

Planning Committee

Thursday, 14th July, 2022
Times Not Specified

Attendees

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

Officers in Attendance: Liam Jones, Ben Warren, Daniel O'Neill, Chris Morris, Emma Pickernell, Lucy White, One Legal representative

1. Apologies

Apologies were received from Councillors Bamford and Baker – Councillor Clark attended as a substitute.

2. Declarations of Interest

Councillor Oliver declared an interest in application 5c and stated that he would leave the meeting for that item.

3. Declarations of independent site visits

The Members that attended the planning view visited all sites.

Cllrs McCloskey and Nelson also visited all sites.

4. Minutes of the last meeting

The minutes of the last meeting were approved.

5. Planning Applications

6. 22/00708/FUL 37 Market Street, Cheltenham GL50 3NH

The Head of Planning introduced the application, reminding Members that the application considered at June committee was a revision of an earlier scheme which had been refused for lack of sanitary provision. The revised scheme included additional shower facilities, but at the previous meeting, Members were told that the two downstairs rooms, shown as a living and sitting room on the existing drawings, were in fact used as bedrooms - this was confirmed on planning view. The drawings have now been updated, showing the existing provision of two ground floor bedrooms on the existing plan, but returning these to a living and sitting room on the proposed plan, with an extended kitchen and two additional bedrooms upstairs, making a four-bedroomed dwelling. Members needed to focus on what was being proposed – an extension to a dwelling house. Even if the property was being used as an HMO, they should bear in mind that planning permission was not required for HMOs of up to six people, and neither was it needed to amend internal development. Members' previous concerns about amenity and shower provision wouldn't ordinarily be covered through planning consent; the main consideration was the increase in living space, and officers remained of the view that the proposal was acceptable and it would be difficult to argue a case to refuse.

Public Speakers

The agent, on behalf of the applicant, said he had empathy with Members' previous concerns about the lack of sanitary provision, but this had been resolved by reducing the size of the proposed bedrooms and adding an upstairs shower room and WC. The only refusal reason had thus been addressed, as confirmed by the officer report and recommendation. Members' site visit confirmed that the two downstairs rooms were

currently used as bedrooms, and although the lack of clarity was unfortunate, the applicant had done nothing wrong, and there was no reason to consider the applicant as anything other than an householder extension. By adding upstairs bedrooms, the area downstairs had been freed up for living accommodation, in full compliance with Policy SD14. He urged Members to vote in support of the recommendation.

A neighbour, speaking in objection, thanked Members for visiting the site, and hoped they got a clear perspective of the potential impact the proposal would have. Specifically, neighbours felt the proposal was overdevelopment – the house had already been extended twice, making it disproportionate and out-of-keeping in the street, and the addition of the smallest shower room increased the rental potential to six bedrooms. The proposed rear extension would reduce the natural light to No. 39, and result in overshadowing, and the loss of the gap between Nos. 35 and 37 would substantially reduce the natural light and sunshine to the kitchen and dining room at No. 35. The gap between Nos 35 and 37 tapers to the rear because the new terrace had to be angled into the space, resulting in Bedroom 3 at No. 37 overlooking the rear courtyard and garden of No. 35. Other objectors have pointed out that the changes would mean that No. 37 was unlikely to be a family home again in the future, – a pity, as local residents value the strong sense of community they have worked hard to build.

Councillor Willingham, speaking in objection on behalf of his constituents, said there were clear NPPF and JCS planning grounds in the to refuse, but asked for conditions, if Members were minded to approve. He reminded Members that the application was refused by seven votes to two at the last meeting, and also that the climate change SPD was now in force and should be taken into regard. He said the proposed represented overdevelopment of the site, contrary to NPPF paragraph 124 c, d and e, not fitting with the capacity of local infrastructure, and too big for the footprint of a two-bedroomed terrace. It changed the character and setting of the area, and was not a well-designed, attractive or healthy place, making it contrary to NPPF 126 by cramming as much as possible into a limited floorplan.

He said the proposal was not compliant with JCS policy SD14, which required high-quality development which would not impact on human healthy or cause health inequality. The number of people and bedrooms crammed into the building, compared with the inadequate amenity, bathroom and kitchen space, failed to meet the requirements of SD14. A potential eight residents would have to cook and eat in shifts, and with the addition of the shower room, the two new upstairs bedrooms were too small to be of liveable quality. The proposal would create a modern-day slum, which was not acceptable to him of his constituents, and shouldn't be acceptable to Members either.

