



## **Notice of a meeting of Planning Committee**

**Thursday, 16 June 2022  
6.00 pm  
Council Chamber - Municipal Offices**

### **Membership**

<b>Councillors:</b>	Paul Baker (Chair), Garth Barnes (Vice-Chair), Glenn Andrews, Adrian Bamford, Barbara Clark, Bernard Fisher, Emma Nelson, Tony Oliver, John Payne, Diggory Seacome and Simon Wheeler
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The Council has a substitution process and any substitutions will be announced at the meeting.

### **Important Notice**

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## **Agenda**

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST**
- 3. DECLARATIONS OF INDEPENDENT SITE VISITS**
- 4. MINUTES OF THE LAST MEETING** (Pages 3 - 6)  
To approve the minutes of the meeting held on 19<sup>th</sup> May 2022.
- 5. PLANNING APPLICATIONS**
- 5a 21/02755/FUL Brecon House, Charlton Hill** (Pages 7 - 52)  
[Planning application documents](#)

- 5b            **22/00708/FUL 37 Market Street**            (Pages 53 - 66)  
                 [Planning application documents](#)
- 5c            **22/00634/FUL 52 Queens Road**            (Pages 67 - 74)  
                 [Planning application documents](#)
6.            **APPEAL UPDATE**            (Pages 75 - 104)
7.            **ANY OTHER ITEMS THE CHAIRMAN DETERMINES  
URGENT AND REQUIRES A DECISION**

**Contact Officer:** Claire Morris, 01242 264130  
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### Planning Committee

**Thursday, 19th May, 2022**

**6.00 - 6.50 pm**

#### Attendees

**Councillors:** Councillor Paul Baker (Chair), Councillor Garth Barnes (Vice-Chair), Councillor Barbara Clark, Councillor Bernard Fisher, Councillor Tony Oliver, Councillor John Payne, Councillor Diggory Seacome, Councillor Simon Wheeler, Councillor Glenn Andrews, Councillor Adrian Bamford and Councillor Emma Nelson

**Officers in Attendance:** Claire Donnelly (Planning Officer), Michelle Payne (Senior Planning Officer), Emma Pickernell (Principal Planning Officer), Cheryl Lester (Solicitor), and Liam Jones (Head of Planning)

#### 1. Apologies

The newly-elected Chair, Councillor Baker, welcomed new Members to the Planning Committee, and thanked Councillor Barnes, the outgoing Chair, for all his work over the years. He said he would aim to chair meetings in the same fair way.

There were no apologies for absence at the meeting.

#### 2. Declarations of Interest

Councillor Fisher declared an interest in 5c in that he attended a Council trip with the applicant that is also a Council officer, but he was happy he could still participate in the item.

#### 3. Declarations of independent site visits

Councillor Nelson visited 5c (113 Church Road) and 5d (60 St George's Place).

#### 4. Minutes of the last meeting

The minutes of the meeting held on 21<sup>st</sup> April had been circulated, and were approved and signed as a true record of the meeting.

#### 5. Planning Applications

#### 6. 21/025267/CONDIT Car Park Chester Walk

The Senior Planning Officer introduced the application, which proposed amendments to the previously-approved scheme – primarily alterations to the lay-out and ground floor plan to accommodate a sub-station, and alterations to windows and doors. She confirmed that the elevation facing the rear was the most changed, and the key element for Members was whether the amended scheme would have any additional harmful impact on neighbouring amenity of on the adjacent historic Minster. The recommendation was to approve, with a similar schedule of conditions to the permitted scheme.

#### Member questions

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

- there had been some confusion with the provisions of the previous permission regarding the windows to the west elevation which were required by condition to be fixed but not obscure-glazed. The revised scheme could include a condition requiring a privacy film be applied to the windows, to prevent any over-looking of the properties to the rear and protect residents' amenity;
- the mesh on the full-length windows was proposed on the previously-approved plans, to a higher degree than what was proposed now;

- regarding the proposed poly-carbonate cladding and whether this met all UK and European fire-safety standards, this was not specifically considered as part of the application – it was a matter for Building Control;
- the lime trees in the vicinity were not subject to TPOs, but were protected in that they were in a conservation area and maintained by the council. The trees officer was happy with the proposal, taking into account the proximity of the proposed building to the trees. It was not necessary or reasonable to attach a condition requiring the trees to be made subject to TPOs, which would be a separate process, but the Member who expressed a concern could follow this up separately if he required.

There was no further questions or debate on this item. The Chair invited Members to vote on the officer recommendation to permit, with an additional condition in respect of privacy film, which was recorded as follows:

**For: 10**

**Against: 1**

**Abstain: 0**

**PERMIT**

#### **7. 21/02755/FUL Brecon House, Charlton Hill, GL53 9NE**

Consideration of this application was deferred to a future meeting as since the publication of the report the applicant was in the process of submitting amended application plans.

#### **8. 22/00501/FUL 113 Church Road, Leckhampton, GL53 0NY**

The Planning Officer introduced the application, which proposed amendments to a previously approved scheme for a new dwelling to the rear of 113 Church Road. She confirmed that the principle was already established, and Members needed to consider the impact of the amendments with regard to design, impact on neighbouring amenity, highway safety, and impact on trees. The recommendation was to permit, with conditions.

Speaking in support of the application, the applicant, Mrs Sheldon, told Members that work started on the approved scheme in 2018, but that the extant plans had subsequently been revised to more thoroughly address issues of climate change. The design was highly sustainable, insulated to require minimal heating, partially constructed with timber and local Cotswold stone, and orientated to ensure all windows faced south-west for maximum solar gain. It proposed use of the latest technology, including air source heat pumps – there would be no gas supply – and represented a smaller carbon footprint than the previously-approved scheme, with two bedrooms and a bathroom in the upper storey roof space and larger garden. Specialists would be employed to best achieve a high-quality, environmentally friendly home, fit for the family's needs and 21<sup>st</sup>-century living. There were no objections from the neighbours.

#### **Member question**

In response to a Member's question, the case officer confirmed that she was not aware of any additional material submitted between 6<sup>th</sup> and 13<sup>th</sup> April which may have caused the Parish Council to change its position on the scheme.

#### **Member debate**

Members congratulated the applicants on the attractive design of the dwelling and attention to climate change. One Member commented that she could not understand why the Parish Council was concerned with garden-grabbing and loss of view from the footpath to Burrows Field – the proposal would not be visible.

The Chair moved on to the vote on the officer's recommendation to permit, which was recorded as follows:

**For: 11 (unanimous)**  
**Against: 0**  
**Abstain: 0**  
**PERMIT**

### **9. 22/00530/FUL 60 St Georges Place, Cheltenham GL50 3PN**

The Principal Planning Officer introduced the part-retrospective application the retention of and proposed alterations to extraction equipment. She confirmed that a new extraction pipe had been installed without planning permission, and that environmental health officers were currently investigating noise complaints associated with the equipment, but that a series of improvements were now proposed, in consultation with environmental health officers, which should result in a marked improvement. The impact on the conservation area and adjacent listed buildings would be minimal, with the proposed equipment less visible than the previous system, which would have to be removed for legal reasons. She said a number of conditions were attached to the recommendation to permit, including the requirement for a noise survey two months after the installation, and removal of the previous extraction system within six months.

### **Member questions**

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

- the legal requirement for the removal of the previous extraction equipment arose because the pipe overhung third party land to the rear of the building;
- a noise survey would identify noise levels from the new equipment, and further improvements may be required, but this was a separate environmental health process, not part of the planning process;
- many of the objections related to the situation at present, and measures designed to address these concerns had been raised.

### **Member debate**

In debate, Members made the following points:

- this proposal represented a step forward – the old system was very ugly and noisy, and very close to residential property. Extraction was noisy, but could be silenced to a large degree, and it would be helpful if Members could receive a report from environmental health officers, after three months or so, to see how well the new scheme was working;
- the new extraction system may not be so visible from the road, but was still very much so at the rear, for the residents of St George's Tower and Latheram House. The amenity of these neighbours was most seriously affected by the noise, however; what would happen if the noise reduction didn't work? Would the restaurant have to close down? It was a difficult situation with both a long-established and successful business and the amenity of local residents at stake.

The Chair pointed out that officers could not be expected to report back on all conditions attached to planning permissions, but the case officer gave reassurance by stating that conditions were designed to build in a checking process and the technical advice of the environmental health officer would have to be taken on this – he had confirmed that further works would be requested on the system, regardless of the outcome of the planning process. The scheme had been considered on its merits, all appropriate safeguards were in place, and officers would get confirmation if the proposed scheme was successful. If it was not, there would be an opportunity to look at it again.

The Chair moved to the vote on the officer recommendation to permit, with conditions as set out. The vote was recorded as follows:

**For: 8**  
**Against: 2**  
**Abstain: 1**

**PERMIT****10. Appeal Update**

Information on appeals lodged and decisions received since the last meeting had been circulated. The Chair recommended that new Members of Planning Committee make a point of reading the appeal decision notices, which give good insight into how appeals inspectors look at applications. A Member said it would be helpful if these were attached to the update going forward.

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

There were none.

Chair

APPLICATION NO: 21/02755/FUL		OFFICER: Michelle Payne
DATE REGISTERED: 29th December 2021		DATE OF EXPIRY: 30th March 2022 (extension of time agreed until 20th June 2022)
WARD: Charlton Kings		PARISH: Charlton Kings
APPLICANT:	Mr & Mrs Evans	
AGENT:	Mr David Jones	
LOCATION:	Brecon House Charlton Hill Cheltenham	
PROPOSAL:	Construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House	

## Officer update

### 1. OFFICER COMMENTS

- 1.1 As Members will be aware, this application originally appeared on last month's committee agenda but was deferred to enable the applicant to make some changes to the scheme.
- 1.2 The changes relate to the Estate Management building only; the proposed dwelling itself is unchanged.
- 1.3 The amended scheme has sought to omit the home office from the Estate Management building; the resultant building now single storey, and reduced in height and footprint. The building now proposed would simply accommodate the solar kiln and log store, a tractor and machinery store, and a working yard.
- 1.4 Additional information has also been submitted setting out the need for the Estate Management building, identifying the machinery and equipment required *"to undertake the day-to-day management and maintenance operations to implement, manage and enhance the landscape proposals and to achieve the required biodiversity net gain targets."*

### 2. RECOMMENDATION

- 2.1 APPROVE - The officer recommendation remains to grant planning permission for the reasons set out in the May 2022 Planning Committee Report which is attached in full at Appendix 1; subject to the following conditions:

### 3. 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.
- 3 Prior to the commencement of development, a Construction Method Statement or Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

The approved plan/statement shall be adhered to throughout the construction process and shall include, but not be restricted to:

- i) Provision of parking for vehicles of site operatives and visitors;
- ii) Any temporary access to the site;
- iii) Locations for the loading/unloading and storage of plant, waste and construction materials;
- iv) Measures to control the emission of noise, dust and dirt during construction;
- v) Method of preventing mud and dust being carried onto the highway;
- vi) Arrangements for turning vehicles; and
- vii) Arrangements to receive abnormal loads or unusually large vehicles.

Reason: In the interests of the safe operation of the adopted highway during the construction phase of the development, having regard to adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 110 and 112 of the National Planning Policy Framework (2021). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 4 Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include mitigation measures that apply to the site clearance and construction phase of the development, with detailed Method Statements. This should include precautionary mitigation measures for amphibians and reptiles, in the form of Reasonable Avoidance Measures (RAMs). The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure the protection of biodiversity on the site during construction, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, and paragraphs 8, 174 and 180 of the National Planning Policy Framework (2021). 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. Approval is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species at the beginning of construction.

- 5 Prior to the commencement of development, a Lighting Scheme covering both the construction and operational phases of the development shall be submitted to and approved in writing by the Local Planning Authority. 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
- (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 thereafter be implemented and maintained in accordance with the manufacturer's recommendations and approved details.

Reason: To provide adequate safeguards for protected species on the site, ensure that foraging and commuting of bats is not discouraged at this location, and to conserve the dark skies of the AONB, having regard to adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework 2021, Section 40 of the Natural Environment and Rural Communities Act 2006, and policy CE5 of the Cotswolds AONB Management Plan 2018-2023.



## Page 9

Approval is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species at the beginning of construction.

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

All hard and/or soft landscaping works shall be carried out in accordance with the approved details before the end of the next available planting season after first occupation of the development unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

Reason: In the interests of the landscape character of the area, having regard to adopted policies D1, G12 and G13 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.

- 7 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 adopted policy D1 of the Cheltenham Plan (2020), and adopted policy SD4 of the Joint Core Strategy (2017).

- 8 Prior to first occupation of the development, the proposed means of vehicular access from the adopted highway shall be constructed in accordance with approved Drawing No. CTP-16-478-SK01-E and thereafter retained as such at all times.

Reason: To ensure a safe and suitable access to the development is provided and maintained in the interests of highway safety, having regard to adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 110 and 112 of the National Planning Policy Framework 2021.

- 9 Prior to first occupation of the development, an updated Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The updated LEMP shall expand on the mitigation and enhancement measures, including long-term management and monitoring activities (covering a period of 30 years, as proposed) and shall include:

- a) plans showing locations and extent of all habitats and wildlife features;
- b) a timetable of activities;
- c) details of a person and/or organisation responsible for the implementation of the plan; and the method by which the protection of retained, enhanced and created habitats will be secured.

The extent and location of removed, retained and newly created habitats presented in the updated LEMP should match that set out in the Biodiversity Impact Assessment (BIA). The LEMP should also demonstrate that the Biodiversity Net Gain proposed in the BIA has been achieved.

The approved plan shall therefore be implemented in accordance with the approved details.

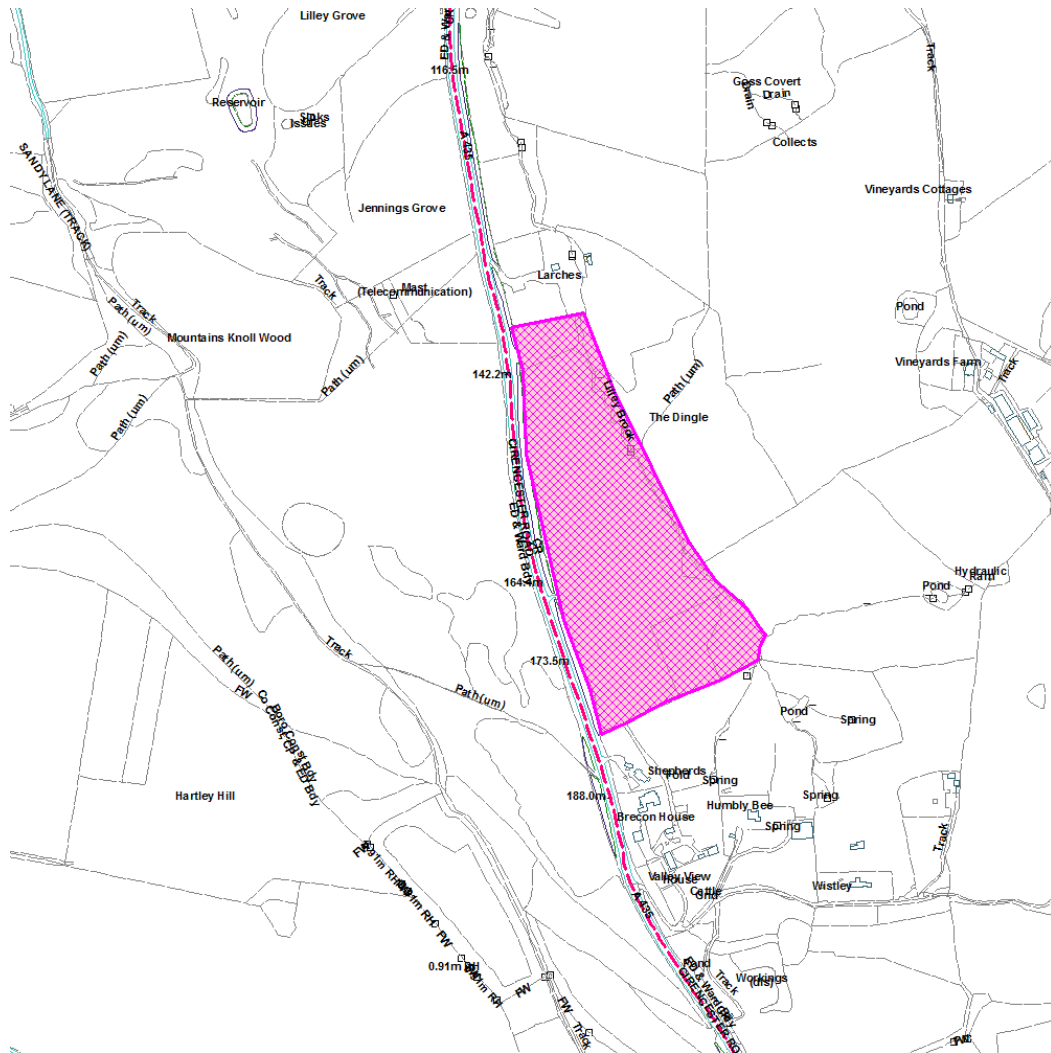
Reason: To ensure the protection and enhancement of the landscape and biodiversity value of the site, having regard to adopted policies SD6, SD7 and SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 8, 174 and 180 of the National Planning Policy Framework (2021) and Section 40 of the Natural Environment and Rural Communities Act.

- 10 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 with or without modification), no extensions, garages, sheds, outbuildings, walls, fences or other built structures of any kind (other than those forming part of the development hereby permitted) shall be erected without express planning permission.

Reason: Any further extension or alteration requires further consideration to preserve the landscape character of the area, having regard to adopted policies D1 and L1 of the Cheltenham Plan (2020) and adopted policies SD4, SD6 and SD7 of the Joint Core Strategy (2017).

<b>APPLICATION NO:</b> 21/02755/FUL	<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 29th December 2021	<b>DATE OF EXPIRY:</b> 30th March 2022 (extension of time agreed until 23rd May 2022)
<b>DATE VALIDATED:</b> 29th December 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Charlton Kings	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	Mr & Mrs Evans
<b>AGENT:</b>	Evans Jones Ltd
<b>LOCATION:</b>	Brecon House Charlton Hill Cheltenham
<b>PROPOSAL:</b>	Construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site comprises a large parcel of land, some 7.5 hectares, on the eastern side of the A435 Cirencester Road; the land opposite the site to the west forms part of the extensive Lilley Brook Golf Course. A residential property, The Larches is located to the north of the site whilst, to the south, the site is bound by the residential curtilage and associated paddocks and enclosures of Brecon House. To the east, the site is bound by the Lilley Brook, and a copse known as 'The Dingle'.
- 1.2 The site is enclosed on all sides by trees and woodland; with 'The Dingle' to the east and established boundary trees and hedges to the north, south and western boundaries.
- 1.3 Access to the site exists directly from the Cirencester Road via a gated entrance, which is used to allow farm machinery to access the site when required.
- 1.4 The site is located outside of the Principal Urban Area (PUA) within the open countryside, and within the Cotswolds Area of Outstanding Natural Beauty (AONB).
- 1.5 The applicants are proposing the construction of a dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House.
- 1.6 Extensive pre-application discussions have taken place over a number of years prior to the submission of the application.
- 1.7 In addition to the usual plans and elevations, a number of detailed reports have been submitted in support of the application, to include:
  - Planning Statement
  - Design Document
  - Access Statement
  - Landscape and Visual Appraisal
  - Ecological Appraisal
  - Bat Activity Survey
  - Biodiversity Impact Assessment
  - Landscape and Ecology Management Plan Strategy
  - Energy Strategy
  - Lighting Strategy
  - Flood Risk Statement
- 1.8 In accordance with the scheme of delegation, the application is before the planning committee as the application, if granted, *"would be a departure from or would conflict with the development plan/local development framework or other planning policies adopted by the Council."*

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Area of Outstanding Natural Beauty  
Parish Boundary  
Smoke Control Order

### Relevant Planning History:

18/02036/FUL

WITHDRAWN

11th March 2019

Erection of dwelling, associated access and landscaping

### 3. POLICIES AND GUIDANCE

#### **National Planning Policy Framework 2021 (NPPF)**

Section 2 Achieving sustainable development  
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 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 Cheltenham Plan 2020 (CP) Policies**

D1 Design  
L1 Landscape and Setting  
SL1 Safe and Sustainable Living  
GI2 Protection and replacement of trees  
GI3 Trees and Development

#### **Adopted Joint Core Strategy 2017 (JCS) Policies**

SD3 Sustainable Design and Construction  
SD4 Design Requirements  
SD6 Landscape  
SD7 The Cotswolds Area of Outstanding Natural Beauty  
SD9 Biodiversity and Geodiversity  
SD10 Residential Development  
SD14 Health and Environmental Quality  
INF1 Transport Network  
INF2 Flood Risk Management  
INF3 Green Infrastructure

### 4. CONSULTATION RESPONSES

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

##### ***1st February 2022***

All developments over 1 Ha require a flood risk assessment (FRA), this proposal is on a 7.5 Ha site and should therefore be accompanied with an FRA.

