it would cause to part of a unique landscape - the Cotswold escarpment; in line with comments submitted on 20th March 2017 to the Cheltenham Plan (part one) Public Consultation; and for other reasons, relating to environment and wildlife habitat and also in respect of the proposed access.

Landscape

The first objection is that the application would allow damaging development and construction work on high ground forming part of the Cotswold escarpment. Ground contour levels for the site rise from about 100m AOD at the south end of the site, to about 125m adjacent the rear of Birchley Road properties, on the north side of the site; whereas almost all major development in Cheltenham over the last 100 years or so has been limited to ground levels of about 105 - 110m AOD. The site is not a non-descript field in Gloucestershire: it is part of the Cotswold escarpment. As proposed in the comment for the Cheltenham Plan: Public Consultation, there should be no development on ground above 110m, in order to protect the escarpment; which, from south of Gloucester to the north of Cheltenham (past Prestbury, Bishops Cleeve, Woodmancote, Oxenton, Teddington), remains a largely undeveloped, unspoiled landscape of great natural beauty.

The only major development on the east side of Cheltenham is Battledown, which was planned and laid out about 150 years ago; with the significant requirement that every property should be sited on an half acre plot. This allowed most of the properties built to be planted with major trees, so that it is now visually a green tree-covered landscape with many properties part hidden when looking from the west (Gloucester, Staverton, Churchdown, Tewkesbury) eastwards. The properties proposed for the Oakhurst Rise development are generally on plots of limited size, which will not allow the planting of large trees (because of the disruptive effect they would have on the properties themselves).

In this sense, the proposed development, with houses on ground rising to about 125m, is as undesirable and damaging to the landscape as development of the middle slopes of any hills, escarpment or coastline would be. It would also set a terrible precedent for higher level development of the south side of the existing village of Charlton Kings, below Daisybank Road. Regarding levels, a limit of 110m would approximately match the extent of recent development on



the south side of Charlton Kings: there is a spot level of 109m at the top of Sandy Lane, near Southfield Manor. Adjacent the Oakhurst Rise site, the ground level round the highest of the school buildings is about 108m.

### Environment and Wildlife

This problem with the proposed development is compounded by the planned removal of parts of a major old hedgerow, which has developed over the last century at least into an area of wild woodland, which extends to an area of about 4,000m<sup>2</sup>, about 1 acre. As a consequence of its age and size, and its continuity from the north to the south of the site, across ground levels from about 125m to about 100m, at present it shelters, and provides a wildlife corridor for foxes, deer, bats, birds, especially owls and wood-peckers, a wide variety of small mammals and reptiles (newts, snakes and slowworms), and butterflies and insects: some of which wildlife is rarely seen elsewhere, or is documented as rare. It is proposed that the section between about contour levels 115 and 120 would be removed to make way for the access road and housing. This would destroy the wildlife corridor.

Near the north end of this woodland area there is a very large veteran oak tree (tree T8 on the original tree survey, with a girth of about 5.5m). This tree requires at least the detailed protection measures set out in BS 5837 (Trees in relation to construction) including a construction exclusion zone; (as required in cl. 3.1.2: to be established "before works commence on site (which) is essential as the only way to prevent damage being caused to retained trees by operations in their vicinity"; (such 'damaging operations' to be prevented would include any construction or arboricultural works within the exclusion zone).

There is a second small wild wooded area about 30m to the east, about 600m<sup>2</sup> in area, on high ground (levels about 121 - 124m) on the north side of an existing large badger sett. It is proposed that this is to be removed entirely, including the badgers.

There is really no planning or intellectual argument to justify destruction of wild woodland, in the absence of confidence in the developer's willingness and determination to protect important features of the existing environment as they are now. The developer's justification is that many of the individual trees to be removed are not of specimen value, not being individually planted and nurtured, i.e. being wild; overlooking the fact of the unbroken length and size of the woodland area, that can be seen for miles around. Over at least the last century this woodland has become home to wildlife, and a wildlife corridor in a natural environment without any human interference: the adjoining meadows are mown once a year, about a day's work with a tractor.

The objection to the Developer's proposals, in relation to existing mature areas of trees forming woodland, is supported by another recommendation of BS 5837: Trees in relation to construction: cl. 4.2.4: "Trees forming groups and areas of woodland (including orchards, wood pasture and historic parkland) should be identified and considered as groups ..... particularly if they contain a variety of species and age classes that could aid long term management. It may be appropriate to assess the quality and value of such groups of trees as a whole, rather than as individuals." That recommendation is reinforced strongly when the area of woodland is also home to a wide variety of species of wildlife, as in this case.

Furthermore the Office for National Statistics is now mapping and valuing environmental assets as part of a government project to 'improve understanding of our natural capital': (Report: The Times: July 23rd, 2019); which continues: 'It estimated the worth of Britain's green spaces...in terms of carbon sequestration (the ability of vegetation, especially trees, to absorb carbon dioxide), the removal of air pollution from the atmosphere, and recreation. .... Valuing natural capital has become a critical issue because, without a price, markets automatically treat the environment as worthless. Costing natural services helps to correct that mistake and improve decision-making.'

Though the main reasons for objections on these grounds, (and therefore for rejection of the application), are first, preservation of irreplaceable landscape and wildlife undisturbed, and second, retention of woods and trees as by far the best method of carbon sequestration currently and definitely available, (all within a thriving community); the retention of natural habitat and ecology is also of great value, especially when available to a school, and through the school to other young people.

Finally, a recent 'Nature Notebook' from The Times (March 2019) reports the typical decline in abundance of wildlife resulting from tidy and managed development in an English county:

"Visiting my father, who still lives in the village where I grew up, I was struck by how busy the roads were, how tidy and managed it seemed compared with the rambling, slightly ramshackle place I remember - and how little space was left for the natural world. Everything that wasn't built on was strimmed and pruned, every green glimpsed was a monoculture paddock or tightly manicured golf course, the tangled woods I once played in tidied and fenced off for paintball. It looked pretty and prosperous, but as money poured in to create this ..... the wildlife was quietly forced out.

In the past thirty years 11.5% of the county's plants, birds, invertebrates, fish, reptiles, amphibians and mammals have become locally extinct, a far higher figure than the national rate of 2%. A further 4.4% are threatened with extinction. There's no agribusiness or heavy industry to blame; ... but the area ranks in the top 25% of England's most densely populated counties .... Nature needs untidiness to flourish; it must be allowed to be self-willed, not made to look like something from a glossy magazine. 'O let them be left, wildness and wet; Long live the weeds and the wilderness yet.'

If development goes ahead there will be ecological surveys, and 'biodiversity offsetting' should be put in place, which can mean little more than planting non-native saplings in place of mature native trees. But some site-faithful birds such as sparrows (which are in decline) rarely move more than a kilometre from their place of birth; the loss of suitable breeding habitat for a couple of seasons can wipe out a small colony. This is how we lose our wildlife: bit by bit."

### Access to site and Transport

The road proposed for access to the site, Oakhurst Rise (OR), is seriously inadequate in several ways. The road design standards required for the access road are set out in at least two relevant documents:

Glos. C. C.: 'Highway requirements for development' (GCC:HRD)

Vehicular Access Standards: Development Control Advice Note 15, 2nd edition; produced by the Planning service, an Agency within the Department of the Environment. (The purpose of this Advice Note is to give general guidance to intending developers, their professional advisors and agents on the standards for vehicular access.) (VAS)

In addition, the Construction (Design and Management) Regulations 2015 are relevant to all aspects of the proposed development; particularly Regulation 27 Traffic routes. (CDM Regs)

- The road gradients (of OR) are too steep: almost 15% gradient for the upper length leading to the site entrance; about 13.5% for the lower length joining Beaufort Road (BR): both far in excess of the standards: GCC:HRD gives 8%, VAS gives 10% but with one important qualification. The consequence is that, at those gradients, the access road will be unusable by many vehicles after snowfalls, and will be hazardous in icy conditions; with a potential risk of accidents at the junctions, because of cars and lorries failing to stop in time, or sliding into or across the two T-junctions, one at the bottom of the upper slope opposite 17 OR, and the other being the BR/OR junction which is extremely critical, because of the potential volume of traffic. At the BR/OR junction in particular the gradient of the lower length of OR (about 13.5%) continues until close to the junction without a reasonable 'dwell' area of level or reduced gradient length of carriageway in OR to assist vehicles having difficulty in stopping. In view of this potential hazard, the VAS requirements are that

'the gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary' and 'The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather'; but it is impossible to achieve anything even close to this: see VAS cl. 10.3.

- The width of the access road (OR: 5.5m) is too narrow: VAS requires 6.0m for a two-way access; and in addition, because the road is narrow, the entry radius for the turn from ER into OR is tight without straying into the opposite (downhill) carriageway. This is important because of the proposed shared use by OR residents and construction traffic.
- The OR pavement widths (1.7-1.8m) are rather narrow: GCC:HRD requires 2.0m.

In summary OR does not comply with requirements for an access road to serve 67 dwellings, instead of the 24 it serves at present; i.e. as well as not meeting standards given by the documents noted, there would be a very high intensification of use.

Beside the unsuitability of OR as the access road to the site, the assessment of the effect of the development on the local roads immediately affected is flawed because there would be a substantial increase in traffic on the two roads leading away from OR: Ewens and Beaufort Roads (ER/BR):

- oCurrent dwellings: Ewens Road 19  
Pine Close, OR 43  
Beaufort Road 41
- i.e. the total number of dwellings: 103 at present, would increase to 146.
- Therefore there would be a substantial increase in traffic on Ewens and Beaufort Roads leading away from OR: whereas on-street parking on these roads and Haywards Road (the next affected road for traffic towards Cheltenham) was described as 'sporadic': definition 'occurring only here and there, separate, scattered'; the street parking is nearer constant and widespread than sporadic, and already severely restricts vehicle movements on these roads, and on Oak Avenue.
- All these roads are residential roads, not suitable as transitional roads, and certainly not as local distributor roads: (a through traffic route suitable for moving traffic between different parts of the town).
- In discussing overall design concepts the GCC:HRD recommended: 'The creation of large cul-de-sac estate layouts, where a large number of houses rely on one access road, and pedestrian access is similarly restricted, must be avoided'.

In summary, the traffic generated by the development would feed into local residential roads which are also steep, narrow and already congested by traffic and on-street parking.

The CDM Regulations are relevant in particular because of the very significant variation of the actual parameters of the access road (OR) from reasonable road parameters (particularly gradients) recommended in the appropriate standards (VAS or GCC:HRD). As an example, the OR gradient up to the junction with Beaufort Road is about 13.5%, whereas the VAS standard requires that: 'the gradient shall not normally exceed 4% over the first 10m outside the public road boundary ..... The remainder should have a gradient less than 10% so that it may be used during wintry weather.' That discrepancy, by such a large margin between actual gradient and DOE recommended values and the absence of a dwell area, implies a potentially serious hazard, with the associated risk certainly including a traffic accident or one involving a vehicle with a pedestrian or cyclist.

Under the Regulations, it is one or more of the CDM dutyholders (the Client, the Principal Designer and other designers, and the Principal Contractor) who are responsible, when preparing or modifying designs for the project or development as a whole, for identifying, eliminating or controlling foreseeable risks, by following the general principles of prevention set out in the Regulations. That process (a fundamental part of the project design) should have been started before the first planning application was made. In persisting with what appears to be a completely inappropriate access to the site, there appears to be a failure to comply with the CDM

Regulations, which are statutory provisions; in which case, the present Application should be rejected on these grounds alone.

**Comments:** 6th June 2020

Further to our comments objecting to the development, forwarded on 21st May 2020, we write to amplify these comments on two points:

Access to the site: Relevance of published standards, and of the CDM Regulations:

The road proposed for access to the site, Oakhurst Rise (OR), is seriously inadequate in several ways. The road design standards required for the access road are set out in at least two relevant documents:

Glos. C. C.: 'Highway requirements for development' (GCC:HRD)

Vehicular Access Standards: Development Control Advice Note 15, 2nd edition; produced by the Planning service, an Agency within the Department of the Environment. (The purpose of this Advice Note is to give general guidance to intending developers, their professional advisors and agents on the standards for vehicular access.) (VAS)

Even if these documents are not followed precisely and in detail they represent a reasonable and objective standard against which any actual proposals can be judged. The inadequacies of OR, as the access road to the site, are set out in our initial comments; and include that the road gradients are too steep, the width of the road is too narrow, and the pavement widths are too narrow.

The CDM Regulations: Reg. 1: These Regulations may be cited as the Construction (Design and Management) Regulations 2015 and come into force on 6th April 2015 .... The duties of the Client (the Applicant for planning permission) are set out in Part 2 (Regs. 4-7). They include the appointment of the principal designer and principal contractor (Reg. 5); whose own duties and roles are set out in Part 3 (Regs. 8-15). The duties of the principal designer are, in turn, set out in Reg. 11; which states (Reg. 11(3)): .... the principal designer must identify and eliminate or control, so far as is reasonably practicable, foreseeable risks to the health or safety of any person .. carrying out or liable to be affected by construction work; ..

In this case, the foreseeable risks arise from the greatly intensified use of the badly laid out road junction (particularly in context of the increased use) of the access road (OR) with Beaufort Road (BR). The access road use rises from serving 24 properties to serving 67 properties, about 180% intensification, when VAS states (cl. 1.2): 'A well designed access is important for the safety and convenience of all road users - those proceeding on the public road (BR) as well as those using the access (OR). So, when the Department considers proposals for a new access or the intensification of use of an existing access , it will normally have a number of requirements to promote safety .... Intensification is considered to occur when a proposed development would increase the traffic flow using an access by 5% or more.'

The existing road junction (OR/BR) is badly laid out by comparison with the vehicular access standards given in VAS (cl. 10.3): 'The gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary ... The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather.' The actual OR gradients are about 13.5%, from very close to the OR/BR junction, increasing to about 15% for the rise up to the site entrance.

In respect of the CDM Regulations, these were foreseeable risks from the first consideration of the development by the Client and principal designer; and if they could not be eliminated or controlled, an alternative access to the site would have been needed to make the development viable under the Regulations.

### Environment and areas of trees forming woodland

BS 5837: Trees in relation to construction: cl. 4.2.4: 'Trees forming groups and areas of woodland .... should be identified and considered as groups ..... particularly if they contain a variety of species and age classes that could aid long term management. It may be appropriate to assess the quality and value of such groups of trees as a whole, rather than as individuals.'

Since much of the discussion about trees, which should be retained and which trees or groups of trees removed, was on the basis of considerations set out in this British Standard, it seems illogical and unreasonable not to consider such groups of trees as a whole, as the British Standard suggests, and as areas of woodland to be retained as a whole: part of irreplaceable landscape and wildlife to be left undisturbed.

1 Pine Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JR

**Comments:** 22nd May 2020

I find myself protesting for the third time with regards to the planning proposal for Oakhurst Rise.

This is a beautiful, organic meadow with ancient oaks and hedgerows. The loss of green fields and a unique habitat will be a threat to wildlife. There are seven species of bats, newts, adders, slow worms, dozens of bird species and a family of deer, often seen in the meadow during the day. There are also badgers, that would not survive if relocated.

The increased risk of flash floods will have consequences for local people, including myself who live below the proposed site.

Local schools are already over subscribed and the local GP surgery has a six year waiting list.

To quote from Planning Committee minutes 19/07/18 "only one access to the site, which is torturous and ridiculous via a windy, congested rat run" Steep gradients, blind junctions and dangers in snow and ice have all been ignored. The junction at sixways is already over capacity and this problem has not yet been addressed. The traffic impact of forty three dwellings (at least an extra eighth vehicles) will be severe.

The local plan has already met the affordable housing need, providing enough housing for the town until 2031.

Until all of these problems have been addressed and the developers have a satisfactory solution, then planning permission must be refused

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 8th June 2020

I strongly object to this current proposal - 20/00683/OUT, for all the same reasons that the CBC Planning Committee cited for its refusal of the previous applications on this site, namely 17/00710/OUT & 18/02171/OUT. This application is merely a further amendment to the previous

applications by the same developers which were comprehensively rejected by CBC twice in the last two years!

All the previous objections and comments from both applications 17/00710/OUT and 18/02171/OUT should still be considered by the planning committee as they remain relevant to this application. From CBCs own refusal decision letter, five key reasons were recorded and a mention was made of the NPPF. None of these reasons have been adequately addressed by the latest application so this application should also be rejected.

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

Flat 4  
11 Montpellier Grove  
Cheltenham  
Gloucestershire  
GL50 2XB

**Comments:** 21st July 2020

My objection is that all reasons for the previous refusals of earlier applications are still valid. Nothing has changed so why should this one go ahead? The proposed site is valuable green belt land and is home to a variety of species of wildlife. It is also currently being rented by a local school and is home to several alpacas and hives of bees. It would be unacceptable if this planning application were to be approved.

28 Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AE

**Comments:** 21st August 2020

Letter attached.

54 Fairview Street  
Cheltenham  
Gloucestershire  
GL52 2JJ

**Comments:** 12th June 2020

I find it staggering that this application is still ongoing, given the concessions already made and the urgent need for more affordable housing in the area.

Given the overwhelming support from professional consultees and young, working families, surely at some point the public interest should prevail over the objections of a small minority who are unrepresentative of the local demographic at large.

56 Leighton Road  
Cheltenham  
Gloucestershire  
GL52 6BD

**Comments:** 25th June 2020

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I understand that this proposed housing on this site is contained within the Local Plan.

There is a dearth of affordable housing in Cheltenham in general and most certainly in the Charlton Kings area. Unfortunately young local people can not afford housing in the area they may have grown up in and have to move further afield which is a sad reflection of the cost of properties in Charlton Kings. This application provides 18 affordable homes which would be of great benefit to the area. We need to encourage young people to work and live in Cheltenham for the sake of the local economy and one of the ways to do that is to provide more affordable housing.

The school would benefit financially which could improve their facilities and assist greatly with ongoing maintenance.

The developer has made many concessions to try to accommodate the local objectors but still they object. Is it a case of not in my back yard?

This is not overdevelopment as much green space is proposed along with retaining existing trees and adding to the tree population, which is great.

I believe that planning consent should be granted.

46 The Park  
Northway  
Tewkesbury  
GL20 8RH

**Comments:** 2nd July 2020

There is a massive shortage of affordable homes within the area, this development is a huge step in allowing locals to stay within the area and those who have moved away to return as well as being on the property ladder in a desirable area

Mark Annett & Company  
Hook House  
High Street  
Chipping Campden  
GL55 6AT

**Comments:** 7th July 2020

Having previously worked in Cheltenham in property I can see that there is good demand for this type of development and support the application.

Wistley  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

**Comments:** 6th July 2020

I understand that this application allows for the provision of a significant amount of affordable housing to be created. I think it is important that community development promotes the provision of affordable housing to allow for the diversity of need of housing needs in each locality and that applications involving the provision of affordable housing are given the most careful consideration and supported where possible and appropriate.

17 Sheens Meadow  
Newnham  
Gloucestershire  
GL14 1BP

**Comments:** 8th July 2020

Being a grandmother with children with young families of their own I support the construction of new and affordable homes for their generation.

21 Chosen Drive  
Churchdown  
Gloucester  
GL3 2QS

**Comments:** 9th July 2020

I am in whole hearted support of this application. As a number of the dwellings will be supported housing, it will be a great opportunity for youngsters to get on the ladder.  
Great project.

Cedar Cottage  
Brimpsfield  
Gloucestershire  
GL4 8ld

**Comments:** 18th June 2020

I'd like to support this application as it brings some very much needed affordable housing to the area, on a site ideal for development.

18 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 22nd May 2020

I wish to object to the outline application on the land adjacent to Oakhurst Rise. Our primary concerns relate to infrastructure issues and disturbance to the environment.

The approach to the site along Oakhurst Rise has two steep gradients, two bends and is narrower than roads built today. Of particular concern is the second gradient which has proved dangerous to us on the last three relatively mild winters. On two occasions we have been unable to leave our home by car for a couple of days due to icy road conditions. On one of those it needed the kindness of a neighbour, whose car was fitted with snow chains, to drive us down the hill. On a separate occasion we had to meet a taxi at the bottom of the rise because he was unable to drive to the top. An increase in traffic from the development would therefore increase the risk of accidents thus endangering life in poorer weather conditions. Much more frequently there is already considerable traffic congestion through Ewans Farm in the morning and evening weekday peak periods which would be worsened by additional inflow outflow from the proposed development.

The impact on amenities in the locality would also be worsened by this proposal. Our understanding, from waiting lists, is that there is already pressure on the GP surgery, the dentists and local schools to meet the needs of local residents.



Finally the proposed development would cause considerable loss of habitat for the small gain in housing. Over the lockdown period we have naturally spend a great deal more time in our garden and have seen many different animals entering from the safe haven of the fields adjacent to our property. These personal sighting of fauna have included badger (there is a large sett in the field), roe deer, muntjac, foxes, squirrels, as well as numerous birds including woodpecker, magpie, jay, thrush, blackbird, dunnock, sparrows, nuthatch, chaffinch, pigeon, great-tit, longtail-tit, blue tits, robins, and wrens. When we have walked into the field we have also seen varied flora including oxeye daisies, bluebells, cowslips, champions, oxslips, field buttercups, bugle and alkanet to name just a few of the meadow flowers in this undisturbed haven for wildlife.

16 Bowen Close  
Cheltenham  
Gloucestershire  
GL52 5EG

**Comments:** 2nd July 2020

I would support any building of houses considering the great shortage at this time, common sense must prevail especially round the Charlton Kings area, and in any area in Cheltenham.

2 Fairhaven Street  
Cheltenham  
Gloucestershire  
GL53 7PL

**Comments:** 6th July 2020

The most recent landscape plan confirms various benefits for the scheme: low density, open space/wildlife for the residents, and a significant open area retained by the school.

Coupled with the windfall of affordable homes, and financial benefit to the school to reinvest, I am in favour.

3A Oxford Street  
Cheltenham  
Gloucestershire  
GL52 6DT

**Comments:** 18th June 2020

I believe that the planning committee should support this application on the grounds that the site is within the Principal Urban Area, it provides much needed open market and affordable homes within Cheltenham, and Cheltenham is currently unable to demonstrate a 5 year housing land supply.

Garden Cottage  
Park Street  
Cheltenham  
Gloucestershire  
GL50 3NG

**Comments:** 2nd July 2020

I've been trying to move back to Charlton Kings for some time. Affordable housing in the village is really needed.

15 Old Common  
Minchinhampton  
STROUD  
GL6 9EH

**Comments:** 18th June 2020

There is a desperate need and major shortfall for housing and affordable housing in Cheltenham with many people on waiting lists. I also believe that this will be of huge financial benefit to St Edwards which will give them the opportunity of improving their facilities both to those at the school and the community as a whole.

5 The Gables  
Cheltenham  
Gloucestershire  
GL52 6TR

**Comments:** 1st July 2020

This is a sustainable development located within the urban area that provides 43 much needed new homes including 18 affordable homes.

The proposal will also bring huge financial benefits for St Edwards School, which will secure its long-term future as well as providing the means to improve their current facilities, which are enjoyed by other schools and the local community.

84 Clyde Crescent  
Cheltenham  
Gloucestershire  
GL52 5QL

**Comments:** 7th July 2020

I completely support this application as Cheltenham is in desperate need of affordable housing as well as private. Obviously the residents who are objecting this don't want change but they have their houses and therefore stopping other people just as deserving having theirs.

The development will deliver 25 private and crucially 18 affordable homes

The school and landowners are both charitable trusts and require the planning application to go ahead

2 Vineyard Farm Cottages  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

**Comments:** 7th July 2020

It is great to see at last that there could be some affordable housing in Charlton Kings .To give the younger generation the opportunity to hopefully get on the property ladder

Orchard Bungalow  
Little Shurdington  
Cheltenham  
GL51 4TY

**Comments:** 9th July 2020

This development has many merits and I believe should be approved. It delivers 18 affordable homes which are in very short supply in Cheltenham. It will provide jobs and income to the local community which is crucial in these extraordinary times. As a former Whitefriars student I am pleased that it will also provide much needed income to the school.

Montrose  
3a Lime Grove  
Welland  
WR13 6LY

**Comments:** 21st July 2020

We object to this development on the grounds of losing more habitat, this area has a lot of wildlife, badgers, fallow deer, munck jacks, and other species all clammering for somewhere to live. There will be more pressure on the environment with extra traffic, maybe an additional 86 cars using the small roads to gain access to the site, the added problem of flooding, surely there are other "brown" sites that can be used to build more homes without taking away natural habitats for our wildlife.

4 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

**Comments:** 2nd June 2020

Objects

Flat 2  
35 St Georges Road  
Cheltenham  
Gloucestershire  
GL50 3DU

**Comments:** 6th June 2020

Evidence was taken over 4 days at the planning inquiry only 6 months ago, about why this site was not suitable for development above the allocation in the local plan.

The site is still not suitable for development above the allocation in the local plan.

Please upload my comment to the CBC pages which are not allowing comment.

21 Ravensgate Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NR

**Comments:** 2nd June 2020

There are so many reasons against this development! Already overburdened sewage systems, building on a green space used and loved by locals, issues with the planning application, destruction of protected trees despite wording to suggest otherwise, little thought to eco friendly housing solutions, poor access from an already small and overburdened road and issues with drainage. There are more and I've forgotten them! Please don't allow this development - the space is way too precious.

15 Mandarin Way  
Cheltenham  
Gloucestershire  
GL50 4RP

**Comments:** 17th June 2020

New affordable homes are needed

Greenmount  
12 Christchurch Road  
Cheltenham  
Gloucestershire  
GL50 2PL

**Comments:** 3rd July 2020

I am shortly to move to my registered address in Cheltenham. I noted that there was a revised planning application for the construction of 43 dwellings at Saint Edwards school. Since I was aware of the earlier application I thought it would be appropriate for me to submit my thoughts on the revised proposal.

It seems to me that the applicants have had full regard to the comments of the previous inspector (Mr Sims), insofar as the new proposal provides full and ample screening for the designated heritage assets nearby. The effect of this is that in my opinion the harm to the significance of those assets will be minimal. Even allowing for the fact that there is a statutory requirement to give considerable weight to the protection of historic buildings, I find it difficult to see how This should outweigh the very considerable weight that should be attached to the need for new housing. In this context I note that the latest residential housing land supply report produced by the Borough Council in December 2019, demonstrates that the authority can only supply 3.7 years supply of available housing land which is well short of the minimum requirement of five years availability set out in the NPPF.

When this fact it is taken into account, together with the importance which attaches to the severe economic difficulties caused by the COVID-19 pandemic and the Prime Minister is exhortation is to "build, build, build", I see little reason to withhold granting planning permission for this well design scheme. The additional benefits to be gained from the construction of a significant proportion as affordable housing (especially given the shortage of such accommodation within the borough compared to its targeted requirements), represents a further I see little reason to withhold granting planning permission for this well design scheme. The additional benefits to be gained from the construction of a significant proportion as affordable housing (especially given the shortage of such accommodation within the borough compared to its targeted requirements), represents a further justification for granting pp.

Finally I note that since the last appeal, the Borough Council has produced its local plan which identifies this site as a suitable residential application for a minimum of 25 dwellings. Although the plan is not yet fully adopted its position in the overall procedure leading to adoption suggest that significant weight should be attached to the emerging policies.

Overall I consider that the application should be fully supported and granted planning permission. I would be grateful if you could classify this letter as well as support for the proposals.

34 Wells Close  
Hatherley  
Cheltenham  
Gloucestershire  
GL51 3BX

**Comments:** 5th July 2020

There is a desperate shortage of affordable homes available for young people, affordable homes should not be a privilege but a necessity, earning a decent salary does not come close to being able to put a deposit down and start the process of a mortgage.

These houses would help the school gain valuable funds to improve facilities and to give jobs for the economic recovery of trades people in the area.

16 Landsdowne Rd  
Falmouth  
TR11 4BE

**Comments:** 22nd July 2020

I lived in Cheltenham for 45 years and regularly walked in this area, which is already overdeveloped. The wildlife and ecology of this beautiful area needs to be preserved.

Clovelly  
High Street  
Upton St Leonards  
GL4 8DG

**Comments:** 22nd July 2020

With reference to this planning application for a residential development.

I strongly object to this application.

The main reasons being the effect this would have on protected trees and the absolute devastation of wildlife which is so important to the local community.

8 Detmore Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8QP

**Comments:** 8th June 2020

I wish to add my wife and myself to the list of objectors to this proposed development.

We are particularly concerned about the effect that more housing will have on the already over-prescribed schools and medical facilities in the area.

One day soon we may be living at Home Farm Court - very close to the area under threat.

Two Rivers Housing  
Rivers Meet  
Cleeve Mill Lane  
Newent  
GL18 1 DS

**Comments:** 4th June 2020  
Letter attached.

60 Church Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AS

**Comments:** 8th June 2020

Your website registration has failed twice, so I am writing to you directly with reference to the field for which there are plans to develop this land for housing. This is the field above Oakhurst Rise - between Oakhurst Rise and Ashley Road.

There is a huge diversity of wildflowers and grasses; I've seen roe deer; grass snakes; slow worms; and toad species here. Furthermore, this area has dozens of natural springs welling up in the hill face. I am deeply concerned that if the land gets redeveloped this oasis within Charlton Kings will be lost.

On the basis of wishing to preserve the wildlife both flora and fauna, and the natural structure of the hill and its unique spring water system, I oppose the plans to redevelop this land.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 8th June 2020

I strongly object to this planning application - 20/00683/OUT, outline application for 43 dwellings at Land Adjacent to Oakhurst Rise.

This development proposal is similar to the previous two applications on this site both rejected by CBC in the last two years - 17/00710/OUT & 18/02171/OUT. The scale of the planned development remains completely inappropriate for this site and very much out of character with the local area. The local plan states a maximum of 25 homes should be built on this land. Access to the proposed site is restrictive, with a very steep aspect to the approach and narrow roads that are in no way adequate for such a development. The site is located close to the AONB and is an extremely valuable resource for the school, local community and wildlife. The new documentation does not attempt to address or resolve any of the core issues already recorded by the previous CBC refusal decision regards the previous applications, nor in the many common comments submitted online.

Therefore, it is respectfully requested that planning permission for the above development be refused.

24 Bushel Close  
Cheltenham  
Gloucestershire  
GL52 3NA

**Comments:** 18th June 2020

As a young couple who have lived in the area all of our lives, we have always found that there needs to be more affordable housing in desirable areas. This area is in desperate need of developing to open up more opportunities for the younger generation to get on the property ladder.

50A King William Drive  
Cheltenham  
Gloucestershire  
GL53 7RP

**Comments:** 21st June 2020

This plan would go towards the shortfall in houses in this area.

It has approved in the draft Local Plan

Flat 4  
Cameron House  
Glencairn Park Road  
Cheltenham  
Gloucestershire  
GL50 2ND

**Comments:** 30th June 2020

'Supports' Comments on the CBC web-portal pages, claiming that Cheltenham Borough Council and/or its Planning Officers already support this Application !

One does wonder exactly who told these four different Supporters that the Cheltenham Borough Council, the CBC Planning Department, the Planning Officers and the CBC Planning Committee all support this Application for planning permission.

Most residents in Oakhurst Rise, the Ewen's Farm Estate and the wider Charlton Kings community are under the impression that the Planning Officers / Planning Department do not make up their minds until ALL the evidence has been gathered and ALL the comments have been received -- at which point the designated Planning Officer reviews ALL the data and writes a Report, for review and discussion with the Head of Planning, before deciding whether to recommend Approval or Refusal to the Planning Committee Councillors.

Furthermore, it has always previously been understood that the Planning Committee does not make up its mind whether to Approve or Refuse an Application until it has itself reviewed all the data, received verbal submissions from interested parties and debated the matter fully at a Planning Committee Meeting, after which a Vote is taken.

Is this no longer the case ?

Which Planning Officer or Planning Committee member could possibly have advised the below Supporters that the Planning Officers and the Planning Committee had already decided to

support this Application ? It does seem most irregular and beyond any possible coincidence that four different supporters, living many miles apart, can all have been given this same information.

Valley View House Charlton Hill Cheltenham Gloucestershire GL53 9NE (Supports)

Comment submitted date: Wed 24 Jun 2020

This is a long awaited and needed development that includes valuable affordable homes. This development is supported by the Cheltenham Borough Council ..... Having the support of the CBC is so important.

34 Tommy Taylors Lane Cheltenham Gloucestershire GL50 4NJ (Supports)

Comment submitted date: Wed 24 Jun 2020

The shortage of good quality housing in Cheltenham is acute, particularly in Charlton Kings, where there is a significant shortfall.

The application is supported by the CBC Planning Department.

163 London Road Cheltenham Gloucestershire GL52 6HN (Supports)

Comment submitted date: Tue 23 Jun 2020

I am writing to comment on what I consider a complete scandal by certain residents regarding the above Planning Application and their objections to it. The Carmelite Order is happy with the sale of the land, St Edwards School is happy and will benefit substantially and indeed CBC's own Planning Committee support it

Hillside Undercliff Avenue Cheltenham Gloucestershire GL53 9AA (Supports)

Comment submitted date: Tue 23 Jun 2020

I fully support this Application as it clearly meets all Council Guidelines and Policies ..... so the Council must take advantage and follow the recommendations of its Planning Officers by GRANTING PERMISSION.

62 Albemarle Gate  
Cheltenham  
Gloucestershire  
GL50 4PJ

**Comments:** 23rd June 2020

If approved, this is a much needed addition of 18 affordable houses in Charlton Kings. It will enable the school to invest in much needed improvements and still leave a 4 acre meadow.

29 Pennance Road  
Falmouth  
TR11 4ED

**Comments:** 23rd July 2020

I am moving into the area and have been to see the proposed site. I was concerned when a neighbour spoke about the development about two main issues. The first relates to the roads the roads / additional traffic as all the roads up to Oakhurst Rise and out of the area are packed with cars and cars parked on the pavements, rendering the pavements impassable. Further traffic would be a safety hazard.

Also, having looked at the site on a rainy day, I would question whether the area is liable to flooding and where the water run-off goes.

I therefore object to the development.



Pages  
Chargrove Lane  
Cheltenham  
GL51 4XB

**Comments:** 7th July 2020

I attended St Edwards school and spent many enjoyable days on the sports fields. I am in favour of this application because I think it will benefit and help the school continue to be maintained to a very high standard and looking at the plans, I do not think it will take anything away that is required. I am also in favour of more affordable homes in Cheltenham especially in Charlton Kings which is a very sought after area to live. I think this will help the younger generation and continue to help move Cheltenham in the right direction. I am always concerned around flooding with new builds so am very pleased to hear the attenuation system is being put in place.

1 st georges square  
Worcester  
Wr1 1HX

**Comments:** 14th July 2020

I think it would be a very good development.

Charlton House  
Cirencester Road  
Charlton Kings Cheltenham  
Gloucestershire  
GL53 8ER

**Comments:** 23rd July 2020

The impact on the wildlife will be devastating. Cheltenham is special because of the balance between people and nature, not because it has lots of houses. The long-term impact on Cheltenham itself will also be devastating.

Tall Timbers  
Ashley Road  
Charlton Kings  
Cheltenham  
GL52 6NS

**Comments:** 3rd August 2020

I have just had the opportunity to read the excellent report by the well-respected leading independent UK environmental consultancy Bioscan ([www.bioscanuk.com](http://www.bioscanuk.com)) on the negative impacts on Bio Diversity that would occur if this development were allowed to proceed. It is clear from the report that, with the additional species that have been identified during the last 18 months, the planning authorities should perhaps be considering this site as a Key Wildlife Site of County value.

There are very many reasons why this development should not be permitted but this report provides grounds for refusal solely on its contents.

**Comments:** 12th May 2020

Letter attached.

32 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 3rd June 2020

I strongly object to this planning application for the following reasons :-

- Loss of privacy - we will be overlooked by the development.
- Pressure of traffic throughout the Ewens farm estate and local access roads. These roads are already very busy and frankly dangerous at times, especially during rush hour. The 20mph limit is rarely observed by motorists using it as a rat run from London Road/Hales Road and many cars are parked on the roadsides. It is already hazardous and unpleasant to walk on these streets at busy times.
- The access road in Oakhurst Rise is highly inadequate. The approach is steep, narrow and with limited visibility. It would be dangerous to have an additional 100+ cars using it as an access road. Any attempt to make an access road from Charlton Court Road would also be unfeasible as it would remove essential parking spaces. Some houses have 2 or 3 vehicles. It would create insurmountable problems with parking and congestion. Also, with a very steep gradient, these roads are unusable during icy weather. They are not gritted and are equally unsafe and unusable in icy conditions.
- The density of the proposed development is not in keeping with the area.
- Risk of flooding - the present infrastructure will not cope with the additional runoff water from the site. There are springs and documented flood problems on the site and adjacent to the site. The application does not take into consideration the significant flooding in the surrounding area and downstream in central Cheltenham. Drains in the area already struggle to cope with heavy rain.
- Pressure on local services - doctors and schools. Schools in the area are already oversubscribed.
- Loss of wildlife habitat, hedgerows and trees. Badger sets may be extensive. Deer also inhabit the area, together with bats, woodpeckers and owls.
- Loss of a rich biodiverse site, green space, sports amenity and community amenity to Charlton Kings and Cheltenham..
- The 1984 proposal was rejected on the grounds of drainage for considerably less acreage of development. More recently, Tim Fry had an application for development rejected on the grounds of volume of traffic. This is the very same route people would take to the proposed development
- Detrimental to the visual impact of the town and an unsightly blot on the landscape. The site is visible for miles around.
- Air pollution. The London Road is already cause for concern with high levels of pollution. Yet more cars using the road can only make things worse. There seems to be no plan for traffic impact. The traffic survey taken by the developers is flawed.

- The local plan says a maximum of 26 homes should be built on this land. A forty-three house estate is being proposed in a completely unsuitable location. Such development has been rejected 5 times in 40 years.

34 Sisson Road  
Gloucester  
GL2 0RA

**Comments:** 12th June 2020

This application should defiantly be permitted, it's just NIMBYISM which prevented the last two applications.

young family's like mine are crying out for new and affordable homes in this area.

60 Haycroft Drive  
Matson  
Gloucestershire  
GL4 6XX

**Comments:** 19th June 2020

I strongly support the application. I've been looking to move into the area for some time given the catchment area for some outstanding schools. Unfortunately the availability of houses in the area is in short supply which has made any move almost impossible.

I believe there is a genuine need for this application to proceed.

18 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

**Comments:** 12th May 2020

I strongly object to the new updated planning application for the following reasons:

1. Increase traffic of surrounding areas,
2. Compromised road safety
3. Unsuitable road access
4. Increase risk of flooding
5. Loss of green area
6. GP oversubscribed
7. Schools already oversubscribed

Faringdon  
4 Langton Grove Road  
Cheltenham  
Gloucestershire  
GL52 6JA

**Comments:** 3rd June 2020

I would reiterate the comments I made in connection with the previous application for planning permission.

My main concern relates to the unacceptable increase in the level of traffic through the Ewans farm Estate on to the London Road opposite the Langton. The traffic levels on the London Road at this point are already at unacceptable levels and the increased traffic emanating from any new development within the area will undoubtedly result in increased traffic congestion. Increased traffic will also lead to increased noise levels pollution and disturbance to the residents within the existing residential areas.