However, if they were minded to approve, he suggested two conditions were needed to protect residential amenity in the area, and future tenants and neighbours, namely a detailed refuse and recycling storage plan to be agreed with the council before commencement, and the provision of secure cycle parking, as the property only benefits from two parking permits. These measures would be reasonable and proportionate.

He finished by saying there were clear planning policy reasons to refuse the proposal, and the revisions introduced further problems. He asked Members to refuse permission.

Member questions

In response to questions from Members, the Head of Planning confirmed that:

- the two new bedrooms would measure 3.4 x 2.5m and 2.5 x 3m; the planning department would not usually look at internal sizes of rooms in an extended property; an HMO licence, required for more than five occupiers, may take account of this;
- regarding the garden size after the extension, the existing plan shows the context and the red line indicates the site area; the kitchen will be extended across the back of the property;

- he was unable to say where the bins, which are currently kept in the back garden, would be positioned after the extension; This would normally be considered with an HMO application;
- whether there were six or eight occupiers was not part of the current application, though if it were to be an HMO for eight, planning permission would be required, maintaining an element of control for the local authority. The drawings showed double beds in all four bedrooms, but we cannot presume that each of these will be occupied by two people;
- if the property was to be used as an airbnb, it would be a question of fact and degree, and not necessarily require a change of use of the property; the local authority had limited control over this;
- although it was possible that the owner would never actually build the kitchen extension, resulting in an increased number of people having to share the current provision, we cannot presume the future use of the property or how many people are likely to live there, but if Members wish, a condition could be added to preserve the two ground floor rooms as living rooms;
- the climate change SPD was adopted after the application was submitted, so although Members could have regard to it, they needed to consider the minor scale of the proposed scheme when deciding what guidance they could take from it. The application was for a small-scale rear extension and simple roof extension, with uPVC windows and insulation to Building Regulations standards;
- although the only refusal reason on the previous scheme was the inadequate sanitary provision, Members could revisit earlier issues of concern, but they needed to have sound and valid planning reasons if doing so;
- for clarification, planning permission is needed for six or more unrelated people sharing a single dwelling, and an HMO licence is required for five or more.

Member debate

In debate, Members made the following points:

- this was a very frustrating application. Members were always told they must consider the plans before them, and on paper this was a simple two-bed extension to a terraced house. The whole issue was complicated by what Members were told was the activity within the house, which was unacceptable to them, yet they had no control over it and it was not grounds for refusal. If the application was permitted, the council was complicit in promoting a lifestyle which was socially unacceptable, even though in two years' time, the property could become a family house again which would be acceptable;
- even with the suggested conditions, the proposal could still impact on human health, and there was still scope to refuse on JCS SD14 and NPPF Paragraph 124. The proposal would affect the whole environment of the street, not just the residents of this house, and this was not the way we should be heading; the climate change SPD was not concerned with developments of this type, and was guidance, not policy. SD14 and NPPF 124 should be used as refusal reasons;
- the garden was already tiny, as Members saw on planning view, and used to store bins. This space would be lost;
- if Members were minded to refuse, a condition to maintain the two downstairs rooms as living accommodation was essential;
- the angle of the dwellings would mean that No. 35 would be overlooked and suffer loss of amenity; the proposal was overdevelopment, with the two proposed upstairs bedrooms even smaller than previously proposed with the addition of the shower room;
- realistically, how would a condition for the downstairs rooms to remain as living accommodation be enforced?
- the applicant would be entitled to appeal to the Inspector if he didn't want to comply the condition.

The Head of Planning understood Members' concerns, and agreed that this would be an unusual condition, but was possibly a way of overcoming them – it could be framed as a

requirement to carry out works according to the plans, though as pointed out, would be difficult to control. It came back to the fact that planning permission wasn't required for an HMO for up to six people. If Members considered the proposal to be overdevelopment, they had to be very specific as to why.

The Chair agreed this was a tricky situation; there would be no limits on how many family members could live in the house, but on Planning View, it was clear that the house was let as an HMO. Members needed to make a decision, and although overdevelopment was clearly an issue, it may not hold up at appeal.

A Member quoted JCS SD14 which required high-quality development to protect and seek to improve environmental quality, not create or exacerbate conditions that could impact on human health or cause health inequality. This proposal did not comply. The Head of Planning said SD14 applied primarily to new development, and officers considered the proposal complied, but it could be explored as a refusal reason if Members wanted. The Member felt SD14 should be used, as conditions were appealable and difficult to enforce.

After discussion with the legal officer, the Chair moved to the vote on the officer recommendation to permit, with two additional conditions concerning provision of bin storage and maintaining the downstairs rooms as living accommodation.

