

# Cheltenham Borough Council Planning Committee

**Meeting date:** 21 March 2024

**Meeting time:** 6.00 pm

**Meeting venue:** Council Chamber - Municipal Offices

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## **Membership:**

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 Tony Oliver, Councillor Diggory Seacome, Councillor Simon Wheeler and Councillor Barbara Clark

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## **Speaking at Planning Committee**

To find out more about Planning Committee or to register to speak, please click [here](#).

**Please note:** the deadline to register to speak is 10.00am on the Wednesday before the meeting.

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**Contact:** [democraticservices@cheltenham.gov.uk](mailto:democraticservices@cheltenham.gov.uk)  
**Phone:** 01242 264 246

# Agenda

## 1 Apologies

## 2 Declarations of Interest

## 3 Declarations of independent site visits

## 4 Minutes of the last meeting (Pages 5 - 8)

To approve the minutes of the meeting held on 15<sup>th</sup> February 2024.

## 5 Public Questions

## 6 Planning Applications

### 6a 23/00625/FUL 456, High Street, Cheltenham GL50 3JA (Pages 9 - 94)

[Planning application documents](#)

### 6b 23/01545/CONDIT Playing Field adj, 10 Stone Crescent, Cheltenham, GL51 8DP (Pages 95 - 116)

[Planning application documents](#)

### 6c 24/00251/CONDIT Oakley Farm, Priors Road, Cheltenham (Pages 117 - 226)

[Planning application documents](#)

### 6d 23/02140/FUL 16 Eldorado Road, Cheltenham, GL50 2PT (Pages 227 - 232)

[Planning application documents](#)

### 6e 24/00096/FUL 1 Dinas Road, Cheltenham, GL51 3ER (Pages 233 - 238)

[Planning application documents](#)

## 7 Appeal Update (Pages 239 - 362)

Update on the appeals.

## 8 Any other items the Chairman determines urgent and requires a decision

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# Cheltenham Borough Council Planning Committee Minutes

**Meeting date:** 15 February 2024

**Meeting time:** 18:00-18:30

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**In attendance:**

**Councillors:**

Paul Baker (Chair), Garth Barnes (Vice-Chair), Glenn Andrews, Bernard Fisher, Emma Nelson, Tony Oliver, Diggory Seacome, Simon Wheeler, Barbara Clark and Jackie Chelin

**Also in attendance:**

Michael Ronan, Victoria Harris (Planning Officer) and Chris Gomm (Head of Development Management, Enforcement and Compliance)

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## 1 Apologies

Apologies were received from Councillor McCloskey and Councillor Chelin attended as a substitute.

## 2 Declarations of Interest

There were none.

## 3 Declarations of independent site visits

Councillors Clark and Nelson had both attended 61 East End Road.

## 4 Minutes of the last meeting

There were 2 amendments suggested to the minutes. These were agreed and the minutes will be amended.

## **5 Public Questions**

There were none.

## **6 Planning Applications**

### **7 23/01865/FUL, 61 East End Road, Cheltenham**

The Planning Officer introduced the report as published.

There were no Member questions and no Member debate.

The matter went to the vote on the officer recommendation to permit.

UNANIMOUS.

### **8 24/00125/HED, Street Record, Evesham Road**

The Trees Officer introduced the report as published.

The Highways Officer then addressed the committee and made the following points:

- The route between Bishops Cleeve and Cheltenham is a highly desirable cycle route.
- Where the hedge is creates a bottle neck.
- The proposal is to better the area and triple up on hedgerow planting rather than double.
- Believes that it will improve the area.

The responses to Member questions were as follows:

- The applicant is Gloucestershire County Council and the land owner is the Gloucestershire County Council too. There was a compulsory purchase on the land.
- It was confirmed that the application was not at County Council planning as CBC are the local authority for the hedgerow.
- Hedgerow relocation is a very difficult thing to do, requires large and expensive equipment. Would be extremely expensive. Replacements have been discussed and will be put in place at the end of the scheme.
- Improvements are what they want to make and to better the area. New trees and native hedgerows will be planted during the next planting season.
- The cycle path will look the same as the rest of the path with a segregated for cyclists and the footpath.