The increased levels of residents resulting from 43 new dwellings will require increased numbers of pupil places at local schools which are already oversubscribed and also at the doctors' surgery once again where patient numbers are already at a higher than acceptable level.

Coversdown  
Birchley Road  
Cheltenham  
Gloucestershire  
GL526NY

**Comments:** 20th May 2020  
Letter attached.

98 Colesbourne Road  
Cheltenham  
Gloucestershire  
GL51 6DN

**Comments:** 15th June 2020  
I support this application as I believe this will really enhance the trading potential and income of a large number of retailers at Sixways.

Darien  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PD

**Comments:** 5th August 2020  
Just how many more times are these proposers going to attempt to try and force this application through? Surely the Planning Committee can see that the access via Oakhurst Rise/Ewens Road/Beaufort Road is totally unsuitable. Have they actually inspected this? Are you going to allow Appeal after Appeal after Appeal? I have no personal axe to grind - it's just common sense.

46 School Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8BD

**Comments:** 8th June 2020  
I would like to register my opposition to the proposed development off Oakhurst Drive.

This land should not be developed for many reasons:

Inappropriate use of land for housing due to steep gradient, limited accessibility apart from by cars, increased likelihood of problems with flooding and lack of community infrastructure such as school places and doctors surgeries.

The residents of Oakhurst Rise live in a quiet cul de sac of small bungalows and this would be transformed into a through road to a new estate with multiple vehicles passing through.

The land is a rich wildlife habitat as well as being used for community activities such as forest school, wildlife walks and as a cross country course for multiple schools across the county. The annual bonfire night event welcomes huge numbers and raises a large amount of money for good causes.

Whilst there is of course a need for housing, focus should be on redeveloping brownfield sites rather than removing green areas. Once built upon, these green spaces are lost and this negatively affects the locality. We need to protect these areas from development and ensure more appropriate areas are considered ahead of this land.

Tanglin  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 12th June 2020

Many detailed submissions have already been made by a number of highly qualified experts and professionals OBJECTING to this application, which list in precise detail the various Planning Regulations (NPPF etc) which would be contravened were this application to be permitted. The planning policies contravened by this proposed development cover a large number of areas including, but not necessarily limited to, heritage, access, ecology, flooding and the environment. It is therefore not necessary to repeat all those reasons here, since the Planning Officers and CBC Planning Committee have already received more than sufficient information to require this application to be refused.

However, one area which has not been addressed in such detail is the application of Common Sense; unless the application of Common Sense is now forbidden by those assessing this application, it would be sufficient grounds merely in itself to refuse planning permission. Indeed, so much so, that it is bewildering that this new application has even been submitted (after two previous refusals and an appeal dismissal by HM Inspectorate). This use of common sense relates simply to geography and topography. Anyone visiting this site via the only possible road access (Oakhurst Rise) would immediately appreciate that the narrow, twisting and very steep roads leading to the site mean that any development at the top of Oakhurst Rise of anything more than one or two houses would lead to unacceptably increased dangers for all the residents in that area. This was recognized by the Charlton Kings Parish Council Planning Committee Members, who recently voted unanimously to object to this application. The site is completely unsuitable for social or 'affordable' housing, as it would require virtually 100% car use for access; so it would be a most unsuitable location for those of restricted financial means who may wish to rely on public transport -- both the access to the site and the roads within have such steep gradients, it would make foot or cycle access completely impracticable, especially for those with wheelchairs, physical impairment, child-buggies and those carrying heavy shopping.

Despite the application documents concerning travel and access containing numerous misleading and disingenuous statements, it would appear that the applicants are actually well aware that the site is unsuitable for normal foot and cycle access, as it is stated that they are "prepared to provide each household ..... a voucher of £750 towards the purchase of an electric bike", as though this would somehow lead to a reduction in car use. If the permanent damage which would be caused by this proposed development was not so serious, such a statement could be

considered merely laughably absurd. Apart from the fact that such a voucher would be less than half the cost of a decent electric bike, what will happen when such bikes break, or get lost or stolen -- or the initial resident moves out and takes the electric bike with them ? As even a partial solution to the major access problems, the electric bike voucher proposal is simply ridiculous.

The local opposition to this application is overwhelming and is caused by concern for the local ecology and environment as well as the permanent danger and distress that would be visited upon the current residents of Oakhurst Rise and the other roads within the Ewen's Farm Estate. There are around 100 letters of Objection on the CBC web-portal and only a handful of 'supporters', none of whom actually live in Charlton Kings. Some supporters say they wish to 'move to the area'; the good news is that this development is not required for such a desire to be fulfilled, as there are around 90 houses and apartments available for sale right now, across all price bands, within half a mile of the meadow land on which the applicants wish to build. Some of these 'supporters' don't even live in Cheltenham and some of the commercially-driven housing associations that wish to manage a proportion of the proposed properties are headquartered as far away as the Forest of Dean and Oxfordshire. Cheltenham has more than sufficient land already allocated for non-controversial housing development in order to cover its requirements; the destruction of this environmentally delicate, sensitive and precious meadow-land is NOT necessary in order to provide the social and affordable housing which many people rightly wish to be built for Cheltenham's residents. As one Borough Councillor so eloquently put it at a Planning Committee meeting when considering a previous application to build on this land, these houses may well be excellent houses and the layout may well be visually attractive BUT they are totally unsuitable for building on this location. Common sense indeed.

Oakley Lodge  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 18th June 2020

We wish to object to this application.

This is yet another attempt to obtain outline planning permission to build a large housing estate on a beautiful unspoilt meadow in a prominent location in Cheltenham.

Access. The only access to the site is via Oakhurst Rise, a cul-de-sac in a very quiet and peaceful hillside residential area. The road is narrow and extremely steep. It would therefore be wholly unsuitable as the access road during construction for the huge number of large lorries and construction vehicles needed to clear the site and then bring in materials, as well as for the transport of site workers. Once built, the 43 new houses would generate a considerable volume of traffic, as owners, visitors, contractors, refuse lorries and delivery vans came and went - all via a narrow road with a 90 degree turn at the bottom of its steepest section.

This steep gradient makes the road extremely dangerous, particularly when roads are wet or icy, both for vehicles and for pedestrians. For the residents of the properties facing the steep section at the top of the cul-de-sac, there is also the real danger that lorries coming down this section of road could slide into their properties in icy conditions.

For the residents of Oakhurst Rise and those of the roads nearby, the negative impact of the development would be enormous, both during the time it would take to clear and build the roads and houses and then thereafter. There would be an increased volume of traffic and noise; traffic pollution; vibration shaking their properties as lorries struggle to turn the tight corners and change gear; as well as difficulty in accessing their own properties. The existing peace and quiet of their

neighbourhood would be shattered by the volume of cars, lorries and delivery vans associated with the new development, coming and going, day and night.

**Flooding.** We share the concerns raised elsewhere about the increased risk of flooding to nearby properties if this green space at the top of a hill is built over. In view of climate change and more and more severe weather events (such as the extremely heavy rain over the last two days), there is a very real and increasing risk of flooding.

**Access to local facilities.** As the only access to the development would be via Oakhurst Rise, any resident of the proposed development would have a very long and steep walk to shops, schools or other facilities. Any wheelchair user, parent or carer pushing a child in a pushchair or pram, or indeed anyone with limited mobility would find the gradient impossible and would therefore have to rely on a car or car transport to get anywhere outside the housing estate. This would make it difficult for residents to integrate into the local community and access local facilities as these would not be within easy walking distance.

**Ecology.** The site is of great ecological importance. It is a beautiful ancient wildflower meadow, providing a natural and unspoilt habitat for a wide and important variety of wildlife: animals, such as deer and badgers; birds, such as treecreepers, blackcaps and dunnocks; insects including rare moths; reptiles such as grass snakes and slow worms; veteran trees; and wild flowers. It has both a rare beauty and unique biodiversity and should be preserved in its entirety, rather than destroyed.

**Loss of community amenity.** If the proposed development went ahead, there would also be a great loss to the local community which would lose a valued amenity. County cross-country competitions, open to primary and senior school children from across Gloucestershire, are held on the site, as well as the school bonfire night in November which thousands of local people attend.

**Heritage.** The site lies between and forms the setting for two important historic buildings, Ashley Manor (Grade II\* listed) and Charlton Manor (Grade II listed), which are an important part of Cheltenham's heritage. If the development went ahead, the setting of these historic buildings (and the Ice House which lies between) would be greatly harmed. At present a green meadow forms the backdrop to these buildings, can be seen from within them, and allows the relationship between them to be seen; however if the development went ahead, this unity would be lost and a modern housing estate would dominate instead. The heritage of Cheltenham is precious and should be preserved for future generations, not spoilt through development. Once the setting has been harmed it cannot be restored.

**Visual impact.** Moreover the site lies in a prominent position on top of Battledown Hill. This green and wooded hill, and the site within it (including the heritage buildings mentioned above), are clearly visible from right round the surrounding Cotswold escarpment (an Area of Outstanding Natural Beauty) and from numerous vantage points across Cheltenham, including from the Charlton Kings conservation area to which it forms a backdrop. If the development were to go ahead, a built-up area of modern houses, with high rooflines, would be inserted into an otherwise green and wooded hill, visible from miles around.

Finally, we request that the wider context of Cheltenham as a heritage town and tourist destination is also taken into account when considering this application. Cheltenham attracts thousands of visitors a year and is renowned for its natural beauty as well as its festivals and architecture. The natural beauty of the site, highly visible as one approaches Cheltenham, is part of Cheltenham's heritage and should be preserved for future generations.

For these reasons we object to this planning application.

Wellswood House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 15th June 2020

In line with other objections regarding strain on infrastructure, flooding concerns etc

12 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RH

**Comments:** 17th May 2020

Reference: Application 20/00683/OUT

This application for 43 dwellings on land adjacent with single access from Oakhurst Rise follows on from the refusal by the Appeal Inspector B.J.Sims on 20th September 2019 for development submitted under 18/02171/OUT made by the same applicants. That in turn followed the refusal by the Borough Council for planning application 17/00710/OUT, again from the same developers.

I object to this application on the following grounds

1. Drainage/Flood risk

Schemes to deal with foul and surface water drainage have been developed by Simpson Associates. Their view is that both can be dealt with via gravity systems connecting to existing infrastructure within the locality.

However, there is significant failure to take into account the previous flooding encountered by properties on the Battledown Estate, Ewen's Farm Estate, in particular those on Oak Avenue, and Haywards Road in 2007. The impact additional properties, as a result of the proposed development, would have on the risk of future flooding in the context of these historic flood events has not been properly addressed. Proposals for the removal of foul and storm water from the site include linking into existing infrastructure on Charlton Court Road. This subsequently drains down towards to the previously affected properties.

The document titled, 'Flood Risk Assessment Land off Oakhurst Rise, Charlton Kings Cheltenham, Gloucestershire (C21505 Oakhurst Rise, Charlton Kings / FRA Rev M April 2020, prepared, by Simpson Associates Consulting Engineers LLP) identifies the land as being located within Flood Zone 1, i.e., a low probability of river or sea flooding (See Section 5). It goes on to acknowledge (Clause 5.11) that while the area is considered to be of no risk of surface flooding, this may be due to the current greenfield site conditions of trees, shrubs and grass.

Clause 5.12 goes on to acknowledge that the site is steeply sloping with a fall across the site towards the south west and as such it is assumed that the risk of surface flooding on the site is low. Figure 5, on page 8 of the report shows an embedded Flood Map of Surface Water (extracted from the Gov.uk website in Jan 2017). This clearly shows an area with a high risk of flooding in the area of Charlton Court Road near the south west corner of the site, extending down to Oak Avenue. Areas that have suffered as a consequence of foul and storm water flooding in the past.

Furthermore, clauses 5.13/5.14 record that the Strategic Flood Risk Assessment includes information on past flooding incidents in the local area and by inclusion of the DG5 register. This



provides post codes of the affected areas and while the exact locations of the affected properties are reported to be unknown it does indicate that CBC has shown that 3 incidents of flooding from sewers have occurred in the vicinity of the site when looking at the postal area GL52 6. The authors go on to assume that due to the low number of occurrences the site is at low risk of sewer flooding.

While the authors assumption that the proposed development site may be at low risk of sewer flooding it pays scant regard in this respect to properties in the surrounding area that have been affected historically. This is based in part due to the information apparently being held in official records that is inaccurate. In Jun/Jul 2007 multiple homes in the GL52 6 postcode area flooded including at least eight properties in Haywards Road due to backing up of the sewer system. Numerous others in Oak Avenue were also affected.

Since the time that these flood events occurred there has not been, at least to my knowledge, any investigation or report to identify the root cause and responsibility for the flooding. There has been no obvious remediation and none of CBC, STW or the EA have made any attempts to actively engage with residents that were affected.

The proposal to remove foul water is via a connection to the existing manhole SO96214401 within the St Edward's school grounds. If this is not feasible then an alternative connection under gravity to an existing sewer located within Charlton Court Road to the South West of the development was proposed.

Should the development be approved one condition that should be imposed is to ensure connection is made to the existing foul water sewer within St Edward's School grounds to the south of the site via the existing manhole SO96214401. There appear to be no obvious impediment to achieving this. The option to connect via Charlton Court Road should be removed. The proposed development will significantly alter the characteristics of the site with respect to flood risk for properties in the surrounding area and approval of the proposed development will add significant additional burden to the storm water and sewer systems that are already operating at high capacity.

The FRA indicates that Severn Trent Water (STW) confirmed that their system has capacity to take the new flows from the site. This was communicated in 2016. An up-to-date appraisal should be required as a condition of the planning.

The report also recommends that a further capacity check should be undertaken downstream of the proposed outfall connection during the detailed design stage once proposed flows have been finalised. Should the scheme be approved in principle, a satisfactory outcome from the check of the downstream capacity should be a required condition of its approval.

The plans presented on pages 30, 32 and 34 of the Planning Statement indicate the proposal to introduce of an attenuation pond at the southern end of the proposed development. Similarly, section 7 (Drainage) of the Design and Access Statement, prepared by Coombes Everitt Architects, indicates, "... a pond is proposed at the bottom of the site to assist with the attenuation of the surface water run-off."

Both these statements are inconsistent with and contradict Clause 8.7 of the FRA that states clearly that the pond is not part of the attenuation scheme.

The Design and Access Statement also indicates that, "To ensure the system is not overloaded a number of attenuation tanks are proposed". However, plans show only a single attention tank.

Due to concerns over potential flooding as a consequence of storm water run-off, it is requested that should approval for this or any revised scheme be granted, a condition of approval is to increase the amount of attenuation on the site. Specific consideration should also be given to

utilising the green space to the east of the site to mitigate storm water run-off from the proposed development. This land is owned by the applicant.

Furthermore, the submitted the Drainage Strategy fails to meet a condition outlined during refusal of previous applications, namely to:

'...provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.'

It is requested that the application is refused until such time as a viable strategy to fulfil the requirements of the condition are presented for review as part of a complete application.

Given that the proposed strategy must last for the lifetime of the development, it is also requested that should approval for the scheme be granted now or in the future, a condition of approval should to place a requirement on William Morrison (Cheltenham) Ltd., the Trustees of the Carmelite Charitable Trust and their successors, to make financial provisions to ensure this obligation can be met.

As a consequence of the flooding to my property encountered in June and July 2007, any sustained periods of heavy rain are now associated with a significant and heightened sense of anxiety. Furthermore, the insurance premiums on the property increased dramatically subsequent to the incidents and have remained at elevated levels since that time despite there being no apparent flood risk to the area.

I would therefore request that consideration is also given to the implementation of a condition that requires the applicant(s) and their successors, to make financials provision to compensate victims of flooding in the surrounding areas that would otherwise not have occurred had the development not been approved. This request is considered to be entirely reasonable based on the expectation that the applicants are confident that their proposed development will not contribute to an increased risk of flooding in the surrounding areas.

### 2. Transport Assessment (TA) / Residential Travel Plan (RTP) / Non-Motorised User (NMU) Assessment

Clause 5.12 of the TA considers the degree of car ownership and predicts that in 2021 the level of car ownership will be 1.78 per dwelling for privately owned properties and may be greater for shared ownership rented or affordable homes. The scheme allows for parking of up to 86 vehicles. It is therefore reasonable to think that this capacity could be exhausted fairly rapidly. In relation to Section 6 of the TA relating to forecast trip generation and impact on the Local Highway network, the assessment was performed over three years ago in December 2016 during which time the traffic burden on the local highways infrastructure is perceived to have increased significantly.

Prior to any approval, the applicant should be required to undertake an up-to-date assessment and revise their proposals accordingly.

Section 6 of the TA goes on to forecast that there will be roughly 0.33 outbound trips per residence during AM peak time and this will be repeated during the PM peak hour. I would assert that the majority of purchasers in the proposed development will be professionals or those that need to travel a reasonable distance to their place of work. Given the predicted number of cars per dwelling it would seem to be more appropriate to model this assessment using an increased average of trips per dwelling, e.g. one trip per dwelling, during peak times.

Clause 6.11 - the number of minutes per vehicle trip during peak hours is missing. This should be updated.

Clause 6.21 Indicates that GCC's preference throughout the traffic modelling of the Joint Core Strategy strategic developments assessment was to ensure that traffic uses the principal routes, rather than residential routes.

However, the TA has failed to appreciate that the roads on the Ewen's Farm estate, Haywards, Road, Rosehill Street, King Alfred Way, Saxon Way and Athelney Way are already used as a 'rat run' by commuters seeking to avoid congestion at the A40/A435/Haywards Road and the A40/Hales Road junctions.

Therefore, while the approach taken to modelling the impact of the development has been to assign traffic to the quickest principal routes rather than to residential streets, the approach having been approved by GCC during scoping discussions, it is outwith the realities of the actual current situation. Nothing in the current proposal suggests this is likely to change other than to the detriment of those living in the surrounding areas should the proposed development. Be approved now or in the future. This is disappointing.

Clause 6.24 states that vehicles can travel from the A435 to Haywards Road, but that a right turn movement to the A40 east is prohibited. While the latter point is correct, a movement from the A435 to Haywards Road is also prohibited, yet regularly flouted.

It is requested that a condition of approval for this scheme is for the installation of traffic enforcement cameras at the junction of the A40/A435/Haywards Road violations with respect to the prohibited manoeuvres.

With regard to the quickest proposed routes. From Cheltenham 012, both Routes 1 and 3 would not typically be those used by through traffic. In both cases cars typically turn right out of Beaufort Road onto Oak Avenue/Churchill Drive then left onto Haywards Road towards the junction with the A40/A435.

Appendix A includes data relating to modelling of distribution and traffic impact. The outputs indicate that the junctions at Sixways, Haywards Road/A40/A435 Cirencester Road and A40/Hales Road/A435 High Street are already over capacity for some if not all the time. Additional traffic burden as result of the development will add to this.

The only proposed mitigation is to widen the lanes heading west on the A40 at the junction with Hales Road and to implement a new/updated control system for signals. It is not clear how either of the proposed interventions will significantly improve the situation.

Given that the existing traffic load already creates congestion at Haywards Road/A40/A435 and Charlton Court Road/A40 junctions during peak hours, the additional traffic burden will undoubtedly induce through traffic to rely even more heavily on the existing 'rat run' between Hales road and the A40/A435 heading east.

It is therefore, requested that serious consideration be given to blocking access to the Ewen's Farm estate and Haywards Road from King Alfred Way as a condition of approval. While this will undoubtedly result in some inconvenience for some of the residents of the above mentioned areas, this will be offset by a significant reduction in through traffic. The final positioning of the closure should be taken in consultation with impacted local residents.

The RTP/NMU assessments highlight some deficiencies in the existing pavement infrastructure and also the ability to cross the London Road at various points.

A request for the addition of a specific timed signal to allow the safe pedestrian crossing of the A40/A435 at the junction with Haywards Road is also made. While pedestrian notionally have right of way, the crossing of this junction is particularly difficult and can be dangerous particularly when attempted with young children. Implementation of a specific phasing to allow pedestrians to

cross would remove any issues that will arise due to increased burden on this busy junction as a result of the proposed development.

While the RTP and NMU indicate that local amenities fall within the Institution of Highways and Transport (IHT) guidelines for journeys on foot, it fails to take into account the nature of the approach to Oakhurst Rise which is incredibly steep. A number of the existing residents of Oakhurst Rise have objected to the plans during earlier submissions on the basis that the nature of the access will prompt a significant number of potential NMU trips to be undertaken by car. In particular the existing residents of Oakhurst Rise have indicated that the footpaths are virtually unwalkable when they become icy. This will be a particular problem for the elderly and those making trips with young children.

One option with regard to access to the site may be to introduce a pedestrian access from Charlton Court Road at the point where a potential connection to the STW sewer system has been proposed. If a foot path following approximately the suggested line of the sewer were constructed this may result in a less arduous climb back to the development. Similarly the planning committee is requested to consider the possibility of constructing a footpath through the grounds that are currently used by St Edwards school that would provide a more direct access to the amenities and could be constructed in a way that made them less steep than the existing access. This would be in keeping with the cited Manual for Streets (MfS) that states walking offers the greatest potential for replacing short car trips, particularly those under 2 km.

The offer of a £750 contribution per household to purchase an e-bike as part of the RTP is nothing more than a gimmick and essentially amounts to a discount from the sales price for each property. This offer makes no contingency for change of property ownership (which could be within a short period of time) and future purchasers which would essentially be in the same position as the bikes not having been offered. It is unclear how this contributes to the sustainability aspect the remit laid out in the clause 2.1 of the Travel Plan as follows

A Travel Plan is a long-term management strategy built on a package of site-specific measures that seeks to deliver sustainable transport objectives.

Clause 2.19 goes on to indicate that while not an obligation based on the size of the proposed development the applicant has agreed to provide and fund a RTP that will further enhance the sustainable credentials of the site. It is not clear to me what the exactly the specific sustainable credentials of the site are. Furthermore, it is disappointing that properties in the surrounding area that will be affected by the increase burden on its transport infrastructure are not included in any proposed consultation or to be beneficiaries of the RTP. Surely it would not have been too difficult to include the properties on the adjacent roads cited in the TA/RTP/NMU so as to positively engage residents with a view to increasing the beneficial outcomes from the proposed development and its surrounding environs.

It is requested that as part of any potential approval, the applicant will be required to distribute the proposed Travel Information Pack to residents of the surrounding residential areas.

### 3. Number of properties too great

Policy HD4 within the Cheltenham Plan 2011-2031 (CP), submitted for review by the Secretary of State on 03 October 2018, provided for approximately 25 dwellings on the site at Oakhurst Rise.

The plan has been the subject of review by an Inspector appointed by the Secretary of State and report titled, 'Report on the Examination of the Cheltenham Plan 2011-2031', by Wendy J Burden (BA DipTP MRTPI) was published on 17 March 2020. The report includes a number recommended main modifications (MM) and is still awaiting formal adoption by CBC.

Reference to the report and its associated appendix is made in the Planning Statement prepared on behalf of William Morrison (Cheltenham) Ltd. and the Trustees of the Carmelite Charitable Trust, by Frampton Town Planning (FTP).

Selective reference by FTP is made in clause 2.7 of the Planning Statement to MM016 in the Inspectors Report that refers to Policy HD4.

In MM016 the wording relating to the site specific requirements of HD04 was changed from, 'Approximately 25 dwellings...', as documented in the submitted CP, to, 'A minimum of 25 dwellings...'

As part of the examination process of the proposed CP, a submission was made to the Inspector on behalf of applicants by SF Planning (M3\_1326\_W\_Morrison (SF Planning)). Their supposition was that the proposal for 25 houses was based on a flawed interpretation of a report by ECUS. However, on page 4 of their submission SF Planning go on to state,

'What is certain is that the suggested allocation of site HD4 is sound, and doing so would not be harmful to the significance of heritage assets. Approximately 25 dwellings can be delivered on site HD4 without any harm.'

In spite of these comments, an application for 68 dwellings (18/02171/OUT) was submitted but was duly rejected.

FTP also neglects to highlight MM014 in the Inspectors report that relates to Policy H1 of the CP - Land Allocated for Housing Development. This section of the CP contains a Table 3 (Table 2 in the amended CP) that lists the number of dwellings that each potential development can support. In MM014 a number of the proposed sites listed show a change to the number of dwellings that it is now proposed are built. Despite a minor modification to the wording in HD4, as stated above (see MM016) the number of dwellings designated for the Oakhurst Rise site remains at 25.

The attempts by FTP to selectively use the change in wording in MM016 to support an application to build 43 dwelling against a proposed number of 25 is at best unjustified.

While the CP has yet to be adopted the spirit and its intent with respect to HD4 (Land off Oakhurst Rise) is to limit the development to approximately 25 dwellings. This approximation can realistically be interpreted as between 23 and 28 dwellings.

The proposed development is significantly greater than is intended within the CP and should be rejected on the basis that the number of proposed dwelling cannot be supported without harm to the site.

If approval for this or any future applications is granted, it should be done based on an appropriate number of dwellings, i.e., 23 to 28 equating to approximately 25 dwellings.

Given the concerns over the damage to the heritage of the area, potential impact on flood risk and the increased burden on local traffic, the proposal to build a number of dwellings significantly above the number set out in the proposed CP is inappropriate and the application should be rejected.

High Grove Greenway Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LA

**Comments:** 29th June 2020

I object to the current outline planning application to build a large number of houses (originally 110, now reduced to 43) on the south facing slope of Battledown Hill because I believe that the land concerned is of far more value to Cheltenham maintained as it currently is than ever it could be if covered in a modern residential development. Cheltenham has many features which set it apart visually from other towns - the consistency and extent of its Regency architecture, its absence of high-rise development, its extensive central gardens and green spaces and its views of the surrounding Cotswold escarpment, for example. All of these will be preserved for future generations, and I believe that the contribution to the townscape made by a green Battledown Hill is of similar importance, and that this generation should take great care of it, just as previous generations have looked after Cheltenham's other key assets.

The western and northern slopes of the hill are already rendered irretrievably suburban by residential development (albeit moderated by the large number and variety of mature trees), the

eastern aspect is (hopefully) offered protection by virtue of its AONB status, and only the beautiful south facing St Edwards ground (so close to the AONB boundary) appears to be at risk of despoliation. Its value as an oasis of brilliant green, visible from miles around, is immeasurable. We have flat land to the north, west and south of the town - there is no need to build on the hill, not 43 houses nor even the 25 mentioned in the Local Plan. The visual intrusion is unacceptable and unnecessary.

Anyone who has taken the trouble to navigate the turns and gradients to reach the top section of Oakhurst Rise will appreciate extent of the adverse impact on the local community that would result from permitting this proposal. The location of the proposed site and the arrangements proposed to access it are bizarre. An excellent paper has been submitted by the Friends of Charlton Kings (June 8th 2020) which describes these impacts in detail and I concur with its conclusions and all its many other arguments from a wide variety of perspectives in favour of rejecting this proposition.

Fermain  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PG

**Comments:** 21st August 2020

There are many reasons why this development should not go ahead, and all reasons have previously been highlighted in the objections.

1. AONB - there are many brown field sites within the local area which should be developed prior to anyone being able to consider building on land such as this.
2. Access to the site would be via a very narrow up hill residential street, that is itself surrounded by other narrow residential streets. Cars are parked everywhere and on pavements. All this makes access to yet another 43 dwellings completely inappropriate and dangerous for both drivers and pedestrians.
3. The local infrastructure cannot cope currently. Both doctors and schools are over subscribed, this would only make this considerably worse.

There are many other reasons why this should not be granted planning permission, but these are just my top 3.

15 Battledown Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RD

**Comments:** 22nd May 2020

The timing of this application in view of the exceptional circumstances (Covid-19 pandemic) gives the applicants an unfair advantage. Many residents are fully occupied by simultaneously home-schooling and working or dealing with other extraordinary circumstances. Some named consultees are likely to be working in a reduced capacity or furloughed. The application should be delayed or at the least held in abeyance until circumstances allow proper consideration.

The application should go to committee - not just to the planning officer - to ensure it is fully considered.

We object to this application for the following reasons:

1. Increased flood risk for properties downhill of the site, some of whom already suffer from flooding problems. Whatever reassurances are made, it is unlikely that measures taken by the developers will be able to compensate for the loss of natural drainage.
2. Traffic congestion (and resulting pollution) in the London Rd/Hales Rd/Ewens Farm area is already bad & will be worsened.
3. The proposed access road - a very steep & narrow cul-de-sac - is completely unsuitable. In snowy/icy conditions it cannot be used safely. Furthermore, it is wrong and unfair for residents who have chosen to live on a cul-de-sac to have it transformed into a through-road used by possibly a hundred cars every day, increasing noise, pollution & danger. The whole character of those roads will be changed and the quality of life of residents will be adversely affected, through no fault of their own.
4. Loss of amenity for children from the neighbouring school who use it regularly for outdoor education and all those from other schools in the county who regularly use the site for athletic pursuits. Loss of amenity for the local community who attend the annual bonfire-night event.
5. Loss of valuable habitat for the countless species of birds, bats, animals, insects etc which inhabit the (undisturbed, and therefore valuable) grassland, trees and hedgerows which will be destroyed. Felled trees cannot simply be 'replaced'; a newly planted tree does not compensate for the loss of a mature tree in respect of visual amenity, wildlife habitat or removal of pollutants from the air. We accept that new houses are needed but to refuse a brownfield site development (Tim Fry Landrovers application) and then allow building on nearby green fields would be wrong.
6. The scheme falls foul of CBC Policy GE2: Private Green Space (supplementary planning guidance June 2009, available on the CBC site) which states:  
"The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted."  
This site borders the AONB, forming a visual centrepiece to the unique village environment that is Charlton Kings. The proposed density of housing is far higher than, and out of keeping with, that of the surrounding area.

3 Coxhorne Cottage  
London Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6UY

**Comments:** 8th June 2020

I object to this application on the basis of the importance of the archaeological interest of the site. This area has not been fully investigated and needs to be preserved.

Evidence from LiDar imaging, clearly shows medieval ridge and farrow across all of the site. There are areas where the ridge and farrow continues over the top of a very clearly marked villa shape, indicating that the remains of a roman villa exist on the site or possibly the remains of a building predating Roman. If you refer to the tithe map for the area of 1840 and there after, it is clearly marked in this area as 'ruins'. This can be seen on the Ashley Road side. Further investigation must be carried out.

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On the other side of the site near Oakhurst Rise you will note that the ridge and farrow extends over two very clear circular markings, indicating that these could be Iron Age. Just up from these circles you will see a rectangular shape with two clear, semi circular entrances on either side, depicting the outline of a possible burial mound. There are also further circular images under the medieval markings. All of which are of historical interest to the area.

Please refer to grid reference SO9652121561 when looking at the LiDar imaging.

The site is significant, not only because of the history that it preserves, with its archaeology, ancient trees, medieval markings and ancient hedges (all of which are protected by law) but it also holds onto the diverse array of wildlife, which must also be preserved. Even more so in today's current climate.

I will state clearly that I object to this application.

34 Sisson Road  
GL2 0RA

**Comments:** 16th June 2020

I'm supporting this application due to the high number of affordable housing it brings to the ever in demand Charlton Kings area.

Having a young family myself and currently having to think about re-housing for schools, this brings a much needed and affordable opportunity to relocate to the area.

8 Montpellier Drive  
Cheltenham  
Gloucestershire  
GL50 1TX

**Comments:** 8th July 2020

The economy is struggling at the moment. The House Building Industry is central to our economic recovery. These houses will help Cheltenham and the wider economy generally.

The Ridge  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QE

**Comments:** 16th June 2020

I strongly object to this proposal which threatens a beautiful green lung in the heart of Charlton Kings. The developers have not chosen a brownfield site which would be suitable but instead an incredibly beautiful wildlife meadow which we should be doing all we can to preserve, not destroy. The area is incredibly valuable in terms of the huge variety of wildlife and plants, which once lost will never return.

I cannot see how this new proposal addresses any of the issues already noted which informed the two previous CBC refusal decisions and an Appeal Inquiry which dismissed the developer's Appeal and it appears to be a desperate last ditch attempt to push something through.

There are many more practical reasons that this is a very poor site for development that have been mentioned in all of the hundreds of objections already lodged and I hope that common sense and real thought for the environment above all else, prevails.



32 Copt Elm Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AH

**Comments:** 7th May 2020

I object on the grounds that this site is still unsuitable for 43 new homes to be built at this location. From the very beginning it was planned for 90 new homes to be built at this location. This was refused. Then it was planned for 69 new homes to be built at this location. This was refused. The access road to the site is totally unsuitable, its too narrow and steep. The extra volume of traffic trying to use this road would be intolerable for residents already living in the area. With the proposed 43 new homes being built at this location, there would be on average an additional 86 cars trying to access this site two or three times a day. That's without the extra traffic from utility services, internet deliveries, supermarket deliveries, friends and family visits. This does not alter the fact the only road leading to this proposed location is too narrow and steep. Also the different weather conditions throughout the year especially in winter with snow and ice to contend with, trying to access this narrow road to the proposed location.

In the Travel Plan for this site, to encourage alternatives to using a car, it gives examples of approximate distances and travel times to the local amenities at Sixways by walking and cycling. On paper this sounds to be acceptable, but there is no mention of the elevation for this journey. Has anyone tried to walk to the local Charlton Kings shops and back. Maybe walking/cycling downhill is bearable but the return journey uphill will surely deter people from this method of transport and return to their cars quickly.

The loss of another Area of Outstanding Beauty destroyed for profit. The wildlife that is within the area will be lost. More artificial street lighting spoiling the night skies. Where are the extra hospital beds coming from to cater for all the new builds in and around Cheltenham. Extra school places plus the doctors surgery appointments these are already stretched with long waiting times.

Penn House  
Tivoli Road  
Cheltenham  
Gloucestershire  
GL50 2TF

**Comments:** 22nd May 2020

I have watched this application being submitted in various ways to grind down the 'system' until approval is given. This seems to be a typical plan practised by developers who should comply with previous legitimate planning refusals.

I also feel that the full Planning Committee should continue to decide on the application as they will have a broader view for Cheltenham.

The objections remain:

1. Open land, green spaces and the environment need to be protected from the concrete jungle we are heading for
2. Trees create such a different ambience to nature and need to be protected, especially if they are hundreds of years old!
3. I have seen other sites flooded out after water has been denied its normal flow by fields being converted into housing developments. This should not be another one!
4. Access to the site will create yet more traffic delays and safety issues especially in the winter

5. GP surgeries were already seriously stretched before Covid and will be again. Let's not overload the infra-structure any more!
6. Schools fall into the same category and over-sized classes are not the way for Cheltenham to educate its future generations.

We sincerely hope that CBC will continue to support the lovely relaxing Cheltenham environment and reject this application once and for all.

Woodlands  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 5th August 2020

All previous objections points apply and are captured in full in other impassioned and expert residents' views.

Please make the inspector's commentary available to the planning committee in full.

How we can be here again, only 6 months after a dismissed appeal, is unfathomable. Almost none of the points raised at that appeal have been more than superficially addressed, other than moving back the boundary of the notional build (but with no management strategy for the resultant "fallow space" which will become a dumping ground for fly tippers, a short cut for criminals into back gardens not protected or designed to be secured from access in that direction; what it won't be is the beautiful wildflower meadow that is already in situ.)

A range of areas of concern such as flooding and spring water handling have been erased, presumably due to a tick box approach to the appeal findings - that isn't adequate and needs additional scrutiny.

This series of applications have been the opposite of community engagement and good master planning - the civic society comments encapsulate residents' sentiments concisely.

Please can this entire process be audited to ensure nothing similar can happen again and lessons are identified and processes changed?

**Comments:** 23rd May 2020

My objections have been previously submitted in some detail, all of which remain relevant to the current planning application. Herewith my summary of previous objections:

I strongly object to the new updated planning application for the following reasons:

1. Increase traffic of surrounding areas,
2. Compromised road safety
3. Unsuitable road access
4. Increase risk of flooding
5. Loss of green area
6. GP oversubscribed
7. Schools already oversubscribed

In addition to my comments above and in the best interests of democracy, the decision on this application should be taken by the democratically elected Planning Committee rather than the Planning Officer.

Field House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PH

**Comments:** 14th May 2020

We object to the above application. We also objected to the previous applications in 2017 and 2018. No houses should be built on this green meadow, and we strongly feel that there should be a limit in the number of times an application is allowed to be put forward to the Council. It takes time and money from the tax payers to keep going through the formalities which cannot be afforded. If the planning committee turns it down three times that should be the limit. We wish the letter that we wrote on 8th September 2017 objecting should be circulated to the planning committee, as the objections we made then still apply today.

May I also say that in our democratic society we strongly feel that this matter is too important for the decision to be taken by the council officers, as it should be made by the planning committee of the council, an elected body. If, because of the situation, and until the planning committee can meet together, which I am sure they will be able to do so before too long, THE DECISION SHOULD BE DEFERRED.

**Comments:** 7th August 2020

With reference to the planning application we wish to object.

I have driven to see for myself the traffic situation at Ewens Farm. There were cars parked along all the associated roads, making them extremely narrow, and especially dangerous during the busy times of the day. The access out of Ewens Farm is either onto the A40, which comes to a complete halt in rush hour, or via King Alfred Way with cars parked all over the pavements awaiting repairs at the garages. At rush hour during the morning the traffic along Hales Road down to the London Road traffic lights backs up as far as Battledown Approach and sometimes further. What will happen when you have another 100 cars trying to filter into these roads. It is no good thinking people will walk or cycle, the majority do not. The Planning Committee must take this into account. The roads are not designed to take the amount of traffic already using it and planning to build another 43 houses will result in a huge increase in traffic in the Battledown area. The previous letter of objection from the resident in Tall Timbers (I do hope this letter of objection regarding the previous planning applications will be available to the Planning Committee) who obviously has detailed knowledge regarding traffic flow, plus the case much more succinctly than I.

Regarding the risk of flooding. We happen to live on the top of Battledown and our house is built on clay soil. Having lived here for many years, we have always been grateful of where we live, having seen the excess rain water flood down the hill, even right through some houses lower down. The building of so many houses and the taking away or permeable green fields could have a direct impact on existing properties.

I note others, some living beyond our County, remark we need more affordable housing. However we also need open green spaces for the well being of the general public. Squeezing houses onto any open green space will be toying with peoples' mental health. May I suggest affordable housing needs to be put on brown field sites, which developers reject, as the easier option is to cover green fields with houses.

Whilst I realise that the Planning Committee does not have to take into consideration the other aspects of the result of having maybe 150 extra residents in the area. It must be aware that there are not enough doctors, spaces in the local schools, or beds in the hospital for such an increase in population.

Battledown is a unique habitat and it is tragic to think that our local flora and will life would be destroyed if planning was granted.

14 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JP

**Comments:** 22nd May 2020

It will create a bottleneck of traffic in a very narrow entrance at Oakhurst Rise.

**Comments:** 26th May 2020

As has been outlined eloquently elsewhere here, the latest revised plans make NO difference whatsoever to the problems this would create. The site would still increase traffic through a narrow,steep bottleneck of an entrance which is the only proposed access to the site; there is still an increased danger of flooding; there is still an increase on the already over-burdened infastructure. If the inspection in August highlighted numerous problems, why is this still being persisted with?