Vote on officer recommendation to permit, with additional conditions

0 in support

9 in objection

1 abstention

NOT CARRIED

Before Members voted on Councillor Fisher's move to refuse on JCS SD14 and NPPF 124, the Head of Planning, while clear that Members were concerned that the proposal would overlook the neighbour, pressed them for specific reasons as to why they considered the proposal didn't comply on healthy inequality grounds. Councillor Fisher said it would have an impact on the entire community, overlook the neighbouring property, and cause health inequality through overcrowding of both the dwelling and the street. A Member added that by using the entire back garden as a bin store, residents would have no amenity space, which was a health hazard in itself. Another Member suggested that the small size of the bedrooms after the addition of the shower room also demonstrated overdevelopment – this was not the way housing should be managed.

Vote on Councillor Fisher's move to refuse, on JCS SD14 and NPPF 124

9 in support

0 in objection

1 abstention

CARRIED - REFUSE

7. 22/00816/FUL 3 The Grange, The Reddings, Cheltenham GL51 6RL

The Planning Officer presented the report.

The point was made in Member debate that it was noticed that number 3 is higher than number 2 and there is a reasonable gradient.

The matter went to the vote to permit.

For: 9
 Abstentions: 1
 Against: 0

Permit

8. 22/00879/FUL Cafe Ron Smith Pavilion, Springbank Way, Cheltenham GL51 0LH

Prior to the start of this item Cllr Oliver left the room.

The planning officer introduced the report.

There were no Member questions.

There was only one comment during Member debate and that was that charities are looking for warm places to use for people with heating concerns during the winter and hoped that this would be one of them.

The recommendation was to permit.

The matter went to the vote

For: 9
 Against: 0
 Abstentions: 0

Permit.

9. 22/00898/CONDIT 3 Finchcroft Lane, Cheltenham GL52 5JT

The planning officer presented the report for retrospective planning permission confirming that the majority of the works had been completed and the dormers were larger than on the original application.

The applicant then had the opportunity to speak. He made the following points:

- To take onto account objections made by the neighbours they added more to the front of the property than to the back.
- The architect had measured incorrectly which is why there were larger dormers put in.
- He had assumed that it was a minor adjustment and therefore did not require planning permission.
- The dormers are tiled to blend in the roof.
- Many houses on the street have changed therefore there is no street scene to blend into.
- No opposite neighbours have objected.
- He believed that the increase in size was not enough to refuse.

In response to a Member question it was confirmed that if it was refused then it would be refusal to the scheme on the whole. Minor changes can be looked at as a non-material application.

During the Member debate the following points were raised:

- The applicant should have ensured that the drawings were correct.
- As there were very few complaints from the neighbours it wasn't deemed proportionate to ask them to remove the dormers.
- The tiling on the side of the dormers will look better after weathering.
- As the houses are all different in this road this will not affect the street scene.

The matter went to the vote on the officer recommendation to refuse:

For: 4

Against: 5

Abstention: 1

Refusal not granted.

The matter then went to the vote to permit subject to previous conditions:

For: 5

Against: 4

Abstention: 1

Permission granted.

10. 22/00968/LBC Cemetery Chapels, Bouncers Lane, Cheltenham GL52 5JT

The Conservation Officer introduced the report.

In response to Member questions it was confirmed that the new pipes would be a mix of plastic and metal. When it is a more sensitive elevation cast aluminium will be used. At the rear plastic will be used. A Member had suggested that a water butt be installed, as it is a listed building this is not in the scope however the Chair requested that this request be passed on to the cemetery site management.

There was no Member debate and the matter then went to the vote.

The recommendation was to permit.

For: 10 –unanimous

PERMIT

11. 22/0094/COU & ADV Pavilion, Burrows Sports Field, Merlin Way, Cheltenham GL53 0HA

The planning officer introduced the report.

Councillor Horwood spoke briefly on the matter as ward Councillor giving his support to the application.

The response to a Member question was that the sports club could use the facilities of the pavilion for catering and other events with non restricted hours, subject to appropriate licenses being sought.. The proposed café has restricted hours.

During Member debate Members stated that they were in favour of the application. There was a question regarding whether the sign is too large, however the planning officer confirmed that this was a standard size for this type of sign.

The matter went to the vote, The recommendation for change of use was permit.

For: 10

Against: 0

Abstain:0

PERMIT

There was then the vote for the sign. The recommendation was to permit.

For: 10

Against: 0

Abstain: 0

PERMIT

12. Appeal Update

These were noted.

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

there were none and the meeting ended.

Chair