Given that the building occupies a very small part of the 7.5 Ha site I would suspect that this could be delivered however there are properties downstream of the development that are at risk of flooding downstream on the Lilley Brook and it is therefore important that these risks are identified and understood such that this development does not increase the risk to properties downstream.

NOTE 1: The Lead Local Flood Authority (LLFA) will consider how any 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.

##### ***21st February 2022 – revised comments***

The Flood Risk Statement dated February 2022 now posted on the planning website addresses the issue previously raised, I have no further objection to the proposal. Details of

how drainage will be managed are complete enough that there will be no need for further drainage conditions to be attached to any permission granted against this application.

NOTE 1: The Lead Local Flood Authority (LLFA) will consider how any 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.

### **GCC Highways Development Management**

**23rd February 2022**

Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure) (England) Order, 2015 recommends that this application is refused.

The justification for this decision is provided below.

The proposal seeks the construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House at Brecon House Charlton Hill Cheltenham Gloucestershire GL53 9NE. A Transport Technical Note has been prepared by Cotswold Transport Planning in support of the application.

The site access is proposed to be made via the A435 Cirencester Road subject to a design speed of 60mph at the vicinity of the site. The A435 is a route of significant importance carrying circa 12000 vehicles (AADT, 5 day average). There is no highway lighting scheme covering these roads, and no personal injury accidents have been recorded in the most recent 5 years.

### **Sustainability**

It is clear that the site is located in a rural community and there would be limitations to the choice of transport modes available for future occupiers. Manual for streets (mfs) states that walkable neighbourhoods are characterised by having a range of facilities within 10 minutes walk, which is approximately 800 metres. However, this is not an upper limit and industry practice considers that 2km is a maximum walking distance door to door. The nearest bus stops are located circa 900m and 670m north and south, respectively. These stops are serviced by no. 51 service to Cheltenham, Cirencester and Swindon. Additional facilities include a supermarket some 1.6km north from the site and the nearest school is located circa 2.2km.

Whilst there is a footway along the western side of the A435, it is limited to 0.8m width. Whilst historical, the limited width invariably excludes wheelchair users which Manual for Streets recommends a minimum footway width of 0.9m for. Furthermore, there are no formal crossings points along the eastern side of the A435 which ultimately will lead to a significant risk of conflict.

When combined the lack of suitable infrastructure with the distances involved, it is clear future users will be heavily, if not entirely, dependent on private vehicles to access every day services and facilities. Furthermore, cycling would also not be seen as an alternative option due to the volume of vehicles along the A435 and its design speed, however more

experienced cyclists would not see this as a barrier. In terms of safe and suitable vehicular access to this site, the proposed arrangements are deemed acceptable and the impact on highway network is also accepted and considered negligible.

Overall, this proposal would be car dominated and fails to address sustainable transport, these matters cannot be mitigated. Tools such as a travel plan cannot address the harm due to the lack of transport choices available to support it.

Therefore, the proposal conflicts with policy INF1 of the Joint Core Strategy 2011 to 2031, policies PD 0.1, and PD 0.4 of the Local Transport Plan 4 and would conflict with the sustainable transport aims of the National Planning Policy Framework contained in paragraphs 110 and 112.

### **Tree Officer**

***1st February 2022***

It is noted that the plans refer to additional planting but the current proposal lacks detail. Therefore a landscape plan conforming to BS5837 (2012) should be submitted to describe where trees will be planted, species and size of trees.

### **Environmental Health**

***21st February 2022***

I have no comments or objections to this application.

### **Gloucestershire Centre for Environmental Records**

***25th January 2022***

Biodiversity report available to view in documents tab.

### **Building Control**

***18th January 2022***

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

### **Parish Council**

***25th January 2022***

No Objection.

### **Cotswolds Conservation Board**

***9th February 2022***

Thank you for consulting the Cotswolds Conservation Board ('the Board') on this proposed development, which would be located within the Cotswolds National Landscape.

In reaching its planning decision, the local planning authority (LPA) has a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the National Landscape. The Board recommends that, in fulfilling this 'duty of regard', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the following Board publications:

- Cotswolds Area of Outstanding Natural Beauty (AONB) Management Plan 2018-2023;
- Cotswolds AONB Landscape Character Assessment particularly, in this instance, with regards to Landscape Character Type (LCT) 2 Escarpment;
- Cotswolds AONB Landscape Strategy and Guidelines ([link](#)) particularly, in this instance, with regards to LCT 2, including Section 2.2;
- Cotswolds AONB Local Distinctiveness and Landscape Change;

- Cotswolds Conservation Board Position Statements particularly, in this instance, with regards to the Tranquillity Position Statement and with regards to the Dark Skies and Artificial Light Position Statement and its appendices.

Policy SD6 of the Cheltenham, Gloucester and Tewkesbury Joint Core Strategy (JCS) requires development to seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental, and social well-being. This reflects advice in the National Planning Policy Framework that requires policies and decisions to recognise the intrinsic character and beauty of the countryside. Policy SD7 of the JCS follows and states that all development proposals within the setting of the Cotswolds National Landscape will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage, and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan.

Whilst the applicant's Design & Access Statement and Lighting Assessment states that the proposed lighting will be kept to an absolute minimum so as to ensure no harmful impact to the unlit character of the local landscape, this lighting would introduce a 'lit element' into what would otherwise be a relatively dark night-time landscape.

The Cotswolds AONB Landscape Strategy & Guidelines for LCT 2 (Section 2.2) identifies 'the introduction of lit elements to characteristically dark landscapes' as a potential (adverse) implication for isolated development such as this. The guidelines seek to 'conserve areas of dark skies', with these dark skies being one of the 'special qualities' of the Cotswolds National Landscape. This is particularly important in an area with relatively low levels of light pollution such as this, as indicated in Appendix 1 of the Board's Tranquillity Position Statement, referred to above.

As such, the introduction of any lit elements should be designed to adhere to this guidance and, by extension, with the policies of the Cotswolds AONB Management Plan in particular Policy CE5 (Dark Skies).

Whilst the Board does not wish to raise an objection to the proposal, we would request that, without prejudice, if the local authority is minded to grant planning permission, planning conditions should be imposed which seek to mitigate any adverse impact and ensure that all lighting will be limited to low-level, down-facing lights.

### **Campaign To Protect Rural England 25th February 2022**

My predecessor wrote to you on 30 October 2018 objecting to planning application 18/02036/FUL seeking permission for a dwelling on this site, an application that was later withdrawn before determination. CPRE now objects to this latest application for broadly similar reasons as set out below:

1. This is a greenfield site in the Cotswolds AONB. As you will be aware, great weight should be given to conserving and enhancing landscape in AONBs which are given the highest status of protection by the NPPF (see paragraph 176). Such protection is confirmed by Policy SD7 of the Joint Core Strategy.
2. The site forms part of what is at present an unspoilt vista across a largely undeveloped valley. It is highly visible from the surrounding area: in particular, it can readily be seen from the Cotswold Way as it passes through the southern end of Charlton Kings Common. Development of the site in the way proposed would damage this highly attractive landscape.
3. The applicant argues that the above considerations should be set aside on the basis of NPPF paragraph 80e. Paragraph 80 starts "Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:". It then goes on to list a set of circumstance which include, at 80e:



- “- the design is of exceptional quality, in that it:
- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”

This argument is misplaced. Paragraph 80 is in the Section 5 of the NPPF which is concerned with housing supply and specifically with rural housing. It is not in Section 15 concerned with Protecting the Natural Environment, including the need to conserve and enhance the AONB (paragraph 176). Paragraph 80 is concerned with development in isolated rural locations and is not intended to override environmental protection designations.

4. We note and accept that, compared with the earlier proposals, considerable improvements have been made to the design, siting and access to the proposed dwelling, reducing its intrusion into the landscape. Nevertheless, notwithstanding the views of The Design Review Panel (which notes that their report “does not constitute professional advice”), the dwelling proposed remains on an extremely grand scale and would be out of keeping with the locality both in terms of size and design. We remain concerned about the visual damage that a building of such an alien and complex design and with such a large footprint would have in this otherwise unspoilt area.

5. We are likewise concerned at the increased level of light pollution that a development on this scale would inevitably generate in what is at present an unlit valley. The Cotswolds AONB is at present one of the least light-polluted areas of the UK.

6. Great store is placed in application on the accompanying environmental and ecological enhancements proposed at the site. Should the will to do so be as strong as the project documents maintain, there is no reason why these enhancements could not be carried out on their own merit as they are in no way dependent on the construction of a new residence at the site.

Cheltenham Borough Council has a history of robustly resisting speculative proposals for development in the Cotswolds AONB. CPRE strongly urges the Borough Council to refuse this planning application.

**Natural England**  
**2nd February 2022**  
See Appendix A

**Architects Panel**  
**18th March 2022**  
See Appendix B

**Wild Service (acting as Council’s Specialist Ecological Advisor)**  
**24th February 2022**  
See Appendix C

**13th April 2022 – additional comment**

We are satisfied with the response from the applicant's agent regarding ecology. They have clarified that there are no ponds within 250m of the development site. We therefore agree that no further assessment of ponds for great crested newts is required. Their comments regarding securing the CEMP, LEMP and BNG by planning condition are agreeable.

**Ryder Landscape (acting as Council’s Specialist Landscape Advisor)**  
**21st March 2022**  
See Appendix D

## 5. PUBLICITY AND REPRESENTATIONS

- 5.1 A letter of notification was sent to the residential property to the north of the site. In addition, a site notice was posted and an advert published in the Gloucestershire Echo. No representations have been received in response to the publicity.

## 6. OFFICER COMMENTS

### 6.1 Determining issues

6.1.1 The main considerations in determining this application are the principle of development; design and layout; landscape impact/AONB; access and highway matters; drainage and flood risk; ecological impacts; sustainability and climate change; and amenity.

### 6.2 Principle

6.2.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

6.2.2 The development plan comprises saved policies of the Cheltenham Borough Local Plan Second Review 2006 (CBLP); adopted policies of the Cheltenham Plan 2020 (CP); and adopted policies of the Tewkesbury, Gloucester and Cheltenham Joint Core Strategy 2017 (JCS).

6.2.3 Paragraph 11 of the National Planning Policy Framework 2021 (NPPF) sets out a presumption in favour of sustainable development which in decision making 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 permission unless:*
  - i) *the application of policies in this Framework that protect areas or assets of particular importance [in this instance the AONB] 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 this Framework taken as a whole.*

6.2.4 NPPF paragraph 12 goes on to state that

*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan...permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*

6.2.5 As it currently stands, the Council is unable to demonstrate a five year supply of deliverable housing sites, the latest figure being 2.9 years, and therefore the housing policies are out-of-date. As such, whilst the proposed development would be contrary to JCS policy SD10 as the site is located outside of the PUA, within the AONB, the policy is out of date and can only be given weight according to its consistency with the NPPF.

6.2.6 This application recognises that the development plan policies generally restrict the erection of new dwellings in the open countryside, but argues that the proposed dwelling would meet the requirements of paragraph 80(e) of the NPPF which states that decisions on planning applications should avoid the development of isolated homes in the countryside unless:

*e) the design is of exceptional quality, in that it:*

- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

6.2.7 It is this aspect of the proposal, together with other material considerations, that will be discussed in the report below.

### 6.3 Design and layout

6.3.1 Section 12 of the NPPF places great emphasis on the need to secure high quality, beautiful and sustainable buildings and that good design is a key aspect of sustainable development. In determining planning applications, paragraph 134 states that significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or*
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*

6.3.2 JCS policy SD4 and CP policy D1 set out the local design requirements for new development; policy SD4 requiring all proposals to “*respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and...be of a scale, type, density and materials appropriate to the site and its setting*”.

6.3.3 With reference to the abovementioned NPPF paragraph 80 (see para 6.2.6) the application has been accompanied by an Architectural Design Document (DD) and the conclusions of The Design Review Panel undertaken prior to submission of the application (Appendix E). The Design Review Panel (DRP) is an organisation that provides impartial expert advice to applicants and local authorities on design issues in relation to important new development schemes; and comprises a wide range of independent, multi-disciplinary, built environment professionals, including architects, urban designers, landscape architects, conservation specialists, ecology and sustainability experts, and arboriculturalists. The DRP visited the site as part of the review process at pre-application stage.

6.3.4 Paragraph 133 of the NPPF advises that when assessing applications for development, local planning authorities should have regard to the recommendations made by design review panels.

6.3.5 The DD sets out that the applicant's brief was “*to design a house set within the meadow that would meet the tests of NPPF Paragraph 80 and crucially which would also significantly enhance the immediate setting, bringing them closer to the landscape and nature that they love*” in a more sustainable and contemporary house without having to move away.

6.3.6 The proposed development comprises two separate buildings; the dwelling itself and an Estate Management building.

6.3.7 The proposed dwelling has been designed to respond to the shape of the hollow on the site, with accommodation arranged over three floors; the floors are identified as 'Prospect', 'Arrival', and 'Refuge' in the supporting documentation.

6.3.8 The Planning Statement at paragraphs 3.3 – 3.5 explains that 'Prospect' will be located higher up in the hollow and will contain the main living areas and the master bedroom, addressing the Lilley Brook and The Dingle. 'Refuge' will be located *"in the quietest and deepest part of the hollow, to provide an area of peaceful shelter"* and will include the snug, library and additional bedrooms. These two areas, which both offer distinct architectural experiences, will be linked via the circular, centrally located, 'Arrival' core.

6.3.9 The Planning Statement goes on to recognise the need to limit and delineate areas to be utilised for domestic purposes. In this case, the formal areas of outdoor space will be restricted to the grassed roof area above Refuge and the more formal area created on top of the circular (Arrival) core, allowing outdoor space directly accessible from the main living accommodation located on the upper level.

6.3.10 The palette of external materials proposed includes Sweet Chestnut cladding, Cotswold stone, Brown copper, Bronze metal window frames, frameless glass balustrading, and Meadow green roof. The DD stating that *"The proposed muted and earthy palette will settle the building into its wooded setting whilst the green roof of 'refuge' will seamlessly blend into the wider meadow."*

6.3.11 The Estate Management Building would be located to the north of the site and would be finished in a similar palette of external materials with a brown roof. This estate building will accommodate the solar kiln and log store, a tractor and machinery store, a working yard, an office, and guest parking. The building will have a dual function in providing a home office for the applicants and accommodating the machinery and apparatus required to maintain the site.

6.3.12 The DRP in their assessment of the proposed development, stated that:

*the landscape led multidisciplinary approach has resulted in a sustainable and robust proposal. Therefore overall, it is considered that the scheme is a well-developed proposal of the highest architectural standards, representing a truly outstanding design, which also promotes high levels of sustainability. It is also considered that the proposals have demonstrated that they would significantly enhance the immediate setting and are sensitive to the defining characteristics of the local area. Furthermore, it is considered that, subject to a commitment to disseminate learning outcomes, the proposal will help to raise the standards of design more generally in rural areas. Therefore, it is considered the proposals have met the criteria set out in paragraph 80 (e) of the NPPF.*

6.3.13 The DRP were also supportive of the proposed siting of the building, having visited the site, noting the intricacies of the site typography and the uniqueness of the hollow in which the dwelling would be sited. The panel also felt the ecological/biodiversity enhancements, were extremely thorough and well considered, and would further contribute towards the significant enhancement of the immediate setting. In addition, the panel commended the Energy Strategy that includes consideration of embodied carbon, and contributes to demonstrating the highest standards of architecture.

6.3.14 The helpful suggestions/recommendations made by the DRP in their response have been addressed in the current submission.

6.3.15 Notwithstanding the support from the DRP, the Cheltenham Architects Panel (CAP), do not support the proposed development, as they do not feel the scheme meets the high bar set by paragraph 80(e); albeit they acknowledge that whether the scheme meets the high standards required is a subjective matter. At the very least,:

*CAP found the ideas behind the scheme and some of the architectural spaces proposed to be visually exciting and agreed the proposal was a unique design solution that would set it apart from other buildings in the county. Had the dwelling not been located in the AONB the panel could have warmly supported such a radical design approach.*

6.3.16 These comments suggest that from a purely architectural point of view, the scheme is of a high quality. CAP go on to state that they “*believe that such a design approach may be suitable for other rural areas but not on this site in the AONB*” because of its large scale and impact on the landscape. However, as this report goes on to discuss, the Council’s specialist Landscape Advisor supports the proposal. In addition, it is understood that CAP have not had the benefit of a site visit.

6.3.17 CAP later go on to suggest that the architectural detailing and layout of the house is unresolved, (and that of the Estate Management Building) but this would appear to be at odds with the earlier comments whereby they support the radical design approach, in itself.

6.3.18 The full response received from CAP is appended in full and, whilst the comments have been duly noted, officers do not share their views.

6.3.19 The dwelling has been designed by Hawkes Architecture, who have secured planning permission for more than 20 dwellings across the country, promoted as paragraph 80 dwellings (and formerly paragraph 79, 55 and PPS7). Moreover, the design has evolved over the past few years in response to initial reviews by the Southwest Design Review Panel, and more recently The Design Review Panel.

#### 6.4 Landscape impact/AONB

6.4.1 JCS policy SD6 requires all new development to seek to protect landscape character; have regard to the local distinctiveness and historic character of the landscape; and to consider the landscape and visual sensitivity of the area in which they are located or may affect. Proposal should also provide for appropriate mitigation and enhancement measures. This requirement is reiterated in CP policy L1.

6.4.2 JCS policy SD7 specifically relates to development within the AONB and requires proposals “*to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities*” and be consistent with policies set out in the Cotswolds AONB Management Plan (CMP). Paragraph 176 of the NPPF requires ‘great weight’ to be given to conserving and enhancing landscape and scenic beauty within the AONB.

6.4.3 Relevant CMP policies include CE1 and CE3. These policies requires development proposals be compatible with and reinforce local distinctiveness, and have regard to the scenic quality of the location and its setting; and to ensure that views – including those into and out of the AONB – and visual amenity are conserved and enhanced. In addition, policy CE5 seeks to minimise and avoid light pollution in order to conserve the dark skies of the AONB.

