

# Planning Committee

**Thursday, 17th November, 2022**

**15.00 – 18.24**

## **Attendees**

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

**Officers in Attendance:** Cheryl Lester (OneLegal) Emma Pickernell (Principal Planning Officer), Liam Jones (Head of Planning), Ben Warren (Senior Planning Officer), Lucy White (Senior Planning Officer) and Nikita Hooper (Conservation Officer)

## **1. Apologies**

Apologies were received from Cllr Oliver and Cllr Clark attended as a substitute.

## **2. Declarations of Interest**

There were none. Cllr Clark would be speaking on item 5a and would not thereafter be present for that item.

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

Cllr Nelson had visited the sites in respect of 5a, 5b, 5c and 5d

Cllr Andrews had visited the site in respect of 5c

Cllr Clark had visited the site in respect of 5b

Cllr Fisher had visited the site at 5b and 5c

## **4. Minutes of the last meeting**

The minutes were approved with an amendment to the previously published minutes to be made on the vote on minute 8 (22/01439/FUL Pittville Pump Rooms) which had set out the result incorrectly as 4 for and 5 against, whereas the result had been 5 for and 4 against.

## **5. Planning Applications**

### **6. 22/00728/LBC The Vineyard, Berkeley Street, Cheltenham GL52 2SX**

The conservation officer introduced the report as published.

There were two speakers, one the agent on behalf of the applicant and the other a Ward Councillor.

The agent made the following points in support:

- The applicant has owned and maintained the property for over thirty years.
- The works that are being referred to were carried out in 2020 as the asphalt was peeling away. The works were carried out quickly to prevent damage to the property.
- The lead replacement was recommended to the applicant by a stone mason as the only viable option.
- Since the work has been carried out the internal of the building has remained dry and well maintained.
- The same materials have been used for other listed buildings in the town.
- It has been over-looked in the officer report that the same parapet repairs have been carried out on the Municipal Offices, The Queens Hotel, 131 The Promenade, houses in Royal Crescent and in Berkeley Place.
- Since 1991 the owner has been proud of the renovation works they have carried out on the property, it is the best preserved property on the street.

- The applicant runs a successful business from the property with 12 employees, this significantly aids the upkeep of the building in the long term.
- This is a traditional parapet repair which is in line with the NPPF and the development plan.

Cllr Clark who spoke as Ward Councillor made the following points:

- The Conservation Officer has made very sound arguments about why this should not be permitted and the applicant should have applied for planning permission before carrying out the work, however she believed that the application should be permitted.
- There were mitigating circumstances with this application and a precedent for this kind of cladding has already been set.
- Without the investment of private owners, the council would not be able to maintain the upkeep of heritage buildings and this building is in excellent repair both inside and out.
- There is a danger that if this application is refused it will discourage private ownership of Grade 2 listed buildings. People should be supported who keep buildings such as this in good repair.
- The new roof has been put on the property as water was damaging the fabric of the building, and has insulated the building in a much better way than it was previously.
- It will have to be accepted that there will be retro fitting of heritage properties to meet the challenges of climate change.
- There has been exactly this type of repair to many other buildings in the town with the same style of cladding including the Municipal Offices.

The responses to Member questions were as follows:

- It is difficult to tell if the repairs have been detrimental, water ingress could be a problem, sometimes damage does not get found until years later.
- The officer is not aware that the physical integrity of the building has suffered.
- There was no consultation prior to the work being carried out, Section 9 of the act does mean that you can carry work out in an emergency although you do need to seek consultation
- With the existing properties that have had the same work done there has been no enforcement action taken to remove the lead, however there are currently eight cases that are pending action, although it might not be prudent to pursue all of them.
- The work that has been done does have a detrimental view to the street scene, the lead could be painted, but it will still be lead covering stone which needs to breathe naturally.
- There was also clarification that Members have to deal with the application in front of them.
- It could not be confirmed that the lead was visual from the outside of the Municipal Offices.
- There was clarification that lead is not traditionally used for covering stone.
- The reverse of the parapet can be partially lined and cut into the stone.
- There was an application for a similar property that was refused and upheld on appeal.

The matter then went to Member debate where the following points were made:

- Many properties have lead flashing; the sensible thing would be to permit as it will secure the future of the building.
- The building does not look awful and out of place. If it is causing a problem with the building that is a concern. Do not want to see a property failing just because it looks a bit strange.
- From the owners perspective they identified a problem, took advice and followed it, and although they did not seek permission they did solve the problem. If the application is refused then it will send a message that this type of work is not acceptable. If you have a solution to a problem the Council might not approve.