**Comments:** 26th May 2020

As has been outlined eloquently elsewhere here, the latest revised plans make NO difference whatsoever to the problems this would create. The site would still increase traffic through a narrow,steep bottleneck of an entrance which is the only proposed access to the site; there is still an increased danger of flooding; there is still an increase on the already over-burdened infastructure. If the inspection in August highlighted numerous problems, why is this still being persisted with?

80 Beeches Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NU

**Comments:** 8th June 2020

I wish to lodge the strongest of objections to the proposed development in respect of the above planning application.

We are suffering too much building creep into our rural areas, and if such developments as this are approved, then Cheltenham and it's environs will not only lose its identity, but will become yet another "urban sprawl."

There has been a major and positive seed change in attitudes toward nature and the environment, and any development on this site must be rejected in line with the public attitude that prevails today.

This is not the first attempt by the developer to obtain planning consent, and in line with previous decisions, must be rejected out of hand.

9 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JW

**Comments:** 8th May 2020

I object to this proposal for the same reasons as the last two applications, namely:

- Increased traffic on the surrounding roads, which are already far too busy.
- Increased traffic equals extra emissions. I would expect the aim would be to reduce emissions wherever possible.
- Unsuitable access via Oakhurst Drive, which is narrow and extremely steep.
- Extra strain on local amenities such as schools and health services. It already takes over three weeks to get a doctors appointment, this development will only make matters worse.
- Detrimental impact on the surrounding countryside and wildlife. Surely the objective should be to protect our green spaces and wildlife, not bulldoze them out of existence.

10 Warwick Crescent  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6YZ

**Comments:** 1st August 2020

I wish to object to the proposed application for 43 dwellings. Although I appreciate the need for affordable housing, the area cannot cope with the additional traffic and impact created with having additional housing. There is the social aspect of the loss of events being held in the grounds, to the local community and there is the loss of important flora and fauna.

I have only given a brief synopsis of my objections, but whole heartedly agree with the eloquent letters of objection and all the points raised therein.

24 Castlefields Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6YR

**Comments:** 2nd June 2020

This is an unsuitable site for development due to poor access, the impact on wildlife, the impact on a nearby grade II listed building, and the increased flood risk that will result.

8 Pine Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JR

**Comments:** 25th May 2020

I find myself protesting in writing for the third time regarding the planning application for Oakhurst Rise.

This is a beautiful organic meadow with ancient oaks and hedgerows. The loss of green fields and a unique habitat will be a threat to wildlife. There are badgers that would not survive if relocated, seven species of bats, newts, adders, slow worms as well as dozens of bird species. There is also a family of deer that can often be seen during the day in the meadow.

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The increased risk of flash floods will have consequences for local people, including myself who live below the proposed site.

Local schools are already over subscribed and sixways surgery has a six year waiting list.

To quote from Planning Committee minutes 19/07/18 'only one access to the site, which is torturous and ridiculous via a windy, congested rat run. Steep gradients, blind junctions and dangers in snow and ice have all been ignored.

The junction at sixways is already over capacity and this problem has not yet been addressed. The traffic impact of forty three dwellings (resulting in at least eighty more vehicles) will be severe.

The local plan has already met the affordable housing need, providing enough housing for the town until 2031.

Until all of these problems have been addressed and the developers have a satisfactory solution, then planning permission must be refused.

5 The Gables  
Cheltenham  
Gloucestershire  
GL52 6TR

**Comments:** 30th June 2020

Affordable homes are desperately needed. There is a huge shortfall and there are currently 2500 people in Cheltenham on the waiting list for affordable homes

133 New Barn Lane  
Cheltenham  
Gloucestershire  
GL52 3LQ

**Comments:** 17th June 2020

I don't understand why this is back in planning again. The land is allocated for housing development in the draft Local Plan so why does it keep getting refused.. and reduced in size? We need these site delivered in Cheltenham for much need housing and this is clearly a very logical site within the town.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 7th June 2020

I wish to reiterate my strong objection to this 'new' planning application having reviewed the latest documentation with regards potential development on this site - 20/00683/OUT.

Furthermore, I do not see any evidence that the rationale regards the previous two planning applications on this site, which the Council recently turned down, have since been addressed. This application is merely a minor amendment to the previous application by the developers which was comprehensively rejected by CBC. From the council's refusal decision letters, a number of key reasons were recorded and a mention was made of the NPPF. None of these

reasons have been adequately addressed by the latest application so this application should also be rejected.

36 Suffolk Parade  
Cheltenham  
Gloucestershire  
GL50 2AD

**Comments:** 11th June 2020

I support this application as the site is within the draft local plan and it will provide much needed housing in the area, specifically the eighteen affordable houses that will go some way to reduce the number of people on the waiting list in Cheltenham for affordable homes.

The sale of this site will provide local shops and businesses with increased revenue after the loss of turnover during the Covid 19 lockdown.

St Edwards school will benefit financially enabling them to improve their existing facilities which long term will ensure the students at the school a brighter future.

I support this application in full.

40 Pilley Lane  
Cheltenham  
Gloucestershire  
GL53 9ER

**Comments:** 8th May 2020

This is surely an asset to the area and my son would like to move back to the area that he was bought up in.

Flat 5  
Cameron House  
Glencairn Park Road Cheltenham  
Gloucestershire  
GL50 2<sup>ND</sup>

**Comments:** 28th June 2020

I wish to strongly oppose the updated planning application for a housing development situated off Oakhurst Rise. I am outraged by the continuous attempts of the developers to build on a beautiful, preserved meadow - not to mention the disastrous effects that this would have on the diverse wildlife found in the area.

### ACCESS

Oakhurst Rise is a completely unsuitable access point for the development, as raised countless times prior. Oakhurst Rise is set at such a steep gradient and is incredibly narrow - any increase in traffic up this road (by circa 80 cars) would almost certainly lead to unavoidable accidents.

Please also consider the worsening of the situation in winter months - when the roads are icy, breaking and parking becomes incredibly risky - this is because of the incredibly steep gradient.

Another concern is the wider road network of the Ewens Farm estate which is extremely narrow and winding. I have lost track of the number of times that I have found myself stuck in traffic on

many occasions due to the nature of the roads - with lots of cars parked on either side of the road, it is hazardous for road users during peak times.

If this planning application is approved, it would make it extremely difficult for residents to use their cars/driveways in the winter. I imagine that over time, this could lead to a large number of accidents/insurance claims, pushing the cost of car insurance up for local residents.

### HABITAT

I do also share the concerns raised regarding the permanent loss to the environment this development will cause. The important green space is much used by dog walkers and local children, making it such an important community amenity. It is also a very ecologically diverse area, home to rare species of bats, birds, badgers and rare moths, amongst countless other species. I am also incredibly concerned by the finding of the Ancient Tree Forum that has found at least 2 irreplaceable veteran trees which are in danger of being permanently destroyed. All ancient trees of whatever species or size should receive the level of protection stated in para 175c. Mature trees, where they have the appropriate key decay features, should be considered as irreplaceable habitat and therefore veterans to which the policy in para 175c of the NPPF applies.

### SOCIAL HOUSING

I don't think that the allocation of affordable housing is creditable. I think the developers have shown a great deal of cynicism in the split between properties that could be affordable to low/middle income families, compared to executive homes that will only be in budget for the elite.

### SUPPORTING COMMENTS

I would like to comment on the wide array of supporting comments that I have recently seen which indicate that Cheltenham Borough Council and/or its planning officers support this application. I cannot get my head around how this could be the case before all of the facts and comments have been presented? This seems entirely undemocratic if this is indeed the case and that a decision has been made before being presented with both sides at a Planning Committee Meeting, with a vote being taken.

I would like to know how these households know that Cheltenham Borough Council and/or its planning officers support the developers' cause and just how democratic this process really is.

Brereton House  
Stow Road  
Andoversford  
Cheltenham  
Gloucestershire  
GL54 4JN

### **Comments:** 29th June 2020

I cannot understand the objection to this development. It meets all the criteria, most notably providing affordable housing that is urgently needed by the Borough. The school will benefit as well which will be hugely important to them and the local area especially during such unstable times. As a former pupil, I am in favour of their benefit on the back of such a much-needed development for the local area. Any objection cannot be taken seriously other than somebody not wanting some more housing built near their home, which doesn't make sense when all authorities back the development.



2 Imperial Square  
Cheltenham  
Gloucestershire  
GL50 1QB

**Comments:** 17th June 2020

I am in support of this development proposal. The re submitted scheme has been carefully thought through and provides much needed homes in a popular sustainable location, and in particular provides much needed social housing to local young people and young families.

216 Leckhampton Road  
Cheltenham  
Gloucestershire  
GL53 0AW

**Comments:** 19th June 2020

Having young adults myself this development will offer huge potential for anyone wanting to have affordable housing in the future.

Southern Lawn  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 23rd May 2020

Thank you for your letter of 1 May 2020 concerning this Planning Application.

I am not sure whether previous objections are brought forward - I sincerely hope so, as many older people do not have access to the internet or, at present, the library. Nor can meetings be held by residents to share their thoughts about or collaborate on a response. It is disappointing that such a sensitive application is not being deferred until after the period of lockdown.

So: please can consideration of this application be deferred until after lockdown, and please can it then be submitted to the full planning committee?

Many of the previous objections express our concerns in an extremely thorough and careful way. Rather than repeat points, we wish therefore to endorse in particular those expressed by Meadow View (06.09.2017) and 17 Oakhurst Drive (17.09.2017).

We object to this application on the following grounds:

- It fails to resolve the reasons for refusal at Appeal
- demonstrably unsuitable access route
- the visual impact on the environment from the AONB
- the loss of amenity to local schools
- the flood implications of additional hard landscaping across the spring line,
- all the disgruntled bats, badgers, deer, neighbours and newts.

To lose this greenfield site, used by local schools and visible from miles around would be a shame. To deal with the consequences, such as the increased flooding risk and traffic mayhem would be expensive. The benefits to a few developers would be significant, but it is difficult to see any benefits at all to the community.

Kind regards to all Officers and Councilors during this difficult time.

**Comments:** 4th August 2020

We object to this application. We understand that previous objections will be carried forward, because this is a revised scheme for the same plot by the same developers. However, to reiterate:

- The refusal of the previous scheme was upheld recently at appeal. The new scheme does not - despite claims to do so - negate any of the reasons for refusal.
- It does not reflect the recently published Local Plan and therefore the local planning policy, and
- the access route is obviously unsuitable
- the negative visual impact on the environment from the AONB
- the loss of amenity to local schools
- the flood implications of additional hard landscaping across the spring line,
- all the bats, badgers and newts who would be made homeless.

To lose this greenfield site, used by several schools and visible from miles around would be a shame.

To deal with the consequences, such as the increased flooding risk and traffic mayhem would be expensive.

The benefits to a few developers would be significant.

But it is difficult to see any benefits at all to the community.

Flat 4  
35 St Georges Road  
Cheltenham  
Gloucestershire  
GL50 3DU

**Comments:** 2nd July 2020

OBJECTION to development of the St Edwards School Meadow (20/00693/OUT)

Mr Frampton wrote to CBC (26th June 2020) saying that residents (also called teachers, children and their parents) of St Edwards School are 'trespassing' in developing an ecological understanding of the fields under threat. I have forwarded CBC some photos of "trespass" in progress today during a lockdown lesson.

We call this education, enjoyment of the local environment, and important community amenity.

This is the difference between charitable ownership and commercial ownership of a strategic land asset.

Fortunately the field in question is still (for now, and for another 30 years if this application fails) leased to the school, who permit responsible access to a whole range of community stakeholders, in accordance with child protection policies, to ensure full use of a community asset / cross country course / bee habitat and more.

I don't even live in Charlton Kings but as a parent of children at St Edwards School and qualified ecologist, myself and other residents have worked with the Friends of Charlton Kings planning team to help the community (above and beyond the school community). Opportunities like this lockdown school day in an urban environment are priceless, and the loss of this wildflower meadow would be catastrophic and in complete contradiction of sensible biodiversity policies. Residents may not be planning consultants, but they have done their best to represent the facts

without the benefit of limitless budgets and consultants paid to make the developers' case (at length). Mr Frampton has made no such efforts to understand community concerns or address them, contrary to all good planning practice.

**Comments:** 6th June 2020

This application fails to deliver on Cheltenham's promise to be carbon neutral. It has no sustainable features and is the opposite of what my generation aspire to for homes. Car only, inaccessible, no shops or facilities nearby, no cycle paths.

My college class could do better at master planning.

Sunnyhill  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

**Comments:** 17th June 2020

Cheltenham needs new houses due to its shortage.

Looks like a great development, ideal for new family with some great schools nearby.

153 Prestbury Road  
Cheltenham  
GL52 2DU

**Comments:** 18th June 2020

As a parent, it would be a great place to raise my children, and there are some brilliant school options nearby.

31 Charlton Close  
Cheltenham  
Gloucestershire  
GL53 8DH

**Comments:** 20th May 2020

I object to the proposed development on this site for many reasons including:

1. impact on the environment given the historic trees and known badger sett on the site;
2. flooding risk due to the nature and location of the site;
3. additional burden on local amenities, including schools, doctors etc;
4. poor access to the site and the significant increase in traffic in the area due to the large number of additional homes; and
5. the loss of a valuable public amenity (as the site is the location of cross country running competitions and a very popular bonfire night).

Previous plans have rightly been rejected as should this application despite the reduction in the number of dwellings. All objections remain regardless of the number of dwellings.

163 London Road  
Cheltenham  
Gloucestershire  
GL52 6HN

**Comments:** 23rd June 2020

I am writing to comment on what I consider a complete scandal by certain residents regarding the above Planning Application and their objections to it. The proposed development meets all the criteria necessary, in that it provides desperately affordable housing that is urgently needed by the Borough. The Carmalite Order is happy with the sale of the land, St Edwards school is happy and will benefit substantially and indeed CBC's own Planning Committee support it but some NIMBY's don't want this type of development near them, it is outrageous.

1 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 13th May 2020

My bungalow is directly on the rise of the road so all noise from passing traffic effects my garden bedrooms and living room which are on the road side. Any increase in traffic will make living here unbearable.

The application will mean an extra 80 car journeys not including all the delivery vans that make up todays lifestyle. It would not be possible to enjoy being in my house.

Visual Impact would be awful as it would mean the loss of most of those beautiful trees that I can see from my windows. We need more green spaces to combat Global Warming and Nature has proved to be calming and de-stressing any loss of this has a very negative impact on mental health. I am depressed at the thought of losing those beautiful trees and all the associated wild life.

1 the cottage  
piccadilly  
cheltenham  
gl54 5uu

**Comments:** 23rd June 2020

I fully support this application, there is currently not enough affordable housing in the area and this scheme seems to tick all the boxes required.

26 Bracken Way  
Malvern  
WR14 1JH

**Comments:** 11th June 2020

I would like to provide my support for this revised application. This is an allocated site for residential development and the latest application for the erection of 43 units, has sympathetically considered and addressed consultant and inspectorate comments regarding listed buildings, trees and ecological matters.

Greenacres  
Madresfield Road  
Malvern  
WR13 5AS

**Comments:** 14th July 2020

its about time more houses are going to be build in Cheltenham

77 Denman Avenue  
Cheltenham  
Gloucestershire  
GL50 4GF

**Comments:** 21st May 2020

Looking to move to this area due to the quality of schools, would welcome the opportunity to purchase a new build as once people are in this area they tend not to move out.

15 Castle Street  
Worcester  
WR1 3AD

**Comments:** 14th July 2020

I have been looking to move to this area for a long time and now finally houses are going to be built. The land is not being used for anything, housing is a good ideas. My family and I would be able to enjoy living in a safe and beautifully place.

11 Wimborne Close  
Up Hatherley  
Cheltenham  
Gloucestershire  
GL51 3QP

**Comments:** 8th July 2020

This development I feel will be a great opportunity for young people to get onto the housing market and be close to family members living nearby. Cheltenham house prices are exceptionally high making it very difficult for young people to get their foot on the ladder this new development has my full support.

4 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 18th May 2020

Letter attached.

23 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

**Comments:** 14th May 2020

This is to my knowledge the third application for this site. Each time the housing numbers are reduced but the dangers and issues not dealt with. The main problem is that no new road infrastructure has been planned to cater for the increase in motor vehicles, nor likely to be. Beaufort Road has 44 dwellings and has an estimated 85 vehicles associated. Working on the basis of a similar number of properties then there is expectation for at least a similar number of vehicles.

My comments from my previous 2 objections remain the same. In brief, access / egress from Ewens Farm Estate is onto London Road or Hales Road - two main roads which can become highly congested and usually grid locked during peak periods. At times one has to miss sequences of lights at Holy Apostles / London Road because of the gridlock. The estate is supposedly subject to a 20 mile per hour speed limit, one that is not adhered to nor likely to be enforceable as there is no Policing. As a resident we are subjected to noise created by the clatter of vehicles speeding over the humps.

Oakhurst Rise, the intended access to and from the site is most unsuitable. This is due to the nature of the roadway which includes a very steep hill, treacherous in wintry conditions when descending due to parked vehicles near the junction with Beaufort Road. There have been some near misses due to vehicles blindly turning left into Oakhurst Road being confronted by vehicles on their side of the road. Beaufort Road is a two-way road with numerous vehicles parked on the road which in itself causes difficulty to persons wishing to emerge from their driveways. The Southern end of the road has a No Entry sign erected but this is ignored from time to time especially as Satellite Navigations give directions to enter there.

In concluding, I again ask that this application be refused as the site is totally unsuitable for the above mentioned reasons. The numbers are not relevant as if misguidedly granted, would only lead to further applications and more potential noise and dangerous situations. If the Applicant wishes to build at this site then a safer more suitable entrance should be found from their vast land. This I question is not possible because of the high volume of traffic in this area. Perhaps they should utilise the school access/ egress points instead of creating more misery for the Ewens Farm Estate.

2 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JP

**Comments:** 20th May 2020

We are amazed that the developers are submitting yet another application for this site, since all the reasons previously stated about this planning application still apply and have already been turned down twice.

The access to and from the proposed site is no different from previously, into and out of a cul-de-sac which is on a steep gradient. The extra traffic from this will add to the already large amount going through Ewens Farm from Hales Road to the London Road, very rarely at the 20 mph limit, as well as the increasing number of residents vehicles who live on the estate.

The area for the proposed site is home to wildlife that would not be able to be accommodated by moving its habitat, nature does not work that way, and the trees that have been established for many years cannot be replaced, therefore this would all be lost forever.

We therefore, once again, strongly oppose this planning application.

29 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RQ

**Comments:** 13th May 2020

I object to the new updated planning application for many reasons, the main ones being:

- Increased traffic in surrounding areas on roads that are already struggling to cope with the volume
- Increased traffic brings increased danger for those living in the area, not only from the volume of traffic passing by people's houses, but also pollution from those vehicles
- Concreting over green areas destroys wildlife and brings an increased risk of flooding. The site is at the top of the slope, with many houses below it.

82 Rosehill Street  
Cheltenham  
Gloucestershire  
GL52 6SJ

**Comments:** 26th June 2020

I wish to strongly oppose the updated planning application for a housing development situated off Oakhurst Rise.

**ACCESS**

The latest planning application does nothing to address the serious concerns regarding Oakhurst Rise as an access road for the new site.

The entire road infrastructure that encompasses the Ewans Farm estate is already questionable. Narrow and winding roads make it hazardous for road users during peak times. But the matter of Oakhurst Rise serving as the access road for this proposed housing development is a real cause for concern regarding its steep and narrow gradient entrance.

The junction suffers from being located right at the bottom of a very steep hill that cannot be seen by drivers entering the road when they turn left. All too often, visitors will turn in too quickly and if a driver is exiting the road it relies on quick thinking from both vehicles to avoid a collision.

The entrance/exit out of Oakhurst regularly has vehicles parked on the road; worsening the narrow access. Residents regularly experience near-miss incidents at this point when drivers turn left into Oakhurst Rise, oblivious to this problem.

The situation is exacerbated in winter months. Most residents of dare not drive under icy conditions in fear of losing control of their car on the steep hill. Many residents of Oakhurst Rise are retired and can fortunately leave their cars unused during these adverse conditions.

If this planning application is approved how can the hundred or so new vehicles seriously access without incident? If Oakhurst Rise is covered in ice it's incredibly dangerous to drive up the hill unless your vehicle benefits from all-wheel drive.

Many councillors quite rightly raised the unsuitability of Oakhurst Rise as an access road for this development and it's both discouraging and distressing that developers appear to be belligerently pressing ahead regardless. I can't stress enough how dangerous this road will become from a huge increase in vehicle use.

Greenmount  
12 Christchurch Road  
Cheltenham  
Gloucestershire  
GL50 2PL

**Comments:** 29th June 2020

This appears to be a well-thought out development that leaves plenty of green space around it. In these tricky times, the economy will benefit from approving and advancing projects such as these.

18 Selkirk Gardens  
Cheltenham  
Gloucestershire  
GL52 5LX

**Comments:** 1st July 2020

There is a massive shortage of housing in the area especially affordable homes. Young local residents need this type of development to go head to enable them to stay within the area.

I also believe the local economy will benefit hugely if the development goes ahead.

58 Bouncers Lane  
Cheltenham  
Gloucestershire  
GL52 5JN

**Comments:** 1st July 2020

Generates welcome trade and income for all the businesses at Sixways

Hillview House  
Hambrook Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LW

**Comments:** 23rd July 2020

I would like to object to the above planning application. The development is detrimental to the neighbouring houses and is another example of overdevelopment in this already crowded and densely populated area. Money always seems to win over the environment we live in. Ideally it would be wonderful if this land was preserved as a nature reserve for the enjoyment and wellbeing of the community as a whole rather than lining the pockets of a few greedy developers.

4 Charlton Park Drive  
Cheltenham  
Gloucestershire  
GL53 7RX

**Comments:** 22nd June 2020



Looking at the development plan, there are 18 affordable homes for residents of Charlton Kings to rent or buy. My understanding is there hasn't been this volume of affordable homes built in the parish for some considerable time. Affordable homes that more than likely fall into the budget of our important key workers who have kept this county and country running over the last 4 months. I also wanted to mention there are residents who live in Charlton Kings already who cannot afford to purchase a home because the prices are so high, this will prove to be a valuable asset for them and their families.

Hilcot  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

**Comments:** 13th May 2020

I am writing to object to the planned Oakhurst building scheme that would cause severe damage to the local environment. This devastation would be in the form of loss of wildlife, water run off drainage problems, traffic congestion, health damaging pollution and lost valuable landscape features. Wildlife is important for biodiversity. Green grass space is needed to allow the water to soak away into the landscape not tarmac. Another 100 or so cars causing congestion in Charlton Kings are not needed on our already overcrowded roads. More health damaging pollution is not needed by our communities vulnerable people. The green meadow hill is a very visible geographical feature from many different roads and this is an attraction for our community and visitors. In conclusion I urge you not to approve the scheme at all for the many convincing reasons given above.

**Comments:** 5th June 2020

My objections previously made on the scheme for the development of the land adjacent to Oakhurst Rise still stand and are extended to include comments on the changes. In addition I object to the latest plans because the highest 2 1/2 storey houses are in very visible positions at the front of the site and at the top of the historic meadow. This would further detract from the architecture of the historic school building and the geographical meadow feature particularly when the site is seen from various approaches including Charlton Kings. Also note that the large area of mature trees drawn on the plan are proposed and are in fact new and do not exist therefore the new houses may be very visible and may significantly detract from the geographical site and the historic school house for many, possibly 20 -30 years if the plan is approved.

**Comments:** 14th August 2020

Previous comments objecting to the Oakhurst Rise house building proposal are carried forward. There are some comments below on the documents submitted after the last objection. I would draw your attention to the following points.

Bioscan exceeds "qualifying criteria for causing key wildlife site significant harm."

Revised site plan Section AA does not seem to show the true impact of the highly visible housing development, the line of proposed trees will take 30 plus years to reach maturity or the true impact on the listed Villa. The creators vision and words of "the loveliest hills arranged around it" will be destroyed.

FLAC talks about trees but surely if mature trees close to veteran trees are destroyed they are prevented from being more mature trees. Again I make the point re the proposed line of trees that are shown as mature in the proposal.

I urge you to reject the proposal for the reasons above and in other comments.

Castle Farm  
Ashley Rd  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 16th May 2020

We strongly object to this planning application.

This is the 3rd time a proposal has been submitted in the last 3 years. Each previous proposal has been rejected, and an appeal by the developers on the most recent was also rejected. None of the fundamental issues highlighted below have changed, and surely this is now becoming a waste of valuable local council resource and taxpayers money.

The fundamental issues remain

- The proposed access is totally unsuitable
- The flooding risk to houses below this hilltop is high
- Destruction of a green hilltop space and trees, a fundamental visual asset to this end of Cheltenham, that gives the town it's unique and special appeal
- Destruction of the wildlife in such a biodiverse space

We also understand that this decision may be taken by council officers rather than the proper planning committee. This is inappropriate for such an important issue, which has been rejected on so many previous occasions. At the very least, the decision should be deferred until the correct process can take place.

Flat 4  
Stanmer House  
Lypiatt Road Cheltenham  
Gloucestershire  
GL50 2QJ

**Comments:** 28th June 2020

This is a sustainable development located within the urban area that provides 43 much needed new homes including 18 affordable homes.

11A Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JH

**Comments:** 25th June 2020

I would like to register an objection to the planned development at Oakhurst Rise.

The infrastructure of this local area can not support the building and maintenance of the proposed development. Oakhurst Rise itself is hugely inappropriate as access. It would seem that if the development was to go ahead, access via Greenway Lane If possible would be more suitable.

There are other reasons why this development is not a good idea, the protection of ancient trees and green habitat for example. One of the things that I was surprised was not mentioned in previous planning was the necessity of green space for mental health benefits. The park by Hayward's Road and King Alfred Way is a brilliant example of this, but it is also incredibly heavily used, especially during these covid times.

Fundamentally I think there are many more appropriate and less controversial areas that could be used for a similar development.

Thanks in advance for registering this concern.

10 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 20th May 2020

I object so strongly to this "yet another" application from the same developers, that still doesn't resolve the main concerns of both local residents and the Planning Committee. Oakhurst Rise is completely the wrong access for a housing development. It is too steep, too narrow and is currently full of on-road parked vehicles. The existing housing was built with driveways suitable for cars of the 1970s, not the much wider vehicles used today - hence the necessity for on-road parking.

The road simply couldn't support the number of additional vehicles that this proposal would generate. I beg to differ with the applicants when they state the residents of the new development would walk or cycle - that is currently very rare, so won't happen in the future.

The junction at the entrance to Oakhurst Rise is treacherous in good weather, with sight lines regularly blocked, but in bad weather the road becomes unusable as it is so steep and ungritted.

Public transport is very poor, with the best service provided at Sixways, but then there is the steep climb back to Oakhurst Rise on foot, carrying shopping.

Local services are already stretched, with waits in excess of 3 weeks to see GPs - I can't see this improving with a new housing development.

The field itself is a haven for wildlife, with deer and foxes regular visitors to our garden, to say nothing of the ancient trees.

This application is so wrong on so many levels and having been refused at Planning Committee stage several times before, must surely be deferred to the next full such meeting, rather than leave it to a general council officer meeting.

I urge the Planning Committee to once again refuse this application, this time once and for all.

Coversdown  
Birchley Road  
Cheltenham  
GL526NY

**Comments:** 26th May 2020

Further to the amendments received, my original objection lodged on the 22 May 2020, remains in place.

Wadleys Farm  
Ham Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NJ

**Comments:** 21st May 2020

Letter attached.

Tor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 24th May 2020

Yet again these developers come back with a scam application having reduced the number of proposed houses makes no difference, my objections are the same as previous applications, access to development from oakhurst rise is unsuitable, the flooding risk which is real, flora and fauna, and the fact we know that if outline planning is given for 43 homes it will be amended if these developers and Carmelites flip the land onto someone else for a profit which is highly likely and a strong rumour, these guys are treating the planning committee and community with contempt by not taking NO for an answer

**Comments:** 4th August 2020

Yes again objecting, crazy access to site narrow and dangerous loss of green space, trees, wildlife, historic flooding issues that will be worse with development

14 Greenway Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LB

**Comments:** 16th May 2020

We wish to register our strong objection to this application.

First and foremost, as per the JCS and local plan, development at this level, significantly beyond what the local plan targets on this site, is simply not required.

Beyond that, we feel the access available to the site is grossly inadequate to support the significant volume of road traffic that would be generated by so many houses in such a location. The transport assessments in the application are disingenuous - the physical reality of access to the site means far more car journeys will be generated than suggested, and Oakhurst Rise is not suitable to support that. Beyond the immediate site access issues, the existing traffic issues on the busy London Road junctions would be exacerbated.

We are concerned about the increased run-off and flood risks for neighbouring areas likely to result from such extensive loss of vegetation and permeable surface area. Our locality is already prone to flash flooding; increased run-off down the hill will not improve this.

The loss of valuable habitat for wildlife is a further concern, both in conservation terms and for residential amenity - the very regular presence of deer and owls, in particular, on the site provides a real contribution to the well-being of my family and neighbours.

We do not believe the local social infrastructure (schools and doctors in particular) have anywhere near the capacity to absorb this significant additional demand. In addition the site provides valuable community space, for cross county running and fireworks, that would be lost and not easily substituted.

This new application does not go nearly far enough in addressing the reasons highlighted by the planning committee and inspectors when the previous application and appeal were rejected.

In summary, we do not believe the proposal is remotely appropriate or in accordance with a number of aspects of local planning policy.

10 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

**Comments:** 6th June 2020

I would like to raise my objection to the planning application for 43 dwellings on the land adjacent to oakhurst rise Cheltenham

I object because if build the dwellings would cause an

- Increased flood risk, from surface water flooding, springs and inadequate sewerage capacity
- Lack of school places, particularly at primary level, and of any GP capacity (noting the problems we will face as a community post Covid)
- Impact on the AONB and the CK conservation area(exacerbated by the new roof profile at the top of the site)
- Loss of amenity to local residents
- Increased traffic and pollution levels. The estate is already used as a short cut. This would also leads to increased risks of car accidents involving local pedestrians

I would also like to say that it has been very hard for some people to comment and raise their objections during this time and with that in mind it feels like the planning proposal is being sneaked through planning committee

Greenacre  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

**Comments:** 7th June 2020

I objected to this development the first time round and nothing has changed in my opinion .Even though fewer houses are proposed, it makes no difference to the fact there will be building on wonderful greenfield site. My reasons for objection are:

- accessibility- no-one in a wheelchair will be able to use the site due to the steep gradients
- tree impact and damage to hedgerows - harm to ancient and veteran and mature trees and loss of habitat for wildlife
- flood risk- springs on the site, steep gradient and impact on already poor sewerage system.

- increased traffic and pressure on local services like schools and medical centre.

The current site is a beautiful wild meadow and something we should be protecting locally not building on.

Overdale House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 12th May 2020

Reference: Application 20/00683/OUT

This application for 43 dwellings on Battledown land adjacent to and with single access from Oakhurst Rise follows on from the refusal by the Appeal Inspector B.J.Sims on 20th September 2019 for development submitted under 18/02171/OUT made by the same applicants. That in turn followed the refusal by the Borough Council for planning application 17/00710/OUT, again from the same developers.

A previous planning application on the same site, albeit for 'only' 3 acres of development not the full 10 acres was rejected on 20 December 1984.

"Reasons for refusal included the loss of trees, the exacerbation of existing flooding problems, and the inability of the surrounding roads to cope with anticipated amount of traffic." Source. Cheltenham Borough Council Borough Architect and Planning Officer Records.

.In a Report to Cheltenham Borough Council by Wendy J Burden BA DipTP MRTPI, an Inspector appointed by the Secretary of State Dated 17 March 2020 Planning and Compulsory Purchase Act 2004 (as amended) Section 20. Report on the Examination of the Cheltenham Plan 2011-2031 in para 58 she states:

"Policy HD4 provides for some 25 dwellings on land at Oakhurst Rise. MM016 provides for a restriction to the area of the site to ensure that new development does not impact on the setting of adjacent listed buildings. A recent appeal decision for some 68 dwellings was found, among other issues, to materially alter the character and appearance of the site harmful to the setting of the listed buildings and to result in a loss of protected trees. The appeal was dismissed.

59. An allocation for some 25 dwellings would considerably reduce the potential for the harmful impacts which were identified in the appeal scheme. A more modest development would enable the interrelationships between the listed buildings, the site and the Ice House to be better addressed and to avoid any harmful impact on the setting of the listed buildings. It would also enable the retention of important trees within the site, and I have made a minor change to the wording of modified Policy HD4 to require the protection of mature trees. In view of the location of the site within the built-up area and the need for residential development within Cheltenham, I find that with an appropriate layout and form of development the issues raised as part of the appeal scheme could be satisfactorily addressed and the allocation is sound."

It would seem from the outline plan in 20/00683/OUT that development in the NE area of the meadowland has been curtailed in line with the Inspectors comments but that 43 dwellings are applied for as opposed to the 25 recommended.

The Developer having submitted numerous planning applications must need a greater return on the investment than 25 houses to make a profit and so continues to seek a denser development.

Whether it is a development of 43 or 25 properties there is going to be an impact upon a wide cross section of environmental, physiological and sustainability issues.

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Access to the site is inadequate for 43 houses (with upwards of 80 plus vehicles) using Oakhurst Rise, a small pre-existing residential road of about 25 dwellings, mainly bungalows; which is too steep, too narrow and leads only to other pre-existing residential roads (Beaufort Road, Ewens Road) that are also highly inadequate in width and gradient, all based upon a one way system with considerable traffic calming. Exiting and entering traffic will be in a merry-go-round over traffic calming and parked cars in what was designed as a Council Estate. The families currently living there will be a constant risk if the children go out to play.

It is already a rat run at peak times from London Road (A40) to Hales Road via the adjacent industrial estate.

Cheltenham Planning Policy GE 2; Private Green Space states "The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will should not be permitted."

The proposed development does not meet the requirements of significant townscape and environmental contribution? It clearly has a unique environmental impact with a wide range of flora and fauna, it is kept in semi-wild condition, with once per year grass cutting, occasional use by the School for cross-country events and at its lower end has a the school farm with various rare breeds, including Alpaca's. It is a unique site that it is surrounded by buildings on all 4 sides, it is visible from the AONB areas. The proposed development is as undesirable and damaging to the landscape as development of the middle slopes of any hills, escarpment or coastline would be. It would also set a precedent for higher level development of the south side of the existing village of Charlton Kings on Timbercombe and across to Daisybank Road.

Currently entering the town from Cirencester this historic land never having been built upon since before Roman times forms a wonderful undeveloped area and enhances the critical green space that goes to form Cheltenham's ambience.

At present this field within 5 minutes of the Council Chambers, with its ancient hedgerows and mature trees, is an important and unusual natural sanctuary for wildlife. Looking up from St Edwards playing field boundaries one can often see the deer roaming the site. Over the decades, local residents have observed birds and mammals raising their young without interference. It is densely populated by a wide range of creatures including foxes, badgers, different species of mice, shrews, voles, hedgehogs, newts, glow worms, bats, bees, owls, woodpeckers. Such a unique environment close to the heart of a classical town should be protected for generations to come so they may observe an uninterrupted natural habitat and to respect it and learn from its critical value in an increasingly urbanised country.

Drainage off the hill is a major issue which will be compounded by the addition of concrete and tarmac. In the 2007 storm, the head of water coming off Battledown was such that manhole covers 'blew out' half-way up Ashley Road as the water built up in the Sixways area. Battledown Approach and Harp Hill also became rivers rather than road. The holding pond at the bottom of Ashley Road overflowed and caused flooding at SixWays.

A further concern is around extra demand on an already stretched infrastructure. The local health practice is already oversubscribed, schools for all age groups are also full and the link through Oakhurst Rise is difficult for pedestrians and cyclists, hence easy access to public transport is impracticable thus additional private cars will use the local road system and require parking space in the town at their destinations.

We therefore object to the development and request our Councillors consider if this proposal is in the long-term best interests of the town and future residents. This meadowland should be considered for full preservation and Policy HD4 amended.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 7th June 2020

I strongly object to this 'new' planning application.

This application is merely a minor amendment to the previous applications, which were comprehensively rejected by CBC. None of the reasons for refusal contained within CBCs own decision letters, have been adequately addressed by the latest application so this application should also be rejected. This application directly contravenes the provisions contained within the Local Housing Development Plan for Cheltenham, approved by CBC last year.

In my opinion, the scale of the planned development with 43 dwellings remains completely inappropriate for this site and very much out of character with the local area. Access to the proposed site is restrictive, with a very steep aspect to the approach and narrow roads that are in no way suitable. Therefore, with regards to the above concerns and my comments submitted against the previous applications on this site, it is respectfully requested that planning permission for the above development be refused.

11 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

**Comments:** 15th June 2020

I would like to strongly oppose this proposed new development. The access from Oakhurst Rise will devastate the local residents by overburdening the sewage and drainage system. Also to allow 80 plus additional cars to use the access in all weather's is not acceptable and potentially dangerous on such a steep and narrow access road. Flooding is a significant concern in the area on this steeply sloping clay ground with natural springs and pond.

Please do not permit this development.

21 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 12th July 2020

I am writing to object to the proposed development, it's very sad that once again we are having to do this after the last refusal. Nothing has changed with regard to the access for this proposed development, it is still steep gradients through a quiet residential area. Once this area is concreted over its lost forever..I am extremely concerned with the risk of flooding, traffic congestion, the loss of wildlife habitats ancient trees and the already overstretched local amenities.



15 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 29th June 2020

The access to the area through Oakhurst Rise is totally unsuitable, the steepness of the slope would limit journeys by foot and cycling, therefore new residents would mostly drive.

The impact on the quality of life of the existing residents of Oakhurst Rise would be very unacceptable.

As residents we currently live in a quiet cul-de-sac and we love it, that is why we chose to live here.

11 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 30th June 2020

I am a resident of Oakhurst Rise and would like to object to the plans of building 43 houses on the land adjacent to our road.

One of my concerns is the amount extra traffic this will create. Oakhurst Rise is a steep and winding road. It has a blind junction as you come into the road and would be dangerous. The surrounding roads are already used as a rat run. Sixways, Hailes Road, the A40 and A435 also get congested. Any extra traffic would make the situation worse.

Another one of my main concerns are the increased risk of flash flooding during heavy rain. The fields which act as a natural sponge would be paved over so any run off water would run down the road into our houses. As you are probably aware the houses are all bungalows and if we were to flood we would not be able to protect our belongings by putting them upstairs.

There are protected species of wildlife that would be threatened if the building went ahead as well as veteran oak trees and ancient hedgerows.

Also Sixways surgery and the local schools are oversubscribed and would not be able to cope with the extra households in this area.

Please do not allow the building of these houses to go ahead.

Thank you

5 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 20th May 2020

Last August I sat through all four days of the planning enquiry on the previous application for this site.

Having heard all the evidence then, I am appalled that the developers have applied yet again, the only difference being the reduced number of dwellings.

Nothing else has changed, so all my previous objections are still valid. The only access is still through Oakhurst Rise which is a very steep narrow road with a very dangerous corner at the start.

Residents of this quiet cul-de-sac would suffer badly with the increase in traffic if this became the main road to a new housing estate.

The flooding continues to encroach on some residents gardens at times of heavy or prolonged rain. To cover the field with concrete would only exacerbate the problem.