6.4.4 The application has been accompanied by a Landscape and Visual Appraisal (LVA) and a Landscape and Ecology Management Plan Strategy (LEMP) both of which have been reviewed, in conjunction with the other documents that support the application, by Ryder Landscape Consultants (RL) acting as the Council’s specialist Landscape Advisor; their full response can be found at Appendix D.

6.4.5 In terms of landscape effect, RL considers the proposals to be *“sufficiently in keeping with the surrounding landscape to not significantly alter the existing rural character, settlement form and in particular this deeply incised part of the Cotswolds National Landscape”* and that the building will not appear incongruous in this location as there are buildings of a similar size in the local landscape. They are also satisfied that the illustrative landscape mitigation appears to be appropriate and in keeping with the local landscape. They go on to say that, as a result of the quantum of new tree and hedge planting and the simplicity of the external realm proposals, they *“consider that the landscape character of this part of the AONB escarpment would be conserved and on establishment of the mitigation planting would receive a Minor, Positive and Permanent change.”*

6.4.6 With regard to views, RL have considered views from Cirencester Road, the Cotswold Way, and views from the wider Cotswold Way. From the Cirencester Road, only a fleeting view down the site access to the Estate Management building will be available; the existing roadside planting screens open views of the site even in winter. In addition, there are no notable views from the Cotswolds Way despite the suggestion otherwise by the Campaign to Protect Rural England (CPRE); where long views to the site may be available on clear days from somewhere along the route, RL consider any visual impact *“to be in keeping with other dispersed, bespoke properties that are in view from time to time from this path.”* From the west around Leckhampton Hill and Charlton Kings Common, views would also be limited, RL commenting that *“The low density of housing proposed and the simple treatment of the associated external realm means the unique and nationally important escarpment landscape will be conserved. The heavily folded and incised nature of the local topography assists in restricting visibility to the Site.”* Overall, RL consider the proposals to be fully compliant with relevant landscape policies; and that any residual concerns can be adequately dealt with by condition.

6.4.7 The Cotswolds Conservation Board (CCB) have also commented on the proposal, and raise no objection subject to conditions *“to mitigate any adverse impact and ensure that all lighting will be limited to low-level, down-facing lights”*.

6.4.8 As such, whilst it is acknowledged that the CPRE raise objection to the proposed development (see Section 4), officers are satisfied that the proposal will not result in any harmful landscape impact given the support from both the CCB and RL.

### 6.5 Access and highway matters

6.4.1 Adopted JCS policy INF1 requires all development proposals to provide safe and efficient access to the highway network for all transport modes; and provide connections where appropriate, to existing walking, cycling and passenger transport networks to ensure that credible travel choices are provided by sustainable modes. The policy states that planning permission will only be granted where the impacts of the development are not considered to be severe. The policy generally reflects the advice set out within the NPPF at Section 9.

6.4.2 The proposed development has been assessed by the Highways Development Management Team (HDM) at the County Council, as the Highway Authority acting in its role as Statutory Consultee, and their full comments can be read in Section 4 above.

#### *Accessibility*

6.4.3 The site is located some distance from the village of Charlton Kings, which lies at the foot of the hill, and would not actively encourage walking or cycling. In addition, the nearest bus stops are located some distance away. As such, it is likely that future occupiers of the dwelling would be largely dependent on the use of a car to access day to day facilities and services; and HDM recommend that the application be refused for this reason.

6.4.4 However, given that this is a dwelling promoted under paragraph 80(e) of the NPPF, i.e. an isolated home within the countryside, the HDM recommendation is to be expected, and must be weighed against the scheme as a whole.

### *Highway safety*

6.4.5 From a highway safety perspective, HDM consider the proposed access arrangements and resultant impact on the highway network to be acceptable; with any impact being deemed negligible. The application proposes a new vehicular access point, to the north of the existing field access gate. The new access has been designed to allow to vehicles to pass at the site simultaneously, and adequate visibility can be achieved.

## 6.6 Drainage and flooding

6.6.1 Adopted JCS plan policy INF2 advises that development proposals must avoid areas at risk of flooding, and must not increase the level of risk to the safety of occupiers of a site, the local community or the wider environment either on the site or elsewhere. Additionally, where possible, the policy requires new development to contribute to a reduction in existing flood risk; and to incorporate Sustainable Drainage Systems (SuDS) where appropriate.

6.6.2 The site is located within Flood Zone 1 which is at the lowest risk of flooding; however, a Flood Risk Assessment (FRA) has been submitted during the course of the application, at the request of the Lead Local Flood Authority (LLFA), to ensure that the development could be delivered without risk to properties downstream of the site.

6.6.3 Having reviewed the submitted FRA, the LLFA are satisfied that it provides adequate information and they do not object to the proposal. They also confirm that the level of detail provided is sufficient to avoid the need for any additional drainage conditions.

## 6.7 Ecological impacts

### *Protected species*

6.7.1 JCS policy SD9 seeks to ensure that all development, wherever possible, makes a positive contribution to biodiversity and geodiversity, 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. The policy reflects the advice set out within the NPPF at paragraph 180.

6.7.2 The application is accompanied by an Ecological Appraisal, a Biodiversity Impact Assessment, and Bat Activity Survey which have been reviewed by Wild Service (the Ecological Consultancy for the Gloucestershire Wildlife Trust) acting as the Council's specialist Ecological Advisor (WS). They have also reviewed the Illustrative Masterplan and LEMP, and their detailed response is attached at Appendix C.

6.7.3 Some five trees were identified as having features potentially suitable for roosting bats, and the bat activity surveys recorded at least nine bat species foraging or commuting across the site; however no important commuting routes were identified. Additionally no evidence of badgers was found, although they are likely to be forage on the site. The site does however have the potential to provide suitable habitat for dormice, and may support brown hares. Birds are also likely to nest in the hedgerows, trees and woodland.

6.7.4 WS suggest that there is potential to impact on foraging/commuting bats due to the construction and operational phase lighting schemes; and that the proposals for lighting that minimises light spill are important and should be implemented. There would be minimal to no impacts on any other species but the precautionary mitigation proposed for badgers and other species during construction is appropriate. WS welcome the proposals for bird boxes, including owl boxes, and other wildlife features.

6.7.5 Following clarification from the applicant's agent, confirming that there are no ponds within 250m of the development site, WS are satisfied that no further assessment for great crested newts is required.

### *Biodiversity Net Gain (BNG)*

6.7.6 A number of habitat creation and mitigation measures are proposed which include new woodland, hedgerow, shrub and tree planting; new ponds and swales; enhanced management of retained habitats; and enhancement works to the stream and streamside habitats. WS advise that these measures would not only compensate the habitat losses but would significantly improve the site for ecology. This is demonstrated in the submitted Biodiversity Impact Assessment, which indicates a net percentage change of 70% for habitats, 79% for hedgerows, and 29% for the stream.

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

6.7.7 Natural England (NE) have also been consulted on the application. In their response, they suggest that the new dwelling, in combination with other new residential developments in the area, could result in increased recreational disturbance on The Cotswolds Beechwoods Special Area of Conservation (SAC) and that appropriate mitigation should be secured; however, officers do not consider that any mitigation is required in this instance given the scale of the development. This view is shared by WS who consider that any additional recreational disturbance on the SAC would be negligible.

## 6.8 Sustainability and climate change

6.8.1 NPPF paragraph 154(b) states that new development should be planned for in ways that *"can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards"*.

6.8.2 JCS policy SD3 also requires development proposals to be designed and constructed in such a way as to maximise the principles of sustainability, and to:

- demonstrate how they contribute to the aims of sustainability by increasing energy efficiency, minimising waste and avoiding the unnecessary pollution of air, harm to the water environment, and contamination of land or interference in other natural systems. In doing so, proposals...will be expected to meet national standards;
- be adaptable to climate change in respect of the design, layout, siting, orientation and function of both buildings and associated external spaces; and
- incorporate principles of waste minimisation and re-use.

6.8.3 The policy seeks to address Strategic Objective 6 of the JCS which requires new developments to *"Make the fullest contribution possible to the mitigation of, and adaption to, climate change and the transition to a low-carbon economy"*; and NPPF paragraph 8(c) which sets out that, from an environmental objective, opportunities should be taken to mitigate and adapt to climate change, including moving to a low carbon economy.

6.8.4 In this regard, the application has been accompanied by a Renewable Energy Strategy Report. The report sets out that the original proposal saw heat demands met by an onsite supply of biomass, with the biomass boiler housed in the Estate Management building; but that further discussions prompted by queries raised by the Design Review Panel led to some challenges and concerns being highlighted. The Solar Kiln innovation is currently untested, and the speed at which it will dry logs to acceptable levels, particularly in the winter months, is not known. It was therefore recognised that it was not possible to fully rely on this technology at this scale without full testing. The project will however provide



a valuable opportunity to test Solar Kiln technology and monitor its effectiveness and capacity through the seasons.

6.8.5 A revised strategy has therefore been developed that includes the following range of technologies, that have been deemed most suitable for this site:

- Mechanical Ventilation and Heat Recovery
- Ground Source Heat Pump with Borehole Collectors
- Infrared Radiant Heating
- Solar PV Array
- Battery Storage
- Use of A+++ rated appliances and socket controllers
- Smart Electric Vehicle Charging

### 6.9 Amenity

6.9.1 Adopted CP policy SL1 states that development will only be permitted where it will not cause unacceptable harm to the amenity of adjoining land users and living conditions in the locality. CP paragraph 14.4 advising that:

*In assessing the impacts of a development including any potential harm, the Council will have regard to matters including loss of daylight; loss of outlook; loss of privacy; and potential disturbance from noise, smells, dust, fumes, vibration, glare from artificial lighting, hours of operation, and traffic / travel patterns.*

6.9.2 Adopted JCS policy SD14 reiterates this advice and also seeks to ensure high quality developments that “*protect and seek to improve environmental quality*”. In addition, paragraph 130 of the NPPF highlights the need to ensure that developments achieve a high standard of amenity for both existing and future users.

6.9.3 In this instance, given the nature of the site and the proposal, there are no amenity concerns arising from the proposed development.

### 6.10 Other considerations

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

6.10.1 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.

6.10.2 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.

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

## 7. CONCLUSION AND RECOMMENDATION

- 7.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 As noted in the above report, the proposed development would be in conflict with JCS policy SD10 as it would be located outside of the Principal Urban Area within the Cotswolds AONB; albeit, the policy is out of date due to the lack of a five year supply of housing land. The proposed development would also conflict with JCS policy INF1 in that the site is not considered to be sustainably located.
- 7.3 However, notwithstanding the concerns raised by the Architects Panel, it is considered that the proposed development complies with the criteria set out in paragraph 80(e) of the NPPF, in that the design would be truly outstanding; would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. The proposal has been subject to a positive review by the Design Review Panel, whose recommendations, as per paragraph 133 of the NPPF, must be taken into account in the assessment of the application.
- 7.4 The landscape impacts of the development have also been assessed by Ryder Landscape (the Council's specialist Landscape Advisor) who consider the proposals to be fully compliant with relevant landscape policies. In addition, the Cotswolds Conservation Board raise no objection to the principle of the development.
- 7.5 The application has also been reviewed by Wild Service (the Council's specialist Ecology Advisor) and the ecological impacts of the proposed development have been found to be acceptable. The application proposes a number of measures that would significantly improve the site for ecology, as demonstrated in the submitted Biodiversity Impact Assessment, which indicates a net percentage change of 70% for habitats, 79% for hedgerows, and 29% for the stream.
- 7.6 Officers are also satisfied that the proposed development would not cause harm to highway safety or the amenities of neighbours. In addition, the LLFA raise no objection.
- 7.7 With all of the above in mind, taking into account the economic, social, and environmental aspects of the application, officers are satisfied that, on balance, the application is one that should be supported.
- 7.8 The officer recommendation therefore is to grant planning permission subject to the following schedule of conditions:

## 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.
- 3 Prior to the commencement of development, a Construction Method Statement or Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

The approved plan/statement shall be adhered to throughout the construction process and shall include, but not be restricted to:

- i) Provision of parking for vehicles of site operatives and visitors;
- ii) Any temporary access to the phase;
- iii) Locations for the loading/unloading and storage of plant, waste and construction materials;
- iv) Measures to control the emission of noise, dust and dirt during construction;
- v) Method of preventing mud and dust being carried onto the highway;
- vi) Arrangements for turning vehicles; and
- vii) Arrangements to receive abnormal loads or unusually large vehicles.

Reason: In the interests of the safe operation of the adopted highway during the construction phase of the development, having regard to adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 110 and 112 of the National Planning Policy Framework (2021). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 4 Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include mitigation measures that apply to the site clearance and construction phase of the development, with detailed Method Statements. This should include precautionary mitigation measures for amphibians and reptiles, in the form of Reasonable Avoidance Measures (RAMs). The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure the protection of biodiversity on the site during construction, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, and paragraphs 8, 174 and 180 of the National Planning Policy Framework (2021). 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. Approval is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species at the beginning of construction.

- 5 Prior to the commencement of development, a Lighting Scheme covering both the construction and operational phases of the development shall be submitted to and approved in writing by the Local Planning Authority. 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
- (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 thereafter be implemented and maintained in accordance with the manufacturer's recommendations and approved details.

Reason: To provide adequate safeguards for protected species on the site, ensure that foraging and commuting of bats is not discouraged at this location, and to conserve the dark skies of the AONB, having regard to adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework 2021, Section 40 of the Natural Environment and Rural Communities Act 2006, and policy CE5 of the Cotswolds AONB Management Plan 2018-2023.

Approval is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species at the beginning of construction.

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

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

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

Reason: In the interests of the landscape character 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 landscaping is an integral part of the development and its acceptability.

- 7 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 adopted policy D1 of the Cheltenham Plan (2020), and adopted policy SD4 of the Joint Core Strategy (2017).

- 8 Prior to first occupation of the development, the proposed means of vehicular access from the adopted highway shall be constructed in accordance with approved Drawing No. CTP-16-478-SK01-E and thereafter retained as such at all times.

Reason: To ensure a safe and suitable access to the development is provided and maintained in the interests of highway safety, having regard to adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 110 and 112 of the National Planning Policy Framework 2021.

- 9 Prior to first occupation of the development, an updated Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The updated LEMP shall expand on the mitigation and enhancement measures, including long-term management and monitoring activities (covering a period of 30 years, as proposed) and shall include:

- a) plans showing locations and extent of all habitats and wildlife features;
- b) a timetable of activities;
- c) details of a person and/or organisation responsible for the implementation of the plan; and the method by which the protection of retained, enhanced and created habitats will be secured.

The extent and location of removed, retained and newly created habitats presented in the updated LEMP should match that set out in the Biodiversity Impact Assessment (BIA). The LEMP should also demonstrate that the Biodiversity Net Gain proposed in the BIA has been achieved.

The approved plan shall therefore be implemented in accordance with the approved details.

Reason: To ensure the protection and enhancement of the landscape and biodiversity value of the site, having regard to adopted policies SD6, SD7 and SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 8, 174 and 180 of the National Planning Policy Framework (2021) and Section 40 of the Natural Environment and Rural Communities Act.

- 10 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 with or without modification), no extensions, garages, sheds, outbuildings, walls, fences or other built structures of any kind (other than those forming part of the development hereby permitted) shall be erected without express planning permission.

Reason: Any further extension or alteration requires further consideration to preserve the landscape character of the area, having regard to adopted policies D1 and L1 of the Cheltenham Plan (2020) and adopted policies SD4, SD6 and SD7 of the Joint Core Strategy (2017).

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Date: 01 February 2022  
Our ref: 381103  
Your ref: 21/02755/FUL

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Cheltenham Borough Council

**BY EMAIL ONLY**

Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

Dear Sir/Madam

**Planning consultation:** 21/02755/F Construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House

**Location:** Brecon House Charlton Hill Cheltenham Gloucestershire GL53 9NE

Thank you for your consultation on the above dated 17 January 2022 which was received by Natural England on 17 January 2022.

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

### DESIGNATED SITES [EUROPEAN] – FURTHER INFORMATION REQUIRED

Since this application will result in a net increase in residential accommodation, impacts to the Cotswold Beechwoods Special Area of Conservation (SAC) may result from increased recreational disturbance.

Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

Notwithstanding this, Natural England's advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the [European Site's conservation objectives](#) and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

This is because Natural England notes that the recent [People Over Wind Ruling](#) by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European

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site. Your Authority should have regard to the wish to seek its own legal advice to fully understand the implications of this ruling in this context.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment your Authority may decide to make.

### **Protected Landscapes – Cotswolds National Landscapes**

The proposed development is for a site within or close to a nationally designated landscape namely Cotswolds National Landscapes AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraphs 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

### **Sites of Special Scientific Interest Impact Risk Zones**

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](https://data.gov.uk) website

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

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).



Yours faithfully

Jenni Tibbetts  
West Midlands Planning Team

### Sites of Special Scientific Interest (SSSIs)

Local authorities have responsibilities for the conservation of SSSIs under s28G of the Wildlife & Countryside Act 1981 (as amended). The National Planning Policy Framework (paragraph 175c) states that development likely to have an adverse effect on SSSIs should not normally be permitted. Natural England's SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the Natural England Open Data Geoportal.

### Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available here.

### Protected Species

Natural England has produced standing advice<sup>1</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

### Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. The list of priority habitats and species can be found here<sup>2</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

### Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

### Protected landscapes

For developments within or within the setting of a National Park or Area of Outstanding Natural Beauty (AONB), we advise you to apply national and local policies, together with local landscape expertise and

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<sup>1</sup> <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

<sup>2</sup> <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

information to determine the proposal. The National Policy Framework (NPPF) (paragraph 172) provides the highest status of protection for the landscape and scenic beauty of National Parks and AONBs. It also sets out a 'major developments test' to determine whether major developments should be exceptionally be permitted within the designated landscape. We advise you to consult the relevant AONB Partnership or Conservation Board or relevant National Park landscape or other advisor who will have local knowledge and information to assist in the determination of the proposal. The statutory management plan and any local landscape character assessments may also provide valuable information.

Public bodies have a duty to have regard to the statutory purposes of designation in carrying out their functions (under (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended) for National Parks and S85 of the Countryside and Rights of Way Act, 2000 for AONBs). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Heritage Coasts are protected under paragraph 173 of the NPPF. Development should be consistent the special character of Heritage Coasts and the importance of its conservation.

### **Landscape**

Paragraph 170 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

### **Best and most versatile agricultural land and soils**

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [\*Construction Code of Practice for the Sustainable Use of Soils on Construction Sites\*](#), and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

### **Access and Recreation**

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

### **Rights of Way, Access land, Coastal access and National Trails**

Paragraphs 98 and 170 of the NPPF highlights the importance of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer.

### **Environmental enhancement**

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
  - Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
  - Planting additional street trees.
  - Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

Wednesday 2<sup>nd</sup> March 2022

Reviewed by:

Architects

Bastin Bloomfield, Lucia Milone, Phillip Thomas, Mark Powles, Anthony Lewis.