- Hopefully this issue should be able to be resolved without taking any drastic action. With a listed building the planning authority should be consulted.
- If there had been nothing done to the property there would have been considerable damage caused. As there is no way to condition the application it makes for a difficult decision.
- As the applicant has owned the property for thirty years there have obviously been conversations with the planning department on previous matters and it is therefore unfortunate that the process wasn't followed on this matter. The onus is on the owner to keep the property in a reasonable state of repair. As other properties in the borough have had a similar repair made is it fair to single this application out?
- People need to be supported who own listed buildings.

At this point in the meeting, the Chair, having stated in the debate that he lived in close proximity to the application site and then taken advice from the legal advisor, declared an interest in the application and left the chamber for the rest of the item. The Vice- Chair took over the Chair for the rest of the item.

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

For: 4

Against: 4

Abstention: 1

The casting vote was then made by the Vice-Chair in the Chair who voted for the recommendation to refuse.

**REFUSED.**

## **7. 22/00112/OUT Land Adjacent to Oakhurst Rise**

The planning officer introduced the report as published.

There were three speakers on the item, an objector, the agent on behalf of the applicant and a Ward Councillor.

The objector made the following points:

- The objector started by requesting a deferral as the ecology report was only uploaded the night before and there had not been an opportunity to review them.
- The reports will give you to believe that all the issues have been resolved but they have not.
- Primary school children have found more species of moth and grasses than the ecologists.
- Natural England advice has been tightened up to avoid destroying nature. This application will destroy a badger sett.
- There have been over 120 species of moth identified on the site.
- There is a claim that this should not be allocated as a local wildlife site, however it clearly is. There is no mention of the hay cuts that are carried out.
- Due to Severn Trent there are 64 years' worth of sewerage and the last time that there was a problem Charlton Court Road bore the brunt of the overflow of waste matter.
- Historic England still object as do the Woodland Trust.

The agent on behalf of the applicant made the following points:

- The site has been allocated for a minimum of 25 homes to contribute to the housing needs of the whole community in Cheltenham.
- There has been no objection from the Highway Authority, there has never been refusal on grounds of accessibility or highways.

- Neither Planning Inspector has refused planning permission for larger housing schemes on grounds of adverse impact on the AONB.
- Neither Natural England or the Gloucestershire Wildlife Trust has raised objections to the scheme.
- The management of the open space provides maximum mitigation and enhancement to the badgers in the short, medium and long term.
- There has been no objection from Severn Trent and the LLFA confirm that the drainage is acceptable.
- There has been no harm identified to residential amenity.
- There have been no objections from Sport England.
- The Council's specialist heritage officer has stated that the application has been significantly amended and should not be objected to in heritage terms.
- The Council's Tree Officer does not object subject to the 5 conditions that specifically relate to the protection of trees.
- Officers have concluded that there has been a good response to the Climate Change SPD by these proposals.

Councillor Matt Babbage then spoke as the Ward Councillor and made the following points:

- With regard to the three previous applications the decisions have been upheld.
- Some of the same objections still remain, road access is still an issue.
- A recent inspection raised possible harm to heritage assets and habitats.
- There is conflict with HD4, SD8 and SD9
- There was a request made for a deferral as the 70 pages of ecological report had been published less than 24 hours before the committee.
- It was stated that the new plans did not differ that much from the new plans with regard to wildlife etc.

The responses to Member questions were as follows:

- The main part of the road will be adopted.
- Anything that has planning permission will be included in the five year plan housing land supply if considered to be deliverable – outline permission is the first step.
- The report that was released late was a report that was received in the Summer and it was belatedly realised that it was not in the correct format to go on the website. The report outlines net 10% diversity gain, which meant that officers felt it was not necessary to defer as there is no policy for net 10% diversity gain.
- Badgers and their setts are protected under the Badgers Act, the main sett will not be destroyed.
- There have been no changes in legislation. The climate change SPD that was adopted recently has a provision for a management plan.
- The clauses within S106 will be transferred to the future owner(s).
- The provision 106 with regard to the management company has to be agreed with the Council.
- The site makes provision for pathways that will link up with Oakhurst Rise.
- There is a provision in 106 with regard to hedge maintenance and the frequency that these tasks will be carried out. Officers are confident that this will be adhered to, however there is a potential to transfer these tasks to the Council going forward.
- The badgers setts will be addressed in such a way that the entrances will be replaced with one way door which will mean that they cannot return to the same set but will naturally move to the new manmade set.
- The Historic England comments have not been addressed by this application. Their concerns were mostly regarding Ashley Manor and Charlton Manor and their views being affected by development.
- The highways authority expected that there would be street lights
- The biodiversity net gain provisions of the legislation enacted last year were not yet in force.