In this era of mass pollution, the ecology of this unique site is priceless to the school and local residents alike. It also sustains a large amount of wildlife, deer badgers fox's etc.

In conclusion I consider that the site is totally unsuitable for the development proposed, as it was for the two previous applications

3 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 7th July 2020

My objection to the application is that all reasons for the refusal of earlier applications are still valid.

Obviously the impact on a quiet residential area with unsuitable access for heavy increased traffic is my major concern. However the proposed site is valuable green belt land and should remain so.

We can only trust that the Planning COmmittee will make the right decision and refuse to give consent.

33 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 19th May 2020

My comments on the above proposal are as follows:

I object to the proposal for the following reasons:

1. this is an unspoilt area which is a home to wildlife and ancient oak trees.
2. access to the site is difficult and limited by only one access road.
3. extra traffic will add to the problem.

37 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 6th June 2020

I would like to submit my objection to the proposed development on land adjacent to Oakhurst Rise.

I strongly object to the 43 dwellings proposed for this site. I don't believe the immediate local infrastructure is sufficient to cope with the vehicles and services associated with the number of people who would reside there. The local access roads are narrow and further narrowed by parked cars. With increased traffic to the new dwellings (and it would increase, very few journeys would take place on foot or by bike given how steep and far they would be from main roads, schools, offices, doctors etc they would be) the roads would be even more dangerous. The local schools and doctors surgeries would very likely struggle to take on further people. The drainage that the new dwellings would add onto would very likely be overwhelmed too. It would also be a very sad loss of green space that supports a range of wild birds and animals with its mature trees and grassland.

38 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 31st May 2020

We would like to object strongly to this outline application for 43 dwellings on land adjacent to Oakhurst Rise. Two previous applications by the same developer were rejected by CBC and the second one was further rejected by the Planning Inspector under appeal. This current application raises the same issues as the previous applications and therefore should not even be considered.

At minimum we request that this application is considered by the Planning Committee, when it is able to meet, as opposed to by the Planning Officers, who previously have been (correctly) overruled by the committee and the inspector.

The new application for 43 dwellings is still well in excess of the 25 recommended in the Cheltenham Plan. The main issues are:

**ACCESS** - Oakhurst Rise is too narrow and too steep to accommodate traffic for such a development;

**TRAFFIC** - local roads are already overloaded, extra traffic would cause significant problems, and local public transport is inadequate;

**INFRASTRUCTURE** - local facilities (doctors/schools/etc) are already oversubscribed and could not cope with an additional development;

**FLOODING** - this has been a major issue in the area. Further loss of green space to hard surfaces is going to increase the problem on this steeply sloping clay ground with natural springs and ponds;

**ENVIRONMENT** - the application involves the loss of ancient and veteran trees. It will also destroy the unique biodiversity on the site which currently supports a wide variety of flora and fauna;

**HERITAGE** - the proposed development will have a negative impact on the Grade II listed Ashley House and Charlton Manor.

The facile conclusion of the Heritage report provided by the developers suggests that the benefits outweigh the disadvantages but fails to mention any benefit!

**VISUAL IMPACT** - the development will not only have a negative impact on many nearby properties but also on the wider local views. Inexplicably the tallest buildings have been positioned on the highest part of the site where they will be most obtrusive from all aspects.

**CONCLUSION** - this application fails to meet many of the principles set out in the CBC local plan as well as principles in the Charlton Kings parish council plan and should therefore be rejected.

40 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 8th June 2020

We are strongly opposed to the current planning application to build the houses near St Edwards. I feel that this would cause far too many problems to the nearby community. The additional houses will cause extra unwanted traffic and noise.

I trust you will take my objections seriously.

39 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 29th May 2020

As a resident of Charlton Court Road, I am writing to you with a degree of disbelief and concern at the prospect of the proposed new housing development on the fields adjacent to the top of our close.

There have been repeated issues with the drainage and sewerage system leading down from the houses higher up, which have required Severn Trent to come and carry out emergency work involving diggers, pneumatic drills, etc in my back garden late into the evening, in their attempts to unblock and free up the current drainage system. It is becoming evident to me that the present system is already struggling to cope with our existing waste, so when I heard that there are now plans to link up a proposed fourty three new properties to the existing drainage system in the close, I was incredulous. There is NO WAY the drainage system in Charlton Court Road can handle such a large scale increase in waste and it would lead to much disruption, distress and not least, be a health hazard.

There is also the major issue of the blocked drains at the very bottom of the road, which during periods of increasingly excessive rainfall, have overflowed and had to be repeatedly pumped to deal with the back log of waste from our steep road up above. With increasing rainfall due to climate change becoming a reality of our times, expecting our existing drains to cope with even

more run off and waste from an entire new housing estate, is naive at best. The existing system quite simply was not ever designed for such a potentially heavy load.

In addition to the existing issues of inappropriate road access via Oakhurst Rise, damaging the existing ecology of the site and the interfering with the balance of an already high water table, I sincerely hope the Committee gives this issue of drainage into Charlton Court Road, some very serious consideration. What I have described above is the reality of the current drainage system. It would surely be an insanity to increase the load upon it and by such a massive degree. Thank you for reading and registering this objection.

7 St Judes Walk  
Cheltenham  
Gloucestershire  
GL53 7RU

**Comments:** 17th May 2020

The River Chelt and Lilley Brook are both subject to flooding from heavy rain prior to entering Cox's Meadow and any reduction in green areas that absorb water upstream from my property must increase the risk of future flooding. Therefore, I object to this development proposal.

5 Coronation Flats  
Oak Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JF

**Comments:** 15th May 2020

This development proposal is similar to previously rejected ones 17/00710/OUT which was for 90 dwellings and 18/02171/OUT for 69 dwellings This proposal is for 43 dwellings which is a reduction of merely 26 dwellings and the objections I raised for the previous two applications still stand. As someone who would be adversely affected by the extra traffic caused I strongly object to this plan. I will concentrate on some of the main objections:

(1) Contrary to Cheltenham Plan

The new "Cheltenham Plan Pre-Submission Version (Regulation 19) February 2018" states under policy HD4 that the site for land off Oakhurst Drive would only be suitable for 25 dwellings.(Page 62) The proposed development represents 172 % of the Cheltenham Plan number.

[https://www.cheltenham.gov.uk/downloads/file/6532/sd001\\_-\\_cheltenham\\_plan\\_pre-submission\\_reg\\_19](https://www.cheltenham.gov.uk/downloads/file/6532/sd001_-_cheltenham_plan_pre-submission_reg_19)

(2) Increased Traffic effect on existing residents in the area

The small reduction in the number of proposed homes does little to change the fact that given 1 to 2 cars per family there will be significant extra traffic along the narrow and steep residential approach roads. Indeed HD4 of the Cheltenham Plan makes reference to the "Steep gradients across the site", which are also a feature in the access roads to the site.

Furthermore there will be traffic for the inevitable deliveries to those properties, not to mention the difficulties of larger vehicles such as refuse collection, emergency vehicles , post office vans and so on negotiating the narrow and steep approaches.

It is absurd to suggest that most residents would go on foot or use public transport to get to Six Ways, because of the gradients (especially on the return journey carrying heavy shopping up Beaufort Road). The only bus going past Oakhurst Rise (bus P - Pulhams) passes at 08.55,

11.55 and 14.55 during the weekday (<https://bustimes.org/services/p-cheltenham-little-cleevmount-ewens-farm-charlton>), so it is unlikely that anyone "popping out" to Sixways for a pint of milk would wait 2 hours to come back - clearly most would take a car.

Section 5.17 of the developer's Transport Assessment April 2020 specifies there will be 86 car parking spaces in the development.

In the developer's Residential Travel Plan. Table 4.1 in section 4.9 it clearly shows that the developers consider there will be 255 extra trips to and from the site in a single day. There is just one road that allows cars to enter Oakhurst Rise and just two ways to exit from Oakhurst Rise, so the residents of the surrounding roads can expect a substantial increase in the number of cars going up and down their roads.

The residents of the proposed site will not, themselves, suffer this passing travel perched on top of the hill in their cul-de-sac, it will only be existing residents who have to put up with this extra noise, sound pollution, exhaust pollution, danger and more inconvenience generally.

It should be noted that the developers do not propose an alternative access to the proposed development via the grounds of St Edmund's school.

### (3) Landscape and Visual Impact Assessment

Drawing SK07 in appendix G of the developer's Transport Assessment April 2020 clearly shows the comparative size of the site compared to the nearby Ewens Farm Estate. It covers around the same area as that bounded by Beaufort Road, Oak Avenue, Churchill Drive and Ewens Road - an area which includes a high percentage of social housing with young families, who will suffer from the additional traffic.

The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.

### (4) Proposed housing density

According to the Battledown Estate site <http://www.battledown.co.uk/covenant.asp>, in the Deed of Covenants and Regulations, number 5 states "No person is to build on the Original Lots of Estate land more houses than in proportion of one house to each half acre of land". This Estate is adjacent to the site and the proposed density of the site (shown in the Design and Access Statement is 11 units per hectare (2.47 acres) which equates to 2.225 units per half acre of land. This is double the allowed adjacent density of 1 unit per half acre of land. The developer also states that the area to the west of the site has a similar density to the rest of the town, which I would also dispute, because the estate was laid out in the 1950s with substantial green shared areas and gardens. It does not exhibit the same housing density as other areas below the estate.

I urge you not to grant planning permission and to also withdraw this land from policy HD4 in the Cheltenham Plan under consideration, so that we are not plagued with constant revisions of this ill-thought development.

9 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 6th June 2020

## Page 271

In reference to the above we would like to raise our concerns and register our objection to any proposed development on the Oakhurst Rise site.

At this stage, we feel the need to mention the below points;

The historical difficulty in getting insurance for living on what the insurance companies consider to be a flood plain already.

Any further house development efforts will exasperbate the issue and likihood of flooding at the bottom of the road, as the ability of the land to soak up and dissipate the water will be compromised.

The additional traffic volume and vehicle space would place further strain on Charlton Court road.

The increased burden on the social structure with the area. Specifically the schools and doctor surgery.

We hope once again the council will decline the application,

12 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

### **Comments:** 5th June 2020

I strongly object. My objections remain the same as stated on previous applications. The current plan for 43 dwellings does not change anything. The negative impact on the local area regarding transport, communications, accessibility, flood risk, etc. is immense. However, most important of all is that this area is a key wildlife and nature reserve. We must preserve and protect our biodiversity and this wonderful habitat is a perfect example. Surely, the importance of this has been more than demonstrated within the current situation we find ourselves of the coronavirus pandemic.

Tall Timbers  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

### **Comments:** 6th May 2020

I strongly object to the application for a number of different reasons:

- 1) Unsuitable access and increased traffic: the roads surround ewens farm and oakhurst are already crowded and dangerous hence the 20mph speed limit. A higher volume of traffic through this area is not suitable or safe especially for the high number of cyclists and children who use the route to get to the local schools. Oakhurst rise gradient is not safe for increased traffic.
- 2) The damage to environment. The area proposed for development is a large field which homes lots of wildlife including newts, bats and badgers and also contains protected trees.
- 3) The increase in flood risk. As a local resident we were affected by the local flooding in Cheltenham. The field holds a huge quantity of water when there is heavy rain and helps reduce this risk of further flooding.

Fremington  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 23rd May 2020

We would like to object strongly to this outline application for 43 dwellings on land adjacent to Oakhurst Rise. Two previous applications by the same developer were rejected by CBC and the second one was further rejected by the Planning Inspector under appeal. This current application raises the same issues as the previous applications and therefore should not even be considered.

At minimum we request that this application is considered by the Planning Committee, when it is able to meet, as opposed to by the Planning Officers, who previously have been (correctly) over-ruled by the committee and the inspector.

The new application for 43 dwellings is still well in excess of the 25 recommended in the Cheltenham Plan. The main issues are:

**ACCESS** - Oakhurst Rise is too narrow and too steep to accommodate traffic for such a development;

**TRAFFIC** - local roads are already overloaded, extra traffic would cause significant problems, and local public transport is inadequate;

**INFRASTRUCTURE** - local facilities (doctors/schools/etc) are already oversubscribed and could not cope with an additional development;

**FLOODING** - this has been a major issue in the area. Further loss of green space to hard surfaces is going to increase the problem on this steeply sloping clay ground with natural springs and ponds;

**ENVIRONMENT** - the application involves the loss of ancient and veteran trees. It will also destroy the unique biodiversity on the site which currently supports a wide variety of flora and fauna;

**HERITAGE** - the proposed development will have a negative impact on the Grade II listed Ashley House and Charlton Manor.

The facile conclusion of the Heritage report provided by the developers suggests that the benefits outweigh the disadvantages but fails to mention any benefit!

**VISUAL IMPACT** - the development will not only have a negative impact on many nearby properties but also on the wider local views. Inexplicably the tallest buildings have been positioned on the highest part of the site where they will be most obtrusive from all aspects.

**CONCLUSION** - this application fails to meet many of the principles set out in the CBC local plan as well as principles in the Charlton Kings parish council plan and should therefore be rejected.

Charlton Manor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS



**Comments:** 6th June 2020

All previous objections points apply and are captured in full in other impassioned and expert residents' views.

Please make the inspector's commentary available to the planning committee in full.

How we can be here again, only 6 months after a dismissed appeal, is unfathomable. Almost none of the points raised at that appeal have been more than superficially addressed, other than moving back the boundary of the notional build (but with no management strategy for the resultant "fallow space" which will become a dumping ground for fly tippers, a short cut for criminals into back gardens not protected or designed to be secured from access in that direction; what it won't be is the beautiful wildflower meadow that is already in situ.)

A range of areas of concern such as flooding and spring water handling have been erased, presumably due to a tick box approach to the appeal findings - that isn't adequate and needs additional scrutiny.

This series of applications have been the opposite of community engagement and good master planning - the civic society comments encapsulate residents' sentiments concisely.

Please can this entire process be audited to ensure nothing similar can happen again and lessons are identified and processes changed?

Savoy House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 2nd July 2020

I write to object to the renewed attempt for planning at Oakhurst Rise.

The natural beauty retained within this domain is special and there should be consideration for retaining the space and habitat that already exists here in its natural environment.

The pursuance to build homes that are clearly for the pursuit of monetary gain is clear, seeing access to this development would be extremely difficult and only add unnecessary congestion to an area which has thrived on its peaceful nature since one can remember

Meadow View  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 22nd May 2020

As a property owner of Meadow View, Birchley Road, my property forms part of the northern boundary of the proposed development site. I have been fundamentally opposed to the proposed developments since they were introduced in 2017. I am also aware that there have been numerous previous applications over the years, which have all been rejected. It is inconceivable to see why 2020 is the correct time to reverse all the past judgements of history.

I have responded to all of the previous applications that have been rejected by Cheltenham Borough Council Planning Committee. This includes 17/00710/OUT, 18/02171/OUT and the response to the Cheltenham Plan 2011 to 2031, where the site is classified as HD4. Plus, the

recent appeal. In fact, there have been so many changes to this application since it was first proposed in January 2017, it is difficult to understand exactly what the developer is really trying to achieve, other than maximization of profit with disregards to environmental protection and ignoring local community feedback. From my perspective, the developer strategy seems to include: -

- Have extremely poor engagement with the local stakeholders including the local community
- Totally ignore stakeholder engagement and responses, fail to respond to the knowledge of the local community who live in the area and understand the complex issues associated with this site
- Use of arrogant, high profile "out of town" consultants who deliberately fail to engage with the local community and are not prepared to see their analysis challenged
- Wear down the spirit of the stakeholders, to the point at which they so confused as to the process being followed that they fail to object to the latest version of this badly conceived project
- Throw in multiple applications, with each one being a slightly "watered down" version of the last
- Previously we have seen "developer tactics" such as the Wheatcroft principle, proposing the use of independent lawyers to act as a quasi-public response forum.

In general, the whole process has been deeply frustrating, though I applaud the action taken by the Cheltenham Planning Committee, who have on two occasions strongly rejected the advice of the Cheltenham Planning Officer, who had recommended that both 17/00710/OUT and 18/02171/OUT should be permitted. Plus, the view of the inspector who in 2019 rejected the appeal. I would hope that the same Cheltenham Planning Committee will reject this application as well.

I have read the latest documents in detail and all of the comments, I strongly object to the proposed development and I note the following: -

1. The stakeholder engagement for this process by the developer has been non-existent. At least in 2017, there was an initial public exhibition, however responses from the developer team were fundamentally arrogant and unhelpful. Subsequently there has been no effort to engage with the local community, other than some bizarre threats around trespassing, car parking etc. Irrespective of the merits of any application, if any developer does not follow NPPF, he should not be allowed to ignore the principles of community stakeholder engagement, just to save money and force through his proposed development. On this issue alone the appeal should be rejected.

2. The new layout of the site is of great concern. In the design and access statement by Coombes:Everitt, they discuss the site in great detail. However, it is absurd that they have placed the tallest houses on the very highest part of the site. These are house types Painswick and Highbury on Road 4, with a height to the ridge of 9.7m. The highest part of the site is on the northern boundary of the site, exactly where these houses are located. These houses can best be described as tall town houses on 3 floors or 2 ½ story in "developer speak". This will make the proposed development extremely obtrusive and visible from all over the area. It is astonishing that Coombes:Everitt who did a detailed topographical survey for 18/02171/OUT, did not recognize this issue when they re-designed the layout for this latest application. It questions their competence and professionalism. On this issue alone the appeal should be rejected.

3. At the very start of the first application in 2017, I believed that a major failure with the application was the lack of a secondary access for a site of what was going to be 100 homes, later 69 and now 43. The access point chosen, Oakhurst Rise is totally inadequate for the purpose, being both a current narrow residential cul-de-sac and with extremely steep gradients. A great deal has been said about the access, however any inspection by any "normal person" would conclude that the access point is fundamentally dangerous and inadequate. Clearly if the appellant is finally allowed to construct, we will be tacitly agreeing to numerous road traffic accidents in the future. The appellant could have obtained a secondary access, and this was a

key point raised in the refusal of 17/00710/OUT. However, he failed to address this issue in 20/00683/OUT, presumably as a money saving issue. On this issue alone the application should be rejected.

4. As a property owner on Battledown, I am aware of the clay nature of the site and the operation of numerous natural springs on site and complex drainage patterns. As an example, just over the boundary of my property there is a medium size natural pond. This has been listed on maps for hundreds of years, though the developer does not even recognize this. In the latest application the ecologist again describes it as an ephemeral pond. Having owned Meadow View for over 10 years, I can assure you that the pond level does vary and will dry out during dry summer periods, however for most of the year it is wet and a source of life and used for birds and animals to drink. I do not know how this pond works, we do know there are springs in the area and the level increases rapidly after rainfall, hence there must be significant drainage entering the pond. There is no mention in the planning documentation as to what is proposed for this pond. It does not feature in the drainage plans. At present it appears to be ignored, not featuring on any of the site layouts. However, it does appear in Aspect Ecology's map 5487/ECO3. Of great concern is in 5487/ECO4, it has disappeared entirely. I presume it will be filled in, causing flood risk to properties to the north on higher ground, forming part of the Battledown Estate. If it is not filled in, it will of course be a health and safety concerns and a flood risk to properties below. This type of lack of attention to detail has been typical of the developer. Aspect Ecology, an Oxfordshire based, national consultant to property developers, has made no effort to discuss the function of the pond with the local community, but happy to carry out desk top assessments and produce misleading and biased reports. Again, this is a poor example of the arrogance and disregard shown by the developer to this project and the local community. I assume there are multiple issues like this on the proposed development and again I would state that on this issue alone the appeal should be rejected.

There are numerous examples that I could cite of poor design, incorrect analysis, ignoring difficult issues, twisted data, lack of community engagement and so on. The process has been extremely time consuming and expensive for those wishing to object, when up against the almost limitless funds of the developer. Surely this is the time to say a firm "no" to this development and hopefully secure approval for this site to be designated a Local Green Space for the benefit of future generations.

I trust the Planning Committee will listen to the community wishes, the previous judgement of the appeal and not just be "brow beaten" by the power of a wealthy developer, with his army of "experts" and their Carmelite partners.

Newlands  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 23rd May 2020

Reference: Application 20/00683/OUT

I strongly object the application for 43 dwellings on land adjacent with single access from Oakhurst Rise.

This application follows a subsequent application which was refused by the Appeal Inspector B.J.Sims on 20th September 2019 for development submitted under 18/02171/OUT made by the same applicants. The following application was also refused by the Borough Council for planning application 17/00710/OUT, submitted by the same developers.

### Local plan

As per the JCS and local plan, the proposed development at this level is significantly beyond what the local plan targets on this site, therefore confirming that a development of this size is not required.

### Access

At the last planning enquiry, a paper was presented and is now public record, of the deficiencies in the proposed site access. The original approval was from the Highway's authority based at Tewksbury, who admitted that it had been done without even a site visit. The access to the site is inadequate to support the increase volume of road traffic that would be generated by so many houses in such a location. Access to the site remains a key issue and is yet to be resolved.

### Traffic

The transport assessments in the application are inaccurate. The number of cars that would inevitably be used to access the site means considerably more car journeys will be generated than suggested, and Oakhurst Rise is not a suitable access road to support that. In addition to the access concerns, the current traffic issues on the busy London Road and Hales road intersections would be stressed further. The area cannot handle an increase in traffic.

### Flooding

I am concerned about the increased run-off and flood risks for neighbouring areas likely to result from such extensive loss of vegetation and permeable surface area. Our locality is already prone to flash flooding; increased run-off down the hill will not improve this.

### Loss of natural habitat and ecology

The loss of valuable biodiverse habitat for wildlife is a major issue, both in conservation terms and for residential amenity. A great variety of flora and fauna is thriving in this field. There is an established badger set and many buzzards, red kits and owls are seen frequently in and around the ancient hedge line surrounding the area.

### Local infrastructure

The local infrastructure including schools and doctors' surgeries in particular, do not have the capacity to support the additional pressure an application like this will create.

In summation, we do not believe the proposal is remotely appropriate or in accordance with a number of aspects of local planning policy.

Glenwhittan  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

### **Comments:** 21st May 2020

I write to object to the above planning application, on the grounds of the serious damage it would cause to part of a unique landscape - the Cotswold escarpment; in line with comments submitted on 20th March 2017 to the Cheltenham Plan (part one) Public Consultation; and for other reasons, relating to environment and wildlife habitat and also in respect of the proposed access.

### Landscape

The first objection is that the application would allow damaging development and construction work on high ground forming part of the Cotswold escarpment. Ground contour levels for the site rise from about 100m AOD at the south end of the site, to about 125m adjacent the rear of Birchley Road properties, on the north side of the site; whereas almost all major development in Cheltenham over the last 100 years or so has been limited to ground levels of about 105 - 110m AOD. The site is not a non-descript field in Gloucestershire: it is part of the Cotswold escarpment. As proposed in the comment for the Cheltenham Plan: Public Consultation, there should be no development on ground above 110m, in order to protect the escarpment; which, from south of Gloucester to the north of Cheltenham (past Prestbury, Bishops Cleeve, Woodmancote, Oxenton, Teddington), remains a largely undeveloped, unspoiled landscape of great natural beauty.

The only major development on the east side of Cheltenham is Battledown, which was planned and laid out about 150 years ago; with the significant requirement that every property should be sited on an half acre plot. This allowed most of the properties built to be planted with major trees, so that it is now visually a green tree-covered landscape with many properties part hidden when looking from the west (Gloucester, Staverton, Churchdown, Tewkesbury) eastwards. The properties proposed for the Oakhurst Rise development are generally on plots of limited size, which will not allow the planting of large trees (because of the disruptive effect they would have on the properties themselves).

In this sense, the proposed development, with houses on ground rising to about 125m, is as undesirable and damaging to the landscape as development of the middle slopes of any hills, escarpment or coastline would be. It would also set a terrible precedent for higher level development of the south side of the existing village of Charlton Kings, below Daisybank Road. Regarding levels, a limit of 110m would approximately match the extent of recent development on the south side of Charlton Kings: there is a spot level of 109m at the top of Sandy Lane, near Southfield Manor. Adjacent the Oakhurst Rise site, the ground level round the highest of the school buildings is about 108m.

### Environment and Wildlife

This problem with the proposed development is compounded by the planned removal of parts of a major old hedgerow, which has developed over the last century at least into an area of wild woodland, which extends to an area of about 4,000m<sup>2</sup>, about 1 acre. As a consequence of its age and size, and its continuity from the north to the south of the site, across ground levels from about 125m to about 100m, at present it shelters, and provides a wildlife corridor for foxes, deer, bats, birds, especially owls and wood-peckers, a wide variety of small mammals and reptiles (newts, snakes and slowworms), and butterflies and insects: some of which wildlife is rarely seen elsewhere, or is documented as rare. It is proposed that the section between about contour levels 115 and 120 would be removed to make way for the access road and housing. This would destroy the wildlife corridor.

Near the north end of this woodland area there is a very large veteran oak tree (tree T8 on the original tree survey, with a girth of about 5.5m). This tree requires at least the detailed protection measures set out in BS 5837 (Trees in relation to construction) including a construction exclusion zone; (as required in cl. 3.1.2: to be established "before works commence on site (which) is essential as the only way to prevent damage being caused to retained trees by operations in their vicinity"; (such 'damaging operations' to be prevented would include any construction or arboricultural works within the exclusion zone).

There is a second small wild wooded area about 30m to the east, about 600m<sup>2</sup> in area, on high ground (levels about 121 - 124m) on the north side of an existing large badger sett. It is proposed that this is to be removed entirely, including the badgers.

There is really no planning or intellectual argument to justify destruction of wild woodland, in the absence of confidence in the developer's willingness and determination to protect important features of the existing environment as they are now. The developer's justification is that many of the individual trees to be removed are not of specimen value, not being individually planted and nurtured, i.e. being wild; overlooking the fact of the unbroken length and size of the woodland area, that can be seen for miles around. Over at least the last century this woodland has become home to wildlife, and a wildlife corridor in a natural environment without any human interference: the adjoining meadows are mown once a year, about a day's work with a tractor.

The objection to the Developer's proposals, in relation to existing mature areas of trees forming woodland, is supported by another recommendation of BS 5837: Trees in relation to construction: cl. 4.2.4: "Trees forming groups and areas of woodland (including orchards, wood pasture and historic parkland) should be identified and considered as groups ..... particularly if they contain a variety of species and age classes that could aid long term management. It may be appropriate to assess the quality and value of such groups of trees as a whole, rather than as individuals." That recommendation is reinforced strongly when the area of woodland is also home to a wide variety of species of wildlife, as in this case.

Furthermore the Office for National Statistics is now mapping and valuing environmental assets as part of a government project to 'improve understanding of our natural capital': (Report: The Times: July 23rd, 2019); which continues: 'It estimated the worth of Britain's green spaces...in terms of carbon sequestration (the ability of vegetation, especially trees, to absorb carbon dioxide), the removal of air pollution from the atmosphere, and recreation. .... Valuing natural capital has become a critical issue because, without a price, markets automatically treat the environment as worthless. Costing natural services helps to correct that mistake and improve decision-making.'

Though the main reasons for objections on these grounds, (and therefore for rejection of the application), are first, preservation of irreplaceable landscape and wildlife undisturbed, and second, retention of woods and trees as by far the best method of carbon sequestration currently and definitely available, (all within a thriving community); the retention of natural habitat and ecology is also of great value, especially when available to a school, and through the school to other young people.

Finally, a recent 'Nature Notebook' from The Times (March 2019) reports the typical decline in abundance of wildlife resulting from tidy and managed development in an English county:

*"Visiting my father, who still lives in the village where I grew up, I was struck by how busy the roads were, how tidy and managed it seemed compared with the rambling, slightly ramshackle place I remember - and how little space was left for the natural world. Everything that wasn't built on was trimmed and pruned, every green glimpsed was a monoculture paddock or tightly manicured golf course, the tangled woods I once played in tidied and fenced off for paintball. It looked pretty and prosperous, but as money poured in to create this ..... the wildlife was quietly forced out.*

*In the past thirty years 11.5% of the county's plants, birds, invertebrates, fish, reptiles, amphibians and mammals have become locally extinct, a far higher figure than the national rate of 2%. A further 4.4% are threatened with extinction. There's no agribusiness or heavy industry to blame; ... but the area ranks in the top 25% of England's most densely populated counties .... Nature needs untidiness to flourish; it must be allowed to be self-willed, not made to look like something from a glossy magazine. 'O let them be left, wildness and wet; Long live the weeds and the wilderness yet.'*

*If development goes ahead there will be ecological surveys, and 'biodiversity offsetting' should be put in place, which can mean little more than planting non-native saplings in place of mature native trees. But some site-faithful birds such as sparrows (which are in decline) rarely move*

*more than a kilometre from their place of birth; the loss of suitable breeding habitat for a couple of seasons can wipe out a small colony. This is how we lose our wildlife: bit by bit."*

### Access to site and Transport

The road proposed for access to the site, Oakhurst Rise (OR), is seriously inadequate in several ways. The road design standards required for the access road are set out in at least two relevant documents:

Glos. C. C.: 'Highway requirements for development' (GCC:HRD)

Vehicular Access Standards: Development Control Advice Note 15, 2nd edition; produced by the Planning service, an Agency within the Department of the Environment. (The purpose of this Advice Note is to give general guidance to intending developers, their professional advisors and agents on the standards for vehicular access.) (VAS)

In addition, the Construction (Design and Management) Regulations 2015 are relevant to all aspects of the proposed development; particularly Regulation 27 Traffic routes. (CDM Regs)

- The road gradients (of OR) are too steep: almost 15% gradient for the upper length leading to the site entrance; about 13.5% for the lower length joining Beaufort Road (BR): both far in excess of the standards: GCC:HRD gives 8%, VAS gives 10% but with one important qualification. The consequence is that, at those gradients, the access road will be unusable by many vehicles after snowfalls, and will be hazardous in icy conditions; with a potential risk of accidents at the junctions, because of cars and lorries failing to stop in time, or sliding into or across the two T-junctions, one at the bottom of the upper slope opposite 17 OR, and the other being the BR/OR junction which is extremely critical, because of the potential volume of traffic. At the BR/OR junction in particular the gradient of the lower length of OR (about 13.5%) continues until close to the junction without a reasonable 'dwell' area of level or reduced gradient length of carriageway in OR to assist vehicles having difficulty in stopping. In view of this potential hazard, the VAS requirements are that 'the gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary' and 'The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather'; but it is impossible to achieve anything even close to this: see VAS cl. 10.3.

- The width of the access road (OR: 5.5m) is too narrow: VAS requires 6.0m for a two-way access; and in addition, because the road is narrow, the entry radius for the turn from ER into OR is tight without straying into the opposite (downhill) carriageway. This is important because of the proposed shared use by OR residents and construction traffic.

- The OR pavement widths (1.7-1.8m) are rather narrow: GCC:HRD requires 2.0m.

In summary OR does not comply with requirements for an access road to serve 67 dwellings, instead of the 24 it serves at present; i.e. as well as not meeting standards given by the documents noted, there would be a very high intensification of use.

Beside the unsuitability of OR as the access road to the site, the assessment of the effect of the development on the local roads immediately affected is flawed because there would be a substantial increase in traffic on the two roads leading away from OR: Ewens and Beaufort Roads (ER/BR):

- Current dwellings: Ewens Road 19  
Pine Close, OR 43  
Beaufort Road 41

- i.e. the total number of dwellings: 103 at present, would increase to 146.

- Therefore there would be a substantial increase in traffic on Ewens and Beaufort Roads leading away from OR: whereas on-street parking on these roads and Haywards Road (the next affected road for traffic towards Cheltenham) was described as 'sporadic': definition 'occurring only here

and there, separate, scattered'; the street parking is nearer constant and widespread than sporadic, and already severely restricts vehicle movements on these roads, and on Oak Avenue.

- All these roads are residential roads, not suitable as transitional roads, and certainly not as local distributor roads: (a through traffic route suitable for moving traffic between different parts of the town).

- In discussing overall design concepts the GCC:HRD recommended: 'The creation of large cul-de-sac estate layouts, where a large number of houses rely on one access road, and pedestrian access is similarly restricted, must be avoided'.

In summary, the traffic generated by the development would feed into local residential roads which are also steep, narrow and already congested by traffic and on-street parking.

The CDM Regulations are relevant in particular because of the very significant variation of the actual parameters of the access road (OR) from reasonable road parameters (particularly gradients) recommended in the appropriate standards (VAS or GCC:HRD). As an example, the OR gradient up to the junction with Beaufort Road is about 13.5%, whereas the VAS standard requires that: 'the gradient shall not normally exceed 4% over the first 10m outside the public road boundary ..... The remainder should have a gradient less than 10% so that it may be used during wintry weather.' That discrepancy, by such a large margin between actual gradient and DOE recommended values and the absence of a dwell area, implies a potentially serious hazard, with the associated risk certainly including a traffic accident or one involving a vehicle with a pedestrian or cyclist.

Under the Regulations, it is one or more of the CDM dutyholders (the Client, the Principal Designer and other designers, and the Principal Contractor) who are responsible, when preparing or modifying designs for the project or development as a whole, for identifying, eliminating or controlling foreseeable risks, by following the general principles of prevention set out in the Regulations. That process (a fundamental part of the project design) should have been started before the first planning application was made. In persisting with what appears to be a completely inappropriate access to the site, there appears to be a failure to comply with the CDM Regulations, which are statutory provisions; in which case, the present Application should be rejected on these grounds alone.

29 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 18th May 2020

I object to the above application.

This latest application for 43 dwellings follows on from two other rejected applications since 2017 from the same developers, with the last one rejected on appeal. A previous planning application on the same site was rejected in 1984.

Access and Traffic: the sole access road is unsuitable. Oakhurst Rise is narrow, bendy, and very steep. In winter it is often impassable and many cars on the road are left stranded when snow falls or ice forms. The road is not gritted by the council. The increase in traffic will have a detrimental effect on our amenity with the noise and pollution. Residents of the new development would be very likely to use a car to leave the estate to access local amenities at Sixways due to the distance and steepness of the road. Most of the residents of Oakhurst Rise use their cars even for short trips due to the steep gradient. The inevitable traffic increase in the local Ewens Farm estate would make what is already a busy rat-run even more unpleasant for the residents.



Visual Impact: the design and layout of the dwellings is disappointing and not at all imaginative. If houses do have to be built on this meadow, could they not have been designed to blend in, be eco-friendly and show some sympathy for the surroundings? Green roofs would reduce the visual and flooding impact. The visual impact on the view from Leckhampton Hill should not be underestimated and there will be an obvious loss of a large chunk of green land at that contour, which is currently predominantly green up to the top of Cleeve Hill. Developing this land would set a precedent for covering all of the hillsides around Cheltenham with buildings.

Amenity: we live at the top of Oakhurst Rise, and we chose to live here because it is a cul-de-sac, with all the benefits of privacy, lack of pollution and peace and quiet that we are lucky enough to enjoy now. This would all go if this development went ahead.

Flooding: Devastating "once in a hundred years" flooding took place again this winter. This is clearly going to happen again and paving over a large tract of this field will exacerbate the problem. Whatever the developers do, they will not catch all the extra water run-off. We have seen the effects of this first hand as there is a spring in our garden that spouts water a few days after heavy rainfall, showing how the land above us soaks up the water like a giant sponge and releases it slowly rather than in a torrent. We are also concerned about the flooding threat caused by the construction work; some years ago, our neighbour experienced a flood threat to his property caused by run-off from a small house construction site nearby in Battledown. The entire site is on deep, solid clay.

Ecology: There are keen amateur naturalists living in the neighborhood, and we have observed a great variety of flora and fauna on this field through the seasons. Whilst the latest iteration of the plans is a vast improvement on the 2 previous recent applications, it is disappointing to read the dismissive report on biodiversity in this application. It is clearly wide of the mark. No mention for example of the Red Kites and Buzzards seen frequently hunting over the field, or the noisy Tawny Owls in the hedge line near Oakhurst Rise. The surviving fauna will be confined, left to forage in relatively small areas and will quickly come into conflict with new house owners. The term "no special conservation status" seems to be used to justify ignoring much of the resident wildlife. Presumably, those ignored species will eventually move on to the "red list" of endangered species as their habitats are removed by developments such as this one?

### Trees

Ash trees are under threat from Ash die-back, and the Woodland Trust now want to conserve the type of Ash tree located in habitat found commonly on this site. The Ash trees that are threatened by this development could survive the disease and help to protect the future of this iconic species.

### Badgers

There is a large, long established, and active badger sett on the site. The colourful ecology map makes no mention of it, and in the text, it states that "legitimate parties only" can see the appendix 5487/3 relating to the badgers. The previous plan to re-locate the sett to the southern boundary seems to have been abandoned and St. Edward's School have created a farm in the area previously designated for a re-located sett. If they are to be left where they are, the badgers will be confined to a tiny, totally inadequate foraging area surrounded by housing. The foundations of the nearby houses are likely to need piling; it is illegal to do such work within 100m of an active badger sett.

### Affordable housing

The small amount of "affordable" housing on the plan may or may not appear as this is an outline planning application only. If it does materialise, it will be very expensive if the "20% below market value" approach is used. It does not seem at all suitable as a site for affordable housing.

I strongly urge the planning committee to once again reject this application to develop this special piece of land and preserve it as part of Cheltenham's carbon-neutral strategy.

27 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 22nd May 2020

As residents near the top of Oakhurst Rise, we strongly object to the proposed development.

1. If this development is allowed to proceed, how would the developers ensure the prevention of mud being carried onto the highway? My wife attends the local day centre, three days each week. It would only take one instance of a dangerously muddy road for the day centre to refuse to transport my wife on health and safety grounds - the danger of transporting a wheelchair across a steep / muddy road.

I am sure the developers already have extensive documentation covering this but what would be their position when it fails (as it will) and my wife is denied access to the day centre? I am equally sure they will be very apologetic but this will be of no use to my wife and her loss of amenity and mental health.

2. Building on this land at the top of a hill will lead to more flash floods of the River Chelt and the brooks/streams that feed into it. One small pond will not catch all of the water previously absorbed by 10 acres of green fields and dozens of oak trees. Please take time to read the Consultee document written by the Cheltenham Flood and Drainage Panel which highlights the serious shortcomings and omissions of the FRA for this application.

3. The proposed access via Oakhurst Rise would have an unacceptable impact on the local highway network, and the amenity of local residents. The volume of traffic from the proposed development would overwhelm the existing infrastructure of the estate. All of the roads feeding Oakhurst Rise are narrow and congested with on-road parking. The existing traffic flow throughout the estate is already chaotic and dangerous at the best of times.

Oakhurst Rise is a small, narrow and steep cul-de-sac with a blind junction leading into Ewen's Road. Oakhurst Rise is inaccessible in snow and residents resort to parking their cars further down the hill. How will the extra 86+ cars cope with snow/ice? And how will emergency vehicles access the development in snow?

Additionally, the steep incline within the cul-de-sac would fail to encourage the use of sustainable modes of transport and would likely result in a reliance on the use of private motor vehicles. Alternative potential vehicular access routes do not appear to have been fully explored.

>>> Policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 108 - 110 of the National Planning Policy Framework (2018).

4. The proposed development would result in the loss of a significant number of trees within the application site, including a number of important TPO'd and veteran trees, the loss of which would fail to be outweighed by wholly exceptional reasons. The proposed layout would also fail to achieve the greater Root Protection Area (RPA) distances recommended by The Woodland Trust for the retained ancient and veteran trees. The site is also bordered by ancient hedgerows, protected by the Hedgerows Regulations 1997.