<b>Application No:</b>	21/02755/FUL
<b>Planning Officer:</b>	Miss Michelle Payne
<b>Location:</b>	Brecon House Charlton Hill Cheltenham
<b>Grid references:</b>	Easting: 396704      Northing: 218157
<b>Parish:</b>	Charlton Kings
<b>Proposal:</b>	Construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House.
<b>Applicant:</b>	Mr & Mrs Evans
<b>Agent:</b>	Mr David Jones
<b>Expected Decision Level:</b>	Delegated Decision

**Website URL:** <https://publicaccess.cheltenham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R3YA2IELJ0900>

**Design Review History**

The applicants have been in discussion with Cheltenham planning officers for some time in an attempt to obtain planning permission for a new dwelling on this site. Various schemes have been presented at Pre-app stage and design proposals have been reviewed by different design panels over the years including the Gloucestershire Design Panel (GDP), the South West Design Review Panel (SWDRP), the Design Review Panel (DRP) and the Cheltenham Architects Panel (CAP). A full planning application was submitted in 2018 but withdrawn as the proposal was not supported by GDP, CAP, and other consultees.

This application is for a different scheme designed by different architects, Hawkes Architecture, who have in turn presented several Pre-app proposals to SWDRP and DRP. The GDP have not been consulted for this scheme.

The DRP review of 12<sup>th</sup> October 2021, which is included in the appendix of the Evans Jones Planning Statement, supports the application but at the same time includes recommendations for further design refinements.

Having finally obtained support from a recognised design review panel, the applicants contacted CAP to argue that further consultation with another design panel was not required. After consultation with planning officers, and given that CAP had reviewed and had concerns about the previous planning applications for this site, it was decided that the application deserved a further review by CAP.

Wednesday 2<sup>nd</sup> March 2022

In summary, CAP acknowledge that the design proposal has been carefully considered and has many qualities as acknowledged in the DRP review, but, contrary to DRP, are of the opinion that the scheme does not meet the demanding requirements of Paragraph 80(e) of the NPPF for the reasons set out below.

### Design Concept

The reason why the applicants have struggled to get support for a new house on this site is because of its rural location in the Cotswold Area of Outstanding Natural Beauty (AONB). Establishing whether a scheme meets the high standards set out in Para 80 (e) is a subjective matter and it is not surprising that opinion may vary from one design panel to another.

CAP found the ideas behind the scheme and some of the architectural spaces proposed to be visually exciting and agreed the proposal was a unique design solution that would set it apart from other buildings in the county. Had the dwelling not been located in the AONB the panel could have warmly supported such a radical design approach. However, given the special conditions of this site, the panel questioned the whole design approach which relies entirely on the presumption that the architecture is of such high quality that its beauty trumps the natural beauty of the site.

The application documents do not provide adequate justification for the dwelling as designed. The planning statement suggests the scheme has a social benefit in that “the development will enable long-term residents to continue to live and work in the area” which cannot be the case as the applicants already live at Brecon House further up the hill. The statement also says that the applicants “appreciate more than anyone else, the beauty of the site nestled in the lower foothills of the Cotswold AONB”. So why the need for such a large and imposing new dwelling?

The design process illustrated and described in the submitted documents presumes that the buildings can be the size and scale demanded by the brief but does not question the brief itself. The resultant design is therefore for a very large house, and equally large outbuilding, that have substantial footprints and will involve significant engineering works to build. Hardly the “light touch” implied by the supporting text.

This radical design approach is acknowledged in the planning statement which claims “*the proposal clearly represents an opportunity to break from the historic palette of what may typically be considered ‘good design’ in a rural area*”. The panel believe that such a design approach may be suitable for other rural areas but not on this site in the AONB.

Regardless of the value placed on the architectural design, the panel concluded that the proposal was conceptually flawed as it cannot be said to *significantly enhance its immediate setting* because of its large scale and impact on the landscape.

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#### **Design Detail**

Notwithstanding the perceived flaws in the design brief, the panel had concerns regarding aspects of the building design and site layout. This was generally because it was felt that the scheme remained unresolved as far as the design detail is concerned. For a scheme to be exceptional and “*truly outstanding, reflecting the highest standards in architecture*” we would expect the submitted design to be fully resolved. (Note: the DRP recommendation of support also recognised that improvements could be made to the scheme design reviewed). CAP have the following concerns:

#### **Landscape Design**

The landscape design and supporting visual impact statement is thorough and well presented. There is no doubt that the landscape proposals incorporating environmental and ecological enhancements will be of benefit, but, as stated in the CPRE consultation statement, *there is no reason why these enhancements could not be carried out on their own merit as they are in no way dependent on the construction of a new residence at the site.*

Reference is made to this being a “landscape led” design which the panel believe is the correct approach for any such development in the AONB. The proposed architecture does not appear to conform to this design philosophy: why is the building located in such a dominating position in the middle of the site? Why is the building footprint so big when a more compact plan could result in less impact? Why is it necessary to have a separate estate management building and of the size shown?

The LVIA submitted does demonstrate that on the whole the site is well screened from public vantage points. However, as recommended in the DRP report, further studies are needed to establish views of the site during winter months. CAP was particularly concerned about views along the A435 Cirencester Road and the impact of the wide new site access: larger scale plans and sections are required to show the access and visibility splay requirements and site levels in more detail. The panel had concerns that the steep sloping site would make the new junction onto the A435 a prominent and urban looking intrusion into what is currently a continuous and attractive row of trees and hedges. This access and the gravel drives (which are not practical on such sloping sites) are likely to appear like a scar on the landscape and have a detrimental impact irrespective of additional tree planting proposed.

#### **Architecture**

The panel found the architectural details and layout of the house unresolved. To some extent this was due to the limitations of the CAD model images which appear schematic; the graphics, though attractive images, do not address the tricky details. For example, the way the upper floor “prospect” curved block emerges out of the landscape doesn’t really work with the south end outdoor lounge cut into the bank by 2m and the vertical timber crashing into a substantial concrete retaining wall. The

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panel also found the circular arrival pod was a weak element in the overall composition of curved forms, introduced to create a terrace at the upper level but arguably in the wrong location on plan; how it collides into the side of the “prospect” wing appears as an afterthought. Furthermore, the Access Statement included in the submission states that the terrace levels need to be modified to provide level wheelchair access at this principal floor, a further unresolved design detail.

The lower floor circulation corridors are dark and unattractive spaces and fight with the internal architecture of the vaulted ceilings, as evident from the interior model views. The wide building footprint also makes introducing a single lift (recommended by the DRP) impossible as is evident when studying Section B. The access statement suggests this might be resolved by introducing stair-lifts which one would have thought should be avoided for a house of this status.

The cantilevered “prospect” upper floor is the most prominent feature of the building but what a shame not to celebrate this feature and find a structural design solution without props. Indeed the panel was surprised the design approach did not include a structural design appraisal which might have informed the design and resulted in a clearer architectural solution.

The choice of materials and construction details are somewhat random and do not reflect or reinforce the initial design concept. The glass balustrade around the curved arrival pod clashes with the “prospect” form and arguably is more appropriate in urban settings. The metal balustrade projecting out of the curved dry-stone walling is also an odd combination.

The model views are all in black and white so an appraisal of the colour palette and selected materials is limited. The panel felt that the design was not fully resolved in this respect; the use of copper cladding, for example, is not really justified. A simpler material palette and the use of robust and durable materials would be recommended.

Where more traditional rural materials are proposed, such as the introduction of dry-stone walling, the details of openings, (eg reveals, lintels, sills and copings) are crude.

Including PV solar panels in the scheme is an integral part of the Renewable Energy Strategy and is to be encouraged but what a shame these are located on the most visible EPDM flat roof of the “prospect” block. Shouldn’t this have been a “green” roof too?

Some of the model views are enticing but there is little construction detail to prove the design intent can be achieved. The “light touch approach” implied by the images, in reality will not be the case, as illustrated in the one technical drawing, Section B, where it shows significant excavation



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and concrete retaining walls are required, including piled foundations. The amount of excavated material that will need to be removed from the site and disposed of will be considerable and it is suggested this be looked at in some detail by structural/civil engineers to appraise the impact this will have on the site and highways during construction.

#### **Estate Management Building**

This is a substantial building in its own right and the most unresolved in design terms. The steep access drive down to the building will be very prominent when viewed from the A435. Again major engineering works are required to form the yard area and building enclosure. The drystone retaining walls are particularly unresolved: randomly located and isolated from one another resulting in an incongruous mix of building elements. The choice of materials and the colour palette (eg copper cladding) is again not really justified.

The panel questioned the need for the “home office” on the upper floor as it simply adds further substantial built form in a sensitive location. Could this not be accommodated in the main house?

#### **Energy Strategy**

The panel was not convinced by the energy strategy for the site. The Renewable Energy Strategy Report (RESR) states that a biomass heating system was originally proposed for the whole site with the aim of harvesting an on-site supply of biomass. After criticism from the DRP questioning the feasibility of such a scheme on the grounds that this would be a labour intensive operation and use untried and tested solar kiln technology, the heating system design was changed to Ground Source Heat Pumps. Notwithstanding this, the proposed Estate Management Building design remains part of the design proposals. The argument that the building is still justified because it provides an opportunity to test the solar kiln technology is not sufficient reason for constructing another substantial building in the AONB; there are many other remote, less sensitive sites in the county where biomass heating and kiln dried technology research can be carried out. As the heating design has been modified to exclude biomass heating, it is recommended the Estate Management Building be replaced with a much more modest rural barn, possibly earth sheltered as well.

The RESR states that *“the initial focus of any low energy project should be on the building envelope efficiency”*. Although no precise figures are provided, the building envelope in this very linear design is significant. Statements are made about the building’s energy efficiency without being backed up by construction details. Sections through the building would assist to demonstrate the integral design of service routes, extensive whole house ventilation ducts, thermal insulation and structural zones. The

Wednesday 2<sup>nd</sup> March 2022

build up of components is likely to result in increased envelope thicknesses which will have an impact on the building aesthetic.

The model images, though seductive, are schematic and do not provide realistic construction details. How is the curved floor to ceiling glazing designed, for example; is the envelope completely sealed as required by the RESR whole house ventilation model, or are faceted glass doors and windows provided for natural ventilation? Triple glazing is proposed to minimise heat loss but how are these glass screens cleaned behind the permanently fixed vertical timber louvres? If the windows are openable will additional balustrades be required?

The RESR states that *“the building fabric and construction methods have been selected to be low embodied carbon, with natural materials making up the structure and insulation”*. This appears to ignore the substantial reinforced concrete retaining walls and slab construction proposed. When calculating Embodied Carbon for some reason the report states *“For all designs the emissions associated with foundations have been excluded at this stage as full details of these are unknown.”*

**Recommendation**

Not supported.

23<sup>rd</sup> February 2022

***Application Number: 21\_02755\_FUL***

***Construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House***

***Brecon House Charlton Hill Cheltenham Gloucestershire GL53 9NE***

Dear Michelle,

We have reviewed the Ecological Assessment and our response with regards to Ecology is provided below. The reports we reviewed were prepared by All Ecology and were as follows: Ecological Appraisal (July 2019); Biodiversity Impact Assessment (July 2021); and Bat Activity Survey (November 2021). We also reviewed the illustrative masterplan (1<sup>st</sup> December 2021) and the Landscape and Ecology Management Plan (LEMP) Strategy (December 2021) prepared by Davies Landscape Architects.

***Baseline information and assessment***

There is one statutory and 10 non-statutory designated sites within 1km.

The habitats on site are two species-poor semi-improved grassland fields separated by a line of trees, with small areas of scattered scrub, tall ruderals and scattered trees. There are species-poor hedgerows along the boundaries, apart from the western edge which is woodland with a stream.

There were at least five trees with features potentially suitable for roosting bats. The bat activity surveys recorded at least nine bat species foraging or commuting across the site. The hedgerows, trees and in particular the woodland edge are the most important habitats for foraging bats. No important commuting routes were identified.

No evidence of badgers was identified, but they are likely to forage on site. The woodland and hedgerows provide suitable habitat for dormice. The grassland may support brown hares.

Birds are likely to nest in the hedgerows, trees and woodland. These habitats provide foraging opportunities, and the grassland is also likely to provide small mammal prey for birds of prey, such as barn owls.

The hedgerows, woodland, tall ruderal and scrub provide suitable foraging habitat and places of shelter/hibernation for amphibians and reptiles. The grassland is sub-optimal for reptiles due to its history of management but it may provide some foraging opportunities for both reptiles and amphibians, including potentially great crested newt (GCN) (the desk study identified a GCN record).

There are five ponds within 500m of the site. Since there is potential for GCN to be present in terrestrial habitat on site, we would expect further assessment of nearby ponds in case any are breeding sites. Due to the small scale of the proposed development and the fact that the habitat in the footprint of the development is not particularly favourable, we consider that a search area of 250m from the site is sufficient. Habitat Suitability Index (HSI) assessments and further surveys of these ponds should be undertaken as necessary.

The site will support an assemblage of common invertebrates.

### *Impacts, mitigation and enhancements*

We agree that there would be no impacts on any designated sites. In their response of 1<sup>st</sup> February 2022, Natural England state that impacts on Cotswold Beechwoods Special Area of Conservation (SAC) (located approximately 6km away) may need to be checked via a Habitats Regulations Assessment (HRA) Appropriate Assessment. We consider this to be unnecessary since the development is of a single dwelling so additional recreational disturbance on the SAC would be negligible.

A small area of the species-poor grassland would be lost to the new dwelling. All other habitats would be retained. It is important that pollution control measures and drainage systems are put in place to ensure no pollution or alterations to the hydrology of the stream both during construction and operation.

A suite of habitat creation and enhancement measures are proposed in the All Ecology reports and shown in the illustrative masterplan (Davies Landscape Architects). These include new woodland, hedgerow, shrub and tree planting, new ponds and swales, management to enhance retained habitats in particular the grassland and woodland, and enhancement works on the stream and streamside habitats. These measures would not only compensate the habitat losses but would significantly improve the site for ecology. This is demonstrated in the All Ecology Biodiversity Impact Assessment, which indicates Biodiversity Net Gain (BNG) of 70% for habitats, 79% for hedgerows and 29% for the stream.

We welcome the proposals for ecological enhancement of the site but would ask that the applicant and their ecologists consider less woodland planting in favour of more grassland. The site has considerable potential for species-rich calcareous grassland if managed correctly over the long term. Instead of the proposed surrounding woodland planting, these areas could be left as unmanaged, tussocky grassland with scattered tall ruderal and scrub, to provide habitat for amphibians and reptiles, and also small mammals, thus providing good foraging for barn owls and other birds of prey. The combination of species-rich calcareous grassland surrounded by rough tussocky grassland would be of considerable benefit.

In terms of protected/notable species, all of the trees with potential for roosting bats would be retained. We welcome the proposals for bat boxes on the buildings and trees. It is unclear whether the All Ecology recommendation for integral bat roosting spaces have been included in the building designs, but these would also be of value.

There is potential to impact on foraging/commuting bats due to the construction and operational phase lighting schemes. The proposals for lighting that minimises light spill are important and should be implemented.

The loss of grassland may affect reptiles and amphibians if present (including potentially GCN). Precautionary mitigation measures and specific enhancement measures for reptiles and amphibians are required. These may need to be adapted depending on the results of further assessment of GCN.

There would be minimal to no impacts on any other species. The precautionary mitigation given for badgers and other species during construction is appropriate. We welcome the proposals for bird boxes, including owl boxes, and other wildlife features.

### **Requirements prior to determination:**

1. Due to the nearby GCN record and the number of ponds in close proximity to the proposed development site, assessment is required to provide further information as to the likelihood of GCN being present on site and subsequent mitigation. Therefore, HSI assessments of ponds within 250m of the site that are not beyond major dispersal barriers should be undertaken. Should the HSI assessment find any of the ponds within 250m of the site to be suitable for GCN, it will be necessary for the applicant's ecologist to undertake presence/absence surveys for GCN. If GCN are subsequently detected, a GCN Mitigation Method Statement would need to be prepared as part of a Natural England European Protected Species (EPS) Mitigation Licence application. This Method Statement should be submitted to the Local Planning Authority (LPA) for review prior to determination.
2. An alternative to the above is for the applicant to apply to NatureSpace for a District GCN Licence. The LPA would require receipt of the District Licence certificate from NatureSpace prior to determination.

### **Requirements prior to commencement/conditions to be attached to planning application:**

1. The mitigation measures that apply to the site clearance and construction phase of the development should be included in a Construction Environmental Management Plan (CEMP), with detailed Method Statements. This should include precautionary mitigation measures for amphibians and reptiles, in the form of Reasonable Avoidance Measures (RAMs). It should also include the measures detailed in the GCN Mitigation Method Statement, if this is required. The CEMP should be submitted and approved by the LPA.
2. All other mitigation and enhancement measures should be expanded on in a finalised version of the LEMP, including long-term management and monitoring activities (covering a period of 30 years, as proposed). This should include plans showing locations and extent of all habitats and wildlife features, and a timetable of activities. A Responsible Person / organisation needs to be stated and the method by which the protection of retained, enhanced and created habitats will be secured. The extent and

location of removed, retained and newly created habitats presented in the LEMP should match that set out in the BNG assessment. The LEMP should demonstrate that the BNG proposed in the BNG assessment has been achieved. It should be submitted to the LPA for review.

3. A lighting strategy scheme covering both construction and operational phases should be submitted to the local authority detailing location and specification of the lighting supported by contouring plans demonstrating any light spill into adjacent habitats. This plan should be completed in conjunction with advice from the project ecologist.
4. If a EPS Mitigation Licence for GCN is required, then a copy of this licence should be submitted to the LPA prior to commencement.

*National Planning Policy Framework (NPPF) and Local Plan Policy (Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031) (adopted December 2017)) context:*

- *NPPF Para 170 – 182 (Conserving and Enhancing the Natural Environment), National Planning Policy Framework:*
- *SD9 Biodiversity and Geobiodiversity*
- *INF3 Green Infrastructure*

*Wildlife legislation context:*

- *Wildlife and Countryside Act 1981 (as amended)*
- *Conservation of Habitats and Species Regulations 2017*
- *Natural Environment and Rural Communities (NERC) Act 2006*
- *Protection of Badgers Act 1992*

We trust this information is helpful.

Kind regards

Benjamin Goodger

*Benjamin Goodger MA (Oxon) MSc CEnv MCIEEM*

*Planning Ecological Adviser*

<b>CBC Planning Reference –</b>	21/02755/FUL		
<b>Site Name –</b>	Brecon House (Lilley Brook House), Charlton Hill		
<b>Summary of proposals -</b>	Para 80 Residential Property, gatehouse and outbuildings		
<b>Consultation Note Subject –</b>	Landscape and Visual Matters		
<b>Planning Case Officer –</b>	Michelle Payne – Senior Planning Officer (Planning Applications)		
<b>Landscape Comments Prepared By –</b>	Stuart Ryder of Ryder Landscape Consultants		
<b>Date of site visit —</b>	3/3/22	<b>Date of response</b>	21/3/22
<b>Recommendation –</b>	Allow – subject to landscape conditions and removal of certain permitted development rights		

Dear Madam

### **Brecon House, Charlton Hill – Landscape and Visual Consultation Response**

Thank you for appointing us to review the landscape and visual aspects of the submitted planning application and I pass a series of comments under the following nine headings;

1. Methodology
2. Site and surrounding's landscape character
3. Proposals for the site
4. Landscape effects
5. Views from A435 – Cirencester Road
6. Views from local PRow network
7. Views from wider AONB
8. Landscape Policy Compliance
9. Suggested Planning Conditions if consented

#### **1. Methodology**

Cheltenham Borough Council (CBC) appointed Ryder Landscape Consultants to consider the submitted scheme and supporting documents in February 2022. My name is Stuart Ryder and I am an experienced Chartered Landscape Architect. I attended site on 3<sup>rd</sup> March, 2022, walked local Public Rights of Way and drove nearby highway corridors. I was unable to take site photography as the weather conditions were poor. However there was sufficient visibility to be able to judge the Site and the effect the proposals would have on landscape character and visual matters.