The matter then went to Member debate where the following points were made:

- Even though the amount of houses has been reduced in the current application with reference to drainage there would still be the same run off. Have been informed that there is a flooding issue in the area.
- There are no financial benefits to the school or any other charitable order.
- Street lights will not help the badgers as they are nocturnal animals.
- It is not known how soon these properties will be built.
- Nothing in the report states that the buildings will look like the outline in the presentation, the hearing was just to agree the principal development, this application is for outline permission.
- The open aspect of the area needs to be preserved.
- The committee has been advised on three occasions to permit and each time a refusal has been upheld.
- There should be a move to refuse based on the same reasons as before.
- The number of houses seem an appropriate number for the site.
- The developer has taken into account residents' concerns re bio-diversity and environmental issues.
- The listed properties are impacted by the proposed development and that is a concern.
- There is no real gain of building ten social housing properties as there are thousands waiting for housing.
- Homes are desperately needed in Cheltenham, but it is the right site? There are plenty of brown field sites that could be built on in the Borough, but the green field sites need to be protected.
- Whatever is built on the site will ruin this special area for wildlife.
- The application was previously refused due to the aspect to the Grade 2 and Grade 2\* listed buildings.
- The site is one of the most precious bio-diverse sites in the town and if the houses are built badger setts will be lost.
- It was acknowledged that the applicant has been persistent, but the committee recognise the importance of the site.

The matter then went to the vote on the officers recommendation to permit subject to completion of the s106 agreement:

For: 2

Against: 9

### **NOT CARRIED**

A motion for refusal was then made on the basis that the application is contrary to policies SD8, SD9 and HD4 in respect of heritage and bio-diversity.

Members stated that they wished it noted that officers had put in a large amount of effort on this application. It was asked by the Chair if one of the reasons for refusal could be given as an impact on flora and fauna, with impact on badgers. Officers confirmed that heritage and the bio-diversity of the site would be used for the refusal notice. The Legal Advisor warned that unless there were matters beyond those the previous appeal Inspector had found to be satisfactorily dealt with by virtue of s106 provisions, there could be a risk of an award of costs as regards an ecology refusal ground.

The matter went to the vote on the motion to refuse:

For: 9

Against: 0

Abstentions: 2

Cllr Barnes and Cllr Clark then left the meeting.

**8. 22/01441/FUL 10 Selkirk Street, Cheltenham GL52 2HH**

This item was withdrawn from the agenda.

**9. 22/00072/FUL 2 Charlton Court Road, Cheltenham GL52 6JB**

The planning officer introduced the report as published.

There was only one speaker on the application who was the applicant and he made the following points:

- They were tenants in the property for four years before they purchased the property and were aware of the cost and time involved in maintaining the lower garden.
- They have bought in a very experienced team to advise and assist them.
- Before the application was put in, the base line application went to Severn Trent who approved the plans; they will do everything they can to comply with any advice they are given.

The responses to Member questions were as follows:

- Any concerns with regard to flooding will be dealt with by infiltration trenches in the back garden.
- The flooding engineer was happy with the proposal, subject to the condition which covered management as well as retention.

There was no Member debate and the matter went to the vote on the officer recommendation to permit.

For: 9

**UNANIMOUS - PERMIT**

**10. 22/01656/FUL 82 East End Road, Charlton Kings, Cheltenham GL53 8QL**

The planning officer introduced the report as published.

There was only one speaker who spoke in objection to the application and he made the following points:

- If the permission is granted there will be a problem with lack of daylight into the kitchen window which will impact the enjoyment of the home.
- On the longest day of the year there will be a loss of approximately six hours sunlight.
- The clear glazed door will effect light to the doorway.
- The light survey that was carried out shows that it will fail the light test.
- The only benefit of the extension is to the applicant.
- The design is over bearing and over shadowing.

The responses to Member questions were as follows:

- A light test had been carried out and the side facing window had failed that, but officers were happy that there was an alternative light source to the room, that this was a source that counted, and officers had not asked for any further testing to be done.

The matter went to debate where the following points were raised:

- The backs of the houses face due south apart from the kitchen window, there should be no loss of light, believed that there would be minimal harm other than to the kitchen.
- The concerns from the neighbour seem valid as the light will be blocked from the kitchen. The view from the kitchen window will be a wall which could be depressing. The lack of light will adversely affect the amenity.
- The reasons not to support by one Member were: SL1, SD14 and SD4.

The matter went to the vote on the officers recommendation to permit:

For: 2

Against: 6

Abstentions: 1

A motion for refusal was then made on the basis that the application was contrary to SL1, SD14 and SD4. The matter then went to the vote to refuse:

For: 6

Against: 2

Abstentions: 1

**REFUSED**

## **11. Appeal Update**

The details of the appeals were noted. Members were advised that as regards the Oakley Farm decision issued last month a copy of which had been circulated previously, the main concern of the Inspector has been the council's lack of five year housing land supply. A Member noted that existing development on three sides had been brought about by a previous planning permission granted by the council.

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

None.

Chair