>>> Policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017), paragraph 175(c) of the National Planning Policy Framework (2018) and the Hedgerows Regulations 1997.

5. The proposed site is a rare, organic wild flower meadow and should be protected as a matter of urgency - designation as a Key Wildlife Site or a Local Green Space would be a good start. Protected species at risk include a large badger sett, 7 species of bat (of which 5 are designated as NERC Priority Species) and dozens of species of birds.

>>>The Natural Environment and Rural Communities (NERC) Act came into force on 1st Oct 2006.

6. The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.

>>> Policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).

7. The proposed development would have a significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.

>>> Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2018).

25 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 21st May 2020

I object to the new updated planning application 20/00683/OUT, on safety concerns and as previous subjects listed below, which are the same as prior applications.

1. Increased traffic on the Ewans Estate, which is already at a critical stage during certain times of the day, and especially on Ewans Road and Beaufort Road, the proposed 43 dwellings which will mean, in the real world (2 cars a dwelling, forget Highways statement of 1.3 cars) 86 vehicles, which could mean 172 extra movements a day, minimum, on this already grid locked estate plus delivery vans etc. From my home I may see 4 cars go out in the morning and 4 cars return and maybe 4 delivery vans, now with your proposed development I may have 192 plus go past. This cannot be right. I strongly object and so do my neighbours.
2. It has been mentioned many times by residents and council officers and stated on all previous applications including the Appeal that the approach to this proposed development using Oakhurst Rise whether it's for 25 or 43 dwellings is totally unacceptable. Oakhurst Rise, is a very steep twisted Cul-de-Sac, and due to when the bungalows were built only parking for one car was required, now residents have to park their 2nd car on both sides of this Cul-de-Sac, making it an even narrower one car lane width in places. Refuge vehicles and Emergency vehicles sometimes have difficulty with access.
3. During the severe winter weather, gritting Lorries never try to approach this Cul-de-Sac, only 4x4 vehicles or cars with chains can drive up this steep gradient.

4. Oakhurst Rise junction to Beaufort Road is now a very dangerous blind single lane junction due to parked vehicles on one side.
5. Local services such as the Doctors Surgery and Schools, are already oversubscribed with a long waiting list.
6. Concern as on all previous objections, water drainage and flooding of the field. These were discussed on many occasions, but we were never given a satisfactory answer.
7. The loss of green space, an area of outstanding beauty, with wonderful protected trees, wild life, animals and birds, rare wild flora, and bats, and the deer with their young. It's all part of the rich Cheltenham diverse natural wild live we have to offer. Do we really want to destroy all this?
8. At the last hearing I had to sit through a speech by the Highways representative on why he thought the access was acceptable. If you read my objections and then read all the other objections, not only on this application but previous applications only referring to the access, surely we as objectors cannot all be wrong. I suggest Highways take another look.
9. I strongly recommend planning permission is denied for this development of 43 dwellings.

16 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 22nd May 2020

We vehemently object to the proposed latest building application of the site off Oakhurst Rise. Apart from what seems to be an almost identical application to the last and therefore in our eyes a flagrant waste of public finance, the fundamental flaws in the proposal have not been addressed and remain:

The safety of road users and residents in and around the Oakhurst Rise and Beaufort Roads, an already well documented area of concern in its current state, this development will only exacerbate the traffic and visibility issues. The road gradients of Oakhurst Rise (OR) are too steep: almost 15% gradient for the upper length leading to the site entrance; about 13.5% for the lower length joining Beaufort Road (BR): both far in excess of the standards: GCC:HRD gives 8%, VAS gives 10% but with one important qualification. The consequence is that, at those gradients, the access road will be unusable by many vehicles after snowfalls, and will be hazardous in icy conditions; with a potential risk of accidents at the junctions, because of cars and lorries failing to stop in time, or sliding into or across the two T-junctions, one at the bottom of the upper slope opposite 17 OR, and the other being the BR/OR junction which is extremely critical, because of the potential volume of traffic. At the BR/OR junction in particular the gradient of the lower length of OR (about 13.5%) continues until close to the junction without a reasonable 'dwell' area of level or reduced gradient length of carriageway in OR to assist vehicles having difficulty in stopping. In view of this potential hazard, the VAS requirements are that 'the gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary' and 'The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather'; but it is impossible to achieve anything even close to this: see VAS cl. 10.3.

o The width of the access road (OR: 5.5m) is too narrow: VAS requires 6.0m for a two-way access; and in addition, because the road is narrow, the entry radius for the turn from ER into OR is tight without straying into the opposite (downhill) carriageway. This is important because of the proposed shared use by OR residents and construction traffic.

## Page 285

o The OR pavement widths (1.7-1.8m) are rather narrow: GCC:HRD requires 2.0m. In summary OR does not comply with requirements for an access road to serve 67 dwellings, instead of the 24 it serves at present; i.e. as well as not meeting standards given by the documents noted, there would be a very high intensification of use.

Beside the unsuitability of OR as the access road to the site, the assessment of the effect of the development on the local roads immediately affected is flawed because there would be a substantial increase in traffic on the two roads leading away from OR: Ewens and Beaufort Roads (ER/BR):

o Current dwellings: Ewens Road 19  
Pine Close, OR 43  
Beaufort Road 41

o i.e. the total number of dwellings: 103 at present, would increase to 146.

o Therefore there would be a substantial increase in traffic on Ewens and Beaufort Roads leading away from OR: whereas on-street parking on these roads and Haywards Road (the next affected road for traffic towards Cheltenham) was described as 'sporadic': definition 'occurring only here and there, separate, scattered'; the street parking is nearer constant and widespread than sporadic, and already severely restricts vehicle movements on these roads, and on Oak Avenue.

o All these roads are residential roads, not suitable as transitional roads, and certainly not as local distributor roads: (a through traffic route suitable for moving traffic between different parts of the town).

o In discussing overall design concepts the GCC:HRD recommended: 'The creation of large cul-de-sac estate layouts, where a large number of houses rely on one access road, and pedestrian access is similarly restricted, must be avoided'.

In summary, the traffic generated by the development would feed into local residential roads which are also steep, narrow and already congested by traffic and on-street parking.

The importance of protecting an abundant and rewarding area of natural beauty for this and future generations of Cheltenham residents. The land proposed for development is resident to deer, bats, badgers, owls, hedgehogs, woodpeckers, buzzards, preserved trees and many more important species. There are only so many times we can say these creatures and spaces are less important than housing needs. No one wants to live in a future metropolis held together with Tarmac.

The development would represent a serious flood risk to the proposed new residents and the existing residents in the adjoined area. It takes a day of heavy rainfall for the fields to become waterlogged. The current ecology retains the water within minimum run-off but in my belief that this development will destroy what has been a fine balance between residential infrastructure and nature.

**Comments:** 17th June 2020

Please accept this email as notice of our vehement objection to the proposed and latest building application (20/00683/OUT) of the site off Oakhurst Rise. Apart from what seems to be an almost identical application to the last and therefore in our eyes a flagrant waste of public finance, the fundamental flaws in the proposal have not been addressed and remain:

The safety of road users and residents in and around the Oakhurst Rise and Beaufort Roads, an already well documented area of concern in its current state, this development will only exacerbate the traffic and visibility issues. The road gradients of Oakhurst Rise (OR) are too steep: almost 15% gradient for the upper length leading to the site entrance; about 13.5% for the lower length joining Beaufort Road (BR): both far in excess of the standards: GCC:HRD gives

8%, VAS gives 10% but with one important qualification. The consequence is that, at those gradients, the access road will be unusable by many vehicles after snowfalls, and will be hazardous in icy conditions; with a potential risk of accidents at the junctions, because of cars and lorries failing to stop in time, or sliding into or across the two T-junctions, one at the bottom of the upper slope opposite 17 OR, and the other being the BR/OR junction which is extremely critical, because of the potential volume of traffic. At the BR/OR junction in particular the gradient of the lower length of OR (about 13.5%) continues until close to the junction without a reasonable 'dwell' area of level or reduced gradient length of carriageway in OR to assist vehicles having difficulty in stopping. In view of this potential hazard, the VAS requirements are that 'the gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary' and 'The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather'; but it is impossible to achieve anything even close to this: see VAS cl. 10.3.

- The width of the access road (OR: 5.5m) is too narrow: VAS requires 6.0m for a two-way access; and in addition, because the road is narrow, the entry radius for the turn from ER into OR is tight without straying into the opposite (downhill) carriageway. This is important because of the proposed shared use by OR residents and construction traffic.

- The OR pavement widths (1.7-1.8m) are rather narrow: GCC:HRD requires 2.0m.

In summary OR does not comply with requirements for an access road to serve 67 dwellings, instead of the 24 it serves at present; i.e. as well as not meeting standards given by the documents noted, there would be a very high intensification of use.

Beside the unsuitability of OR as the access road to the site, the assessment of the effect of the development on the local roads immediately affected is flawed because there would be a substantial increase in traffic on the two roads leading away from OR: Ewens and Beaufort Roads (ER/BR):

- Current dwellings: Ewens Road 19 Pine Close, OR 43 Beaufort Road 41

- i.e. the total number of dwellings: 103 at present, would increase to 146.

- Therefore there would be a substantial increase in traffic on Ewens and Beaufort Roads leading away from OR: whereas on-street parking on these roads and Haywards Road (the next affected road for traffic towards Cheltenham) was described as 'sporadic': definition 'occurring only here and there, separate, scattered'; the street parking is nearer constant and widespread than sporadic, and already severely restricts vehicle movements on these roads, and on Oak Avenue.

- All these roads are residential roads, not suitable as transitional roads, and certainly not as local distributor roads: (a through traffic route suitable for moving traffic between different parts of the town).

- In discussing overall design concepts the GCC:HRD recommended: 'The creation of large cul-de-sac estate layouts, where a large number of houses rely on one access road, and pedestrian access is similarly restricted, must be avoided'

In summary, the traffic generated by the development would feed into local residential roads which are also steep, narrow and already congested by traffic and on-street parking.

The importance of protecting an abundant and rewarding area of natural beauty for this and future generations of Cheltenham residents. The land proposed for development is resident to deer, bats, badgers, owls, hedgehogs, woodpeckers, buzzards, preserved trees and many more important species. There are only so many times we can say these creatures and spaces are less important than housing needs. No one wants to live in a future metropolis held together with Tarmac.

The development would represent a serious flood risk to the proposed new residents and the existing residents in the adjoined area. It takes a day of heavy rainfall for the fields to become waterlogged. The current ecology retains the water within minimum run-off but it my belief that this development will destroy what has been a fine balance between residential infrastructure and nature.

I sincerely hope that the scale of the community objection to this development strikes the right cord and the application is turned down once and for all.

Thank you for your time and hopefully support.

14A Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AD

**Comments:** 5th June 2020

As a resident of Charlton Kings, I object on the grounds that this site is still unsuitable for 43 new homes to be built. The access road to the site is totally unsuitable, its too narrow and steep. It could't cope with that many vehicles going up and down it and the steepness means that people would be very unlikely to regularly choose to cycle or even walk up it. Charlton Kings is already overburdened with traffic. The travel plan indicates it would be easy for people to walk to nearby amenities but, to be realistic, they wouldn't because of the steep hill, meaning more traffic.

The area the developers are proposing to build on is an area of outstanding beauty. Local people have noted the high risk of flooding and the problems in the past with this. There are so many valid arguments against this development and the only one for it seems to be financial gain. The plans have already been rejected twice and building less houses doesn't make it any better. It still isn't a wanted development.

9 Alexandria Walk  
Cheltenham  
Gloucestershire  
GL52 5LG

**Comments:** 7th June 2020

The volume of traffic that cuts through this area to get to the A40 is already having an effect on the roads, with congestion this will cause more. The area around harp hill is naturally beautiful and take yet more open space and build housing is not i feel beneficial to this area.

12 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 30th June 2020

Severe traffic impact on our street  
Threat to the wild  
Ruins such a quiet peaceful area!

Little Orchard  
Charlton Drive  
Cheltenham  
Gloucestershire  
GL53 8ES

**Comments:** 21st May 2020

I object to the planning application and timescale.

I would specifically refer to the three points below.

- 1 Legal risk - access
- 2 Flooding
- 3 Full planning committee consideration

1 Legal risk;

At the last planning enquiry, a paper was presented and is now public record, of the deficiencies in the proposed site access. The original approval was from the highways authority based at Tewksbury, who admitted that it had been done without even a site visit.

This full professional on-site analysis, listed in detail, the reasons why the access in the proposal is unsuitable.

As a Chartered Engineer, if I approved the design and construction of a chemical plant knowing that part of that design was not fit for purpose, and someone subsequently died because of it, I and those responsible, could be charged with corporate manslaughter.

It follows that if this access is allowed to go ahead with the blessing of the town planners and their superiors in the knowledge that the access is not fit for purpose, and someone died on that access, in our litigious society, there could be serious consequences.

The question is, have these legal issues been properly explored and are planners and their management, justified in supporting an application when it is known that the access is not fit for purpose?

2 Flooding:

Cheltenham is subject to flash flooding despite a £25m flood defence scheme. Weather patterns are changing. Will future generations wonder what on earth planners were doing in recommending upstream developments such as this given the detailed analysis provided to the planning committee from Cheltenham Flood Defence experts?

3 Full planning committee consideration

There was some comment that this planning application may not be considered and debated by the full planning committee of Councillors. This planning application has been positively rejected on every occasion. The government inspector made a recommendation, for example regarding number of properties, that seemed to have been ignored.

If there is any change to current practice, shouldn't this decision be deferred until such time that the full committee can sit and deliberate?

Finally, the fact that the developers seem to be prepared to ignore the recommendations of the government inspector seems an affront to the planning process and should this in turn be taken up with government by our local MP Alex Chalk, who I understand, also opposed this development.



8 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 21st May 2020

I strongly object to the planning application on the following grounds:-

1. The application for dwellings on this land, for however many, has been turned down twice and also turned down on appeal.
  1. 2 The application is being considered by council officers and not the full planning committee. The date should be deferred until the full compliment of council staff is present.
  2. 3 The steep access in Oakhurst Rise is totally unsuitable for further
  3. building purposes as most residents have previously commented on
  4. 4 The infrastructure is not viable; local schools are full and there are waiting lists for doctors, dentists, etc.
  5. 5 The wildlife will be destroyed , including badgers, deer (roe and muntjacs), foxes, bats, snakes and bird life.
  6. 6 Flooding will inevitably be an issue, as detailed by many previous objectors.

My suspicions are that the developers, once given permission for 43 dwellings, will continue to develop further within the boundaries of the proposed land.

I therefore trust that this application will be turned down forthwith.

32 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 20th May 2020

I strongly object to this planning application for the following reasons:-

- Pressure of traffic throughout the Ewens farm estate and local access roads. These roads are already very busy and frankly dangerous at times, especially during rush hour. The 20mph limit is rarely observed by motorists using it as a rat run from London Road/Hales Road and many cars are parked on the roadsides. It is already hazardous and unpleasant to walk on these streets at busy times.
- The access road in Oakhurst Rise is a concern due to blind bends and gradient. The approach is steep, narrow and with limited visibility. It would be dangerous to have additional cars using it as an access road. Also, with a very steep gradient, these roads are unusable during icy weather. They are not gritted and are unsafe and unusable in icy conditions.
- The density of the proposed development is not in keeping with the area.
- Risk of flooding - the present infrastructure will not cope with the additional runoff water from the site. There are springs and documented flood problems on the site and adjacent to the site. The application does not take into consideration the significant flooding in the surrounding areas. Drains in the area already struggle to cope with heavy rain. I am concerned that our property may flood if this area is built on.
- Loss of wildlife habitat, hedgerows and trees. Badger sets may be extensive. Deer also inhabit the area, together with bats, woodpeckers and owls.
- Loss of a rich biodiverse site, green space and sports amenity to the community Charlton Kings.

- The development will be detrimental to the visual impact of the town and an unsightly blot on the landscape. The site is visible for miles around.
- The site is not included in the strategic plan of development for Cheltenham and therefore should not be built on.

30 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 1st May 2020

The original planning application (Ref. No: 17/00710/OUT ) was rejected for numerous reasons, which may or may not have been addressed, however, it is clear that the proposed access via Oakhurst Rise has not been changed.

It was originally held that this access would have an unacceptable impact on the local highway network, and the amenity of local residents.

Additionally, the steep incline within the cul-de-sac would fail to encourage the use of sustainable modes of transport and would likely result in a reliance on the use of private motor vehicles. It was noted that alternative potential vehicular access routes do not appear to have been fully explored.

The access would therefore be at odds with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 108 - 110 of the National Planning Policy Framework (2018). This was appealed and the sole access remained via Oakhurst Rise.

Since this application the number of dwellings was reduced (Ref. No: 18/02171/OUT) but the access remained the same other than the reduction of dwelling numbers and so it was also dismissed .

There remains in the plans just one single route in and out of the site, a steep gradient, accessed at the top of an already steep hill.

Access from London Road to the site is via Charlton Court Road, then Oak Avenue, then Churchill Drive, then Ewens Road, then up Beaufort Road, then up Oakhurst Rise-these roads have much on-street parking in place for much of the time.

It is acknowledged that though there may be no 'technical' objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility, or existing traffic flows with regards to the access arrangements for new development consideration must be given to the genuine local concerns that the additional traffic from the proposed development, amounting to a likely 30 or so vehicle movements in any peak period which would add to congestion and inconvenience to existing adjacent housing of the entire Ewens Farm estate.

The singular access route, as a whole, is tortuous and far from ideal.

The solution being proffered with this application (an offer of each household upon the first occupation of a dwelling / apartment on the new development of £750 towards the purchase of an electric bike to be secured via a Section 106 Agreement) will not compensate the surrounding residents nor is it likely to mitigate the impact on neighbouring residents.

The roads are impassable on foot in winter when snow and ice coat the hills and the pavements are treacherous as neither they nor the roads are cleared or gritted by the local authority as it is.

I am unconvinced that educating the new owners of the benefits of not using cars, as indicated in the traffic survey the developer has commissioned, will have any impact since every dwelling is being planned with parking for at least one car. If the developer was serious about reducing the impact of traffic to local residents they would insist all vehicles of all new residents be environmentally friendly or have no parking facilities at all.

Clearly this is impractical but would serve to demonstrate how essential people view their cars to be when they live on the top of a massive hill. I should know, my house is just below Oakhurst Rise at the top of the same hill.

There are no cycle paths nor footpaths anywhere near this development and there appears to be no plans to introduce any on these plans.

Walking up this hill to the entrance of Oakhurst Rise is arduous for most people, let alone on a bike. Residents of Oakhurst Rise rely on their cars and should the presence of an emergency vehicles be necessary this is will block access to this site's access entirely-as do the refuse vehicles every week during rush hour.

29 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 6th June 2020

As on previous objections, nothing has changed with regards to supporting this request. Living at 29 Charlton Court Rd the current drainage Channel does not suffice the proposed houses being built. The drainage is not managed now for the houses on the side of the school. It seems the developers are insisting in ignoring what has been recently said at council meetings and appeals regarding the environment issues .... money talks!!

Also loss of wildlife would be tragic as the deer are seen at the rear of the gardens every morning and evening, albeit some carcasses having been found in the past since the first planning application.

The area is already over run by cars speeding through as a short cut with an ever increasing child population it's a tragic event awaiting to happen.

The schools and go surgeries are already over subscribed.

The houses would not be of any help to low income and especially with the covid-19 situation of job losses and poor income.

27 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 31st May 2020

Having attended at least three previous council meeting re: this proposal, I think the case against proceeding has been well and truly made under several headings such as:

1. Environmental to the fields on St Edwards

2. Traffic on Six ways and the approach road
3. Danger of subsidence in Charlton Court road (several houses have been victims of this and needed attention)
4. Trees (18) to be cut down
5. Drainage systems not able to cope with more houses and concrete as well as the overflow system in Charlton Court Rd being unable to take additional water.
6. General disruption to the whole area for a considerable time
7. Infrastructure, i.e. schools, doctors and other essential services

25 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 1st June 2020

I wish to object to the application on various grounds

1 the detrimental effect of the dwellings on the wildlife. It has been well documented that deer are often in the field and they would be both disturbed and confused by the work and the additional houses. This could lead them to local roads with the risk of injury or death.

2 the local amenities will not be able to cope with the additional population. 43 dwellings could mean on average 160 more people looking for a nearby doctor surgery or at least 80 children looking for school places. As we know all schools (primary and secondary) are full to capacity and although it has been suggested their capacity could be increased access to the schools is very limited and this cause it's own problems on neighbouring roads.

3 allowing another 43 dwellings will also put considerable strain on the local road network. As these dwellings are "affordable housing" we should assume that residents will be young and probably driving to and from schools and work. The Sixways junction at rush hour is incredibly busy and needs no more pressure and Swans Farm is increasingly used as a rat run which it was not designed for and cannot cope with.

4 the access to the dwellings is totally unsuitable. Oakhurst Rise is very steep and narrow. To expect 80 plus additional cars to use the access in all weather's is wrong. There is limited public transport so residents would rely on their own transport.

I feel very disappointed that this proposal has again been raised despite so many objections and the overwhelming decisions reached by the planning committee each time. I cannot understand how 43 dwellings can be considered when 60 have been refused. The numbers are too similar to even consider.

23 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 4th June 2020

We have recently moved to Charlton Court Road although know of the history of these applications having moved from The Ryeworth Road area of Charlton Kings.

We are very much against this development or any future developments on this site due to the following:-

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1. Increased traffic around Ewens farm area. This is already a rat run in rush hour.
2. Total unsuitability of the steep and narrow access at Oakhurst Rise.
3. When the developers find access through Oakhurst Rise unsuitable, they will likely attempt to "buy" access through Charlton Court Road which is also unsuitable due to the gradient and ancient trees in the adjacent field which would have to be felled.
4. Increased risk of flooding. We have been informed that our garage along with other properties at the lower end of Charlton Court Road have previously been flooded during periods of high rain fall. This will only increase with more building and associated runoff.
5. We are totally against the digging up of the Road in Charlton Court Road to give access to sewerage system by properties 19-23 where there are 2 elderly households and one with young children and this will give seriously curtailed access for an extended period.
6. I believe the current sewerage system in the Charlton Court Road has suffered from blockages in the past so is likely to be more marginal with significantly more waste.
7. We are highly concerned for the local wildlife, in particular the deer and badgers who roam the fields and have a habitat within the build site. The deer have recently had fawns and can be seen in the school grounds regularly. It would be appalling to find them scared off onto the streets and discovered as road kill.
8. The houses along Oakhurst rise are small to moderate but some of the houses on the proposed site are large and such households would require large removals trucks which could be very difficult in the narrow, steep approach. In addition to this there will be appliance deliveries, supermarket deliveries, amazon deliveries significantly increasing traffic on a narrow road.
9. There is little chance that residents living in this area will walk or cycle regularly as part of their day to day activities even with the small incentive of a "free" eBike. Because of the elevation and steepness even small trips will most certainly require a car journey through the already traffic calmed Ewans Farm estate. If young children will be attending local schools they will most certainly opt to drive for similar reasons. This will in turn cause more traffic in the Charlton Kings Village which is already very congested at peak times.
10. The local schools and doctors are already over subscribed.

21 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

### **Comments:** 13th May 2020

Drainage layout sheet 2of2. Project-C21505-SK02. InsertA.

The above drawing omits both the St Edwards school boundary line and the 5 houses within the Charlton Court Rd cul-de-sac, giving the incorrect impression of an open and undeveloped area. In the event of planning permission being granted, it is proposed to direct the surface water drain from the Oakhurst Dr development through this cul-de-sac, in spite of Severn Trent expressing their doubts regarding this route. The most obvious route for the surface water drain would be direct to the water course at the bottom of the incline within St Edwards school grounds. This would eliminate the unnecessary disruption and upheaval such a major undertaking would make within the Ch Ct Rd cul-de-sac and the inevitable stress and anxiety such works would have on

the health and well-being of the two households of vulnerable senior citizens who live within the cul-de-sac

22 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 28th May 2020

The revised plans show no alteration in the surface water and foul water drainage arrangements which should not be coming through Charlton Court Road, vis St Edwards property to the A40, or directly through Oakhurst Rise ?

**Comments:** 7th May 2020

The measure version of the plan would not download. The other version does, but is unreadable because of the small print. It would appear that either foul or rainwater drainage is to be brought through Charlton Ct Rd as on the previous application. Is this correct ? Even when Severn Trent have expressed doubts on this ? Why not through St Edwards property to the London Road

Birchley House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 26th May 2020

I was very disappointed to learn that following the failure of the developers to obtain planning consent at the recent public enquiry yet another application for the development of this land has been submitted. The current application fails to address the fundamental unsuitability of the site for development. There are many reasons for this which have all been aired previously but of particular concern to me are the following:-

1. The site access is through the area known as Ewan's Farm and particularly Oakhurst Rise. These roads are narrow and steep with several tight bends. Adding considerable numbers of vehicle movements to these roads by allowing the development would add significantly to the dangers posed by these roads and this was recognised as such by the planning inspector. In addition it is necessary for many of the residents of Ewan's Farm to park on the roads fronting their properties. If allowing the development meant that these residents were then not able to park on the road then this would unfairly adversely affect the amenity of their properties.
2. The fact that the land slopes towards the Cotswolds escarpment means that it is highly visible from the Cotswold Way and other beauty spots overlooking Cheltenham above Leckhampton and Charlton Kings. Presently the land adds to the green space and general attractiveness of the view. Because of its aspect sloping towards the hills residential development of the sort proposed would be highly intrusive and (unlike other development sites) could not be adequately screened by landscaping.

There are also many other reasons why this development should not be permitted which have already been articulated by other residents. Consequently I would urge the Planning Committee to REFUSE this application.

Kerrymead  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

**Comments:** 27th May 2020

I have objected before to building on that field - and have not changed despite the reduction in housing density. I followed the application and I object for the reasons it was rejected last time:

- Ashley House - a heritage site in cheltenham harmed
- Charlton Manor - a heritage site harmed
- Loss of ancient trees, wildlife, bio diversity, clean air
- Flood risk
- Poor access - since lockdown I have walked around the area and think the site access is absolutely shocking. it is steep and narrow so unwalkable/cyclable and you can't possibly have 80 cars going up and down twice a day to commute and drop children at school.
- Unless all primary age children are going to Holy Apostles (which has minimal capacity) then there is no way anyone will walk to school because of the steepness of the hill and the distance of the nearest primary.
- The congestion onto London Road is horrendous and routes to cross cheltenham are both already busy and involve one way systems and will therefore pollute the town.
- Local authority housing sits at the bottom of the access route - kids will no longer be able to play safely in the street, there will be a lot of pollution and noise from cars going up and down.

Highcroft  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 26th May 2020

I repeat the objections which I made to the previous applications for the proposed residential development of this site .

19 Oak Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JG

**Comments:** 13th May 2020

We are still opposed to the development of this site for residential properties based on our original objections. The main ones are:

1. No provision has been made for proper sewerage and drainage, currently the proposals have sewers and drainage running into the Charlton Court Road system which is already at capacity. Surely the drainage etc can be directed to the larger system on London Road. Oak Avenue flooded in 2007 due to excess water entering the drainage/sewerage system and the residents continually have problems with the sewer pipes blocking. More properties on the "run" would only overwhelm the system.

2. Access issues. All traffic will be using the Ewens Farm estate roads which are not adequate to deal with extra traffic coming from a new development. There are 2 parks in the area and young

children are continually crossing the estate roads to get to them. We are concerned that the increase in traffic would result in a greater risk of accidents involving the children.

Coversdown  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 20th May 2020  
Letter attached.

10 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 22nd May 2020

I object strongly to the proposed development. As a resident of Oakhurst Rise, my main concern is the proposal to use this narrow cul de sac as the sole means of access to this new development.

The impact of traffic associated with this development will have a life changing impact on the existing residents of this small, well established and compact community. This will start during construction with no doubt hundreds of lorry movements. Then later there will be, I guess, between 50 or 100 daily car journeys from the 43 dwellings.

The road is very steep and narrow and is regularly at almost bottle neck with on road parked cars and vans which makes it totally unsuitable as the sole means of access to this new development.

Another concern is that the road is regularly impassable in winter due to snow and the steepness of the first section up from Ewen's Farm. This happened on four occasions during the 2018 / 2019 winter. The few residents who commute daily leave their cars at the bottom of the hill and walk up and down. That's workable with 25 houses mostly with non-working families but what will the residents of the 43 new dwellings do with their two cars each?

I urge the interested parties to visit Oakhurst Rise on an evening or weekend and see for themselves how unsuitable it is as the sole means of access to this significant new development.

The last two applications were rejected, the access is the same this time, so I trust that the current application will also be rejected.

Meadow View  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 25th May 2020

I find it hard to believe that we have yet another plan to build on this land, given the judgement by the Inspector last August.

This application should be rejected on exactly the same grounds stated in his report issued last October, which were relevant to the two previous applications.



Some of these were:

- access, I believe the Inspector was appalled that the Highways Agency thought access was suitable, but then he had taken the time to actually walk up and view the site, which no one from the Highways Agency ever did. The access is totally unsuitable.
- destruction of natural wildlife habitat. Various species living on this ancient meadow have been well documented by the previous Ecologists reports and the Friends of Charlton Kings.
- destruction/damage to ancient hedgerows and trees currently protected by TPO's
- flooding risk to London Road area and properties below this development
- rights to views from AONB
- impact on Grade II listed buildings

This application should be rejected, but if not, at least postponed until a full hearing can be given, considering the history of building applications for this beautiful and ancient meadow.

Hilcot  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

**Comments:** 14th August 2020

I object to this development on many levels. Primarily because we need to protect small pockets of nature for our mental health, wildlife and the climate. This time of Covid has shown us all how important nature is to mental health and well being and this area is a key natural beauty spot for people on this side of town. We need small wild life zones which are accessible for people without access to the wider countryside as well as to maintain wildlife corridors and reduce flooding.

We do not need to build on every bit of green. The town centres are being reimaged and could provide good housing opportunities. It is short sighted to concrete over areas which on environmental, climate and mental health grounds all add value to longterm well being and quality of life for everyone.

This is in addition to all the evidence on how disruptive on a practical level this will be to the communities around this site. There is not the infrastructure to support more housing in this area.

Cheltenham House  
Clarence Street  
Cheltenham  
Gloucestershire

**Comments:** 3rd June 2020

I write further to our recent discussions that have taken place in relation to the site above.

In consideration of the proposed development at Oakhurst Rise, we understand that circa 18 affordable dwellings are being provided on the site, from a total of 43 dwellings. Within this locality we would strongly support the provision of affordable housing. We would be supportive of a higher proportion of rented accommodation against intermediate housing and for the smaller units to be provided for Social Rent. Any inclusion of 4-bedroom units for Social Rent would also be welcome.

The development is in an attractive and popular residential area and one where we would not have any concerns about letting properties.

## Page 298

As a bit of background, Cheltenham Borough Homes is the Arm's Length Management Organisation (ALMO) for Cheltenham Borough Council and are the main Affordable Housing provider in Cheltenham. Embedded in the local community, we aspire to provide the highest standards of customer service and satisfaction for all our residents, across all tenure types. With over 180 employees we cover the full range of services including an in-house repairs team and dedicated housing management and ASB team. We provide our customers with a supportive housing management and community investment function which includes providing assistance to secure employment.

With ambitious growth plans, significant low-cost funding available and appropriate approval procedures in place we would be very interested in acquiring the affordable dwellings on this site and I would welcome the opportunity to discuss this opportunity further with your agent. Please feel free to contact me with any queries.

60 Suffolk Road  
Cheltenham  
Gloucestershire  
GL50 2AQ

**Comments:** 11th June 2020

I support this application as it will provide urgently needed affordable homes for Cheltenham.

There is a waiting list of people in excess of 2000 who need affordable housing.

The site is a sustainable development within the urban area which will provide 43 homes of which 18 are affordable.

Charlton Kings has very little affordable housing and this will be of benefit to the community.

The site is in the draft Local Plan and if this was permitted this would go some way towards the houses needed in the area

The layout shows substantial areas of trees, flora and fauna, providing a natural area for many birds wildlife.

I fully support this application which will help the local community, shops and businesses at Sixways.

Chota Koti  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 12th June 2020

OJBECTS.

46 The Park  
Northway  
Tewksbury  
GL20 8RH

**Comments:** 16th June 2020

This seems a nice looking estate, just the kind me and my family are looking for.

94 Barnwood Avenue  
Gloucester  
GL4 3AJ

**Comments:** 18th June 2020

I feel like there needs to be more available housing in Cheltenham as my partner and I are looking at moving back to the Cheltenham area. A new housing development to gives young couples opportunities wouldn't go amiss.

6 St David's Close  
Tuffley  
Gloucester  
GL4 0PX

**Comments:** 19th June 2020

There is currently not enough affordable housing in the area and very limited opportunities for people to join the area due to people not wanting to leave.

6 Rotunda Terrace  
Montpellier Street  
Cheltenham  
Gloucestershire  
GL50 1SW

**Comments:** 29th June 2020

I support this application which is a very well balanced development scheme providing much needed family & affordable housing, as there is an acute shortage of good quality available properties in Cheltenham. This development will provide 43 new homes including 18 affordable homes which will be greatly sought after.

It will also provide the creation of jobs during the building of the site which will benefit the economy in these difficult times.

Both the school and the landowners support the application for this development and both are Charitable Trusts. This looks like a great development, ideal for new families, allowing them access to the local schools nearby which are in need of and welcome the support.

Environmentally this appears to be a well-thought out development that leaves plenty of green space around it, not only retaining most of the existing trees, but also adding to the tree population, the plans show that the area will not be over-developed and consideration to the tree and wild life habitat have been made.

The concerns regarding flooding have also been dealt with, allowing for rainwater to be retained which will not only benefit the existing area but will in fact limit any chance of flooding to neighbouring properties.

119B Bath Road  
Cheltenham  
Gloucestershire  
GL53 7LS

**Comments:** 7th July 2020

## Page 300

This is a sensible application for well needed homes, it improves the flooding issue in the town centre as well as providing homes in an urban, sustainable location.

58 Shurdington Road  
Cheltenham  
Gloucestershire  
GL53 0JE

**Comments:** 12th July 2020

Cheltenham is desperately in need of affordable Housing and this land has already been allocated for Housing Development.

18 of the 43 proposed homes are in this category.

The inclusion of Wildlife habitat and Tree preservation and Introduction should prevent any objection to this proposal.

Earls Croome Court  
Church Lane  
Worcestershire  
WR8 9DE

**Comments:** 22nd July 2020

Hopefully, on this occasion, the councillors will follow on with the recommendation from the qualified officers of CBC. This application, as the last two, complies with planning policy. It supplies desperately needed homes - and especially affordable homes. As such - it should succeed.

Redstart House  
Battledown Approach  
Cheltenham  
Gloucestershire  
GL52 6RE

**Comments:** 15th June 2020

I am writing to express my objections to the recent plans submitted for the development of St Edward's School fields. I am disappointed to see that the developers are trying yet again to proceed with their profoundly impractical plans despite the fact that two previous applications were rejected in addition to the dismissal by the Appeal Inquiry by HM Inspector (appointed by the Secretary of State for Communities and Local Government).

I believe the new version of the plans will still result in a dangerous increase of traffic locally, that the residents of Oakhurst Drive will suffer horribly from this and the ecology of the field itself and the surrounding countryside will be permanently damaged.

25 Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AE

**Comments:** 15th June 2020

I want to object to the above application.

This will affect the whole of Charlton Court Road, putting them at risk of direct sewerage issues and floods. Also, the residents of Oakhurst Rise would have their lives transformed from a quiet cul de sac of small bungalows to a through road to a new estate.

I believe 4 of the submissions of support you have received are from bodies who would benefit from this. Apart from the risk to people this is a beautiful area where currently Alpacas roam. Are we going to build over the whole of this area in order to make more and more money. Does quality of life count for nothing. I'm fed up of this relentless building on green space.

I hope you will take my views and those of other locals into consideration.

Redstart House  
Battledown Approach  
Cheltenham  
Gloucestershire  
GL52 6RE

**Comments:** 15th June 2020

I am writing to object strongly to the latest planning application to build houses accessed from Oakhurst Rise. How anyone can think this steep road could be suitable to service any further housing development is beyond me...it is dangerous enough as it is and the thought of subjecting the existing residents to yet more car traffic is frankly irresponsible.

Furthermore, any development of this site would lead to the loss of very attractive meadowland. Clearly the developers have not been put off by losing twice already; they should be aware that they can apply as often as they like but none of the arguments which were previously used to successfully defeat the application have changed so they will continue to waste their money and time.

Battledown View  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 15th June 2020

I wish to lodge my objections to the proposed development in respect of the above planning application.

We are suffering too much building creep into our rural areas, and if such developments as this are approved. This will cause additional traffic, noise and crowding. It was during lockdown that I really appreciated the beautiful surrounding areas that we had within walking distance. It would be a shame to spoil such area of beauty. "

1 Blacksmiths Road  
Alderton  
Tewkesbury  
Gloucestershire  
GL20 8NW

**Comments:** 26th June 2020

Charlton Kings urgently needs more affordable housing, this site will provide some 15/20 such houses. I urgently recommend the application for approval.

12 Goldsmith Road  
Cheltenham  
GL51 7RT

**Comments:** 2nd July 2020

I think this is a very good use of land in an urban setting. Cheltenham is in desperate need of housing, especially affordable housing.

1 glebeland  
Egerton  
Kent  
Tn27 9dh

**Comments:** 28th July 2020

I object on the grounds of Increased traffic, flooding potential and absolute devastation of wildlife.

Basement Flat  
Northwick House  
Douro Road Cheltenham  
Gloucestershire  
GL50 2PF

**Comments:** 21st July 2020

These fields are home to a huge badgers set, fallow deer, muntjac deer, green and lesser woodpeckers, bats, tawny owls grass snakes and lots of other wildlife ... it is currently being rented by a local school and is home to several alpacas and hives of bees

I object on the grounds of the following .... traffic, flooding, devastation of wildlife ... and the list could just go on

6 Cambrian Road  
Surrey  
TW10 6JQ

**Comments:** 21st July 2020

NONE GIVEN

41 Marleyfield Way  
Churchdown  
Gloucester  
GL3 1JW

**Comments:** 23rd July 2020

NONE GIVEN

Hewden Hire Centre Ltd  
Kingsditch Lane  
Cheltenham  
Gloucestershire

GL51 9NE

**Comments:** 23rd July 2020  
NONE GIVEN

10 Wordsworth Avenue  
Cheltenham  
Gloucestershire  
GL51 7DY

**Comments:** 23rd July 2020  
NONE GIVEN

Haytor  
65 Harp Hill  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6PR

**Comments:** 26th July 2020

I wish to strongly object to the proposal to build 43 dwellings on the land adjacent to Oakhurst Rise.