The site visit was unaccompanied but I had the following plans and report to inform me about the proposals;

- Davies Landscape Architects – Illustrative Masterplan DLA.1951.L.27.S13 dated 1 December 2021 and associated LVA Conclusions
- A collection of elevations and sections of the house and gate house
- Gloucestershire CC – Definitive Map for the area.

I have also looked at aerial photographs of the area and OS Mapping.

## 2. Site and surrounding's landscape character

The site is set within a steep sided valley which is part of the Cotswolds National Landscape<sup>1</sup> Escarpment landscape. It is wooded in part but predominately put to what appears to be improved grazing pasture although no stock was visible at the time of the visit.

The Site is accessed off the A435 Cirencester Road which reduces the sense of tranquillity in the immediate area but also provides the main potential public vantage point back to the proposed Site.

The Lilley Brook Golf Course is set to the west of the proposals on the opposite side of the A435 with the club house further north, down the hill. There is a large block of mature woodland immediately to the east of the Site that is called 'The Dingle' on some-OS Maps.

The Site is made up of a single elongated field parcel aligned north to south parallel to the A435. It is generally bounded by a mix of native trees and hedgerows and fences with a ribbon of existing trees on the steep bank down from the A435 to the presumed course of Lilley Brook.

There is an existing farmhouse type building set in similar fields to the north of the proposed Site and this is accessed off the A435 with its highway entrance marked by high visibility markers and highway modifications presumably to make access and egress easier for its residents and visitors.

## 3. Proposals for the Site

Two buildings with a 'gatehouse' of more traditional style design set at the end of a new road access off the A435 and the principal \$80 house set as a crescent within an open field location approximately 100m south of the road access. It is unclear from the Landscape Masterplan how the principal dwelling will be accessed by vehicles and where they would be parked if not internally garaged.

A collection of curvilinear paths (presumed mown grass surface) run across the Site with the single elongated field split into two at what from aerial photographs appears to be a former field boundary. The splitting of the field would be by native hedgerow.

Further planting is proposed predominately to the east and west sides of the Site with the central parts of the two fields left as open grass.

## 4. Landscape effects

The wider proposals are considered sufficiently in keeping with the surrounding landscape to not significantly alter the existing rural character, settlement form and in particular this deeply incised part of the Cotswolds National Landscape. There are similar buildings in the local landscape and their size, height and form will not appear incongruous within this location. The buildings' settings are relatively discrete and their overall landscape effect would appear more as farmsteads albeit the curved primary building will not look like a traditional farm building if viewed from close range.

The illustrative landscape mitigation appears to be in keeping with this side of the A435 landscape with the new tree planting augmenting the existing ribbon of trees along the east side of the Cirencester Hill corridor. The fringe of planting to the east appears appropriate and when established will be seen as an extension to the Dingle woodland block.

The Applicant's landscape advisors Davies Landscape have considered the effects of the proposals in their Landscape and Visual Appraisal (LVA) – again dated December 2021. The overall conclusions of

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<sup>1</sup> Preferred name for Cotswolds Area of Outstanding Natural Beauty (AONB) thus called to reflect its national importance.



the LVA are not succinctly summarised but I consider that the landscape character of this part of the AONB escarpment would be conserved and on establishment of the mitigation planting would receive a **Minor, Positive and Permanent** change. This is largely from the quantum of new tree and hedge planting and the simplicity of the external realm proposals matching the rural landscape rather than trying to impose a 'grand new design' to emphasise the importance and scale of the house.

The retention of the simple, agricultural style fields needs to be ensured into the future through careful draughting of any planning conditions and supporting landscape maintenance and management plans (LMMP).

#### 5. Views from the A435 Cirencester Road

It is difficult to see the proposed Site clearly from the A435 but a snatched view down the proposed site access to the Gatehouse will be achieved. This however is fleeting given that it will be taken from motor vehicles and there is little evidence of pedestrians walking up this busy road corridor when more attractive routes up the escarpment (including The Cotswolds Way) are available. The existing roadside planting screens open views to the Site field even in winter conditions and the additional planting belt will add to the screen further.

The one note of concern I have with regard to views from the A435 is what the actual road entrance will look like. The existing farm house property's access to the north of the proposed Site has been modified with marker poles and coincides with painted highway markings presumably to assist in road safety for vehicles leaving the existing property. Will the new access be as obvious as the existing one to its north? and has the possibility of a shared access been explored to limit the amount of access points onto the A435 for both highway safety and landscape benefit grounds?

#### 6. Views from the Cotswolds Way

There are no notable views to the Site from the Cotswolds Way and higher escarpment. I walked path routes on the west side of the A435 as accessed off Hartley Lane and found most long views truncated by existing woodland or planting on Lilley Brook Golf Course. This does not mean that there may not be long views to Site on a clearer day from somewhere on this national path but any visual impact is considered to be in keeping with other dispersed, bespoke properties that are in view from time to time from this path.

#### 7. Views from the wider Cotswolds National Landscape

These have been considered from the west around Leckhampton Hill and Charlton Kings Common and found that the proposals would not influence local views from elevated parts of the escarpment from the west. From the east views are not anticipated given the presence of Wistley Grove and Long Covert mature woods that combine to block direct views from the PRoW network.

The low density of housing proposed and the simple treatment of the associated external realm means the unique and nationally important escarpment landscape will be conserved. The heavily folded and incised nature of the local topography assists in restricting visibility to the Site. However if illuminated too excessively it may actually be more notable at night.

#### 8. Landscape Policy Compliance

The landscape planning policies that need to be considered are;

#### JCS SD6 – Landscape

Part 1 – The proposals can be considered in keeping with the character of the local landscape which protects its character so there is **compliance** with this part of the policy.

Part 2 – The proposals keep the broad landscape character of pasture fields and woodland and there is no apparent effects on historic landscape features or other features of local distinctiveness. There is considered to be **compliance** with this part of SD6.

Part 3 – An LVA has been submitted by the Applicant and landscape mitigation measures have been submitted. There is therefore **compliance** with this part of the policy with the caveat that the landscape mitigation measures are conditioned and are supported with a Landscape Management and Maintenance Plan (LMMP) that not only ensures the establishment of the proposed woodland and hedgerow planting but its long-term aftercare irrespective of who owns the property.

Overall there is **compliance** with the various parts of SD6 than conflict.

### **JCS SD7 – Cotswolds AONB**

The proposals conserve and lead to a minor enhancement of the landscape character of this part of the AONB so there is **compliance** with this policy.

### **Cheltenham Plan L1 – Landscape and Setting**

The proposals do not harm the setting of Leckhampton Hill or wider Cheltenham or significantly affect views into or out of acknowledged areas of importance such as the Cotswold escarpment or the crescents or race course in town. For these reasons they can be considered in **compliance** with this policy.

### **NPPF 174 a) – Valued Landscape and NPPF 176**

The site is a valued landscape in its own right given it is part of the Cotswold National Landscape. Given the previous conclusion that the proposals lead to a minor enhancement of this part of the AONB there is **no conflict** with these particular NPPF policies. It is helped that the scale of development is minor compared to the overall extent of the Site that will be falling into the long term LMMP.

## **9. Suggested planning conditions if consented**

Should you be minded to grant planning consent for these proposals and notwithstanding the already submitted landscape proposals the following planning conditions are suggested;

- A. That a detailed hard and soft landscape mitigation scheme is submitted for consideration.  
*Reason – to ensure that the proposals maintain the landscape character and respect the valued landscape of the Cotswolds National Landscape.*
- B. The hard landscape proposals should pay particular attention to the detail and character of the final proposed access off the A435. *Reason – to ensure that the proposals maintain the character of this particularly stretch of the A435 Cirencester Road whilst at the same time comply fully with Highway Safety.*
- C. The hard landscape proposals or Engineer's drawings should demonstrate the retention of the dominant ground profile on Site which is the steeply sloping valley sides without excessive and uncharacteristic cut platforms or raised additions such as mounds to deposit excess material – *In the interest of retaining landscape topography in this incised section of Cotswold Escarpment as part of the designated landscape.*

- D. The soft landscape proposals should seek to recreate a strong vegetative edge for both the east and west sides of the Site allowing room for future growth and maintenance of landscape and fields alike. *Reason – to ensure that the landscape proposals restrict sight to the proposals from the A435.*
- E. The soft landscape proposals should be implemented in the first growing season after the commencement of construction and replacement of dead, diseased or dying stock should be undertaken in accordance with an approved Landscape Maintenance and Management Plan for a minimum period of 10 years. *Reason – to ensure the establishment and subsequent aftercare quality of the landscape mitigation measures.*
- F. That no further tree felling is undertaken on site without the express written agreement of CBC's Arboricultural Officer and after consideration of tree sensitive construction processes – *Reason to protect the remaining mature tree stock that contributes to the A435 tree line.*
- G. That a Landscape Maintenance and Management Plan (LMMP) is prepared for implementation by the new homeowner(s) and that an arrangement for continuation of the LMMP by future homeowners is entered into – *Reason – to reflect the importance of the soft landscape mitigation proposals for both the Cotswolds National Landscape and visual receptors on the adjacent A435 – Cirencester Road.*
- H. That a finalised, minimal impact, external lighting scheme is presented to the Local Planning Authority for approval and subsequent implementation - *Reason – to preserve the dark skies of the Cotswolds National Landscape.*
- I. That the current and future owners of the properties accept restrictions on typical General Permitted Development rights to reduce the risk of associated landscape and visual harm accruing through the development of peripheral features within the external space associated with the dwellings - *Reason – to preserve the landscape character of the Cotswolds National Landscape.*

I recognise that the suggested conditions could possibly be combined and may require re-wording to be enforceable but wished to explain the importance and reasoning behind them in this consultation response.

I trust you find these notes useful as you consider the determination of this application but should you have any queries please do not hesitate to contact me.

**Stuart Ryder**

21/3/22

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<b>APPLICATION NO:</b> 22/00708/FUL		<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 15th April 2022		<b>DATE OF EXPIRY:</b> 10th June 2022 (extension of time agreed until 17th June 2022)
<b>DATE VALIDATED:</b> 15th April 2022		<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> St Peters		<b>PARISH:</b>
<b>APPLICANT:</b>	Mr Z Kwinter	
<b>AGENT:</b>	SF Planning Limited	
<b>LOCATION:</b>	37 Market Street Cheltenham Gloucestershire	
<b>PROPOSAL:</b>	Proposed side and rear extensions (revised scheme following refusal of application ref. 21/02361/FUL)	

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located on the north-eastern side of Market Street, within St Peters ward, and comprises a terraced, two storey dwelling. To the rear, the site backs onto the rear of properties in Bloomsbury Street.
- 1.2 The property is red brick beneath a pitched, slate roof, with white uPVC windows and doors. The property has been previously extended to the side at ground floor by way of a flat roofed addition which is finished in render.
- 1.3 The applicant is seeking planning permission for the erection of a first floor side extension and a single storey rear extension. It is a revised scheme following a recent refusal of planning permission at the February committee meeting.
- 1.4 The previous application was refused by members, contrary to the officer recommendation, due to the lack of adequate sanitary facilities to serve the dwelling. The refusal reason reading:

*The proposed development would be inadequately served by sanitary facilities with only a single shower room and toilet to serve a four double bedroomed property. As such, the proposed development would be contrary to the aims and objectives of policy SD14 of the Joint Core Strategy (2017) which requires development to "protect and seek to improve environmental quality. Development should not create or exacerbate conditions that could impact on human health or cause health inequality." Additionally, the development would fail to meet the provisions of paragraph 126 of the National Planning Policy Framework (2021) which highlights the need to ensure that design proposals are of a high quality, and create better places in which to live and work.*

- 1.5 In order to address the above reason for refusal, the scheme has been revised to include an additional shower room at first floor. In all other respects, the proposals are unchanged.
- 1.6 The application is again before planning committee at the request of Cllr Willingham whose comments can be read in full at section 4 below.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Honeybourne Line  
Principal Urban Area  
Residents Association  
Smoke Control Order

### **Relevant Planning History:**

**21/02361/FUL**

**REFUSED**

**18th February 2022**

Proposed side and rear extensions

## 3. POLICIES AND GUIDANCE

### **National Planning Policy Framework 2021 (NPPF)**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 12 Achieving well-designed places

**Adopted Cheltenham Plan 2020 (CP) Policies**

D1 Design

SL1 Safe and Sustainable Living

**Adopted Joint Core Strategy 2017 (JCS) Policies**

SD4 Design Requirements

SD9 Biodiversity and Geodiversity

SD14 Health and Environmental Quality

**Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

## **4. CONSULTATION RESPONSES**

**Building Control - 19th April 2022**

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

**Ward Councillor - 27th April 2022**

This is just a brief note to say that I would like to call-in 22/00708/FUL (37 Market Street). I will provide some more details in due course, but the neighbours have raised concerns about the over-development of the site, and I have concerns about the quality of living space based upon the sizes of the two new double bedrooms, which are very cramped, the noise implications of having a bathroom between them, the size of the kitchen for 8 people, and the general quality of the development.

I appreciate that you may need this with more detailed planning reasons, but I wanted to let you know about this with as much notice as possible.

Just as an addition, if possible at least one of the objecting neighbours has said they would welcome the opportunity of a site visit via Planning View so that the committee can see the impact on their dwelling.

I'm not sure if this is possible, but I thought I should pass on the request.

**Ward Councillor - 23rd May 2022**

In terms of planning policy considerations, I believe that the proposal represents "overdevelopment", e.g. it is excessive for the site that it is proposed to occupy. This seems contrary to NPPF ¶124, bullets c, d & e, insofar as the proposal does not fit with the capacity of local infrastructure and services, for example an eight-person dwelling without off-street parking only having two parking permits. The proposal changes the character and setting of the area, and as a primary objection, the proposal is not a well-designed, attractive and healthy place. The "healthy places" being a significant objection.

I also remain unconvinced that the proposal is compliant with NPPF ¶126 as this does not strike me as a "high-quality" building, the plans seem to be to try to cram as much bedroom space as possible into the space. If this was an application by a residential householder with a large family, then the council might look upon this more sympathetically, however, that is not the case.

Translating this down to local policies, the proposals still do not seem to be compliant with JCS policy SD14. This says, "High-quality development should protect and seek to improve environmental quality. Development should not create or exacerbate conditions that could impact on human health or cause health inequality." I do not believe that this has been achieved by this proposal.

Finally, the proposals do not seem to be compliant with the SPD on “Residential Alterations and Extensions”. At 2.1 (3), this policy notes “The Council will maintain such spaces between buildings to prevent a terracing effect between existing houses.” Given the current proposal seeks to completely remove this space, it clearly violates the council’s own SPD policy on this matter.

Following a further site visit, should the planning application be approved, then I believe that the following planning conditions (or slightly better worded equivalents) need to be put in place:

1. The dropped kerb outside the two-storey extension needs to be removed, and the kerb line restored. Reasons – space is too small for a car, but the dropped kerb affects parking provision, and also for public safety outside the development.
2. Refuse and recycling storage to be provided. Reasons – residential amenity of neighbouring dwellings
3. Cycle parking to be provided. Reasons – dwelling is limited to two parking permits, so this is to encourage / provide sustainable transport opportunities.

I realise that some of these issues are subjective, but I have tried to frame them in specific planning policies. Having the Planning Committee consider these will also ensure that my constituents and the applicant get to see this proposal determined in public. I hope this fulfils the requirements of giving material planning reasons for a call-in, but if you need further information, please let me know.

## 5. PUBLICITY AND REPRESENTATIONS

- 5.1 Letters of notification were sent to 10 neighbouring properties. In response to the publicity, objections have been received from four local residents. The representations have been circulated in full to Members but, in brief, they largely repeat the concerns made in response to the previous application, namely:

- Highway impact/parking
- Noise and disruption during construction
- Overdevelopment/overbearing
- Loss of light/overshadowing
- Overlooking/loss of privacy

## 6. OFFICER COMMENTS

### 6.1 Determining issues

6.1.1 The main consideration when determining this application is whether the revisions put forward by the applicant adequately address the previous reason for refusal.

### 6.2 Design

6.2.1 Adopted CP policy D1 requires all new development to complement and respect neighbouring development and the character of the locality; whilst extensions or alterations to existing buildings should avoid causing harm to the architectural integrity of the building or the unacceptable erosion of open space around the existing building. The policy is generally consistent with adopted JCS policy SD4 and advice set out within Section 12 of the NPPF.

6.2.2 Further design advice in relation to domestic properties is set out within the Council’s adopted ‘Residential alterations and extensions’ SPD.



6.2.3 In terms of scale, form and external appearance, the proposed development is the same as that previously proposed; the officer report which accompanied that application stating:

*6.2.3 Officers are satisfied that the proposed extensions are acceptable from a design perspective. Whilst in this case, the side extension is not set back from the principal elevation, the extension will serve as a continuation of the terrace and is considered to be the most appropriate way of extending the property. Indeed, officers are of the opinion that the extension would result in an improvement to the streetscene; the existing flat roofed extension appearing as an obtrusive feature. Moreover, given the local context, which is largely characterised by terraced properties, the loss of the existing gap is not considered harmful in this instance.*

*6.2.4 To the rear of the property, as revised, the existing single extension would be subject to a fairly modest increase in footprint. The chamfered roof design, whilst perhaps not ideal, is an appropriate design solution to mitigate the impact on the neighbouring property, and will limit the height of the extension adjacent to the boundary. The extension will not be visible from the public realm.*

*6.2.5 The use of materials to match those used in the existing building and wider street scene will ensure that the general character and appearance of the property will be maintained.*

*6.2.6 Overall, officers are therefore satisfied that the proposals accord with the provisions of CP policy D1, JCS policy SD4, and the general design advice set out within the 'Residential alterations and extensions' SPD.*

6.2.4 Members will be aware that the previous scheme was not refused on design grounds; and it would be unreasonable to now reach a different conclusion given that the design of the development is unchanged.

### 6.3 Amenity

6.3.1 Adopted CP policy SL1 advises that development will only be permitted where it will not cause unacceptable harm to the amenity of adjoining land owners or the locality; these requirements are reiterated in adopted JCS policy SD14. CP paragraph 14.4 advises that *"In assessing the impacts of a development including any potential harm, the Council will have regard to matters including loss of daylight; loss of outlook; loss of privacy..."*.

6.3.2 The impact of the development on all neighbouring properties was taken into account when considering the proposals previously; the officer report stating:

*6.3.2 As previously noted, revised plans have been submitted during the course of the application to mitigate the impact of the rear extension on the adjacent property, no.39 Market Street. The two storey addition originally proposed, particularly the first floor bedroom addition, would have had a significant impact on the kitchen window in the rear of this neighbouring property. Following the omission of the first floor element and the introduction of the chamfered roof, the extension now passes the 45° daylight test used to assess the impact of an extension on an adjacent window, and is acceptable. The height adjacent to the boundary will be 2.4 metres and the extension projects 3.5 metres.*

*6.3.3 In considering the first floor side extension, officers are satisfied that whilst the extension will undoubtedly have some impact on the neighbouring property, no.35 Market Street, it is not considered that any such impact will be so great as to warrant a refusal of planning permission on amenity grounds.*

6.3.4 *With regard to overlooking and loss of privacy, the angled garden to this neighbouring property has been duly noted but the single window proposed in the rear of the extension is unlikely to significantly compromise existing levels of privacy and overlooking, over and above that which already exists. The relationship between the window and the neighbouring garden will not be dissimilar to that elsewhere*

6.3.5 *Light to windows serving habitable rooms in this neighbouring property will not be affected; the extension does not project beyond the rear elevation of this property.*

6.3.6 *Moreover, any loss of sunlight and overshadowing of the rear garden will be limited, given the orientation of the existing properties, and the width of the existing gap between the properties which narrows to the rear.*

6.3.7 *Furthermore, with regard to noise transfer between properties, this is a matter for Building Regulations; however, a new cavity wall is shown on the floor plans. Also, the works will require agreement under the Party Wall etc. Act 1996; the granting of planning permission does not negate the need to also comply with the act where it is applicable.*

6.3.8 *The comments from local residents in relation to noise and disturbance have been noted but some noise and disturbance during construction work is to be reasonably expected. Individual circumstances cannot be taken into account. However, for the avoidance of doubt, an informative has been attached advising the applicant/developer of the accepted construction hours for works which are audible beyond the boundary, which are Monday to Friday 8am to 6pm, and Saturdays 8am to 1pm.*

6.3.3 Officers remain satisfied that the proposals would not result in any unacceptable amenity impacts on neighbouring residents. The provision of an additional shower room would not have any detrimental impact on neighbouring residents.

6.3.4 In addition, the impact of the development on neighbouring properties was not a reason for refusal of the previous application.

#### 6.4 Other considerations

##### *Householder application*

6.4.1 It is important to remember that this is a householder planning application. The property is not on the Public Register of Licensed HMO's. The speculative future use of the property as a HMO is not a material consideration in the determination of the application. This was addressed in the previous offer report at paragraph 6.4.1 which sets out that *"The occupation of a domestic property by up to six unrelated individuals does not require planning permission unless permitted development rights have been removed. This site does not fall within the area covered by the Article 4 Direction which removes permitted development rights for developments involving a change of use of a dwelling to a HMO"*.

6.4.2 The sizes of the individual rooms such as the kitchen etc. are not relevant in the consideration of this application. If, in the future, the property was to be occupied by five or more people, forming two or more households, a HMO licence would be required from the Council. This is entirely separate to any need for planning permission, albeit planning permission would also be required if the property were to be occupied by six or more unrelated individuals.

##### *Parking*

6.4.3 Whilst parking has again been raised as a concern by local residents, the proposals will not result in the loss of any existing on-site parking space. Moreover, the scale of

development proposed is unlikely to result in any tangible impact on parking. There are no parking standards for the development to adhere to. As such, the condition suggested by Cllr Willingham, requiring the removal of the existing drop kerb, would fail to the necessary tests in that planning conditions, as per NPPF paragraph 56, should “*only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.*”

6.4.4 Similarly, given that this is an application to extend a single domestic property, it is not reasonable or necessary to secure refuse and recycling storage, or cycle parking, by way of conditions; the proposal will not result in an increase in residents above and beyond that reasonably expected of a residential property. The property benefits from adequate, secure, outdoor amenity space to the rear.

### *Protected species*

6.4.4 Whilst records show that important species or habitats have been sighted on or near the application site in the past, given the scale and nature of the proposals, it is not considered that the proposed development will have any harmful impact on these species.

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

6.4.5 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.

6.4.6 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.

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

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 With all of the above in mind, the proposals are considered to be in accordance with relevant national and local planning policies, and the recommendation is to grant planning permission subject to the conditions below.
- 7.2 Members are reminded that the previous application was only refused on one ground, namely, the lack of adequate sanitary facilities; and officers are satisfied that the additional shower room now proposed at first floor is sufficient to address the previous concern.

## **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.

- 2 The applicant/developer is advised that the works will likely require agreement under the Party Wall etc. Act 1996; the granting of planning permission does not negate the need to also comply with the act where it is applicable.

<b>APPLICATION NO: 22/00708/FUL</b>		<b>OFFICER: Miss Michelle Payne</b>
<b>DATE REGISTERED:</b> 15th April 2022		<b>DATE OF EXPIRY :</b> 10th June 2022
<b>WARD:</b> St Peters		<b>PARISH:</b>
<b>APPLICANT:</b>	Mr Z Kwinter	
<b>LOCATION:</b>	37 Market Street Cheltenham Gloucestershire	
<b>PROPOSAL:</b>	Proposed side and rear extensions (revised scheme following refusal of application ref. 21/02361/FUL)	

## REPRESENTATIONS

Number of contributors	<b>4</b>
Number of objections	<b>4</b>
Number of representations	<b>0</b>
Number of supporting	<b>0</b>

31 Market Street  
Cheltenham  
Gloucestershire  
GL50 3NJ

### Comments: 6th May 2022

Further to the recent revised proposal, please accept my comments as follows. I'm sorry I didn't meet the deadline of 5th May, however I would be grateful if my comments could be taken into consideration.

I reiterate my concerns previously raised. In my opinion, this planning proposal is purely for financial gain.

I am extremely concerned about the planning proposal, reference above, which will have an immediate impact on the surrounding environment and the residential amenity for me and my neighbours.

This property is already rented out, with the downstairs rooms being used as bedrooms. Additions to the house would mean that there could potentially be a total of 6 bedrooms. The proposal makes it sound as though it is a family house that will be extended, not a multi-let property.

This is a residential neighbourhood, primarily occupied by families and people who have lived here for a considerable period of time, owner occupiers such as myself. If this property is extended further, I am concerned that this will continue to be let, but to more occupants. Bearing in mind this is not necessary for the occupants of the house to enhance their living circumstances and it is purely for financial gain, I am angry about the potential impact on the rest of the neighbourhood.

In addition, building works would be incredibly intrusive for us all and would have a major impact on the already difficult situation with parking.

I look forward to hearing from you.

30 Market Street  
Cheltenham  
Gloucestershire  
GL50 3NH

**Comments:** 1st May 2022

As I haven't seen any tangible changes outside of adding a proposed toilet, I reiterate my objection on the planning permission for this property.

As a resident of the street who works from home throughout the week I have noted the following observations and challenges. I have noted the objections below as this will not have been considered by the property owners with the proposed development.

### Parking

Parking is limited on the streets for the residents. There is no note within the plans whether this will block parking spaces but looking at the plans it would seem to require this - This will cause disruption to residents obtaining parking. Secondly, it would seem the intention of the development is to increase the number of people renting within the building - I do not believe the additional strain in parking has been considered by additional residents on the street.

### Street

The street is a single lane dead end road and connects to 2 other streets at the bottom of the road. It is in heavy use by residents as well as deliveries etc. The plans for development will likely require partial closure of the street which is unacceptable to residents as they will be unable to leave or arrive in the area. The significant disruption on the streets alone would have a significant effect on residents.

### Pavement

I also register concern that the pavement will be unsafe during the works on the side of the road of the property. This will cause significant disruption not only the residents but they many people who go through it each day. I have observed a significant number of children (including my own) using this pavement throughout the day as well as pram users and disabled people. As there are a number of schools and a park 50 metres down the road, I'm concerned that the safety of the public has not been taken into account with the proposed development.

### Length of Time

No length of time has been included within the plans - how long will the residents and the public have to deal with the disruption.

### Noise Pollution

To follow on from length of time - what would the level of noise pollution be? It would seem the levels would reach unreasonable due to the nature of the work. As I work from home (as do others on the street) and I also have a young child who has naps within the day and due to the noise created will severely impact the quality of life we have. This will interfere in peaceful enjoyment living within our properties.

### Overdevelopment

It would seem this property is already occupied as a HMO - I'm concerned at this proposed development as it seems out of ordinary for the street as well causing parking

strain due increased people living within the property. It would seem that the intention for the proposed development is to get in as many people into the property as possible to maximise the rent obtained from the property. The development could also cause damage and issues for neighbouring properties due to the overdevelopment.

I implore you to consider the above points in consideration on the permission of this proposed development and how the proposal should be rejected.

35 Market Street  
Cheltenham  
Gloucestershire  
GL50 3NJ

### **Comments:** 3rd May 2022

I strongly oppose the revised plans for 37 Market Street on the grounds that this is a gross overdevelopment of a terraced HMO which currently houses 5 unrelated tenants and is neighboured by modest owner occupied 2 bedroom residential properties.

Unsurprisingly the revised planning proposal recently submitted has done the bare minimum to address the Head of Plannings grounds for refusal of the previous application, following Planning Committee Review, which stated "The proposed development would be inadequately served by sanitary facilities with only a single shower room and toilet to serve a four double bedroomed property. As such, the proposed development would be contrary to the aims and objectives of policy SD14 of the Joint Core Strategy (2017) which requires development to "protect and seek to improve environmental quality. Development should not create or exacerbate conditions that could impact on human health or cause health inequality." Additionally, the development would fail to meet the provisions of paragraph 126 of the National Planning Policy Framework (2021) which highlights the need to ensure that design proposals are of a high quality, and create better places in which to live and work".

On plan the smallest shower room possible has been squeezed in between the 2 additional double bedrooms in the side extension which if approved will have the potential to increase occupancy from the current 5 tenants housed in the 2 existing bedrooms, living room and dining room to 11 tenants housed in 4 upstairs double bedrooms, living room and dining room. This begs the question aside from the sanitary facilities will the planned kitchen facilities be sufficient?

Lastly but most importantly from a personal prospective the revised proposal has done nothing to address my concerns regarding loss of privacy and loss of light to the rear garden and courtyard of my property 35 Market Street which I have detailed in my previous objection correspondence. I would again like to invite representatives of the planning dept to visit my property to gain a perspective of the scale of the plans for 37 Market Street and the detrimental effect the development will have on the neighbouring properties should approval be given.

39 Market Street  
Cheltenham  
Gloucestershire  
GL50 3NJ

**Comments:** 3rd May 2022

I would like to make clear my strong objection to the revised plans for 37 Market Street on the grounds that this is a gross overdevelopment of a terraced HMO which currently houses 5 unrelated tenants and is neighboured by modest owner occupied 2 bedroom residential properties. Already extended twice 37 Market Street is currently run as a 4 bedroomed HMO in which the existing ground floor rooms named in the proposal as sitting room and dining room (front) are let as bedrooms and the property is currently housing 5 tenants.

The revised planning proposal has done the bare minimum to address the Head of Plannings grounds for refusal of the previous application, following Planning Committee Review, which stated "The proposed development would be inadequately served by sanitary facilities with only a single shower room and toilet to serve a four double bedroomed property. As such, the proposed development would be contrary to the aims and objectives of policy SD14 of the Joint Core Strategy (2017) which requires development to "protect and seek to improve environmental quality. Development should not create or exacerbate conditions that could impact on human health or cause health inequality." Additionally, the development would fail to meet the provisions of paragraph 126 of the National Planning Policy Framework (2021) which highlights the need to ensure that design proposals are of a high quality, and create better places in which to live and work".

On plan the smallest shower room possible has been squeezed in between the 2 additional double bedrooms in the side extension which if approved will have the potential to increase occupancy from the current 5 tenants housed in the 2 existing bedrooms, living room and dining room to 11 tenants housed in 4 upstairs double bedrooms, living room and dining room. This leads me to wonder if the kitchen facilities will be adequate.

I still have concerns about the amount of light which will be able to get through to my downstairs kitchen and bathroom windows if the rear ground floor extension is to take place. The view from my kitchen window will be of a concrete alleyway. Equally my upstairs back window will be affected by the proposed first floor smaller extension. I would urge you to consider the responsibility of the council under the Human rights act in particular protocol 1, Article 1 which states that a person has the right to peaceful enjoyment of all their possessions which include the home and other land.

Even with previously provided photographs It is difficult for us to articulate the very real impact this development will have on our homes. And I'm sure it is difficult for you to picture it. We would therefore welcome the opportunity to meet with a representative of the planning department at our homes to illustrate our objections first hand before a final decision is made.





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<b>APPLICATION NO:</b> 22/00634/FUL		<b>OFFICER:</b> Miss Claire Donnelly
<b>DATE REGISTERED:</b> 6th April 2022		<b>DATE OF EXPIRY:</b> 1st June 2022
<b>DATE VALIDATED:</b> 6th April 2022		<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Lansdown		<b>PARISH:</b> n/a
<b>APPLICANT:</b>	J Jobes And I Petkov	
<b>AGENT:</b>	VJM Design House Ltd	
<b>LOCATION:</b>	52 Queens Road Cheltenham Gloucestershire	
<b>PROPOSAL:</b>	Proposed rear dormer to facilitate loft conversion	

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application relates to 52 Queens Road; a mid-terrace, residential dwelling located within the Lansdown Character Area of Cheltenham's Central Conservation Area.
- 1.2 The applicant is seeking planning permission for a rear dormer to facilitate a loft conversion.
- 1.3 The scale of the dormer has been reduced throughout the course of the application in order to address officers concerns in regards to design and impact on the conservation area.
- 1.4 The scheme has been revised throughout the application process. An initially proposed dropped kerb and associated off-street parking area have been omitted from this application. The application site has a previous refusal (application ref. 17/00548/FUL) and dismissed appeal for a dropped kerb and off-street parking area due to the impact on the conservation area. As such, with these decisions in mind, officers raised the same concerns and therefore the applicant removed these elements from this application.
- 1.5 The application is at planning committee as the applicant is a member of staff.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport safeguarding over 15m  
Conservation Area  
Principal Urban Area  
Smoke Control Order

### **Relevant Planning History:**

<b>17/00548/FUL</b>	<b>13th July 2017</b>	<b>REFUSED</b>
Dropped kerb and off road parking to front garden		

## 3. POLICIES AND GUIDANCE

### **National Planning Policy Framework**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 8 Promoting healthy and safe communities  
Section 12 Achieving well-designed places  
Section 16 Conserving and enhancing the historic environment

### **Adopted Joint Core Strategy Policies**

SD4 Design Requirements  
SD8 Historic Environment  
SD14 Health and Environmental Quality

### **Cheltenham Plan Policies**

D1 Design  
SL1 Safe and Sustainable Living

### **Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)  
Central conservation area: Lansdown Character Area and Management Plan (July 2008)

## 4. CONSULTATIONS

### **Building Control**

8th April 2022 –

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

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

*26th April 2022 –*

Report available in documents tab.

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

*10th May 2022 –*

Comment available to view in documents tab.

## **5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>4</b>
Total comments received	<b>1</b>
Number of objections	<b>0</b>
Number of supporting	<b>0</b>
General comment	<b>1</b>

- 5.1 Letters have been sent to four neighbouring properties, a site notice has been erected, and an advert placed in the Gloucestershire Echo; one general comment has been received.
- 5.2 The neighbouring resident raised the following comments;
- Concerns over loss of street tree and the impact on the conservation area.

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

- 6.2 The application proposes a rear dormer to a residential property in the conservation area; the key considerations are therefore the design, impact on the conservation area and any impact on neighbouring amenity.

### **6.3 Design**

- 6.4 Policy SD4 of the JCS and policy D1 of the Cheltenham Plan require development to be of a high standard of architectural design that responds positively to and respects the character of the site and its surroundings. This draws from paragraph 130 of the NPPF which seeks development to be visually attractive and sympathetic to local character.
- 6.5 Policy SD8 of the Joint Core Strategy requires development to make a positive contribution to local character and distinctiveness, having regard to the valued elements of the historic environment. Section 16 of the NPPF seeks development to consider the impact of a proposed development on the significance of a designated heritage asset; great weight should be given to the asset's conservation.
- 6.6 The Council's Supplementary Planning Document: Residential Alterations and Extensions provides specific design guidance for dormer windows stating that dormers should not be overly wide or have the appearance of an extra storey.
- 6.7 As mentioned in the introduction, the scale of the proposed dormer has been revised throughout the application process. The initially proposed dormer was considered to be overly wide for an uninterrupted roof slope in the conservation area. As such, officers concerns were raised with the applicant and subsequently revised plans have been submitted, reducing the width of the dormer.

- 6.8 The proposed dormer would now be 2no. windows in width, and would therefore expose more of roof of the original dwelling. The reduction in width would result in the dormer reading as a more modest addition to the uninterrupted roof-scape of the terrace of four properties in the conservation area. The scale of the dormer would now comply with the aforementioned SPD guidance and would preserve the character of the conservation area.
- 6.9 The design and finish of the dormer would be relatively modern with 2no. windows and a zinc clad finish. The design is considered to be acceptable for its location.
- 6.10 The proposed dormer is therefore considered to be acceptable in terms of its scale, form, design and impact on the conservation area, and is therefore compliant with the relevant planning policies and guidance.
- 6.11 Impact on neighbouring property**
- 6.12 Policy SD14 of the JCS and policy SL1 of the Cheltenham Plan require development not to cause unacceptable harm to the amenity of adjoining land users; this echoes section 12 of the NPPF which requires development to be of a high standard of amenity for existing and future users.
- 6.13 Following the statutory neighbour consultation, one general comment has been received from a neighbouring resident. A summary of the main points raised can be read above; the comments relate to a now omitted element of the application.
- 6.14 The proposed dormer window would be on the rear roof slope and small in scale, proposing 2no windows. It is considered that as a result of the proposed dormer window, there would not be an unacceptable impact on the amenity of neighbouring properties in regards to overlooking or an unacceptable loss of privacy.
- 6.15 It is therefore considered that the proposed dormer is acceptable and compliant with relevant planning policies and guidance.
- 6.16 Other considerations**
- 6.17 Members will note consultee comments and neighbour comments in response to the consultation period of the application. As mentioned in the introduction a previously proposed dropped kerb and creation of off-street parking have been omitted from the application; these consultee and neighbour responses refer to a proposal that has been omitted from the scheme.
- 6.18 Public Sector Equalities Duty (PSED)**

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

### 7. CONCLUSION AND RECOMMENDATION

- 7.1 For the reasons set out above, the application in its revised form is considered to be acceptable. The proposal is therefore considered to be in accordance with the relevant planning policies and guidance in regards to achieving an acceptable standard of design, would not impact upon the character of the conservation area, and would protect the amenity of adjoining land users.
- 7.2 The recommendation is to therefore permit this application subject to the conditions set out below.

### 8. CONDITIONS / INFORMATIVES

- 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, the authority sought revisions to the scheme to overcome officers concerns.

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

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<b>APPLICATION NO: 22/00634/FUL</b>		<b>OFFICER: Miss Claire Donnelly</b>
<b>DATE REGISTERED:</b> 6th April 2022		<b>DATE OF EXPIRY :</b> 1st June 2022
<b>WARD:</b> Lansdown		<b>PARISH:</b>
<b>APPLICANT:</b>	J Jobes And I Petkov	
<b>LOCATION:</b>	52 Queens Road Cheltenham Gloucestershire	
<b>PROPOSAL:</b>	Proposed rear dormer to facilitate loft conversion, together with front driveway and dropped kerb	

## REPRESENTATIONS

Number of contributors	<b>1</b>
Number of objections	<b>0</b>
Number of representations	<b>1</b>
Number of supporting	<b>0</b>

48 Queens Road  
Cheltenham  
Gloucestershire  
GL50 2LT

**Comments:** 28th April 2022

We are unsure where the application form ticks the 'yes' box for felling trees & hedges if that means the tree on the pavement will be felled. We would be rather upset to see that happen especially as we are in a conservation area.