Firstly, it is quite obvious that developers are exploiting any piece of land in Charlton Kings because the return on their investment is higher than in other areas of Cheltenham. This latest iteration of the proposal is evidence of that. They are clearly determined to get any number of houses built on this land as the return is quite obviously worth it. This is largely because of the primary and secondary schools in Charlton Kings which are both heavily oversubscribed and are consequently pushing up house prices. This makes Charlton Kings a difficult place in which to settle, with or without a family, as it excludes people who do not have the level of financial security to afford these inflated prices. Furthermore, shoehorning houses into every available space in this area simply pushes more and more people out and families find that their child is refused a place at a school that is less than a mile away from home even when it is in fact, their local school. This situation needs to be carefully considered and addressed by councillors as it is making life increasingly difficult for local residents.

As has been outlined in other documents submitted against this proposal, the road infrastructure is unable to cope with more vehicles. The traffic around Sixways, Holy Apostles/Cirencester Road traffic lights is already heavily congested with very long queues of traffic causing serious amounts of fumes from idling vehicles, especially during peak hours, and I am certain that more housing will exacerbate this. I am astounded that if this proposal is allowed to go ahead, a small residential road (Oakhurst Rise) will be plunged into chaos, and for this reason, it must be stopped. Local residents' lives will be turned upside down as vehicles associated with 43 dwellings (which could be up to 3 cars per household - sometimes more) will be channelled through this small road; this level of vehicular activity is not conducive to a cul de sac of this nature and approval of this planning application will undoubtedly adversely affect current residents' daily lives. This issue should be given great weight in the planning committee's consideration.

There is a distinct lack of respect to the heritage of the existing buildings (Ashley Manor and other nearby buildings). The development will quite clearly dominate the vista and will damage people's experience of this heritage asset. St Edward's School is host to many events which are enjoyed by residents and visitors to the area, and so the building and its setting must be conserved. The site is also adjacent to the Cotswold AONB which is afforded a highly protected status, and development such as this will affect the vista of the AONB from around the site. Similarly, this site

can be clearly seen from several vantage points on the AONB and will undoubtedly have a negative visual impact. In my opinion, the St Edward's site, from the London Road up towards Battledown Hill and Greenway Lane, is a very sensitive and beautiful part of the Cotswold countryside. Many people move here for its inherent beauty and others visit as it's their gateway to Cheltenham's AONB. Why should our community destroy the very precious green spaces that are being extolled on a daily basis as the nature we all desperately need to connect with to enjoy fulfilled and mentally stable lives? This plan seems contrary to all the advice about the Government's Green Recovery Plan (post COVID). Charlton Kings is indeed a densely populated area of our beautiful town, and so it is vitally important that these beauty spots are not eroded and dismissed for the sake of profiteering.

In the AONB and important surrounding greenfield sites such as this one, the biodiversity must be considered with our utmost respect, care and attention. These important areas provide habitats for a diverse group of animals and plants and it is incumbent on us all, as residents and visitors, to ensure these are carefully protected and encouraged. For this reason, this site must remain as it is.

I implore CBC, local parish councillors and the planning committee to seriously consider the points raised here, and those raised in many other comments, and preserve this area within our community now, and for future generations. One of the positives that has emerged during the COVID-19 pandemic is that people have come out in hordes to walk the roads and fields of this area and long may it continue.

4 Woodgate Close  
Cheltenham  
Gloucestershire  
GL52 6UW

**Comments:** 16th August 2020

While I was initially against this development I must admit this revised plan appears to be far more acceptable with a broad mix of housing (25 private homes and 18 affordable), some retained green areas and a lot of tree planting. I also like the idea of the flood defence/mitigation being installed by the developer and not at Council Tax payers expense later down the line.

The houses are certainly needed in Charlton Kings area, anyone living locally cannot get over how many houses have come to the market and have been sold in days despite the pandemic.

Having had a development up to my boundary fence I can understand how some of the neighbours feel, but sometimes you have to accept progress.

77 Denman Avenue  
Cheltenham  
Gloucestershire  
GL50 4GF

**Comments:** 21st May 2020

I am keen to move to the area and feel there is a strong need for new, affordable housing

57 Bafford Lane  
Cheltenham  
Gloucestershire  
GL53 8DN

**Comments:** 8th June 2020



We understand that another updated planning application has been submitted by the developers for Oakhurst Rise on the slopes of Battledown. We strongly object to the approval of this application for the following reasons: unsuitable road access, loss of green area for Charlton Kings and Cheltenham, GP surgeries are already oversubscribed and it takes 3 weeks to get an appointment at Sixways, local schools are already oversubscribed, and the Charlton Kings Parish Council have unanimously rejected the application.

Thank you for taking our views into account.

4 College Road  
Cheltenham  
Gloucestershire  
GL53 7HX

**Comments:** 1st July 2020

As a Cheltenham resident who has been flooded twice (in June and July 2007 respectively) in College Road, I fully support this development and the improvement that it will make to flood alleviation in my part of the town, downstream. Even after the £22m flood alleviation works carried out in Sandford Park and Cox's Meadow post-2007, surface water levels and overwhelmed roadside drains continue to produce unacceptable levels of surface build-up. In the heavy rains we experienced earlier in June this year, several of my neighbour residents were forced to join me in the violent rains to brush the gathering surface water into the road drains to prevent build-up and risk of flooding to my property and others in the immediate neighbourhood. It is a shame that I can't upload a photograph of this on this website, as the evidence (at the time of writing this) is less than four weeks old! This new development with its intrinsic water attenuation tank will provide relief to our family and neighbours because of the reduced water flow in our area, and I strongly support the planning application for this development with its flood alleviation system.

57 Burton Street  
Cheltenham  
Gloucestershire  
GL50 3NE

**Comments:** 2nd July 2020

Looks a good development. Much better than building on the countryside.

2 Coln Rise  
Andoversford  
CHELTENHAM  
GL54 4HL

**Comments:** 2nd July 2020

Cheltenham like many towns and cities in the UK are crying out for affordable housing for the people who are finishing their education and starting out in their chosen careers. Unless they get help from their families they are not likely to be able to afford anything and have to move out of the area.

Therefore, schemes such as this one are ideal. It is introducing much needed affordable housing and not creating a huge housing estate where countryside once was. Schemes like this are excellent for this and should be encouraged over the huge ones that are being constructed by multi-national companies.

## Page 306

The fact that this scheme is also introducing the Flash Flood water Storage solution shows that they have taken notice of residents concerns and are investing in a sustainable solution as well as reducing the potential flood risk for neighbouring residents.

For these reasons, I believe the scheme should be approved.

34 Tommy Taylors Lane  
Cheltenham  
Gloucestershire  
GL50 4NJ

**Comments:** 24th June 2020

The shortage of good quality housing in Cheltenham is acute, particularly in Charlton Kings, where there is a significant shortfall. This development will quickly deliver 25 open-market homes and, an essential consideration, 18 affordable homes to the approval of some half dozen housing associations.

The application is supported by the CBC Planning Department.

"Nimby-ism" cannot be allowed to succeed.

Both the school and the landowners support the application, and both of them are Charitable Trusts.

Granting of permission would give to the community a real sign of intent to pull Cheltenham out of the recent disastrous economic circumstances and make some accommodation provision for a hopefully expanding jobs market locally.

I understand this scheme is a significant reduction on previous proposals and, among other benefits, it reduces flood risk to downstream properties by its attenuation system.

3 Manor Park  
Up Hatherley  
Cheltenham  
Gloucestershire  
GL51 3HU

**Comments:** 22nd July 2020

I wish to lodge an objection to the planning application in Charlton Kings for 43 dwellings submitted under reference 20/00683/OUT.

I object on the grounds of wildlife preservation. There are a number of animal species, for example deer, woodpeckers and owls who have made these fields their home. Because of this I strongly believe this area should form part of the Charlton Kings conservation area.

I am also concerned about the increase of traffic in the surrounding area. The area around these fields is heavily residential and the roads are narrow and not fit for purpose for significant increased volume of traffic, and resultant pollution and safety for children is a real issue

The council have a responsibility to maintain the quality of the environment for future generations and should reject the planning application for these reasons.

14 Butterfield Court  
Bishops cleeve  
Cheltenham  
GL528rz

**Comments:** 7th July 2020

Cheltenham needs decent homes for many people, the young, families and the old, not least in Charlton Kings where the demand for both private and affordable homes is both very strong and just unavailable. This development will deliver 25 private homes and a mixture of 18 affordable homes, to the approval of at least six Housing Associations.

We all understand local residents objecting, no one likes change, however they have their houses and are attempting to stop other people getting what they want in the area they would like to be in. The application is supported by the CBC Planning Department.

8 Station Street  
Cheltenham  
Gloucestershire  
GL50 3LX

**Comments:** 7th July 2020

I am of the opinion that this planning application has many merits. Cheltenham is in need of quality development and homes for many people of all abilities, the young, families and the old/infirm. The development would provide 18 affordable dwellings for which there is a deficit in the area. I also note that there will be benefits for the school by way of a much needed financial uplift to improve their facilities and to carry out essential maintenance.

First Floor  
3 Lansdown Crescent  
Cheltenham  
Gloucestershire  
GL50 2JY

**Comments:** 24th June 2020

This is a very well balanced thought out development scheme providing much needed affordable housing particularly in the Charlton Kings area. The concern regarding flooding has been dealt with allowing for rain water to be captured and stored on site which in fact limits any chance of flooding to neighbouring properties. It seems that all considerations have been taken into account and therefore this development should be permitted.

Cottsway House  
Heynes Place  
Avenue Two  
Witney  
OX28 4YG

**Comments:** 2nd June 2020

Letter attached.

Charlton Manor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 6th September 2020  
Letter attached.



2<sup>nd</sup> July 2020

Regent House  
65 Rodney Road  
Cheltenham  
GL50 1HX

Emma Pickernell  
Planning Department  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
GL50 9SA

01242 230066  
www.ridge.co.uk

Dear Emma

**Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration at Land adjacent to Oakhurst Rise, Cheltenham (Ref. 20/00683/OUT).**

Ridge and Partners LLP would like to make a number of comments in support of the above application. This letter seeks to focus on the acceptability of the principle of development.

The site is allocated in the Cheltenham Borough Emerging Local Plan under Policy HD4 for *"a minimum of 25 dwellings, subject to masterplanning"* as set out within the Cheltenham Plan Main Modifications October 2019. Given the emerging local plan is in its final stages of its examination process, with the Inspector's report released on 17<sup>th</sup> March 2020, it is considered due weight can be given to its policies. The Plan is at an advanced stage in its preparation and its allocation has been endorsed by the Local Plan Inspector and still by the Council. For the purpose of determining this planning application we therefore consider that the significant weight be given to its allocation when considering whether the principle of development is acceptable or not on the site.

The proposed scheme is broadly in accordance with Emerging Policy HD4 by seeking to deliver 43 dwellings on site. The decision to allocate the site for 25 dwellings is made as a minimum figure. That number will not have had the opportunity to scrutinise the site's constraints and opportunities in the same level of detail that a planning application will. Indeed, the NPPF encourages developers and LPAs to make efficient use of land whilst of course having regard to the character of the area in which a site is situated. Further, the use of the word 'minimum' when referring to a site's allocation is surely favoured in places like Cheltenham which are heavily constrained by the Green Belt and AONB and where full use should be made of those land opportunities that do exist in the urban area so as to relieve pressure on those constraints now and in the future. The delivery of development will seek to significantly boost the supply of housing within the Borough, and deliver 18 affordable dwellings that are urgently needed for the 2,500 people that are on the affordable housing shortlist in Cheltenham.

When assessing the proposals against the Joint Core Strategy, it is clear the development is in line with its overall spatial strategy by meeting the need to deliver at least 10,917 new homes within Cheltenham (Policy SP1) well within its development boundary (Policy SP2); thereafter complying with Policy SD10. Furthermore, the delivery of 43 dwellings has sought to make the most effective use of the site, as advocated in Policy SD10 and Chapter 11 of the NPPF, by allowing for a density of development which also takes into account previous comments received by the LPA and the Planning Inspectorate in relation to previous applications submitted.

In light of those comments, the number of dwellings proposed has been reduced where originally a scheme of 90 dwellings was refused at planning committee in July 2018 (with an officer's recommendation to permit)<sup>1</sup>, and subsequently a scheme of 69 dwellings was dismissed at appeal in September 2019 on heritage grounds and the impact on trees<sup>2</sup>. The amended scheme has sought to address the reasons for dismissal by ensuring no harm or loss is caused to the trees on site, and substantial planting is now proposed to further screen the development from surrounding heritage assets as well as softening the proposal within its wider context. The tree officer has already commented on the application raising no objection.

Furthermore, the scheme has drastically reduced in scale with the dwellings accommodating the northern and western parts of the site, ensuring appropriate distance is achieved between the built form and the heritage assets, namely Charlton Manor House, Ashley Manor House and Ice House. This is considered too broadly accord with the requirements of Emerging Policy HD4. Whilst Historic England have raised an objection to the amended scheme, they recognise that the proposals now represent a less intensive form of development. Any identified harm identified now needs to be weighed in the balance. As concluded within the accompanying Heritage Impact Assessment<sup>3</sup>, the amendments made to the proposals result in less than substantial harm to the setting of the three heritage assets, at the lower end of the spectrum. Indeed, for the more intensive scheme of 69 units the appeal Inspector's conclusion stated that it would cause less than substantial harm, at the higher end of the spectrum. It follows that a smaller scheme, located more appropriately on the site and with additional landscaping will cause less harm. Therefore, to be weighed against the less than substantial heritage harm are the benefits which are still very substantial:

- The proposals would contribute to the supply of housing within the borough, and particularly the provision for affordable housing where there is a clear identified and urgent need;
- The provision of jobs within the construction industry for the duration of the development (which was previously given moderate weight due to the short term nature);
- The proposal will bring significant financial benefits for St Edwards School, which will secure its long-term future as well as providing the means to improve their current facilities, which are enjoyed by other schools and the local community;
- The proposals seek to conserve and enhance the vitality of existing services and facilities within the local area, particularly at Sixways;
- An increase in green infrastructure – this has been significantly enhanced as part of the amended scheme through the reduction in built form and influx in green space at the western edge of the site and through additional, significant landscaping (including the retention and protection of veteran trees);
- This land which is to be publicly accessible will enable more people to appreciate some of the heritage assets near to the site;
- The influx in green infrastructure is considered to provide key ecological enhancements to the site. This includes a long term habitat for the wildlife, trees, flora and fauna within the development itself, but most importantly within the 30 acres of "Parkland" to be transferred to the School, as well as a permanent and long term habitat for badgers; and
- Proposals for managing flood risk will lead to a betterment in the area.

In addition, previously officer's gave limited weight at the time for the potential land allocation for housing development at the site (as part of the Cheltenham Plan Pre-Submission Document). Given the greater certainty of

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<sup>1</sup> Ref. 17/00710/OUT.

<sup>2</sup> Ref. 18/02171/OUT; Appeal reference: APP/B11605/W/19/3227293.

<sup>3</sup> Prepared by Grover Lewis Associates Ltd (April 2020).



the site's allocation under Emerging Policy HD4 becoming adopted, greater weight can now be attributed to this key benefit as the Council are now reliant on its delivery to achieve a five year housing land supply.

As set out in paragraph 124 of the previous dismissed appeal decision: *"There is still potential for the site to be developed in line with an emerging local plan allocation, albeit for a lesser scheme, as well as by the likelihood that, within the foreseeable future, the Cheltenham Plan, currently under examination, will be adopted, with a resultant increase in housing land supply for Cheltenham to above five years."* Within this in mind, and taking into account the proposals comply with the JCS and Emerging Policy HD4, it is requested that officer's support this *"lesser scheme"* to not to undermine the imminent adoption of their emerging plan, or their reliance in achieving a five year housing land supply.

I trust this letter will be reviewed and considered as part of the determination of the planning application. If you require any further clarification on any of the matter raised within this letter please do not hesitate to contact me.

Yours sincerely



**Guy Wakefield**  
**Partner**  
**For Ridge and Partners LLP**  
**[gwakefield@ridge.co.uk](mailto:gwakefield@ridge.co.uk)**





Ref: 20/00683/00T



Wadleys Farm,  
Ham Lane,  
Charlton Kings,  
GL52 6NJ  
19<sup>th</sup> May, 20.

Dear Madam,

Once again I must oppose ANY development on the site next to St. Edward's Prep. School using Oakhurst Rise as the access, even though "outline" permission is being sought for fewer houses than previously.

This is a "Private Green Space" subject to conditions in the Town Plan, and development of any sort on this green field site would not in any way "retain and enhance existing landscapes"

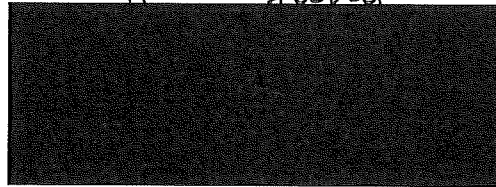
The site supports a wide variety of wildlife and remaining as it is, is without doubt the preferred option for the Environment, St Edward's Prep. school and the residents of the area, particularly those of Oakhurst Rise.

If permission is given, the impact it would have on the locality would be appalling with noise & disturbance and much increased traffic (heavy duty builders lorries, refuse lorries, deliveries & private vehicles) to the detriment of

St Edward's School, res. Page 314 of Oakhurst Rise and  
Ewers Farm.

Planning permission has been refused twice  
for similar applications and I hope Cheltenham  
Borough Council will be consistent in refusing  
this application yet again, and thus preserving  
a green open space instead of consenting to  
tarmac and dwellings.

Yours faithfully



Charlton Kings

Cheltenham

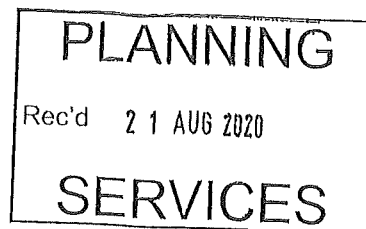
GL53 8E

20 Aug 2020

01242252664

3

Planning Application 20/00683/ OUT



Dear Planning Officer

I wish to OBJECT to the above application, my grounds are


- 1.. The traffic issue, the new development will mean heavy construction vehicles using a very narrow and busy road. Following the construction those living in the development will use cars when traveling to work, tacking children to school and various service vehicles. It is unlikely people will walk, as the road is steep, and the paths are narrow. Because of the gradient people are unlikely to cycle and could also be put off by the road traffic. The access points onto the main traffic points are now busy throughout the day, not just in the 8-9 morning period and 3.30 to 6 in the evening. My view, having looked at various development plans, is that traffic considerations are no longer factor, even when it results in more congested roads.
2. The disruption to people's lives in the area, both during the building phase and thereafter. Again, I suspect this is of little account to the development company and the Carmelite order.
3. The whole process has been very cynically presented. The developers, I suspect, have put in a plan for 90 houses, expecting to be rejected, then submitted a plan with fewer houses. They I imagine, had always a figure much lower than 90 at which they could still make a profit.
4. The role of St Edwards School regarding this overall proposal has changed. This is still more strange given that the Carmelite order are the owners of two pieces of land, one the proposed planning application site and that of St Edwards School off the London Road. When the first application was first made, they were strongly against and I think mobilised parents to object. However, they are now in favour of it. Looking at the Supports, comments many have come from people who say their children are at the school and this agreement with the developers will give further financial support for the school. These supporters have little interest in the lives of the people directly affected by the development. Nor do they consider the effect on local support services, such as schools, doctors etc.
6. Little attention has been paid to where the occupants of these houses, which are built with families in mind, will send their children in an area where local primary or secondary schools are oversubscribed. Will St Edwards offer free places?
7. Under the "Report to Cheltenham Borough Council, Report of the Examination of the Cheltenham Plan 2011-2031, paragraphs 58 and 59" ref HD6 and MM016, suggests the site could accommodate a minimum of 25 houses and that consideration of the environment and local houses, should be considered.. The current proposal is for 43 houses, with 18 affordable. This factor will appeal to the Council. However, I would query whether the developers will deliver this number. Developers have said on other sites that that a number of affordable houses will be built, yet when building is underway, they say they can no longer afford to build the agreed number. In addition, I query what affordable in this development will mean. The affordable houses have to be ones that are in keeping with the ones that are for sale. It is possible that the affordable

ones will be offered for sale at a figure beyond £250,000 (Page 316) with a 10% deposit this would mean a mortgage of £225,000. Even with a 25 year mortgage and the present low interest rate, the monthly repayment of approx. £1000. Hardly the sort of sum a young couple could afford if unless their joint salaries were approx. £50,000 a year. Looking at property prices in Cheltenham. A three bedroom semi built in the 1950's on the Beeches Estate is on the market for £400,000, yet a similar 1950's semi, now extended in Warden Hill is listed at £350,000. Affordable in is a different value, when location is taken into account. Some of those supporting the application do so, because they are looking for affordable properties, I am not sure these houses, if built would be affordable to them.

I have no doubt this application will be approved as little consideration is given to the above factors. No doubt this is the type of application the government talks of is taking too long. Is this because developers put in applications knowing they are unacceptable and are prepared as in this case to make new applications until the proposals are accepted, at a number of houses that they can still make a profit on.

To me the main issue is whether it is acceptable to have such a development off a single access road, at the top of a hill. Additional no account is taken of the disruption to the quality of life of those in the immediate neighbourhood. It is not surprising people have little confidence in the planning process.

Yours sincerely

A large black rectangular redaction box covering the signature area.

From: 

Tall Timbers  
Ashley Road  
Charlton Kings  
Cheltenham  
GL52 6NS

Director of Planning- Cheltenham Borough Council  
Cc: Cheltenham Planning Committee members

(by email)

11<sup>th</sup> May 2020

Dear Sirs

**Planning application 20/00683/OUT - Objection - Safety concern re access and other matters.**

Many of the planning committee members will be aware of the safety concerns that I raised in relation to the previous applications that have been made for this site and in particular access to the site via the Oakhurst Rise Ewens Road/Beaufort Road junction. The current application does not address these concerns. I have, for your ease, reproduced the statement that I made to the Appeal Hearing in August 2019 at Appendix 1 to this letter.

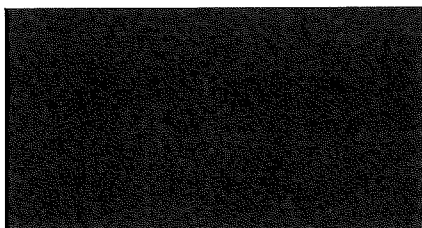
The planning committee wisely chose not to approve the previous application (18/02171/OUT) at their meeting on 21<sup>st</sup> February 2019. The meeting minutes record the concerns of several of the Councillors in relation to access via Oakhurst Rise. Immediately prior to voting on refusal it was confirmed that access via Oakhurst Rise would be recorded as a reason for refusal. At the following planning meeting on 21<sup>st</sup> March the committee voted to delete concerns about highways as a refusal reason because of "the likely extent of costs" should there be an appeal.

In refusing the appeal that took place following the committee's February decision (APP/B1605/W/19/3227293) the Planning Inspector concluded, inter alia, "*notwithstanding the lack of any objection from the highway authority, this factor [access via Oakhurst Road] militates to some degree against the grant of permission*".

We also heard at the appeal that the developer's planning consultant, an ex-employee of Gloucestershire Highways (GH), had met with employees of GH on several occasions and been afforded the opportunity to persuade them of his views. I would warmly welcome the same courtesy and have requested such meetings historically but been refused.

I would urge the planning officers and the planning committee members to refuse this application on the basis of unsafe access in addition to the harm to designated heritage assets and the degree of long term risk to retained trees.

Yours faithfully



By way of background I trained as a Civil Engineer, and became a Chartered Engineer and Member of the Institution of Civil Engineers in 1986. I majored in transportation, road design and drainage. I was a design engineer working as a Consultant for the Department of Transport and I was involved in the design and supervision of the construction on major parts of the following road schemes, the M42 - Water Orton to Tamworth, the M54 in entirety, the A5 Improvement scheme Telford to Shrewsbury and the Shrewsbury bypass, the A483 Oswestry by pass as well as the many smaller road improvement schemes involved with each of these major projects. I am well versed in the design and safety of highways.

I object to the application to build 69 properties on land adjacent to Oakhurst rise primarily because of the unsafe nature of the proposed access via Oakhurst Rise and its junction with Ewens Road/Beaufort Road . The access proposed is contrary to the Gloucestershire Technical Specification for new streets (TSfNS), inconsistent with the Local Transport Plan and not in accord with the National Planning Policy Framework (NPPF).

The TSfNS requires, at 1.17, “that the maximum longitudinal gradient on a minor road approach to a junction should not exceed 5% (1 in 20) for a distance of 15 metres. A copy of the relevant part of the TSfNS is attached to this statement at Appendix A. For the record the last 50 metres of Oakhurst Rise before its junction with Beaufort Road falls at a gradient of just under 15%.

The TSfNS also suggests 5.5 metre carriage way widths and also calls for 2 metre footways and wider is recommended if non-vehicle use is to be encouraged. At the bottom of Oakhurst Rise where it connects to Ewens Road/Beaufort Road the Carriageway is only 5.5 meters wide with footways of 1.6 and 1.8 metres width. So, not only is the gradient nearly triple of that allowed in the TSfNS but there is no opportunity to build protected cycleways because the footways are already too narrow.

The transport plan produced by the appellants Consultants Cotswold Transport Planning (CTP) include as one of its main aims to “*increase walking and cycling*”. So, examining safe design for those cyclist, the Gloucestershire cycle facility guidelines published in March 2012 recommend a maximum gradient of 3% for any length of cycleway over 100m. The relevant part of these guidelines are attached to this statement at Appendix B. I have also reproduced in appendix B some of Highways England’s interim advice note on cycle traffic and the roads network where it states, inter alia, “*the speed of travel is another important factor to consider, as well as the length of the gradient. Steep gradients can lead to high speeds for descending cyclists or low speeds for climbing cyclists, which can create hazards for all users of the route. Stopping distances also increase significantly on gradients in excess of 3%.*”

For the record, the distance from the junction at the bottom of Oakhurst Rise to the start of the new development roads is approximately 200 metres. The elevation gain in that 200m is around 20 metres (from 93m ASL to 113m ASL) - this is a gradient of 10% for 200m not a maximum of 3% for anything over 100m which is recommended in the Gloucestershire Cycle facility guidelines. Oakhurst Rise, the access to this new development, is a steep gradient and it will create hazards for new users of the route.

Gloucestershire Highways did not address the safety concerns in relation to the gradient of this junction in any manner in their December 2018 report on the development. Unfortunately, when questioned on the matter at the planning meeting in 22<sup>nd</sup> February 2019 Gloucestershire Highways stated the following: “*regarding the gradient of Oakhurst Rise, Oakhurst Rise is a publicly maintainable historic highway which has served 30+ dwellings for a number of years. There is nothing to suggest that this section of highway is unsafe and there have been no personal injury collisions recorded.*”

I have reproduced the relevant part of CTP's technical note CD N2 at Appendix C to this statement in which they seek to address this major safety concern voiced by many of the public in their comments on the application. BUT I have concluded that CTP may have an issue with the dictionary or vocabulary that they use in their word processing systems. In the residential travel plan and transport assessment done by them in August 2017 this key item was not spoken about and the word gradient did not appear once in either report. Similarly, in the updated documents produced in October 2018 the word gradient was absent again. Now in document CD N2 produced by CTP for this hearing the word gradient is used five times: twice in headings, twice in describing some of the objections that have been made and finally once in seeking to respond to those objections.

However, you can see from Appendix C that CTP seek to address these perfectly legitimate safety concerns with the statement "having undertaken numerous site visits along Oakhurst Rise without difficulty, witnessed other travellers using this section of highway, and seeing no evidence before me in the form of personal injury collision data that demonstrates there to be any pattern of highway safety concerns, I conclude that Oakhurst Rise is acceptable to serve the additional traffic that will be placed on it."

On the first point I have undertaken numerous trips up the A417 in the last 20 years without difficulty and seen other travellers using this section of highway but there have been over 40 serious injuries and 13 fatalities on that road during that time. CTP's "observations" are not seriously to be relied upon. Looking at the data that has been quoted I presume that both CTP and Gloucestershire Highways have referred to what is often called "Stats 19 data" in quoting "no personal injury accidents recorded." For those of you unfamiliar Stats19 data it is the core set of statistical data which each police force is required to collect for personal injury accidents reported to them. It would not show that I fell off my bike at the bottom of Oakhurst Rise and went to hospital with a broken arm unless I had reported that to the police. It would not show



that an amazon delivery van had run in to the back of the occupant of #5 Oakhurst rise, causing them whiplash unless they went to the police.

The stats19 data actually carries with it the following health warning *“it has long been known that a considerable proportion of non-fatal casualties are not known to the police.”* This data is useful to Highway Engineers generally for identifying the most serious accident blackspots such as Nettleton Bottom on the A417. It is also used to identify causal effects such as increases in drunk driving or accidents caused while using a mobile phone.

Stats19 data is generally NOT used to clear an engineer from their obligations to model the safety of a steep approach to a major road when traffic and cycle volumes are proposed to triple. In fact my engineering experience would suggest that to go ahead with this scheme, without considering the changes that the scheme will impose on this junction from an engineering safety point of view is bordering on negligent. It’s a preposterous response. Its equivalent to me as a bridge designer saying “the bridge has been fine so far, therefore there should be no problem in it carrying three times the load” or an aeronautical engineer saying “planes flown OK so far, I am sure that plane can carry another 50 or so passengers!”

What I hope this appeal hearing will take as facts are:

1. The proposed access to the development has a down gradient for the last 50m approaching the major road of 15% and the relevant design documents calls for only 5%
2. The relevant Cycleway design criteria calls for a maximum gradient of only 3% for 100m versus the proposed access via Oakhurst rise with 10% for 200m
3. Statistically increasing traffic (car and cycle) volumes reduces road safety
4. The appropriate safety audit for this proposed access route has not been carried out and no resultant mitigating actions are proposed

The National Planning Policy Framework (NPPF) states at paragraph 109 that “development should be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety” and that for approval to be given “any significant impacts from the development on highway safety, should be cost effectively mitigated to an acceptable degree”.

No credible engineering work has been carried out to assess the impact of this scheme on road safety and there have certainly been no mitigation actions proposed. For this reason I would advocate that this Appeal be refused.

Technical Specification for New Streets

Table 1.11 – Vertical Curves

Design Speed (kph)	Desirable min. Crest K value	Absolute min. Crest K value	Absolute min. Sag value	Min. Vertical curve length (m) <sup>a</sup>
50	10	65	9	30
32	65	65	9	30
24	65	65	9	30

<sup>a</sup>With evidence based justifications relaxations may be permitted.

Gradient at Junctions

- 1.17 The maximum longitudinal gradient on a minor road approach to a junction should not exceed 5% (1 in 20) for the distance specified in Table 8.2 measured from the nearside edge of the major carriageway. It should be noted that when the minor road approach to the junction is downhill rather than uphill a longer distance with a gradient not exceeding 5% is required. This is intended to reduce the risk of vehicles sliding onto the major road in icy conditions.

Table 1.12 - Maximum Distance for Longitudinal Gradient at 5%

Minor Road	Major Road	Distance along Minor Road measured from nearside edge of Major Road Carriageway (metres)	
		Downhill Approach	Uphill Approach
Residential Road	Residential Road	15m	10m
Residential Road	Local Distributor	20m	15m
Local Distributor	District and Distributor	30m	15m

**Frontage Access**

- 1.18 The Council will not usually consider a private access serving fewer than 6 dwellings (inclusive of any existing dwellings) for adoption. However, the Council will apply the Advanced Payment Code to all development comprising 2 or more buildings. You are encouraged to create layouts and construct the street to an adoptable standard regardless of whether the access is to be offered to us for adoption.
- 1.19 The Council cannot insist that an access serving a development is adopted, but a developer should consider the following factors when deciding whether to offer an access for adoption or whether to retain it as a private access:

The speed of travel is another important factor to consider, as well as the length of the gradient. Steep gradients can lead to high speeds for descending cyclists or low speeds for climbing cyclists, which can create hazards for all users of the route. Stopping distances also increase significantly on gradients in excess of 3%. Designers shall carefully consider the combination of horizontal and vertical geometry where gradients are greater than 3%

*“Cycle Traffic and the Strategic Road Network” - Highways England Interim Advice Note 195/16*

- Oct 2016

6.4.11 The maximum gradients for routes used by cyclists should generally be no more than 3%, or 5% maximum over a distance of 100 m or less, and 7% maximum over a distance of 30 m or less.

*“Manual for Streets” - Department for Transport 2007*

Geometric design requirements for on highway gradients:

Length	Recommended maximum gradient
Over 100m	3%
30 - 100m	5%
0 - 30m	7%

*“Cycle Facility Guidelines” - Gloucestershire County Council March 2012*

***Width and Gradient of Oakhurst Rise***

## Summary of Objection

3.4 Objections have been raised in regard to whether or not Oakhurst Rise is wide enough to accommodate additional development traffic, and also whether the gradient is acceptable to serve the development.

*CTP Response*

3.5 *The TSfNS specifies on page 10 that a minimum width of 5.5m is required for a cul-desac. On-site and topographical survey measurements confirm Oakhurst Rise is 5.5m, and is therefore an acceptable width.*

3.6 *Having undertaken numerous site visits along Oakhurst Rise without difficulty, witnessed other travellers using this section of highway, and seeing no evidence before me in the form of personal injury collision data that demonstrates there to be any pattern of highway safety concerns, I conclude that Oakhurst Rise is acceptable to serve the additional traffic that will be placed on it in the event the Appeal is allowed.*

***Propensity for Walking or Cycling due to Gradient between London Road and Application Site***

## Summary of Objection

3.33 General objections are made on the basis that the gradient of Oakhurst Rise and connecting roads to London Road will discourage residents from walking and cycling, thus rendering the development over reliant on car travel.

*CTP Response*

3.34 *The gradient of Oakhurst Rise and Beaufort Road is likely to have some impact on the choice of travel by residents of the development, but it is not prohibitive, and the fact remains that the site does provide opportunities to walk and cycle, in addition to providing access to bus stops on London Road, all within distances prescribed within prevailing design guidance.*





tworivers  
HOUSING

Rivers Meet, Cleeve Mill Lane, Newent  
Gloucestershire, GL18 1DS  
Tel: 0800 316 0897  
Email: customerservices@2rh.org.uk  
www.tworivershousing.org.uk

3rd June 2020

Dear Laurence

**Site: Oakhurst Rise, Cheltenham**

Further to our recent discussions regarding the proposed site at Oakhurst Rise in Cheltenham, we are writing to confirm our support of the development to deliver circa 18 affordable homes out of a total of 43 new homes.

There is clear need and demand for the provision of affordable homes in this locality, both rented and shared ownership, now more so than ever. We would be supportive of a higher proportion of rented accommodation (both Affordable Rent and Social Rent) and also welcome the inclusion of a 4-bedroomed home. We would have no concerns about letting the rented homes and selling the shared ownership.

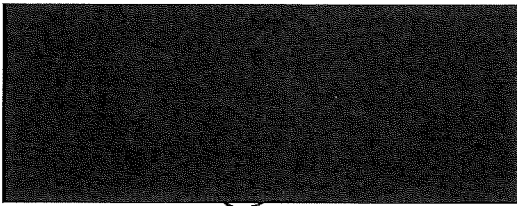
Two Rivers Housing was set up in 2003 as a stock transfer organisation and have continued to grow since this time, now managing over 4,000 homes. Our operating area covers Cheltenham, Tewkesbury, Gloucester, Stroud, the Forest of Dean, West of the Cotswolds and East Herefordshire. We have a robust development programme with the aim to deliver 100 new homes a year and have strong working relationships with our Local Authority Partners and Homes England.

As an organisation we are focused on delivering sustainable communities and work hard to deliver excellent customer service. Two Rivers Housing has its own in-house Clerk of Works, Repairs and Maintenance Team which includes grounds maintenance, Housing Management, ASB, Debt and Welfare, Community Engagement as well as Home Ownership Sales Team. We also have a subsidiary estate agency called TwoCan who has a vast knowledge of the local area and sells not only Two Rivers Housing properties,

but properties on behalf of other Housing Associations, properties on the open market and Local Authority owned stock. All profits are used to support the delivery of more affordable homes.

We have been supportive of this proposed developed since the outset and are keen to work with the developer to deliver good homes for local people and would welcome the opportunity to discuss this further.

Yours sincerely



**Angharad Hodge**  
**Head of Development**

Direct line:

Email:





*"Coversdown"  
Birchley Road,  
Cheltenham,  
GL52 6NY*

Sent Via Email

18<sup>th</sup> May 2020

Mr D Oakhill  
Department of Planning  
Cheltenham Borough Council  
Municipal Offices  
GL50 1PP



Dear Mr Oakhill,

Ref 20/00683/OUT

As a resident of Battledown my house, Coversdown, joins the northern boundary of the proposed development. As such we strongly object to the application 20/00683/OUT.

I also objected to the previous applications by the same developer 17/00710/OUT & 18/02171/OUT in 2017 and 2018. No houses should be built on this green meadow. I feel strongly that there should be a limit in the number of times an application be allowed to be put forward to the Council. If the planning committee turns it down three times, that should be the limit. I wish that my letters of objection sent to the previous applications be lodged in addition to this letter.

As it is public knowledge that the previous applications were actually supported by the Planning Officers ONLY to be turned down by the council's planning committee on 3 separate occasions and also by the Appeal inspector, as we are essentially dealing with the same developer and the same site, this application should be referred to the Planning Committee and not simply the Planning Officers. If, because of the COVID situation, and until the planning committee can meet together, which I am sure they will be able to do so before too long, THE DECISION SHOULD BE DEFERRED until the Committee can meet.

**Proposed housing density**

The report states that the density of the houses was reduced on the boundaries that border Battledown. This is certainly not the case with the northern border of the proposed development. The plan shows double storey and 2½ story houses right on our boundary. In addition, the 2½ storey houses/flats will be on a higher elevation than our house and will therefore look directly down into 4 of our bedrooms, let alone our drawing room and conservatory. This is a gross infringement on rights to privacy.

According to the Battledown Estate site <http://www.battledown.co.uk/covenant.asp>, in the Deed of Covenants and Regulations, number 5 states "No person is to build on the Original Lots of Estate land more houses than in proportion of one house to each half acre of land". This proposed

development is adjacent to Battledown and in particular to my property. The proposed density of the site (shown in the Design and Access Statement is 11 units per hectare (2.47 acres) which equates to 2.225 units per half acre of land. This is double the allowed adjacent density of Battledown of 1 unit per half acre of land. Why are we only comparing the density of this site to the density of Ewen's farm and not to that on Battledown, especially as Battledown borders to the North Boundary of the proposed site? In addition, the North Boundary is where the developers are proposing all the affordable houses to be located. The 2½ storey houses/flats will be on a higher elevation than our house and will therefore look directly down into 4 of our bedrooms, let alone our drawing room and conservatory.

The Landscape and Visual Aspect Report, makes general mention of the impact the development will have on residents of Birchley Road, though it specifically avoids any mention of the most impacted properties such as Coversdown, Meadow View and Charlton Manor. This is a major oversight in the analysis, creating a clearly biased document.

In addition, as these houses are directly south of our house, they will most definitely block light and direct sunlight into our property. In winter, we would not see any sunlight whatsoever.

We purchased in Battledown specifically because of its privacy and quietness. This proposed development will totally undermine our right to privacy and quiet enjoyment.