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## Appeals Lodged

May/June 2022

Address	Proposal	Decision Type	Appeal Type	Anticipated Appeal Determination Date	Reference
The Paddocks Swindon Lane Cheltenham	Demolition of the existing property and the construction of two 2 storey dwellings.	Delegated Decision	Written Representation	July 2022	Appeal ref: 22/00006/PP1 Planning ref: 21/02505/FUL
The Bungalow 9 All Saints Villas Road Cheltenham GL52 2HB	Proposed demolition of existing bungalow and replacement with a pair of semi-detached properties and associated works and infrastructure	Delegated Decision	Written Representation	July 2022	Appeal ref: 22/00007/PP1 Planning ref: 21/01891/FUL
3 Suffolk Road Cheltenham GL50 2AG	Replacement to sash windows & entrance door on grade 2 listed building	N/A	Written Representation	Aug 2022	Appeal ref: 22/00008/ENFAPP 21/00022/DCALLB
27 Cleeve View Road Cheltenham GL52 5NJ	Part first floor side extension, change roof from hip to gable and extend loft conversion	N/A	Written Representation (HAS)	Aug 2022	Appeal ref: 22/00009/PP1 Planning ref: 22/00262/FUL

## Appeals Determined

January to June 2022

Please find appended the appeal decisions from this period.

Authorised By: Liam Jones, Head of Planning 06.06.2022





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## Appeal Decision

Site visit made on 4 January 2022

**by Stuart Willis BA Hons MSc PGCE MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 January 2022**

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**Appeal Ref: APP/B1605/W/21/3281489**

**1 Loweswater Road, Cheltenham, Gloucestershire GL51 3AZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Adam Russell against the decision of Cheltenham Borough Council.
- The application Ref 21/00505/COU, dated 28 February 2021, was refused by notice dated 20 May 2021.
- The development proposed is change of use to land at the rear to extend garden land.

### Decision

1. The appeal is allowed, and planning permission is granted for change of use to land at the rear to extend garden land at 1 Loweswater Road, Cheltenham, Gloucestershire GL51 3AZ in accordance with the terms of the application, Ref 21/00505/COU, dated 28 February 2021, subject to the conditions in the attached schedule.

### Preliminary Matters

2. Although referenced on the application form and other appeal documents by the appeal parties, unlike the proposed fence, a summer house is not shown on the submitted plans. In addition, it is not included in the description of development on the decision notice that the appellant has confirmed they are satisfied with. Therefore, I have not included this as part of the development being sought.
3. As such, I have taken the description of development from the decision notice. Although different to that given on the application form, it is more precise. It is also the description upon which notification took place.
4. Following the refusal of the application the new National Planning Policy Framework (Framework) has been published. Where comments have been received in relation to this, they have been taken into consideration in my decision.

### Main Issues

5. The main issues of the appeal are the effect of the proposed development on:
  - the character and appearance of the area; and
  - biodiversity.

**Reasons***Character and Appearance*

6. Although said to have been part of the original estate layout, the evidence before me indicates that the appeal site is not designated as open green space in the development plan.
7. It is an area of undeveloped land between Loweswater Road and Winton Road with a pedestrian path alongside it linking the streets with garden areas to two sides. There are several pockets of undeveloped land within the surrounding streets that vary in terms of their size, shape and greenery. These act as a break in the built form and along with landscaping within plots softens the appearance of the streetscene.
8. The appeal site is of a small size with limited greenery. It is located at the end of a cul-de-sac adjacent to gardens and enclosed by boundary treatments to 2 sides. Parking was taking place in front of the site and along the road at the time of my visit which also partly obscured views of the site. As a result, the site is largely screened in longer range views and while visible from them, is not prominent from many of the nearby properties. While it previously contained mature landscape features, it is currently overgrown and unkempt.
9. Consequently, it is not a key feature in the streetscene and makes a limited contribution to the character and appearance of the area at present.
10. The proposed development would remove the vegetation on the site. Nonetheless, hard surfacing and parked vehicles would be low level and would not be discordant given the presence of the adjacent roads and paths. Existing boundary treatments would aid in screening the area and part of the site would remain open. A condition is imposed preventing further structures being added. In addition, although not large, an area of planting is proposed in one corner of the site that would act as a buffer between and be visible from both streets.
11. The site is partly enclosed, and the remainder could be enclosed by some boundary treatments under permitted development rights. There are walls and fencing along the cul-de-sac of varying appearance. Therefore, the fencing off of part of the site would not be discordant with the existing site and its context. A condition is imposed requiring details of the proposed fencing to be agreed.
12. Even if I were to agree that the site was an existing open space in the context of paragraph 99 of the Framework, due to its small size, its loss would have a minimal effect on the level of provision in the area and is of limited public value at present.
13. Therefore, the proposed development would not harm the character and appearance of the area. It would comply with Policy INF3 of the JCS<sup>1</sup> along with Policy D3 of the Cheltenham Plan. These, amongst other things, seek to prevent the development of private green areas and open space that make a significant contribution to the townscape and environmental quality and protect green infrastructure in a manner that reflects its contribution to landscape/townscape quality. It would also accord with the Framework where it requires schemes to be sympathetic to local character.

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<sup>1</sup> Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031

*Biodiversity*

14. I acknowledge third party references to slow worms, dormice and other fauna at the site. Notwithstanding this, while overgrown at the time of my visit the information before me indicates that there are no records or biodiversity alerts for the site from the Gloucestershire Centre for Environmental Records.
15. There is little connectivity to other habitats and previous landscape features have been removed. There is no compelling evidence that there is a reasonable likelihood of protected species being present on or near the site or that they may be adversely affected by the proposal. As a result, and in light of the condition of the site at the time of my visit, further information, such as ecological surveys of the site, are not necessary.
16. Landscape features have previously been removed at the site and areas would be hard surfaced. Nevertheless, an area of planting is proposed and secured by condition.
17. Therefore, the proposed development would not harm biodiversity. It would accord with the biodiversity protection aims of SD9 and INF3 of the JCS.

**Other Matters**

18. Whether the removal of landscape features at the site required separate consents is not a matter for this appeal. I saw there were streetlights nearby and the relocation of the existing one in front of the site is a matter for the Council. That previous applications and enforcement action at the site have taken place do not alter my findings on the scheme before me.
19. While any contribution towards reducing climate change is worthwhile, given the size of the site, the loss of the remaining greenery at the site would be small. The individual circumstances of this proposal mean it would not set a precedent. I have concluded that the proposal would be acceptable, and I can see no reason why it would lead to harmful developments on other sites. Moreover, each case should be assessed on its own merits, as would any future proposals at the site.
20. There is unrestricted parking near the site and much of the surrounding streets with some properties have parking within their plots. This would provide sufficient space to accommodate any displaced by the appeal scheme. The Highways Planning Liaison Officer concluded that there would not be an unacceptable impact on highway safety or a severe impact on congestion. I have reached the same finding.
21. Parking already takes place near the site a comparable distance from the surrounding properties and their gardens. Therefore, the presence of parked vehicles in the outlook from nearby dwellings, and any noise or disturbance associated with vehicle movements or activities within the enlarged garden area, would not be unexpected or significant.

**Conditions**

22. In addition to the standard time limit condition, I have imposed one requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.

23. In order to protect the character and appearance of the area, I have also imposed a condition requiring details of the proposed fence, a landscape scheme and one removing permitted development rights for further structures or buildings at the site.

### **Conclusion**

24. For the reasons given, and having considered all matters raised, I conclude that the appeal should be allowed, subject to the conditions below.

*Stuart Willis*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location and Existing Block Plan Drawing No SK 001 and Proposed Layout Plan.
- 3) 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 with or without modification), no plant, structures, buildings, walls, fences or other means of enclosure, other than those expressly authorised by this permission, shall be erected, constructed or installed at the site.
- 4) Prior to their beneficial use of the development hereby approved boundary treatments at the site shall be erected in accordance with details, including material(s), finish/colour(s) and dimensions, that have first been submitted to and approved in writing by the local planning authority and thereafter retained as such.
- 5) Prior to the beneficial use of the development hereby approved, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - i. Planting plans,
  - ii. Written specification of planting and cultivation works to be undertaken,
  - iii. Schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate,
  - iv. existing and proposed finished levels,
  - v. vehicle parking layout,
  - vi. materials for hard surface areas that shall be permeable or drained to a permeable area, and
  - vii. an implementation programme.



Thereafter, the development shall be carried out and maintained in full accordance with the approved details.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.



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## Appeal Decision

Site visit made on 21 December 2021

**by Oliver Marigold BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> January 2022**

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**Appeal Ref: APP/B1605/D/21/3282970**

**35 Naunton Crescent, Cheltenham, GL53 7BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Simon North against the decision of Cheltenham Borough Council.
  - The application Ref 21/00998/FUL, dated 27 April 2021, was refused by notice dated 24 June 2021.
  - The development is proposed two storey rear extension, loft conversion and new dormer at rear.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Cheltenham Central Conservation Area.

### Reasons

3. Cheltenham's Central Conservation Area (CA) is large and diverse, including the town centre and residential areas of different eras. As a part of the CA, the Leckhampton Character Area (LCA) includes large areas of compact 19<sup>th</sup> Century artisan terraced housing. The houses contribute to the LCA and the CA as a whole because of their distinctive character, including as a cohesive group.
4. The Leckhampton Character Area Appraisal and Management Plan (LCAMP) identifies the terraces at Naunton Crescent, including the appeal site, as being positive buildings that contribute to the area's character and appearance. It identifies important characteristics of historic terraces such as those here as being the unity and cohesion of their built form.
5. Number 35 Naunton Crescent retains much of its original form as an artisan terraced house. This includes its two-storey mono-pitch rear wing, and its simple roof. The overall form of the property contributes to the wider terrace and makes a positive contribution to the CA due to this form, integrity and as a part of the coherent whole of the terrace in which it sits.
6. The proposal seeks to construct a two-storey rear extension and dormer in an overall cohesive approach. The Council does not object to the ground floor rear extension element and given its subservience I see no reason to disagree. At first floor level, however, the proposed rear extension would encompass the

whole width of the property and so would physically and visually remove much of the existing rear wing.

7. The appellant considers that the street only has uniformity when viewed from the front elevation, and that any uniformity to the rear that may have existed previously has been eroded over time by subsequent development. They also note that the LCAMP does not make specific reference to the importance of the rear elevations of properties on Naunton Crescent, and that there are only limited public views of the rear of the property, from Naunton Terrace.
8. While there may have been a loss of uniformity at ground floor level, from the evidence before me and my own observations of the area, and while noting that the LCAMP does not make specific reference to the importance of rear elevations, many properties in Naunton Crescent have kept their mono-pitch rear projections at first floor level, even after redevelopment at ground floor, thus retaining a rhythm to the street that enables their historic form to be clearly read. I therefore consider that the loss of the rear wing as proposed would be harmful to the property's appearance.
9. The appellant has drawn my attention to a number of other properties in the terrace that have had their rear projections infilled or removed, in a manner described by the appellant as 'less considerate'. I have limited information on these properties and do not know the background of these extensions but in any case, they do not justify the harm identified. Furthermore, they represent a small proportion of the terrace as a whole.
10. The proposal also includes a rear dormer. The appellant argues that its position above the ridgeline would not be visible from Naunton Crescent, given the perspective required to see it. Even so, the height of the dormer and its width, covering much of the rear roofslope, would be uncharacteristic of the property's simple design and that of the street as a whole.
11. Concerns have been raised about the consistency of the Council's decisions and examples of other dormers nearby have been drawn to my attention. While the dormers referred to in Naunton Lane and Naunton Way may be viewable from within the CA, they are outside this designation and built on dwellings with a different design to those at Naunton Crescent, limiting the comparison that can usefully be drawn from them. I also viewed the dormer at 8 Leckhampton Road, within the CA. While this development is reasonably prominent in the CA, the dwelling has a very different appearance to the appeal proposal, and I find little similarity between the two. Furthermore, few if any of the other examples cited involve the extent of changes proposed here across the whole rear elevation and roof. I have considered the appeal proposal on its own merits.
12. Overall, I consider that both the first-floor extension and the dormer would result in significant harm to the property's integrity and to its character and appearance, and to that of the CA.
13. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The proposal would have a negative effect on the significance of a designated heritage asset and would result in 'less than substantial' harm in the words of the National Planning Policy Framework ('the Framework'). While I

recognise the benefits of the proposal to the appellant, no public benefits have been put forward to weigh against this harm.

14. The proposal would therefore be contrary to policies SD4 and SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (December 2017), and policy D1 of the Cheltenham Plan (July 2020), which require that proposals conserve and enhance heritage assets and make a positive contribution to local character and distinctiveness. For the same reasons the proposal is contrary to the LCAMP (July 2008), the Residential Alterations and Extensions SPD (November 2008) and to the Framework.

### **Other Matters**

15. I am aware of the appellant's stated willingness to amend the dormer element of the scheme. I note that plans have been submitted to demonstrate this. However, these plans were not formally submitted as part of the application, and as such have not been considered by the Council or other parties. Consequently, in the interests of fairness to all parties I have made my decision on the basis of the plans that were before the Council when it reached its decision.

### **Conclusion**

16. Given the above, the proposal would not preserve or enhance the character or appearance of the Cheltenham Central Conservation Area. It would not accord with the development plan as a whole and there are no other considerations to outweigh that finding. I therefore conclude that the appeal should be dismissed.

*Oliver Marigold*

INSPECTOR





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## Appeal Decisions

Site visit made on 13 January 2022

**by Stephen Hawkins MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> January 2022

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**Appeal A Ref: APP/B1605/C/21/3283541**

**Appeal B Ref: APP/B1605/C/21/3283542**

**Land at 11 Welland Drive, Cheltenham, Gloucestershire GL52 3HA**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Andrew Mukori (Appeal A) and Mrs Gamuchirai Mukori (Appeal B) against an enforcement notice issued by Cheltenham Borough Council.
- The enforcement notice was issued on 25 August 2021.
- The breach of planning control as alleged in the notice is without planning permission the erection of a timber fence in excess of 1 m, adjacent to a highway used by vehicular traffic.
- The requirements of the notice are to reduce the height of the fence to no more than 1 m and remove the resulting waste from the site.
- The period for compliance with the requirements is two months.
- The appeals are proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period for either Appeal A or Appeal B, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

**Summary of Decisions: The appeals succeed in part and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.**

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### Preliminary Matter

1. The matters set out by the appellants in support of their appeals, including references to other boundary enclosures in the locality, largely relate to the planning merits of the fence. However, as no fee was paid there is no deemed application arising from a ground (a) appeal. Therefore, planning merits considerations are not before me.

### Appeals A and B

#### Ground (f) appeals

2. The ground of appeal is that the requirements of the enforcement notice are excessive.
3. An enforcement notice can have two purposes. Firstly, it can remedy the breach of planning control, including by making the development comply with the terms of any planning permission granted in respect of the land, or by restoring land to its condition prior to the breach taking place. Secondly, a notice can remedy any injury to amenity caused by the breach.
4. The notice attacks a timber fence around 2 m high, erected adjacent to the street at a residential property. Although the notice gives no indication as to

whether one or both of the above purposes are relevant, it does not require total removal of the fence. Reduced to 1 m high, the fence would not be dissimilar in height to the wall it replaced. Moreover, reducing the fence to 1 m high would bring it within the terms of the planning permission granted for a fence adjacent to a highway in the GPDO<sup>1</sup> at Article 3, Schedule 2, Part 2, Class A. Therefore, the purpose of the notice must be to remedy both the breach and the injury to amenity caused by the height of the fence.

5. Simply painting the fence would not remedy the breach. Varying the notice to retain the fence at its existing height would fall outside the scope of what can be achieved under ground (f); where there is an appeal on ground (f) but not on ground (a) and the purpose of the notice is to remedy the breach, the notice cannot be varied to attack its substance. In any event, painting the fence alone would not remedy the injury to amenity identified in the notice. Therefore, the above does not represent an obvious alternative to what the notice requires. The appellants did not suggest another alternative and to my mind, there is none that would also achieve the purpose of the notice. Therefore, in my view reducing the fence to 1 m high is a proportionate way in which to remedy the breach and the injury to amenity.
6. Accordingly, what is required by the notice is not excessive and the ground (f) appeals fail.

### **Ground (g) appeals**

7. The ground of appeal is that the time for complying with the requirements of the notice falls short of what should reasonably be allowed.
8. The compliance period is described in the notice as beginning from the date of issue, rather than the date the notice takes effect. Consequently, if I were to dismiss these appeals and uphold the notice as issued the appellants would then straight away be in breach of the notice. It must follow that the compliance period specified in the notice as issued is unreasonably short.
9. In the absence of anything to suggest otherwise, I have assumed that what the Council actually meant was for the compliance period to be two months from the date the notice takes effect. I recognise that reducing the fence to 1 m high is likely to be a straightforward matter to arrange and have carried out by a suitable contractor within a couple of months or so. Nevertheless, I am also mindful that by the end of August this year it is likely that recent planting behind the fence would have had a full growing season in which to mature and thereby act as a more effective screen from the street. Furthermore, there is still ongoing uncertainty regarding the potential reintroduction of restrictions on movement to manage the spread of COVID-19. Given that is the case, it would seem sensible to maintain an opportunity for the appellants' children to access suitably private and secure outdoor space at their property as far as possible. A compliance period which took these factors into account would therefore strike a more appropriate balance between remedying the planning harm identified in the notice as soon as is practicable, whilst also enabling a reasonable degree of privacy and security to continue to be provided at the property.

<sup>1</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).



10. Accordingly, in my view eight months is a reasonable period for compliance. The ground (g) appeals succeed to that extent.

**Conclusion**

11. For the reasons given above I conclude that the period for compliance falls short of what is reasonable. I shall vary the notice prior to upholding it.

**Formal Decisions**

12. Appeals A and B: It is directed that the enforcement notice is varied by at paragraph 5 substituting "*two months from the date of the notice*" with "*eight months from the date the notice takes effect*" as the period for compliance. Subject to this variation the enforcement notice is upheld.

*Stephen Hawkins*

INSPECTOR





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## Appeal Decision

Site visit made on 13 January 2022

by **Stephen Hawkins MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 January 2022

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**Appeal Ref: APP/B1605/C/21/3284424**

**Land at 156 Hesters Way Road, Cheltenham GL51 0RY**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Mirosław Michalecki against an enforcement notice issued by Cheltenham Borough Council.
- The enforcement notice was issued on 9 September 2021.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land to the front of 156 Hesters Way Road, Cheltenham, GL51 0RY for the operation of a hot food takeaway business from a catering trailer.
- The requirements of the notice are to cease trading of the hot food takeaway business and remove the trailer from which the business is operating from (*sic*) at land known as 156 Hesters Way Road, Cheltenham GL51 0RY.
- The period for compliance with the requirements is six weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.**

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### Preliminary Matters

1. The enforcement notice alleges a material change of use of land to a hot food takeaway. The attached plan shows an area of hardstanding at the front of a terraced dwelling, not including the dwelling or its rear garden. However, it is highly likely that the area shown on the plan is also in use for purposes associated with the dwelling; the appellant confirmed that this was the case and the Council did not seek to argue otherwise.
2. There is little physical separation between the area allegedly used as a takeaway and the rest of the land occupied by the appellant. In my view, as a matter of fact and degree, use as a hot food takeaway is materially different in character to a use as a dwelling. This is because of the probable nature and scale of a takeaway use and the resulting significant increase in the number and frequency of comings and goings. It is highly likely therefore that any use as a takeaway is not ancillary to the use of the dwelling but is a primary use. Relevant case law has established that there is a mixed use where two or more primary uses are within the same planning unit and the uses are not ancillary to one another.
3. Therefore, if the alleged takeaway use has occurred the land shown on the plan is not in one primary use but forms part of a larger area of land occupied by

the appellant and in a single mixed use comprising both primary uses as a dwelling and a takeaway. Where an alleged breach of planning control is a material change of use and more than one primary use is taking place within a planning unit, the allegation should specify all the components of that use, even if it is considered expedient that only one of its components should cease. The Courts have held that where there is a mixed use, it is not open to the Council to decouple elements of it<sup>1</sup>. The use will be a single mixed use with all its component activities.