The application is completely contrary to the Cheltenham Plan. (see below)

The Cheltenham Plan POLICY HD4: LAND OFF OAKHURST RISE describes the site and then goes onto state some of the issues with this site

#### Heritage assets Site specific requirements

- Approximately 25 dwellings
- Safe, easy and convenient pedestrian and cycle links within the site and to key centres
- A layout and form that respects the existing urban characteristics of the vicinity
- A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development
- Measures necessary to mitigate the traffic impact of the site and to encourage the use of more sustainable transport modes
- Protection to key biodiversity assets"

It is quite clear that the developers have totally ignore the Heritage assets Site specific requirements mentioned above.

The current plan also ignores the National Planning Policy Framework (NPPF) plan that is currently going before parliament. This plan quite clearly identifies the land in this application, for an approximate 25 Houses. The proposed plan of 43 houses is well in excess of this number therefore it should be rejected out of hand. It also fails to meet the condition of the form of layout of those affected by the development.

Furthermore, I do not see any evidence that the reason the previous Outline plan 17/00710/OUT & 18/02171/OUT which the Council turned down in August 2017 and 2018, have been addressed. In the council's letter dated 16th August 2017, 5 reasons were listed and a mention was made of the NPPF. None of these reasons have been adequately addressed so this application should also be rejected.

I fail to see how this has been accepted as a new application, as even the applicant is using the same supporting documents as they did for the previous plan that was turned down. I therefore believe that as the applicant is the same company as the previously rejected plan and they have used a number of the same original documents, that all the objections for 17/00710/OUT and 18/02171/OUT should still be considered by the planning committee.

How can CBC and the surrounding residents rely on any of the supporting documentation as many have been resubmitted by the applicant from the previous applications – many of which were found to be totally inaccurate? The application should be rejected out of hand simply on the numerous inaccuracies.

Additional objection points to the current Plan are as below:

1. Charlton Kings Parish Plan published April 2017

This plan was published by the parish council to provide guidance for the next 5 - 10 years. It was produced by a public questionnaire and parish meetings. Page 8 states "a clear consensus emerged that development on open land and green spaces should not be allowed." Page 9 states "There was preference to avoid building on 'green' sites of any description, favouring future development on brownfield/waste or infill land;"

Therefore this development is contrary to the conclusions drawn by the Parish Council and the residents of Charlton Kings.

2. TPO Trees and Hedgerows

On our boundary with the proposed development, there is a magnificent specimen of an oak tree, which I have been led to believe is over 350 years old. There are also a number of other mature trees. Up until 2 years ago the St Edwards school ensured that T13 was well maintained and dead branches were removed by their tree surgeon thereby reducing the risk to damaging our house. As the tree is south west of our house and the prevailing winds are from the south west the failure to dead branch this tree would otherwise place our house at direct risk during storms. We would therefore require an undertaking by the developer to ensure this tree is maintained and also to insure against any possible damage at any time in the future to property and potential loss of life. The Developer should be required to establish an ESCROW account or an Insurance policy specifically to cover any damage that may occur to our property from this tree.

The developers have already shown scant regard for us neighbours in that they accessed the current site illegally over our properties. They also showed no regard to the TPO tree and hedgerow they removed. To date we are not aware whether this breach of the law has led to prosecution.

Secondly, I believe that the proposed houses would be built far too close to the root system of this magnificent tree. The consequences of this would most likely lead to the tree's demise. This would then place the foundations of our house and our neighbour in 29 Oakhurst Rise in danger of subsidence and cracking. In addition, any houses built within its vicinity would also be subject to these issues.

I believe that developer acted against the guidelines of the 1997 legislation on hedgerows when a large section close to my house was destroyed without the correct permission in the spring. In addition, they are proposing removing a large section of hedge row and Ash Trees in order to put in a road.

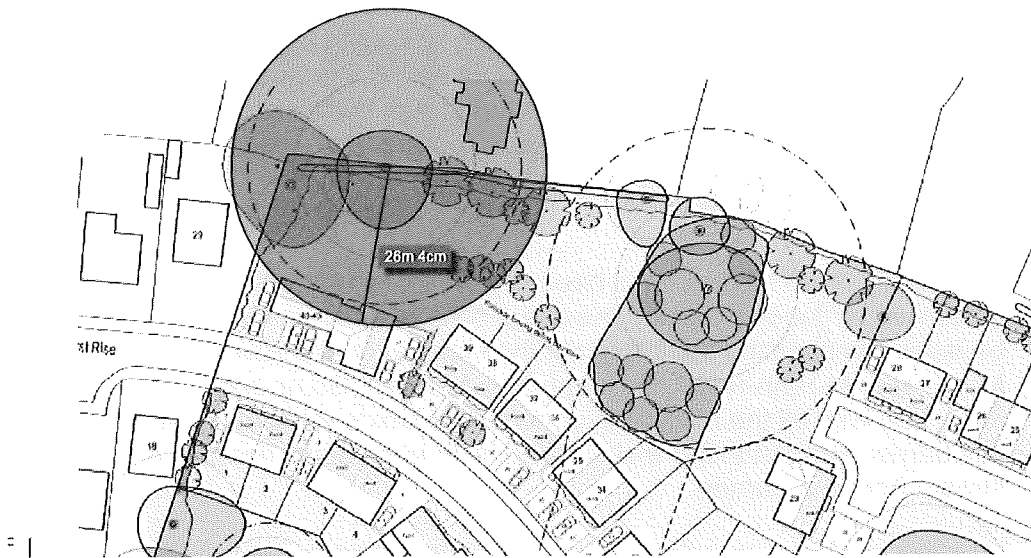
I feel that the developers survey into the biodiversity of the site is highly inaccurate and should be discarded and not relied upon. As our house overlooks part of the field we witness all the various wildlife that many other residents have already listed. Our CCTV cameras also regularly record the presence of all this wonderful wild life.

Cheltenham Planning Policy GE 2; Private Green Space states "The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted." So, does the proposed development site meet the requirements of significant townscape and environmental contribution? It clearly has a unique environmental impact with a wide range of flora and fauna, it is kept in semi-wild condition, with once per year grass cutting and occasional tree surgery. It is a unique site that it is surrounded by buildings on all 4 sides, it is visible from the ANOB areas. It is a wonderful undeveloped area and forms part of the critical green space that goes to form Cheltenham. As such I contend that any normal person would agree the proposed development site does not meet these criteria - hence the application should be immediately rejected.

This new plan STILL does not address any on my previous objections and hence all my previous objections still stand. In particular as pertains to the houses on the North boundary that are in proximity of T13. (Note: I am using the TPO Order 96 Ref MHP 16087 as the tree references, as the applicant regularly has used the wrong references for identifying these trees.)

I have a copy of a report by Barton Hyett Arboricultural Consultants (BH), in response to the original Arboriculture report of the developer's consultants (TKC). The documents presented by TKC with regard to the TPO's and RPA's are based on guidance of BS5837 (4.6.1) whereby the maximum of 15m radius from the tree stem is being used. In fact, the Natural England and the Forestry Commission published in January 2018 that recommends that "for veteran trees a buffer zone of at least 15 times larger than the stem diameter or 5m beyond the crown edge if that is greater" should be used.

In addition, the councils own Tree Officer stated on 8 Mar 2018 "Veteran trees have not been classified as per BS5837 (2012) recommendation where veteran trees should have an automatic A3 classification. Similarly, the Root Protection Areas do not conform to the Woodland Trust and Ancient Tree Forum recommended areas equivalent to an area described as a circle of 15 (as opposed to 12 in BS5837 (2012)) times the diameter of a tree or 5 metres from the edge of the canopy. Indeed, such recommendation of no hard surfacing within BS 5837 (2012) para 7.4 recommends that no construction occurs within a RPA."



This has a significant impact on the developments in the proximity of T13 to mention one.

Using the diameter of "T13" in the report as 1505mm (Which I believe is incorrect and should be closer to 1700mm), then the RPA from the T13, that should be excluded from development, should be a radius of 22,5m.

When the correct diameter figure is applied of 1760mm diameter, this exclusion radius should be increased to 26,4m and hence the property 40-43 contravenes the RPA regulations.

These trees are hundreds of years old and should not be subject to the risk of being endangered in the name of housing. It is the housing that is encroaching on the trees, not the other way around.

The application involves the removal of 2 x ash trees, one with a TPO. The reason given last time is that 'they are of limited value because they are susceptible to die back'.

My understanding is that the TPO'ed ash tree stated for removal has been identified as a veteran by the Woodland Trust (WT). With different numbering systems being used across all the documentation that is impossible to check on a laptop!

The WT challenged the RAVEN system being used by the developers at the appeal, stating that it was not an industry recognised system (it is an in-house classification of trees used by the developer's consultants only).

In any event, this most recent study (<https://www.bbc.co.uk/news/science-environment-52582304>) casts some considerable doubt on the CBC position showing that Ash Trees within a hedgerow are far more resistant to Ash Die Back. We trust that this new study will be taken into consideration when assessing the application.

### 3. Increased Flood risk.

Historically there have always been significant issues with surface run off and groundwater flooding around the site. I believe a full and proper impact study needs to be done investigating the impact of the scheme on the River Chelt through Cox's Meadow onto Bath Road and Neptune's fountain. Some proper flood modelling is called for. Even with all the modelling done for the Cox's meadow flood barrier, the first time this barrier was put to the test, it failed, with large scale flooding of properties downstream from the barrier.

I am not at all convinced that routing all foul and rain water under Charlton Court Road will be an adequate solution at all. The ageing lower sections of the sewage system are already vulnerable to blockages and collapses according to a helpful local expert on drainage.

The consultant does not seem to recognise that there is any existing flood risk, I believe residents will tell a different story from their personal experiences.

In addition, the flood zone map created 26 March 2008 shows on page 4 a preponderance of incidents of "Recorded Flooding" in both the categories of "Artificial Drainage" and "Unknown" following the line of Oak Avenue. Anyone who has dug their garden or who remembers the old brick works will know this is an area of clay soil which is always damp.

This is further borne out in the fact that we already have a continual spring, that starts in the field and runs through part of our property, nearly all year round. If the spring runs at present with all the natural protection that the field currently affords it, what is going to happen once this water has nowhere to go due to the impermeable surfaces that will cover the proposed site.

4. Access to site

Even the Appeals inspector made mention of the inadequacies of the access to this site in his Appeals report **Appeal Ref: APP/B1605/W/19/3227293**

**I full support the detailed submission that the owners of Tall Trees have lodged on the 11<sup>th</sup> May 2020, regarding this inadequate access.**

Oakhurst Rise is a small, narrow and steep cul-de-sac. Many residents park on the road as the driveways are so steep and narrow with often dangerous drop offs due to the gradient. The gradient is 1 in 5 at the top and narrowness of the road make sole 2-way access to 43 houses from this site totally inadequate.

In snow and icy weather, the road is immediately cut off as residents prioritise the grit for the lower part of the Rise and the busy and dangerous bend and slope near Pine Close. I wonder where snow bound cars will park on congested Beaufort and Ewen's Road. How will emergency vehicles access the development in snow? The Rise is accessed via the very narrow and congested streets of Ewen's Farm; one of the worst streets being Oak Avenue. Blind bends already make these roads that are occasionally 2-way in sections dangerous.

5. Change to Cheltenham skyline

The site is a very visible green part of the visual landscape. It adjoins Battledown, which is one of the highest points in Cheltenham. As the 2½ storey building and 2 storey houses are going to be built on the crest of the development, the skyline of Cheltenham will forever be blighted. Particularly from Leckhampton Hill, the A435 and the popular Cotswold Way at Lineover Wood where the path emerges from the trees. There is no dense housing at this elevation at present and the new estate will have a very significant impact on visual amenity. It will be a scar on the tree dense and greenfield nature of the landscape at this height on the hill line as currently afforded by the properties on Battledown. This will further erode the character of Cheltenham as a scenic spa town.

6. Loss of a community recreation area

The field is used by the wider community and it is a well-regarded venue for county cross-country competitions hosted by the school, as well as being a huge draw on bonfire night when the school PTA run their fund-raiser. Children from the school benefit from the access to the field to get closer to nature, such as the popular "welly walks" from the pre-school section.

7. Damage to biodiversity.

The developers' environmental consultant claims that the majority of the site is "poor semi improved grassland" which is "regularly mown". They claim it is "short grassland" that is of "low conservation significance". I completely contest this. The developers study was done at an inappropriate time of year. I believe that other expert opinion has been obtained who believes that the site is actually species rich grassland which requires a detailed grass species survey, ideally done May-July. I understand the developers' nature survey was done in early September 2016 soon after the farmer had cut the grass down and driven over it with a tractor. Like most wildflower meadows throughout history the grass is cut once a year, contrary to the developers' claims this does not constitute regular mowing or cultivation. I must insist that a proper survey is done to establish the true status of the meadow.

8. Amenities in the area

Already the amenities in the form of schools, hospital places and Sixways surgery are under extreme pressure. It is fairly common for current residents to have to wait 3 weeks to see a GP. I also understand that the schools in our area are all fully subscribed. This proposed development will simply further exacerbate the problem.

Simple financial contributions/penalties as appear to be the norm when these issues arise in other planning applications (eg Tim Fry brown field development) will not solve the problem of residents being able to see a GP or getting places in schools as the amount of the penalty paid to the council, cannot possible pay for a new school or doctors surgery to be built.

9. Conflicts with the Local plan

I would like to point out that when reading the Cheltenham Borough Local Plan Second Review Adopted July 2006, it would appear that this application falls foul of the following objectives as set out in the above document. :-

General

O3 to protect public safety and amenity

O6 to create more sustainable patterns of development, with priority use of previously-developed land

O7 to make best use of development land

O8 to meet the needs of the elderly and people with disabilities

Environment

O9 to conserve and enhance the setting of Cheltenham

O10 to conserve the natural beauty of the Cotswold Hills

O11 to conserve and improve Cheltenham's architectural, townscape and Historical heritage

O12 to conserve and improve Cheltenham's landscape character and green environment

O13 to safeguard the countryside from encroachment and inappropriate development

O16 to protect and improve the quality of land, air and water



O18 to maintain and encourage biodiversity

Housing

O23 to secure a high standard of residential amenity

Utilities infrastructure

O30 to reduce the risk of flooding and flood damage

O31 to make adequate provision in development for the satisfactory supply and treatment of water

Transport

O32 to promote sustainable transport

O33 to safeguard the potential for the future provision of transport infrastructure

O34 to ensure infrastructure in development is provided to a satisfactory standard

O35 to safeguard or improve personal safety in the transport system

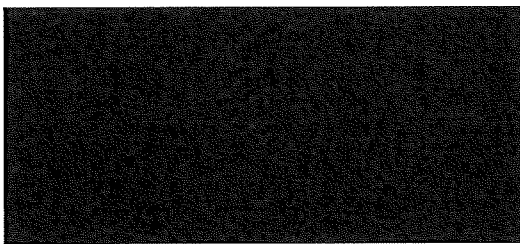
O36 to contribute to road traffic reduction and improve traffic flow

It would therefore appear that this application fails in so many of the prescribed principles as laid out in the Local Plan.

In conclusion, whilst the developers supporting documents appear to be comprehensive and all encompassing, they are far from this. They are at best extremely biased and in many cases inaccurate. They are at worst lacking in substance for a development of this scale which has far reaching implications not only to the residents of the immediate vicinity of the development but also to the greater community of Cheltenham.

We therefore implore the council to reject these plans outright.

Yours sincerely





4 Charlton Court Road  
 Charlton Kings  
 Cheltenham  
 GL52 6JB

14<sup>th</sup> May 2020



Cheltenham Borough Council  
 Planning Department  
 Municipal Offices  
 The Promenade  
 Cheltenham

Your Ref: 20/00683/OUT

PLANNING FOR LAND ADJACENT TO OAKHURST RISE (OBJECTION)

To Whom it may concern

This proposed development is leaving me with the impression that the pursuit of profit alone is driving greed beyond all reason. The effects on the surrounding area should be evident to the most obtuse minds.

The area is undisturbed with old ground cover that dissipates surface water fairly evenly over the sloping surface. Any water that does not soak into the ground flows evenly across the whole width of the plot and slowly down the slope eventually into the drains or the culvert at the bottom. The culvert has coped with this situation in the past except for July and September 2007 when the above property was flooded twice. The cause of the flooding appeared to have been work covering open ground at Whitefriars now St Edwards school behind the property coupled with debris restricting the flow into the pipe.

The culvert passes from the surface to underground at the boundary of the above property. Under ground is an old pipe of undetermined diameter said to be in good order on the purchase in 2001. It is too small to cope with any increase in water from the open culvert. This was confirmed in 1971 by Severn Trent Water who deemed the culvert to be AT CAPACITY. After remedial work was carried out by Cheltenham Borough Council (CBC) on the culvert to alleviate the pressure on the entrance to the underground pipe and control the flow further up the watercourse. This has so far been effective but it does not alter the fact that the flow can be controlled but the CAPACITY cannot be increased without enlarging the pipe which surfaces the other side of Charlton Court Road. It is apparent to me that the documentation supporting the proposed development limits its scope to the immediate environs and ignores anything adjacent to the development area that will raise negative issues.

After the flooding in 2007 I carried out some research on the land behind the above property and discovered that there were a number of planning applications on file in the CBC Planning Department, each stating 'existing facilities' as a means of dealing with surface water. As far as I could ascertain none existed. The fact that there has been no further flooding since the work by CBC (and others?) is an indication that the work was successful, however, there has been no increase in capacity. The water at the start of the underground pipe has reached the top of the entrance on a few occasions but not overflowed.

Any disturbance of the ground at the proposed development site is certain to change the flow of surface water resulting in additional water entering the culvert at

the bottom. From my perusal of the paperwork related to this aspect I cannot see any realistic solution to this problem within. The reports etc. conveniently gloss over the germane issues and stress the solutions, which to me, are the crux and should not be accepted without challenge.

Additionally, the sewers and surface water drains along Charlton Court Road, Beaufort Road, Oak Drive and Haywards Road continually require attention because this seems to be the sump for the surrounding higher ground. The assertion that the water and sewage can be controlled by using various means probably assumes the use of reservoirs and pumps etc. We have seen the results of relying on this type of solution in places like Raynham in Essex where my daughter was lucky to get out alive when the pumps failed and an underpass filled with water in minutes. With any equipment of this nature it is not a case of IF it fails but WHEN it fails.

Usually I do not get involved in this sort of hassle, I have enough of my own, but it seems to me that the people behind this proposed development are using the Chinese Water Torture to wear down resistance. I cannot believe that it is good practice to allow this type of application to roll along, reducing the numbers or making small alterations. Even ONE property with its necessary services will alter the balance. Is this what they are trying to do? Build one and the reasons for any limit are then null and void!

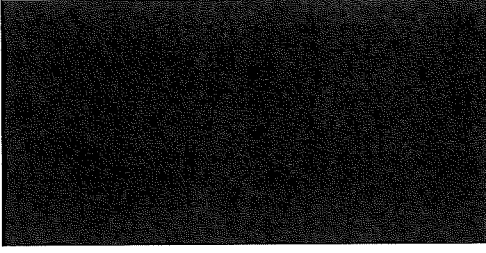
In the list of documents is C21505 Rev M April 2020 that I studied because I do not have the time to peruse the others in detail. Page 7 5.8 states as FACT that the land is classified as 'Flood Zone 1' but essentially, given the land below the site has a water course and reservoirs to control waterflow, would not 3b be more appropriate. Flood Zone 1, although not proven, was stated as FACT in following paragraphs. Their map, Fig 5 on Page 8 clearly shows the reservoirs and watercourse that was the cause of the flooding in 2007, and those further up the slope. I suspect that their capacity has not been measured.

Remedies for flooding, or indeed any other problem requiring maintenance, are only as good as the maintenance so any long-term provision will rely on a sound provision plan funded, either by a levy on house owners or an ESCROW account set up by the developer. I see no such provision. I suspect it will fall on the Rate Payers in the longer term.

Finally, to increase the capacity of the culvert means upgrading and enlarging the existing one from the back of the above property as far as it goes underground towards Cheltenham. I do not think the Developer nor the Borough Council can afford the cost of such a project.

This is not an issue that can be a 'wait and see', once it is started it cannot be returned to its original state. There seems to exist an attitude that if something is not within the boundary of the development it need not be considered. There are many other issues involved in this development but I am very sure that they have been aired so I will not waste your time repeating them here. However, I would like to know if the same inducement to support the plans has been offered to St Edwards as was described in the support letter for the previous application from the then Governor.

Yours Sincerely





7



WADLEYS FARM,  
HAM LANE,  
CHARLTON KINGS,  
CHELTENHAM,  
GL52 6WJ  
19-5-20

your ref. 20/00683/00

PLANNING  
Rec'd 21 MAY 2020  
SERVICES

Dear Mr. Pickarnell,

I wish to object to the latest attempt by the very  
persistent developer to build on a totally unsuitable site at  
Cobhurst Avenue.

The approach road is totally unsuitable and the  
proposed site is in a well established natural area adjacent to  
a junior school.

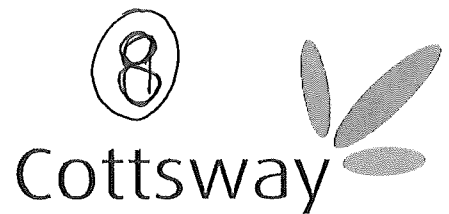
Please continue to refuse the latest application and the  
developer might eventually get the message and go and find  
another authority.

Yours faithfully,









29 May 2020

**Site: Oakhurst Rise, Cheltenham**

Dear Laurence

Following on from our conversations about the Oakhurst Rise site, we are writing to confirm our interest in the affordable housing element of the scheme which comprises 18 homes or 42% of the development. We would support the inclusion of a greater level of rented housing against other tenures and are confident of being able to let the homes.

We would support the delivery of more affordable homes in this area.

Cottsway are a Registered Provider based in Witney, a 45 minute drive from Cheltenham. We manage existing homes in Cheltenham and have recently completed and successfully let 90 homes in the Prestbury area.

Cottsway currently manages almost 5000 homes for rent and shared ownership for over 10,000 customers. Our homes are based in West Oxfordshire, Cheltenham, Gloucestershire, Wiltshire and Worcestershire. We are in a strong, robust financial position and committed to doing more to help people in housing need. Our ambitious development programme delivers over 160 homes per year. We work in partnership with Homes England and have strong relationships with Local Authority partners. Cottsway keeps our existing customers homes in great shape with an inhouse team of skilled tradespeople. We put our customers at the heart of everything we do with a dedicated team of housing, neighbourhood, financial and welfare officers to provide support where needed.

We would be very interested in the affordable homes due to be provided as part of this development and welcome further discussions in this regard.

Yours sincerely



Development Manager



[www.cottsway.co.uk](http://www.cottsway.co.uk)





Charlton Manor  
Ashley Road  
Cheltenham  
GL52 6NS

4<sup>th</sup> September 2020

Dear Ms Pickernell  
Cc Gary Kennison, County Ecologist  
Juliet Hynes, Gloucestershire Wildlife Trust

Ref: 20/00683/OUT

There are a number of errors in recent correspondence on ecology regarding St Edwards School Field.

It is truly regrettable that the annual hay cut of the field has been cancelled (according to the contractor who was scheduled to cut it in early July, "the developers' ecologists need to do more work"). Such a delicate ecosystem is easy to undermine, and it is difficult to believe claims that the future of the site should be trusted to those wishing to profit from the land, when there is scant evidence the biodiversity that exists today is being protected under their stewardship.

With respect to the repeated surveys of the site in July and August (reptiles and grassland), it is regrettable that nothing has been done at the appropriate time of year, since 2016 when this site was first proposed. Any such surveys might have captured its full ecological value. Their absence speaks volumes, as the planning inspector noted in 2019.

In particular, the Aspect survey in 2020 returned a similar count to the Bioscan survey done at the same time of year in support of CBC's case at appeal in 2019 (12 vs 14 grassland species, July / August). When the meadow is in flower, a very different result might have been evident; Bioscan's principal ecologist recorded 21 species and discounted a further 4-5 found, photographed and GPS recorded by non specialists, as unproven.

Specific areas of concern or contradiction:

- The county ecologist states only 43% of the existing grassland will be retained, which sits uncomfortably with statements that 'new wildflower meadow' will be created. As is evident from photos that have already been submitted, the retained grassland is already a wildflower meadow so no 'new' creation is possible. The meadow flowers between April and June but has never been surveyed at that time (other than by Bioscan). Cowslips, vetches, woodrush, pignut, trefoils, various buttercups and cuckoo flower predominate (The protected English bluebells, photos taken 3 May 2020, can be found across the field, including on the proposed site of the driveways for houses 22-28 and across the wider site of houses 11-21), **not**, as Aspect claim, in the hedgerows).
- There are repeated statements that the meadow is mown but not baled (although Aspect's evidence to the 2019 planning appeal stated the soil had been compacted

by extensive use of machinery – that was also untrue). The field was baled the day before the inspector visited last year (photo below), and has been cut annually for as long as residents can remember. Hay is used by St Edwards School for the school farm, and is of sufficient quality to be usable by the Riding for the Disabled charity (they struggle to source organic hay locally and the school donate their surplus). Plenty of photos are available on social media.

- Various ecology statements now note that the grassland will be leased to the school for their future use. It is unclear how ecologists are qualified to make that assertion. As a primary school St Edwards does not allow children on uncut grass given the prevalence of deer ticks. In the 10 years our children have been pupils at the school, they have kept off the main wildflower area and used the walking paths cut elsewhere across the site for forest school, nature walks and more.
- There is a conflict between school use and biodiversity protection (as well as child protection, given the claimed access for residents of the new estate) – which is going to take primacy? And why should the tax payer fund (through S106 payment or otherwise) the maintenance of land that is going to be retained for the sole use of a private school?
- Aspect state that the ‘scrub’ under the ice house is to be retained in their biodiversity metric, but elsewhere in the application it states that the scrub will be removed as part of the condition to improve the ice house. Which is it?
- The most recent county ecology statement notes that mature trees will be removed above the badger sett, including ash and sycamore. This area of woodland is described as ‘scrub’ in the Aspect biodiversity metric rather than hedgerow or woodland, and the removal of the trees is not given comment in the FLAC tree report. Is the data is being used selectively to pass policy tests, rather than objectively to do the right thing by the site and the planning committee?
- The county ecologist states that mature ash “will be lost” in the next decade to ash dieback. This is unreasonable. Any mature tree could become diseased, but on that basis no tree merits protection, contrary to NPPF guidance. Natural England research indicates that hedgerow ash trees appear to have a level of immunity to ash dieback, and therefore have a particular biodiversity importance.
- There appears to be conflict between the drainage strategy below ground and the tree planting above ground (namely there are claims to an unbroken new tree belt, without explanation as to how trees can be planted over a main drain). This affects the biodiversity metrics, the claimed screening for a Grade 2\* listed building, and the claimed flood protection to the wider River Chelt flood plain.
- The county ecologist states that the pond at the top of the site will be lost to the development, counter to statements elsewhere in the proposal. Given the pond is spring fed (and has been on Ordnance Survey maps since at least 1836), where is that water going to go?
- Why is there no comment made on the loss of nearly 30% of an 150+ year old important hedgerow? It is inconceivable that this habitat could be restored or replaced within a 15 year window. Risks to any claimed new habitat include climate change affecting the survival of new planting (drought and floods have killed off any new planting across the Battledown Hill since 2017, other than non native species), the impact of the roe and muntjac deer population in residence, the steep terrain

precluding water retention and the dense clay subsoil noted in the Simpson report on drainage.

- Comments from other sources seem to have been ignored across the ecology debate, whereas the claims of William Morrison's planning consultant have been repeated verbatim. Counter views include those of the county moth recorder on record ("lepidoptera assemblage would indicate high quality grassland", first recording of chimney sweep moth in the borough since the 1960s) and HMT's inspector of planning ("there will be a net biodiversity loss to the badger population", full reptile survey necessary before permission is granted) but these have not even been mentioned, let alone addressed. This is regrettable, particularly from supposedly neutral consultees.

I would be grateful if this letter could be added to the objections associated with this application. Other objections previously raised still stand.

The failure to address the views of the statutory authority on heritage is woeful.

Kind regards





A picture taken for other reasons, identifying bluebells flowering April 2020. Aspect fail to mention their presence across the meadow; e.g. approx. 70 plants between the ice house and the northern boundary.





July 2019.



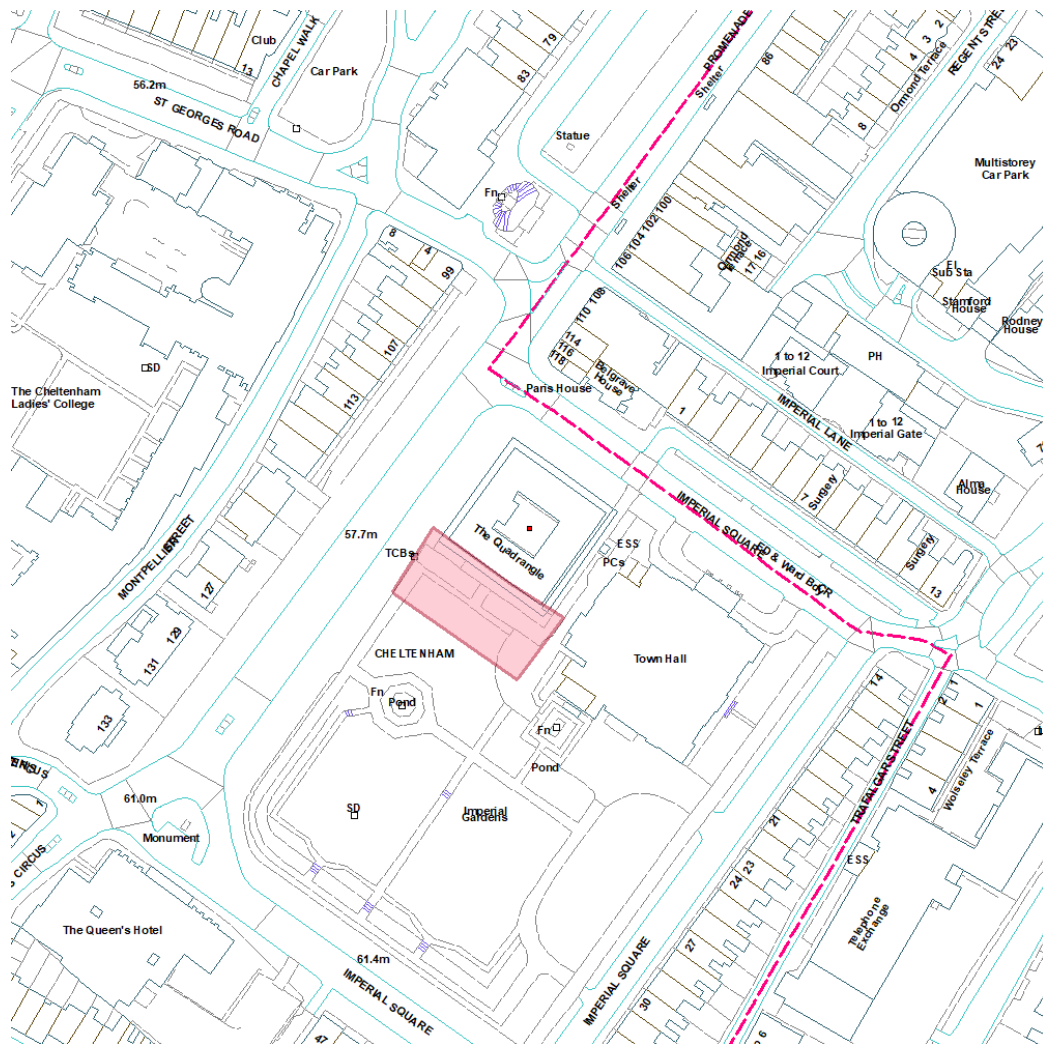
One of at regular cross country competitions that take place each year, since at least 1957. The only soil had been compacted from Children running a cross country course!





<b>APPLICATION NO:</b> 20/01223/CONDIT	<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 25th July 2020	<b>DATE OF EXPIRY:</b> 19th September 2020
<b>DATE VALIDATED:</b> 25th July 2020	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Lansdown	<b>PARISH:</b>
<b>APPLICANT:</b>	ABF Pension Trustees LTD
<b>AGENT:</b>	SF Planning Limited
<b>LOCATION:</b>	The Quadrangle, Imperial Square, Cheltenham
<b>PROPOSAL:</b>	Variation of condition 2 (approved plans) on planning permission ref. 19/01436/FUL to allow for minor material changes to the approved public realm improvements scheme

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located to the southwest of The Quadrangle building and extends into Imperial Gardens. The site is wholly located within the Montpellier Character Area of Cheltenham's Central Conservation Area; and in proximity to a number of grade II and II\* listed buildings, including the grade II listed Town Hall.
- 1.2 Planning permission was granted in 2018 for the refurbishment, alteration and extension of The Quadrangle building, and the works are now well underway on site; the works include improvements to the building's façade, extensions to the ground floor commercial space, and the provision of a new roof top restaurant.
- 1.3 Subsequent to this, planning permission was granted by the planning committee in September 2019 for improvements to the public realm; to include new public exhibition facilities, external seating areas, replacement planting and hard landscaping works.
- 1.4 This application is now seeking to vary condition 2 (approved plans) on planning permission ref. 19/01436/FUL, under Section 73 of the Town and Country Planning Act 1990, to allow for minor material changes to the previously approved scheme.
- 1.5 The proposed changes essentially involve the reconfiguring of the proposed hard and soft landscaping, and associated changes to the extent and positioning of the exhibition stands.
- 1.6 As before, the application is at committee for reasons of transparency as the site extends onto land within the Council's ownership, which is designated as Public Green Space.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Airport Safeguarding over 45m  
Business Improvement District  
Conservation Area  
Core Commercial Area  
Principal Urban Area  
Smoke Control Order

### Relevant Planning History:

**18/00277/FUL**

**PERMIT**

**10th April 2018**

Refurbishment, alterations and extensions to the existing building including facade improvements, extensions to ground floor commercial space and new roof top restaurant

**18/01722/CONDIT**

**PERMIT**

**2nd October 2018**

Variation of condition 10 on planning permission ref. 18/00277/FUL to amend the wording to read "Prior to the internal fit out of the roof top restaurant element of the scheme, a detailed lighting scheme for the roof top restaurant shall be submitted to and approved in writing by the Local Planning Authority. The agreed lighting scheme shall be fully implemented prior to first occupation of the roof top restaurant and shall be retained as such thereafter"

**19/00961/CONDIT**

**PERMIT**

**20th June 2019**

Variation of condition 5 on planning permission ref. 18/00277/FUL to amend the wording to read "Prior to the occupation of more than 50% of the floorspace of the building, hard and/or soft landscaping works shall be carried out in accordance with a robust hard and soft landscaping scheme which shall have first been submitted to and approved in writing by the

Local Planning Authority. The scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences, other boundary treatments and finished ground levels; details of the hard surface treatment of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to include [species, size, position and method of planting of all new trees and shrubs]; and a programme of implementation. The landscaping works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority"

**19/01169/CONDIT**

**PERMIT**

**29th July 2019**

Variation of condition 2 (approved plans) on planning permission ref. 18/00277/FUL to allow minor material amendments to the approved scheme

**19/01436/FUL**

**PERMIT**

**23rd September 2019**

Public realm improvements to external areas including new public exhibition facilities, external seating area, replacement planting and hard landscaping works

### 3. POLICIES AND GUIDANCE

#### **National Planning Policy Framework (NPPF)**

Section 4 Decision-making

Section 12 Achieving well-designed places

Section 16 Conserving and enhancing the historic environment

#### **Saved Local Plan (LP) Policies**

GE1 Public Green Space

#### **Adopted Cheltenham Plan (CP) Policies**

D1 Design

SL1 Safe and Sustainable Living

GI2 Protection and replacement of trees

GI3 Trees and Development

#### **Adopted Joint Core Strategy (JCS) Policies**

SD4 Design Requirements

SD8 Historic Environment

SD14 Health and Environmental Quality

#### **Supplementary Planning Guidance/Documents**

Montpellier Character Area Appraisal and Management Plan (2007)

### 4. CONSULTATION RESPONSES

**Tree Officer**

*21st August 2020*

The CBC Tree Section endorses Landscape Planting Plan 11259\_TG\_POS Rev C provided there are minor modifications:

- 1) The soil to be used within the tree pits is to be 'site won' soil which has been assessed as being suitably fertile and in accordance with BS 3882 (2015) (specification for Top Soil). However Trees Officers have concerns that the soil around where previous trees existed supporting large conifers will be insufficiently fertile to encourage tree establishment and growth. It is strongly recommended that fresh top soil (to the BS Standard is incorporated into the tree pits.

- 2) It is noted that a 1000mm root deflector is incorporated into the tree pit so as to encourage downward root growth and avoid adjacent hard surface damage as a result of potential shallow roots. It is considered that such a deflector is too large and roots will not grow deeper than the required 1000 depth (and then a further 20mm through the proposed washed gravel) so as to be able to grow outside the tree pit. If a 1000mm deflector is incorporated into the planting pit, there is a significant risk that tree root growth will not be able to grow outside the tree pits and will become moribund, not grow or thrive. Please could the root deflector size be reduced from 1000mm to 600mm.
- 3) It is noted that planting and maintenance of the trees is for 12 months only. This is insufficient and such large semi mature trees will take longer than 12 months to establish and mature. It was requested that a minimum of 3 years aftercare, watering and maintenance guarantee is necessary to ensure the trees thrive in this location. Due to budgetary constraints, the rooting area (silva growth cells) originally planned for this site have been removed helping to reduce costs considerably. Whilst this has been accepted, reduced costs should not lead to reduced tree planting success. Such trees are likely to have significant energy reserves so as to be able to survive the first year but may struggle in the following years should there be insufficient watering/mulching/maintenance. It is important that such large trees to be planted in an urban environment are given the best aftercare and maintenance as well as a reassuring guarantee for at least 3 years post planting.

7th September 2020

Following receipt of Drawing no 11259\_TG\_P05 Rev F, from a tree perspective, this is now acceptable in that my previous concerns have been addressed and now:

- 1) New topsoil to the British Standard will be introduced into tree planting pits,
- 2) The size of the root barrier is to be reduced from 1000mm to 600 mm (on three sides),
- 3) Aftercare and guarantees for trees are for 3 years-not 1 year.

## 5. PUBLICITY AND REPRESENTATIONS

- 5.1 Letters of notification were sent to the Town Hall, Friends of Imperial Square and Gardens, and Art in the Park. In addition, site notices were posted and an advert published in the Gloucestershire Echo.
- 5.2 In response to the publicity, seven objections have been received; all of which raise concerns relating to the future of the annual Art in the Park (AitP) exhibition. The objections largely relate to the reduction in the number of proposed exhibition stands.

## 6. OFFICER COMMENTS

- 6.1 Guidance set out within planning practice guidance (PPG) acknowledges that *“New issues may arise after planning permission has been granted, which require modification of the approved proposals”* (Paragraph: 001 Reference ID: 17a-001-20140306) and that where less substantial changes are proposed, an application seeking a minor material amendment may be submitted under Section 73 of the Town and Country Planning Act 1990, which allows for conditions imposed on planning permission to be varied or removed.
- 6.2 As such, the only consideration when determining this application is the acceptability of the proposed changes as an amendment to the approved scheme. The principle of

development has been firmly established through the original grant of planning permission which remains extant.

- 6.3 As previously noted, the proposed changes essentially involve the reconfiguring of the proposed hard and soft landscaping, together with associated changes to the extent and positioning of the exhibition stands. The changes are required in order to reduce the costs of the proposals so as to ensure the delivery of the plaza scheme.
- 6.4 The previously approved scheme proposed the wholesale removal of the landscaped border adjacent to the south west elevation of the building but provided for replacement planting to mitigate its loss. However, as originally approved, the agreed location and method of planting of the new trees closest to the building would have required extensive excavations to a depth of 2.5m, and associated piling works. This revised scheme still provides for the planting of 9no. new large, semi mature trees but in smaller tree pits, together with perennial planting, on both on the applicant's land and within the gardens.
- 6.5 Following some minor revisions to the landscaping plan, the revised proposals have been agreed by the Tree Officer and Green Space Manager; all of the recommendations made by the Tree Officer have now been incorporated into the revised landscape planting plan.
- 6.6 Another element of the scheme which has been amended is the wall separating the hard and soft landscaped areas, with a linear wall now proposed in lieu of the 'wavy' wall originally approved. The wall now proposed will be of dry stone construction with a stone coping to match the wall around the nearby Holst statue.
- 6.7 Additionally, the hardsurfacing materials have also been amended with light brown resin bound gravel, to match existing gravel footpaths within the gardens, now proposed.
- 6.8 Finally, as a result of the proposed changes, the number and positioning of the proposed exhibition display stands has been reduced from 23 to 15. It is this reduction in the number of stands that forms the basis of the objection from AitP as they state that 15 stands is insufficient for their future needs; albeit they have also commented on the design of the stands, and their positioning.
- 6.9 In response to the concerns about the positioning of the stands, originally set around the new trees, the applicant has revised the layout to result in a more linear form of exhibition with improved sight lines; however, they are unable to increase the number of stands.
- 6.10 With regard to the design of the exhibition stands, a similar condition to that imposed on the previous decision, requiring the detailed design to be submitted and agreed, is again suggested. An informative is also suggested which encourages the applicant/developer to engage with AitP when finalising the design.

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 Ultimately, officers are satisfied that the amended scheme, when taken as a whole, is one which is not substantially different from that originally approved; and continues to provide an opportunity to significantly enhance this part of the public realm.
- 7.2 The concerns raised by Art in the Park, and their supporters, have been duly noted and it is acknowledged that they will need to adapt their exhibition to fit in with the revised plaza proposals, for example, by extending the length of the exhibition; however, the planning application must be determined in accordance with the development plan and there is no policy reason to refuse permission. It is important to remember that the wider proposals

will result in significant improvement to the public realm for the benefit of a number of users all year round.

7.3 As such, the recommendation is to grant planning permission for this revised scheme subject to the following conditions which reflect those imposed on the original decision notice.

7.4 The new permission would sit alongside the original permission, which would remain intact and unamended.

### 8. CONDITIONS

1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of the original decision (19th September 2019) issued under planning permission ref. 19/01436/FUL.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 Notwithstanding the approved plans, prior to the commencement of development on the public realm works hereby permitted, physical samples of the proposed hard surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. All new hard surfacing areas shall be permeable or drain to a permeable area and shall be carried out in accordance with the approved samples.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020), and adopted policy SD4 of the Joint Core Strategy (2017). Approval is required upfront because the hard surfacing is an integral part of the development and its acceptability.

4 Prior to the commencement of development on the public realm works hereby permitted, a management and maintenance plan (MMP) for the hard and soft landscaping, for a minimum period of three years, shall be submitted to and approved in writing by the Local Planning Authority. The MMP shall cover:

- a) weeding;
- b) pruning;
- c) feeding;
- d) replacement of any dead trees or plants;
- e) sweeping; and
- f) repair and maintenance of hard structures.

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017). Approval is required upfront because the long term maintenance of the landscaping is integral to the development.

5 Prior to the commencement of development on the public realm works hereby permitted, an Arboricultural Monitoring scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of (i) person(s) to conduct the monitoring; (ii) the methodology and programme for reporting; and (iii) a

timetable for inspections. The works shall not be carried out unless in accordance with the approved details.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020). Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 6 Prior to their installation, the detailed design of the demountable exhibition display stands shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020), and adopted policy SD4 of the Joint Core Strategy (2017).

### **INFORMATIVE**

- 1 The applicant/developer is strongly encouraged to engage with 'Art in the Park' when finalising the design of the proposed demountable exhibition display stands.

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<b>APPLICATION NO:</b> 20/01223/CONDIT	<b>OFFICER:</b> Miss Michelle Payne
<b>DATE REGISTERED:</b> 25th July 2020	<b>DATE OF EXPIRY :</b> 19th September 2020
<b>WARD:</b> Lansdown	<b>PARISH:</b>
<b>APPLICANT:</b>	ABF Pension Trustees LTD
<b>LOCATION:</b>	The Quadrangle Imperial Square Cheltenham
<b>PROPOSAL:</b>	Variation of condition 2 (approved plans) on planning permission ref. 19/01436/FUL to allow for minor material changes to the approved public realm improvements scheme

### REPRESENTATIONS

Number of contributors	<b>7</b>
Number of objections	<b>7</b>
Number of representations	<b>0</b>
Number of supporting	<b>0</b>

20 Grosvenor Road  
 Gloucester  
 GL2 0SA

**Comments:** 3rd August 2020

Comments from Cheltenham Art in the Park (AITP)

Executive Summary

The proposed variation of condition 2 signals the end of Cheltenham AITP in the Imperial Gardens as the design for art stands is in no way fit for purpose. But Cheltenham AITP recognise the benefits to the landscaping of the gardens and would still support the plaza scheme if option 2 below is supported by the Cheltenham Borough Council.

Cheltenham AITP and its representatives remain open to discussing this matter with all parties.

Background

The Cheltenham Art in the Park exhibition celebrated its 50th continuous summer exhibition in 2019 and the organising committee would like this showpiece event to continue into the future supporting the vibrant cultural environment of Cheltenham, its residents, visitors and of course its artists.

In 2018 SF Planning Ltd met with AITP a number of times, listening to our concerns with regard to the approved development's impact on the AITP exhibitions.

From the original Design and Access Statement we could see that SF Planning Ltd have listened to our initial views and that their original proposal could allow AITP to continue into the future and remain adjacent to the Imperial Gardens.

SF Planning Ltd had provided a proposal that:

- incorporated the outputs from our initial discussions
- offered us the opportunity to join with them in developing their design which we welcomed and remain committed to do
- that improved the environment and facilities available to the users of the Imperial Gardens

We did have some concerns over the proposal which included:

- how the bespoke exhibition stands are to be erected
- how their provision will be managed
- how space can be provided for stewards and sales
- whether the proposed stands are capable of protecting exhibited paintings from adverse weather
- any costs to AITP that may arise from utilising this space
- when the construction project would be complete and the facilities are to be made available.

Despite these concerns, but based on the provision of 23 exhibition stands in a linear layout as shown in their Design and Access Statement, AITP supported the development.

### The Proposed Variation of Condition 2

On the 23rd July 2020 AITP received correspondence from SF Planning informing us of their proposed changes and they kindly provided an architect's impression of a new layout. This suggested significant changes to the original plan which included:

1. The exhibition stands were no longer in a linear format, but grouped in 3's boxed around 5 trees
2. The number of stands had reduced from 23 to 15.

AITP voiced its initial concerns over these changes to SF Planning and agreed to continue to discuss the design with SF Planning.

On the 28th July SF Planning informed AITP that they were submitting the revised scheme and on the same day AITP received the notification from the Planning Team Cheltenham Borough Council (CBC) indicating the revised scheme had been submitted on the 24th July.

From the evidence of the aforementioned timeline it would appear that the decision to submit the revised scheme with a reduced provision for AITP had been made before any consultation with AITP.

For decades AITP has held an annual open-air art exhibition in the Imperial Gardens on land owned by the CBC and it is this location that would be used by the owners of the Quadrangle building to expand their refurbishment of the building to include the new plaza.

The exhibition which lasts 4 weeks provides screens for over 100 local artists of all standards and experience to display and sell their work. The AITP committee; organises a land use agreement with the CBC, purchases the necessary insurances, sets up stewarding rotas, provides any furniture & fittings and arranges the construction of temporary scaffolding which provides 22 screens with an enclosed stewarding enclosure. Then for the 4-week exhibition the committee members oversee the exhibition and the sales.

The original scheme of 23 stands was based on our desire to maintain the 22 screens we currently provide but also to account for covered space for our daily stewards, so whilst we accept that SF Planning's client would like to reduce the number of stands on cost grounds, the change does mean a 32% reduction in available exhibition space for AITP.

The move from a linear layout to a set of 3 stands boxed around 5 trees also means that stewards cannot view all of the stands and this has significant security issues for AITP and any other exhibition users. A linear arrangement even in a street format (where stands are facing each other), allows stewards or any exhibiting artists to view all screens and prevents the theft of paintings.

If AITP concede the reduction in display stands as a necessary compromise from the original design, then the layout suggested remains an issue. This design is unfit for the purpose of displaying art for AITP and any other artist who may wish to exhibit on more than one cluster of stands.

Problems still exist from the original design that SF Planning assured AITP could be discussed with their architect. Whilst the current Covid 19 situation may have prevented a face to face meeting, no steps have been taken to arrange a virtual meeting between the architect and AITP to discuss the following:

- The screens on the stands need to be deeper to accommodate a sufficient volume of paintings and to provide safe fixing for large works.
- The stands are better located immediately adjacent to each other to offer protection to most of them from adverse weather.
- The roofs on the stand appear to be shallower than those AITP build each year and again this would risk damage by poor weather.

There are perhaps better options for the proposed new layout, one of which would be to locate the stands in space adjacent to the new low brick wall which is provided as the boundary to the main planting.

A single line of stands adjacent to each other, abutting the brick wall starting from the corner with the pavement off the A4015, following the wall to the point where the ramp begins. This could provide approximately 12 stands (24m) and a further 5 or more of the 15 stands in the proposal that face the wall could remain, thereby providing a minimum of 17 stands.

The attached sketch AITP 200801 shows the locations suggested.

### Conclusions and options

1. AITP was made aware of the original Quadrangle project and the submitted plaza scheme by the CBC because this removed the land that we occupy each year for our exhibition, we can therefore conclude that in some part the re-provision of space or even facilities for AITP to continue is a desire of the CBC and this is why we were originally consulted.

Both the CBC and the development project team have voiced support for re-providing an exhibition space for AITP and we are very grateful for that. However, that commitment has not been kept by the development project team and their design has eroded to the point where a viable art exhibition space is no longer achievable. A reduced number of stands designed in isolation by the project team does not signal a co-operative approach or any consideration that AITP has any importance to their scheme or to Cheltenham.

If the CBC decide that this scheme is approved as submitted, then AITP believes this proposal does not meet AITP's needs or those of other artists wanting to exhibit and the AITP committee would like to meet with the CBC to seek alternative locations within the Imperial Gardens for AITP to site its self-built screens and stewarding facilities.

2. AITP is willing to compromise on the number of stands, if a linear design can be provided as suggested above:
  - i. The provision of space for stewards remains an issue and unless something is specified in the design AITP would lose a further stand to this need. Alternatively, AITP could provide a small domestic gazebo that would be erected on a daily basis and removed each evening. Even so, this means that AITP could lose up to 7 screens and will have to reduce the number of artists exhibiting, or extend the exhibition to 5 weeks.

- ii. Unfortunately, we cannot rely on dry weather every day of an open-air art exhibition, so the stand design requires further work and must take account of the fact that they are being used to display art in the open air.
- iii. Despite promises from the project team that AITP would be consulted on the design of the stands, this has not happened to date, so AITP would ask the CBC to ensure that this requirement is entered as a condition of planning consent.
- iv. If the CBC agree that the linear design suggested above should be pursued then this and the minimum requirement to provide at least 17 stands designed with input by AITP should be entered as a condition of planning consent.
- v. How the provision or renting of the stands is to be managed is unknown and AITP should be treated as a favoured customer and guaranteed access to all of the art stands it requires for the same 4+ weeks every year in preference to other potential users.

### Recommendation

Option 2 above is recommended to ensure that the plaza scheme is completed to the benefit of the Imperial Gardens and its users and visitors, which includes Cheltenham AITP.

### **Comments:** 12th August 2020

As you are aware we have submitted the attached comments to the revised design of the Plaza scheme. Here is a version associated with our suggested layout referenced in our submission (available to view in Documents tab). The areas highlighted in yellow suggest where stands could be erected in a line and how some of the stands suggested by SF planning could also be utilised.

### **Comments:** 24th August 2020

Cheltenham Art in the Park Committee comments on revised plans received by the Council c. 17th August 2020.

The Cheltenham Borough Council each year grants Cheltenham AITP the use of land in the Imperial Gardens for 6 weeks; to set up, exhibit and take down our temporary exhibition stands and the Stewards enclosure. Each year AITP builds 22 stands (screens), builds additional stands for displaying its banners and builds a circa 10 feet square waterproof enclosure for two stewards to oversee the exhibition and to manage sales.

We note with interest the new design from SF Planning which incorporates some of our ideas outlined in our submitted objection. Unfortunately, once again this change has not involved direct consultation with Cheltenham AITP and therefore this design still does not enable us to operate our annual open-air exhibition as we have for 50 years.

- The provision of only 15 art stands reduces our exhibition capacity by 32% which limits the number of artists being able to exhibit and the cash flow from screen fees and sales levies that funds the exhibitions.
- There is no provision for a stewarding facility.

The Plaza scheme was originally presented to us as an improvement to the Imperial Gardens whilst providing the facilities for Cheltenham AITP because the land used by AITP each year which has been provided by the Cheltenham Borough Council for the scheme, would no longer be available to AITP.

The initial scheme providing 23 art stands offered something we could have probably developed and worked with, but since then there has been no engagement with AITP in its development or design, and so we get the sense, that having obtained consent, the latest designs are only paying lip service to the original ideal, and there is no real commitment to reprovide a viable facility for Cheltenham AITP.

Unfortunately we feel we must continue to object to this version of the plaza scheme and if the decision is for it to continue without providing fit for purpose facilities, we must seek help from the Cheltenham Borough Council to find an alternative location in the Imperial Gardens where we can continue providing our own temporary exhibition stands.

The Cheltenham Art in the Park committee remain open to discussing with all parties on how our requirements can be met, either with the developer's project team, their architect or the Cheltenham Borough Council planning team.

It is with our sincerest regret that at this point our objection stands.

9 Arthur Bliss Gardens  
Cheltenham  
Gloucestershire  
GL50 2LN

**Comments:** 10th August 2020

I support the improvements to the building and surrounding area contained in the original approved scheme. Previous engagement to maintain a facility for Art in the Park had been very good and the approved scheme allowed this important event to continue. Art in the Park has operated for over 50 years and is a significant attraction bringing people in to the town. I object to the revised scheme as it makes it impossible to continue with Art in the Park in the future and this results in a loss of a significant community facility. The revised scheme fails to provide any justification for the changes and does not represent an improvement on the approved scheme. The only reason for the change is to reduce complexity and cost for the developer. The revision also fails to highlight the loss of amenity created by the changes. As the scheme is inferior the developed should be required to complete the works in line with existing approved scheme.

19 Kimberland Way  
Abbeymead  
Gloucester  
GL4 5TW

**Comments:** 1st September 2020

I am writing to say that the new design from SF planning still only has provision for 15 stands and has no water proof area for a Stewarding Facility. This will mean a big reduction in people being able to Exhibit at this long standing Exhibition which has always been an asset to Cheltenham.

Therefore my objection still stands to this scheme.

**Comments:** 7th August 2020

I am writing to object to this proposal, as a long standing Exhibitor and supporter of Art in the Park, I find the plan not fit for purpose because it reduces the original Art Stands and the layout is not good either. This is such a shame after all the years we have been showing and is a great attraction for visitors to Cheltenham.

Mill Cottage  
Dancing Green  
Ross On Wye  
Herefordshire  
HR9 5TE

**Comments:** 12th August 2020

As a regular exhibitor at Art in the Park Cheltenham I am very disappointed with the new proposal for the exhibiting space for future exhibitions. A reduction in screens will mean a smaller exhibition and I struggle to see how the new proposed layout would work with regards to security and adverse weather conditions.

It would be a great shame to lose the AITP annual exhibition, not just for the artists but also for the local community and visitors to the town. Cheltenham has a great cultural heritage and I feel AITP significantly contributes to this each year.

2C School Road  
Bishops Cleeve  
Cheltenham  
Gloucestershire  
GL52 8BA

**Comments:** 12th August 2020

As a long term supporter of and contributor to Art in the Park, I am very concerned that the proposed variation to the layout and number of exhibition stands will make it very difficult, if not impossible, for Art in the Park and other potential exhibitors to display their work securely and effectively. The three-sided stands which are now suggested may also prove to be a hazard to visitors and pedestrians.

4 Pear Tree Close  
Woodmancote  
Cheltenham  
GL52 9TY

**Comments:** 12th August 2020

Representing Southam Art Group, one of several local art clubs in the Cheltenham area which have been welcomed as participants by Cheltenham AITP in recent years.

The planning permission proposal in its latest incarnation excludes the possibility of any workable exhibition in future. In order for proper stewarding to take place and the security of the artwork to be maintained, stands MUST be sited in a linear manner. I therefore object to the proposal and its clear implication of the ending of a much-loved and enriching annual event in Cheltenham's cultural life.

I find it deeply disturbing that, despite assurances being given that appropriate consultation with AITP would take place, this has signally failed to occur.

**Comments:** 24th August 2020

I write to add further to my previous objection.

Whereas the developer has now tweaked the concept to provide a linear character to the proposed display stands, the number of these is patently inadequate to the needs of the annual exhibition. It appears that AitP is being asked to accept a dramatic cut in its size and a

consequent impoverishment of the "spectacle" provided down to something approaching that of a village fair.

The AitP committee could be forgiven if it were to decide that enough is enough and that commercial interests have won out over the needs of the local community and fifty years of tradition.

Were this to be approved by CBC, it would imply strongly to the casual observer that the Council is very happy to involve itself with events of national and international importance via "festivals" and the like but has scant regard for local artists who may be struggling to make a reputation.

2C School Road  
Bishops Cleeve  
Cheltenham  
GL52 8BA

**Comments:** 26th August 2020

I have looked at the new proposal from the developer and would like to comment further:

Whilst the suggested change back to a linear position of the run of display boards is an improvement on the initial variation application, the number of units still does not provide AitP with sufficient space for an effective and secure exhibition.

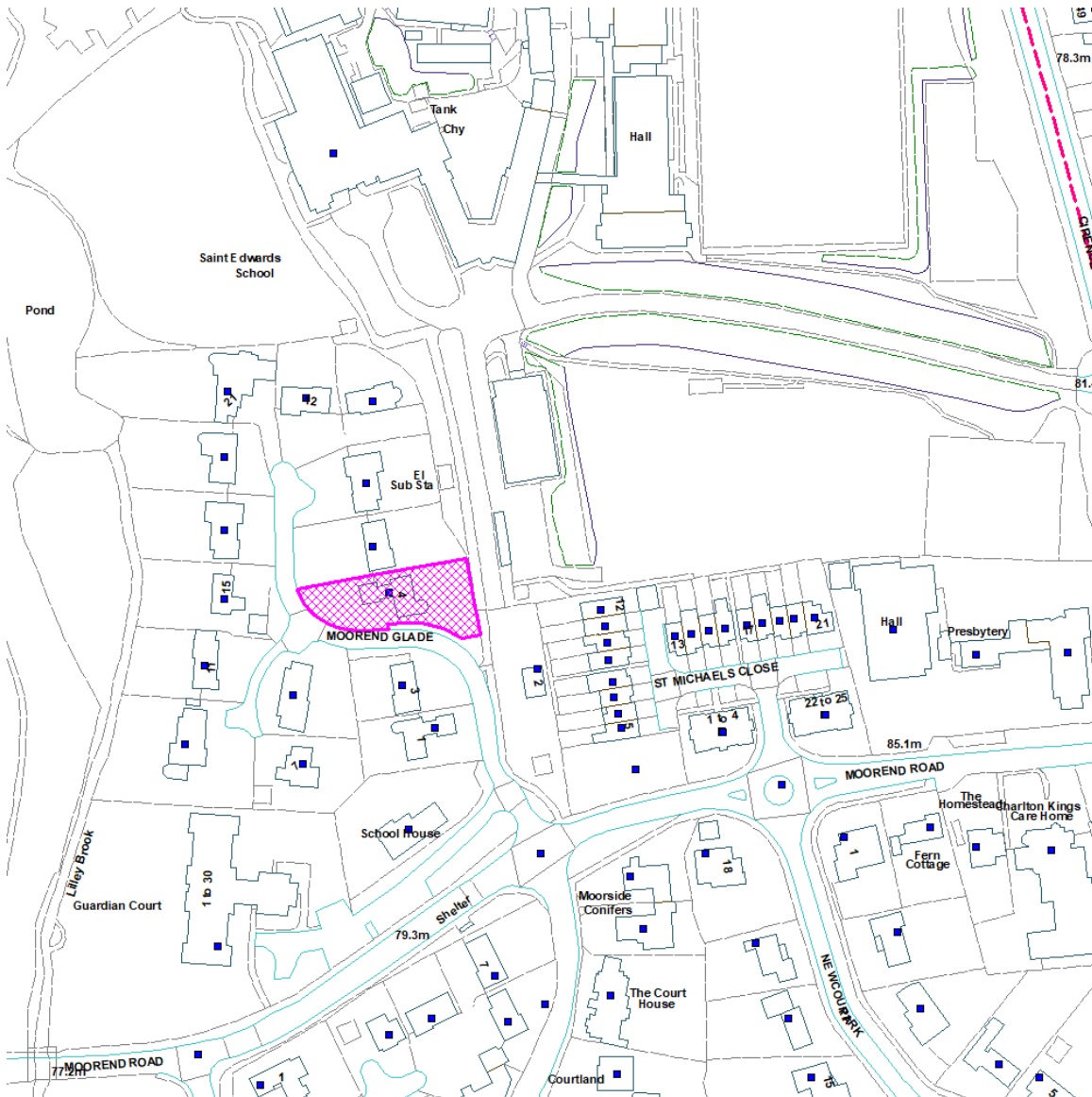
Cheltenham Borough Council should continue to support locally organised events, such as AitP which draws visitors to the town for four weeks annually, and insist that the developer adheres to the original, approved, plans, which gave scope to AitP and to other potential exhibitors.

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<b>APPLICATION NO:</b> 20/01041/FUL	<b>OFFICER:</b> Mr Daniel O Neill
<b>DATE REGISTERED:</b> 30th June 2020	<b>DATE OF EXPIRY:</b> 25th August 2020
<b>DATE VALIDATED:</b> 30th June 2020	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Charlton Park	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	Mr And Mrs D Eade
<b>AGENT:</b>	A Clarke Design Ltd
<b>LOCATION:</b>	4 Moarend Glade, Cheltenham, Gloucestershire
<b>PROPOSAL:</b>	Proposed single storey and two storey rear extension

**RECOMMENDATION:** Permit



This site map is for reference purposes only. OS Crown Copyright. All rights reserved Cheltenham Borough Council 100024384 2007

## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 4 Moorend Glade is a detached two storey dwelling house located on a corner plot within a residential cul-de-sac.
- 1.2 The applicant is seeking planning permission for a proposed single storey and two storey rear extensions.
- 1.3 The application has been requested to be determined at planning committee by Cllr Harvey due to the two storey extension's impact from the scale, overbearing and privacy to the neighbouring amenity. The Parish Council has also objected due to the use of render and impact on wider street scene.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Airport Safeguarding over 45m  
Landfill Sites boundary  
Principal Urban Area  
Smoke Control Order

### Relevant Planning History:

**01/01541/TPO 13th December 2001 PER**

Various works to trees including: Fell Robinia in rear garden and reduce height of 4 Lime trees (2 in garden of 6 Moorend Glade) to original reduction point

**03/00496/CONF 23rd May 2003 CONFIR**

Confirmation of Tree Preservation Order number TPO576: 2 Lime trees situated to the front.

**03/00506/REVOKE 28th May 2003 REV**

Revocation of Tree Preservation Order number TPO130.

**03/01974/TPO 27th June 2006 PER**

Two lime trees at front of property: 1. reduce height (back to position in 1993). 2. remove vertical growth along lateral branches. 3. prune ends of laterals

**85/00639/PO 25th July 1985 PER**

Land Adj. Charlton Park School Moorend Road Cheltenham Gloucestershire - Outline Application For Residential Development (As Amended By Letter Dated 2nd July 1985)

**86/00215/PM 20th March 1986 PER**

Land Adj. To Charlton Park School Off Moorend Road Cheltenham Gloucestershire - Erection Of 15 Houses

**07/01679/TPO 28th January 2008 PER**

4 x limes at numbers 4 and 6 - re-pollard all round to previous pollard points, using a handsaw

**11/00093/TPO 18th February 2011 PER**

2 x Limes (form group with 2 x Limes at 6 Moorend Glade) - reduce height to just below high pollard positions. Reduce all lateral growth similarly all round. Remove all epicormic growth and vertical growths right along the branch scaffold to the ends. Even up any low hanging material and remove any dead material.

**13/02023/TPO 6th January 2014 PER**

2 x Limes (form group with 2 x Limes at 6 Moorend Glade) - reduce height up to 1.5m below old pollard points. Reduce all lateral growth similarly all round. Remove all epicormic growth and vertical growths right along the branch scaffold to the ends. Even up any low hanging material and remove any dead material.

**16/01126/TPO 22nd July 2016 PER**

4 Lime trees (2 at No 4 Moorend Glade and 2 at No 6 Moorend Glade)- Reduce all trees to previous reduction points, remove epicormic growth from base, main stem and scaffold branches. Remove any deadwood

**19/01570/TPO 9th August 2019 PER**

limes - reduce back to previous reduction points, remove epicormic growth, remove deadwood

### **3. POLICIES AND GUIDANCE**

**National Planning Policy Framework**

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 12 Achieving well-designed places

**Adopted Cheltenham Plan Policies**

D1 Design

SL1 Safe and Sustainable Living

**Adopted Joint Core Strategy Policies**

SD4 Design Requirements

SD14 Health and Environmental Quality

**Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

### **4. CONSULTATIONS**

**Contaminated Land Officer**

*22nd July 2020*

In relation to application 20/01041/FUL, 4 Moorend Glade, the site is in the 50m buffer zone of a former landfill which is not seen as presenting a significant risk of ground gas migration, however, you may wish to consider the installation of landfill gas protective membranes to mitigate against any potential impact from migration of landfill gas.

**Ward Councillors**

*21st July 2020*

Could this be decided by Full Planning Committee, reason scale, overlooking/dwarfing #6 great loss of Amenity to elderly neighbour. Request to speak at Cttee if this gets that far

**Building Control**

*2nd July 2020* - The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

**Parish Council**  
27th July 2020

Objection:

The Committee objects to the use of render for this proposed extension, it being too stark in contrast to the existing construction and so detrimental to the street scene from Moorend Road.

This Objection would be satisfied if brickwork in keeping with the original construction was specified.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	7
Total comments received	2
Number of objections	1
Number of supporting	0
General comment	1

5.1 Letters of notification were sent to 7 neighbouring properties. One letter of objection has been received and has been summarised but not limited to the following points:

- Loss of light and overshadowing
- Overbearing
- Out of Character

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

6.2 The main considerations when determining this application are design, impact on the amenity of neighbouring properties and impact on the wider locality.

### 6.3 Design and layout

6.4 The application proposes a two storey extension projecting 3m from the original rear elevation and a single storey rear extension projecting 3m. At single storey the extension will incorporate a flat roof while the two storey element will incorporate a gable pitch roof.

6.5 Materials proposed will include a white render finish for the exterior elevations, dark grey aluminium glazing for the fenestration arrangement and concrete tiles for the gable pitched roof. The use of render and aluminium differs to the existing orange brick and brown uPVC windows.

6.6 It is acknowledged that proposed two storey extension's overall height, scale, footprint and distance to boundaries could be achieved under permitted development. For a two storey extension to be classed as permitted development it must not extend more than 3m from the rear wall of the original dwelling, it must be 7m or more from any boundary opposite the rear wall of dwelling house and have a maximum eaves and ridge height of extension no higher than existing house. In addition, if the extension is within 2m of the boundary than the maximum eaves height should be no higher than 3m to be permitted development.

- 6.7** The overall height of the proposed two storey rear extension is below the existing ridge height of the original dwelling and the height of the eaves is level with the existing eaves height. The projection of the extension is 3m, while the distance to the boundary opposite the rear wall is in excess of 14m and the extension is 2m from the side boundary. As such, the overall height, footprint and size comply with permitted development.
- 6.8** The application requires the benefit of planning permission because the materials used in the exterior work are not of similar appearance to those used within the original dwelling. As a result, the only aspect of the proposed two storey extension that can form part of officer's consideration is the use of render to the exterior elevations.
- 6.9** Consideration has been given to the impact of the proposed render finish on the appearance of the existing dwelling and wider street scene. Officers consider that the use of render represents a high standard of innovative design and appropriate level of modernisation as indicated under Section 12 of the NPPF. Furthermore, other properties along Moorend Glade have been finished with part rendered and facing brick exterior finish. As such, it is considered that the use of render at 4 Moorend Glade would not look out-of-character or alien within the appearance of the wider street scene.
- 6.10** Officers also acknowledged that the single storey rear extension element of the scheme can also be built under permitted development if the materials used were similar to the original dwelling. This aspect of the scheme will be partially obscured when viewed from the street scene as a result of the high boundary treatment.
- 6.11 Impact on neighbouring property**
- 6.12** With regard to the impact on neighbouring amenity, officers have taken into account the fact that the height, footprint and size of both extensions can be achieved under permitted development. Consideration has been given to how this indicates that the two storey element is sufficient as to not cause harm to the amenity of the surrounding neighbours in respect to privacy, light and outlook.
- 6.13** Nevertheless, officers have undertaken the 45 degree light test as to indicate whether there would be an unacceptable loss of light to the most affected neighbour no. 6 Moorend Glade. The light test has passed on elevation indicating that no unacceptable loss of light to the neighbouring windows and rear garden will be caused by the proposed development.
- 6.14** No windows are proposed to the side elevation of the proposed two storey rear extension causing the additional harm of overlooking to the surrounding neighbours. The proposed Juliet Balcony doors can be achieved under permitted development and additionally any views to the neighbouring garden land will be at an oblique angle. As such, it is considered that no unacceptable harm to the privacy of the surrounding neighbours will be caused.
- 6.15** For the reasons set out above, the proposed extensions are considered to be acceptable and comply with the relevant policies in terms of protecting the existing amenity of adjoining land users.
- 6.16 Public Sector Equalities Duty**
- 6.17** As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are 3 main aims:
- Removing or minimising disadvantages suffered by people due to their protected characteristics

- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

In the context of the above PSED duties this proposal complies with the 3 main aims set out.

### **7. CONCLUSION AND RECOMMENDATION**

- 7.1** In light of the above, the proposed two storey and single storey rear extensions comply with the relevant Cheltenham Plan policies, JCS policies, NPPF and supplementary guidance.
- 7.2** Officer recommendation would therefore be to permit this application subject to the conditions set out below;

### **8. CONDITIONS**

- 1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

### **INFORMATIVES**

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

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

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

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<b>APPLICATION NO:</b> 20/01041/FUL		<b>OFFICER:</b> Mr Daniel O Neill
<b>DATE REGISTERED:</b> 30th June 2020		<b>DATE OF EXPIRY :</b> 25th August 2020
<b>WARD:</b> Charlton Park		<b>PARISH:</b> CHARLK
<b>APPLICANT:</b>	Mr And Mrs D Eade	
<b>LOCATION:</b>	4 Moorend Glade, Cheltenham, Gloucestershire	
<b>PROPOSAL:</b>	Proposed single storey and two storey rear extension	

**REPRESENTATIONS**

Number of contributors	<b>2</b>
Number of objections	<b>1</b>
Number of representations	<b>1</b>
Number of supporting	<b>0</b>

17 Moorend Glade  
 Cheltenham  
 Gloucestershire  
 GL53 9AT

**Comments:** 10th July 2020

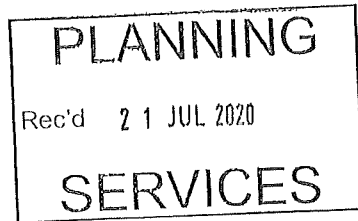
Thank you for alerting me to this planning proposal and inviting me to comment. I write as a nearby resident on the same small estate. The proposed additions will be completely invisible from our property. However the stark white two story extension will be very visible to everybody entering Moorend Glade from Moorend Road, whether on foot, on a bike or in a car. I suggest that the visual impact of the proposed extension would be much improved if the external details and finishes were more in harmony with the surrounding estate.

6 Moorend Glade  
 Cheltenham  
 Gloucestershire  
 GL53 9AT

**Comments:** 21st July 2020

Letter attached.





7 Greatfield Drive  
Charlton Kings  
Cheltenham GL53 9BT

David Oakhill – head of planning  
Cheltenham Borough Council

*By hand.*

21 July 2020

Dear Sir

**Proposed single storey and two storey rear extension at 4 Moorend Glade, Cheltenham:  
Your reference: 20/01041/FUL**

I write with reference to your letter of 1<sup>st</sup> July.

I am the son of the owner and occupier of 6 Moorend Glade ("MG"). [REDACTED] I hold power of attorney for him. I have discussed the content of this letter with him and he has agreed that I should make these submissions on his behalf.

**The Application**

Before I deal with my father's objection may I point out that there is a fundamental inaccuracy in the application. Question 9 asks whether the site is visible from a public road. The answer provided is "no". This is inaccurate. The proposed development will be visible from both Moorend Glade and Moorend Road. 4 MG is possibly the most prominent site in the whole development. All residents bar those whose properties are closer to Moorend Road drive past it in order to obtain access. MG is an adopted highway.

**Lack of Amenity**

My father's property lies to the left of 4 MG when viewed from the lower part of MG and is directly and adversely affected by the proposed development. My observations are as follows:

1. In my view the proposed two storey rear extension will adversely impact light, air and amenity to my father's property. I specifically refer to Planning Policy CP4 and the accompanying explanatory notes which only permit development which would not ".....cause unacceptable harm to the amenity of adjoining land users.....";
2. When viewed from the road it is very clear that 4 MG is set slightly higher and further back than 6 MG (see figs 1, 2 and 3 in the accompanying set of photographs and the explanatory notes which I have added for commentary). This has the effect of making the bottom right hand corner of my father's garden (when viewed from the house) slightly darker and damper than the remainder of the garden. Roughly half of the main body of 4 MG already extends beyond the building line of the back wall of 6 MG;
3. The position is further exacerbated by the fact that the rear gardens of both properties rise by some 2-3 feet over a relatively short distance. The rise is demonstrated by the slope in the road to the frontage of 4 MG. In addition my father's rear patio (see fig 4()) is set significantly below the level of the lawns of both properties. He is able to sit out

there on sunny days throughout the year when the temperature permits. The kitchen is dark when there is no sun and this proposed extension will only make it more so;

4. Fig 5 demonstrates the point at which the sun rises during summer. It was taken at about 8.30 on the morning of 17<sup>th</sup> July. The sun moves from the position shown to the right during the course of the morning. The creation of a substantial two storey extension on such a prominent property is likely to deprive my father of both light and amenity during each day and in particular will make the garden and kitchen substantially darker than they already are;
5. I have noticed from the plans that the intended new blank wall of the extension is simply a blank. My father has no wish to be overlooked (as he will be from the "Juliette" balcony) although it is conceded that the existing bedroom windows do overlook 6MG. The creation of such a large area of brickwork adjacent to 6MG is not a feature that either he or I find attractive. The plans that I have seen suggest that it may be painted white or some similar colour. In my view that will only make the extension even more obvious;
6. Both 4 and 6 MG back on to St Edwards School. Whilst my father enjoys the sound of the children on most occasions the existence of this new extension may reflect sound back into his garden whilst shielding 4 MG from that particular source of noise. Again I refer to Policy CP4 and the accompanying notes which suggests that this form of potential adverse impact arising from noise should be considered.

In short both my father and I find the proposal one which has been tabled purely for the benefit of the new owners of number 4 and one which takes no account of the harmonious and thoughtful way in which Bovis designed the development in the mid 1980s. In particular there will be a significant loss of amenity which my father has enjoyed since he moved there in 1985 with my late mother.

In all the circumstances I would request the officers / planning committee to reject the application in so far as it provides for a two storey rear extension. My father and I would very happily discuss the creation of a single storey rear extension because that would not create a loss of amenity if handled in a sensitive way.

[REDACTED] - attorney for [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

PS. I submitted this by email to the built environment email address on the weekend. I now deliver it by hand in order to ensure that the objection is fully logged & noted.

**Explanatory notes to accompany objection letter and photographs re proposed two storey development at 4 Moorend Glade Reference: 20/01041/FUL**

Fig 1: This shows the right hand side of my father's property and the left hand side of 4 MG. I have measured roughly the difference between the first course of brickwork at the two properties. 4MG is approximately 2 feet higher at this point. I have not been able to compare heights at other points but I would expect it to be the same or greater. It makes 4MG an imposing property even now.

Fig 2: This looks from half way up my father's garden towards 4 MG and shows the significant amount by which 4MG extends beyond the back wall of 6 MG.

Fig 3: This looks backwards down my father's garden from a point close to the top. It again demonstrates the way in which 4MG towers above my father's property and gives some ideal of the fall between the top of both gardens and the bottom;

Fig 4: This shows the flank wall of 4MG and the way in which the developer was forced by the plot characteristics to produce a patio with a brick surround with garden about 1-2 feet above. Just behind the point at which this photo was taken there is a sitting area where my father likes to enjoy the morning sunshine. The proposed extension will take away a considerable amount of amenity in terms of light and air.

Fig 5: This is taken from just outside the double doors at the end of my father's kitchen. He sits outside these doors when the weather permits. It shows the sun in the position where it would be at about 8.30 on a July morning. Earlier in the year it would rise slightly to the left and later in the year the point at which it rises would be slightly to the right.

Fig 6: This is taken from the left hand edge of my father's patio and demonstrates the extent to which 4MG currently impinges upon 6MG. The two storey extension would probably take away a further considerable amount of the light and air up to the point at which the vegetation starts to rise towards the back of the garden.

Fig 1



Fig 2



Fig 3



Fig 4



Fig 5



Fig 6





## Appeals Lodged Aug/Sept 2020

'Nothing to report'

## Appeals Determined

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
42B Suffolk Road	Installation of first floor window without restrictions (retrospective)	Delegated	Written	Allowed	Planning Ref: 19/01746/FUL Appeal Ref: 20/00003/PP3
9 Montpellier Parade	Erection of detached dwelling following demolition of an existing garage building	Delegated	Written	Dismissed	Planning ref: 19/01630/FUL Appeal Ref: 20/00011/PP1
Sandhurst Road	Installation of an automatic barrier at the Ryeworth Road entrance to Sandhurst Road for which the barrier is to be set back 12 metres from the highway, resurfacing of unmade parts of the road, and painting of double yellow lines.	Delegated	Written	Dismissed	Planning ref: 19/01962/FUL Appeal ref: 20/00005/PP1

Authorised By: David Oakhill 07.09.20