4. At s176(1)(a), the Act provides for correcting a defect, error or misdescription in an enforcement notice. The power is wide, the only test being whether injustice would be caused to the appellant or the Council. After seeking the views of both main parties, I shall correct the notice to include the residential component of the mixed use in the allegation. In addition, I shall substitute the plan with one which properly reflects the unit of occupation, also making a consequential correction to paragraph 2. As the notice would not be more onerous, no injustice would be caused by making these corrections.
5. There is no deemed planning application arising from a ground (a) appeal. Therefore, planning merits considerations are not before me.

#### **Ground (b) appeal**

6. The ground of appeal is that the matter alleged in the notice has not occurred as a matter of fact. It is for the appellant to show that their appeal should succeed on this ground, the relevant test of the evidence being on the balance of probability.
7. A mobile catering trailer is stationed on part of the hardstanding. The available evidence, which includes extracts from Council records as well as representations from interested local residents, clearly shows that the trailer was used at the appeal site for the preparation, cooking and sale of hot food which is taken away by customers and consumed off the premises, prior to the issuing of the notice. The trailer was not simply parked or stored at the site. Although it appears that the appellant has recently started operating their business from another location, that does not change the fact that the use as a hot food takeaway has occurred at the site.
8. Therefore, the available evidence does not support the appellant's case and the ground (b) appeal fails.

#### **Conclusion**

9. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice as corrected.

#### **Formal Decision**

10. It is directed that the enforcement notice is corrected by:
  - Substitution of the plan attached to the enforcement notice by the plan attached to this decision.
  - Substitution of the words "*edged red*" by the words "*edged and cross-hatched in grey*" in paragraph 2.

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<sup>1</sup> *R (oao) East Sussex CC v SSCLG & Robins & Robins* [2009] EWHC 3841.

- Substitution of the allegation in paragraph 3 with the following allegation: *"Without planning permission, the material change of use of the land to a mixed use as a dwelling and a hot food takeaway"*.

Subject to these corrections, the appeal is dismissed and the enforcement notice is upheld.

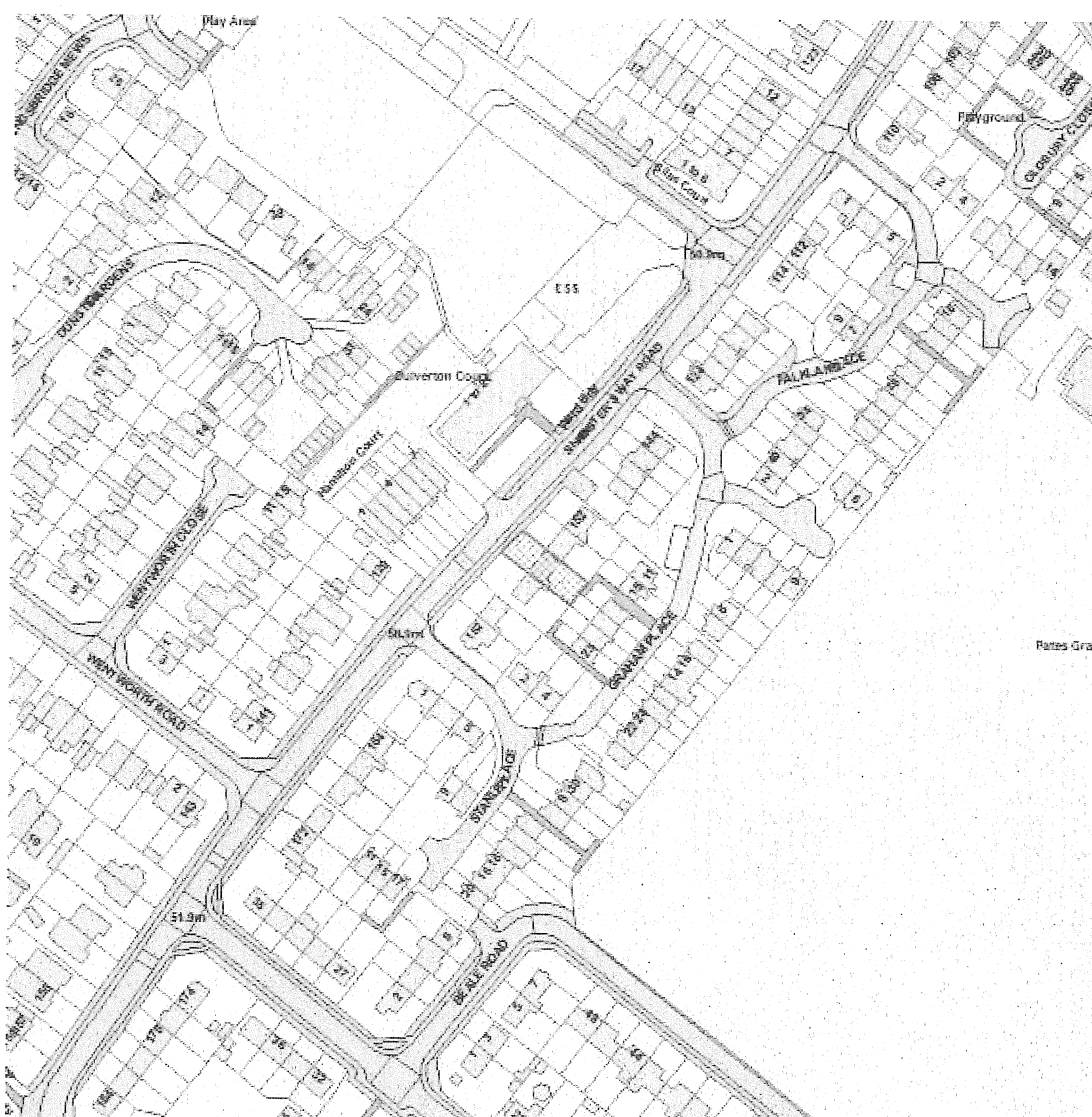
*Stephen Hawkins*

INSPECTOR

**by Stephen Hawkins MA MRTPI**

**Reference: APP/B1605/C/21/3284424**

Scale: Not to scale





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## Appeal Decision

Site visit made on 15 February 2022

**by Oliver Marigold BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> March 2022.**

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**Appeal Ref: APP/B1605/W/21/3286594**

**35 Hicks Beach Road, Cheltenham GL51 0JL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs K Johnson against the decision of Cheltenham Borough Council.
  - The application Ref 21/00184/FUL, dated 14 January 2021, was refused by notice dated 17 May 2021
  - The development proposed is the erection of a new dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

3. The appeal site lies within a residential suburban part of Cheltenham. Dwellings locally take a variety of forms, including low-density semi-detached houses and bungalows, such as those opposite the appeal site on Hesters Way Road and Wentworth Road.
4. That said, the terraces on Hicks Beach Road and Hesters Way Road form part of a housing development with a distinct character. The pattern of development here is denser with terraces laid out in a planned and ordered way. Dwellings are set back from the road using straight lines and right angles, giving strong building lines.
5. The appeal site is an end-of-terrace dwelling, located on a corner plot. The proposed dwelling's location would be consistent with the building line on Hicks Beach Road but would significantly exceed that formed by the terrace behind on Hesters Way Road.
6. I am mindful of the guidance in the Council's Supplementary Planning Document 'Development on Garden Land and Infill Sites in Cheltenham', adopted 2009 (the SPD). In particular, it advises that "where there is a predominant building line, new frontage development which departs from this will not normally be accepted".
7. The new dwelling would have its side elevation facing Hesters Way Road. This would reflect the existing situation and the fact that side elevations on corners are prominent in the street scene. Therefore, I do not consider it necessary for

the dwelling to 'turn the corner' by having a second primary frontage, as suggested by the Council. Nevertheless, the side elevation still constitutes a secondary frontage development to Hesters Way Road. By departing from the established building line on Hesters Way Road, the proposal conflicts with the SPD's advice.

8. The appeal site is bounded by tall hedging that would remain following completion of the development. This makes the plot more enclosed than others and would soften the proposal. Even so, the proposed dwelling's necessary size and height means that it would appear prominent, incongruous and out of place in the street scene, significantly harming its character and appearance particularly from the junction between both roads, and when viewed along Hesters Way Road.
9. The appellant has drawn my attention to examples of what they consider to be similar development in Cheltenham, that the Council has approved. These are at 15 Waterloo Street<sup>1</sup> and 18 Wentworth Road<sup>2</sup>. The background to these cases has been provided to me and I saw the sites on my visit.
10. In the case of 15 Waterloo Road, the approved dwelling is an extended terrace perpendicular to the adjacent road, so in that respect is similar to the appeal proposal. However, I saw that the surrounding area is not the same as the appeal site, with the relevant building line being much less consistent. In respect of 18 Wentworth Road, as I have described above, this area has a different character to the appeal site, being less dense, which limits the extent of useful comparison that can be drawn. Neither example convinces me that the harm I have identified is justified and, in any case, I have considered the appeal proposal on its own merits.
11. I recognise that the dwelling's roof line and materials would reflect the existing terrace row on Hicks Beach Road itself. I also appreciate that the site would make efficient use of land within the Principal Urban Area, and that the principle of a new dwelling here is not at issue.
12. Nevertheless, I conclude that the proposal would harm the character and appearance of the area. As such, it would be contrary to the Development Plan, specifically adopted Policy D1 of the Cheltenham Plan, and adopted Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031, as well as the SPD, all of which require that development respects the character of the site and its surroundings. For similar reasons it would also conflict with the advice in the National Planning Policy Framework (the Framework) that development is sympathetic to local character.
13. The Council accepts that it cannot currently demonstrate a five-year housing land supply. As such, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing an additional dwelling to assist the Council in addressing its undersupply, as set out in paragraph 11 of the Framework.
14. The proposal would make a positive contribution to the supply of housing in the area and its future occupants would make positive social and economic contributions. However, due to the proposal being for only a single dwelling,

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<sup>1</sup> Reference 18/00746/FUL

<sup>2</sup> Reference 20/02242/FUL



such benefits would be very limited. Given the harm that I have identified, I consider that the adverse impacts of granting permission, with regard to the harm it would have on the character and appearance of the area, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

**Conclusion**

15. For the reasons given above, having considered the Development Plan as a whole and all material considerations, including the Framework, the appeal should be dismissed.

*Oliver Marigold*

INSPECTOR





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## Appeal Decision

Site visit made on 8 February 2022

**by Mrs H Nicholls FdA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 April 2022

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**Appeal Ref: APP/B1605/W/21/3283565**

**Clarence Court Hotel, 45 Clarence Square, Cheltenham GL50 4JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Elaine Cross of Clarence Court Hotel against the decision of Cheltenham Borough Council.
  - The application Ref: 21/00583/FUL, dated 11 March 2021, was refused by notice dated 19 August 2021.
  - The development proposed is construction of a pergola (retrospective).
- 

### Decision

1. The appeal is dismissed.

### Preliminary and Procedural Matters

2. Whilst I observed that the pergola was in situ at the time of my site visit, the concise description of the proposal, taken from the Council's decision notice, is relevant insofar as it refers to the act of development, not its retrospective nature.
3. The Council has also confirmed that no elevation plans were submitted with the appeal application due to the fact that the pergola was already in place. From the submitted photographs, it appears that the structure I saw was that originally constructed.
4. The Council refused permission, in part, on the basis that the proposal would be harmful to the significance of the Grade II listed building under Section 16(2) of the Listed Building and Conservation Areas Act (LBCCA) 1990. However, the proposal is one for which planning permission is sought, not listed building consent, and does not involve any attachment or alteration to the listed building itself. As such, the proposal has been assessed against section 66(1) which requires special regard be given to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. Given the site's location within the Central Conservation Area, the proposal has also been assessed under Section 72(1) of the LBCCA, which requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

### Main Issues

5. The main issues are:
  - whether the proposal has preserved the setting of the Grade II listed building known as 'Lisle House and Wellesley Court Hotel';

- whether it has conserved or enhanced the Central Conservation Area (CA); and
- whether the proposal is harmful to the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.

## Reasons

### *The listed building*

6. The Grade II listed building, 'Lisle House and Wellesley Court Hotel' (now Clarence Court Hotel) were originally two houses and are listed together as one building. The listing description refers to the building as having been built in 1837-8 and comprising of 3 storeys with basement, 4 bays, with service range to rear. The buildings are stucco over brick with concealed roof and stucco end and ridge stacks. The stucco detailing on the building includes horizontal rustication drawn into voussoirs over windows to ground-floor outer bays; first-floor banding surmounted by fluted Ionic pilasters through ground and first floors, architrave, frieze and dentil cornice; above which are pilasters with frieze and cornice and blocking course. There are sash windows throughout the building. The entrances are set to the side elevations, with Ionic columned porches, and similar window surround detailing on the sides.
7. The listing description also notes that the building was constructed as part of the development of this area undertaken for Joseph Pitt in 1825-42. In this historic context, the listed building marks the prosperity of the area and how housing to accommodate the professional classes was deliberately planned. The building retains stylistic and fabric evidence important to its significance.

### *The Central Conservation Area (CA)*

8. The CA includes the whole of Cheltenham town centre and most of the Victorian, Edwardian and later 20th century suburbs. The appeal site lies within the 'Pittville' sub-area of the CA which encompasses the early 19th century estate planned by Joseph Pitt, which whilst principally residential in nature also includes the large, formal Pittville Park with the landmark Grade I listed Pittville Pump Room building. Pittville Park largely establishes Pittville's character and appearance and is a quintessential component of the area. The surrounding large areas of planned Regency development and early Victorian housing formally laid within spacious tree-lined streets give the area its distinctiveness. There are extensive areas of open space, Victorian terraced housing predominating to the south of the area with some interspersed villas, but generally larger detached buildings and villas to the north of the Pittville character area. Narrow service lanes are also contrasting features to the spacious streets and squares.
9. The built form of the streets and spaces, and the individual buildings, all combine to contribute to the character, appearance and distinctive identity of the Pittville sub-area of the CA. Its significance is therefore the way in which the buildings, spaces and streets combine to create a deliberately-planned, grand, coherent, high-class speculative development.

### *The Development*

10. The appeal scheme involves the retention of the pergola structure which has been constructed in the back corner of the site. The structure is single storey in

height, has timber supports through the sides and middle which hold up its flat, trellised roof, also made from timber. The floor beneath it is covered with loose chippings and large paving slabs. The pergola sits to the rear and right-hand side as you face the host building, with a row of cars often parked along the side boundary wall in front of it. As the site is open on the right-hand side to enable servicing and parking, the structure is visible from the street.

#### *Effect on the Listed Building*

11. The significance of the listed building derives from its elegant form, proportions and detailing, which are key characteristics of Georgian properties of this type.
12. The pergola has a utilitarian design. This, combined with the use of unrefined materials and the proportions of the structure are at odds with the elegant design of the listed building. Moreover, the structure is sizeable and visually strident in an open area to the side of the listed building and appears rudimentary and visually jarring in contrast with the building's finer detailing. Its siting in such close proximity and its functional design detract from the setting of the listed building, and so harms its significance.
13. In view of the above, the proposal fails to preserve the setting of the Grade II listed building known as 'Lisle House and Wellesley Court Hotel', contrary to the expectations of the Act. However, the harm does not amount to substantial harm under the terms of the Framework. I must therefore consider this harm in the context of the public benefits, which I will do below.

#### *Effect on the Conservation Area*

14. Due to its basic form, unrefined materials and absence of finesse or detailing, the pergola appears rustic and inelegant. It does not reflect the grandiose qualities of buildings or features within this part of the CA, nor appear as if it were designed with regard to such.
15. Though the pergola affects a relatively small part of the CA within a functional space and is often partially obscured from public view by cars, I do not regard this as sufficient justification to overlook the significant mismatch between the quality of the structure and that of the host building and surrounding, high quality environment. The suggestion that the space was previously overgrown and unkempt is not reflected in the evidence and of itself does not justify this harmful structure in any event.
16. I therefore conclude that the proposed development has neither preserved nor enhanced the character or appearance of the Central Conservation Area, contrary to the expectations of the Act. For these reasons, the proposal also conflicts with Policy SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017) (JCS).
17. As with the listed building, under the terms of the Framework the harm to the significance of this heritage asset is 'less than substantial'. Paragraph 202 of the Framework sets out that less than substantial harm should be weighed against the public benefits of the proposal. I return to this below in my planning balance.

### *Living Conditions*

18. The pergola is situated towards a back corner of the site, enclosed by high, brick boundary walls and is not visible from ground level from the adjoining lane, though neighbouring dwellings have views from first floor level over it.
19. Whilst the pergola inevitably increases the amount of people and activity within the relevant part of the site, given the built-up nature of the area, I do not consider that any harmful overlooking occurs.
20. The pergola and the moveable furniture placed within it provides an increased capacity to offer al fresco drinking and dining, with an ability to accommodate around 24 seated guests. Whilst it is within the grounds of a licenced premises which has outdoor space for drinking and eating, the area previously available for such was limited to a small area in front of the building. The pergola is much larger, is in a different location and is capable of being made more comfortable during inclement weather through the use of patio heaters and foliage or covering for the roof. This could lead to an increase of its use during the later evening hours, creating harmful noise and disturbance.
21. Whilst I note the suggestion that a condition could prevent the use of the pergola beyond 2100 hours, in reality, this would be onerous on the premises to manage and, should anyone raise complaints about its misuse, even more difficult for the Council to enforce.
22. In view of the above, the development harms the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. It therefore conflicts with Policy SL1 of the Cheltenham Plan (2020) and Policy SD14 of the JCS which together seek to ensure that developments do not harm the living conditions of neighbouring residents.

### **Other Matters**

23. I have considered the prospect of conditions being used to mitigate the harmful effects of the proposal. The suggested conditions of the Council include a plans condition, though in the absence of any elevation plans, there would be insufficient certainty that what has been constructed would remain without further alteration. Furthermore, notwithstanding that six Cypress trees appear to have been planted against the rear boundary wall, I do not have confidence that any other landscaping, including the hanging and trailing plants proposed, would mitigate the harm from the development to the appearance of the area, particularly given the likely seasonality of such.
24. I note the reference to a lapsed permission for an additional bedroom wing building on the site of the pergola. Though I have limited details on which to base my findings, the appeal proposal is very different in nature to a substantially constructed bedroom wing and, consequently, any such permission that may have existed does not lead me to an alternative conclusion in this case.

### **Planning Balance and Conclusion**

25. The proposal harms the living conditions of neighbouring occupiers and is incrementally harmful to the significance of both the listed building and the CA. In these regards, the proposal conflicts with the development plan when

considered as a whole. Whilst these harms are less than substantial, they are nevertheless of considerable importance and weight.

26. The appellant refers to the impacts of the COVID-19 Pandemic on the hospitality trade and the need to provide outdoor spaces for guests as a measure of business sustainability and safety for patrons. The appellant also refers to significant public benefits, through additional employment or likely additional guest expenditure as a result of the proposal, but I have limited evidence about how such effects have been forecast or their value. I am also not satisfied that the appeal proposal is the only means to secure such outcomes. The public benefits of the proposal are therefore minimal, and do not outweigh the identified harms.
27. In view of the above, and having regard to all other matters raised, including by supportive interested individuals, the proposal does not accord with the expectations of sections 66(1) or 72(1) of the LBCAA, the development plan or the Framework. The anticipated benefits do not lead me to a conclusion that a decision should be taken other than in accordance therewith.
28. Consequently, the appeal is dismissed.

*Hollie Nicholls*

INSPECTOR