There was no Member debate.

The matter then went to the vote on the officer recommendation raise no objection.

The council's legal officer highlighted that the consultation period did not expire until the day following committee and suggested that approval be delegated to the Head of Planning subject to no adverse comments being received. The resolution to raise no objection was taken on that basis.

UNANIMOUS

**9 Appeal Update**

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

There were none.

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<b>APPLICATION NO:</b> 23/00625/FUL		<b>OFFICER:</b> Michelle Payne	
<b>DATE REGISTERED:</b> 14th April 2023		<b>DATE OF EXPIRY:</b> 14th July 2023 <small>(extension of time agreed until 22nd December 2023)</small>	
<b>DATE VALIDATED:</b> 14th April 2023		<b>DATE OF SITE VISIT:</b>	
<b>WARD:</b> St Peters		<b>PARISH:</b>	
<b>APPLICANT:</b>	Lane Britton and Jenkins		
<b>AGENT:</b>	Zesta Planning Ltd		
<b>LOCATION:</b>	456 High Street Cheltenham Gloucestershire		
<b>PROPOSAL:</b>	Full planning application for the redevelopment to provide a residential development of 18no. apartments (12no. one bed and 6no. two bed) contained within two blocks, following demolition of an existing commercial building		

**RECOMMENDATION:** Permit subject to Unilateral Undertaking

### Officer Update

#### 1. OFFICER COMMENTS

- 1.1 As Members will be aware, this application appeared on the agenda for the December committee meeting last year but was later withdrawn to allow for issues that had arisen following publication of the agenda to be addressed; principally matters relating to parking.
- 1.2 As noted in the earlier published officer report (attached as an appendix) the application does not propose any car parking, and the County Highways Development Management Team (HDM) were seeking an s106 legal agreement to preclude car ownership or the ability for future occupiers from acquiring a parking permit in Zone 12 (Cheltenham Westend) as this parking permit zone is already oversubscribed.
- 1.3 However, officers were not satisfied that it was appropriate to secure such an obligation through an s106 agreement; and this has since been confirmed by One Legal. Instead, an informative was suggested that highlights the fact that future occupiers of the development would not be eligible for permits.
- 1.4 Notwithstanding the above, in response to the concerns raised by HDM, the applicant has undertaken an additional parking survey which has been reviewed by HDM and their revised response is copied in full below:

**GCC Highways Development Management**

*8th March 2024*

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 has no objection subject to conditions.

The justification for this decision is provided below.

Following the County Council's earlier representations concerning the oversubscription of the local resident's parking zone 12, the developer has undertaken a further parking survey. These surveys were undertaken between 9.00pm and 10.00pm on the 10th of January and the table below sets out the availability of parking spaces recorded within the local residents parking zone.

Street	Parking spaces available
Stoneville Street	0
Bloomsbury Road	2
Park Street	4
Devonshire Place	5
Market Street	0
Burton Street	1
New Street	1
Lower High Street	5
<b>Total</b>	<b>18</b>

The County Council's own evening survey on the 4 roads nearest to the site suggest that Bloomsbury Street and Stoneville Street experience very acute parking problems which can cause difficulties with road access width and vehicle turning. Market Street tends to be generally full in the evenings, although it does not have the problems with access and turning issues. Lastly there is a small amount of capacity in Park Place and these findings are supported by the most recent developer survey. The harm arising from the increased demand for parking and inadequate availability of street parking is likely to affect the amenity of residents of the existing properties and give rise to some road safety issues associated with drivers searching for parking spaces and having to reverse in the narrow cul-de-sacs when no space is found.

Using Census data, the developer estimates that the level of parking demand is likely to be 0.5 spaces per unit, i.e. 9 spaces for 18 residential units. Whilst this is not wholly agreed, the level of harm that would arise from the parking demand for these types of "car free" flats is unlikely to warrant refusing planning permission under the National Planning Policy Framework (NPPF) policy. The NPPF states "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*". Conversely there is some merit in supporting car free developments in highly accessible areas, as they tend to be a more sustainable, lower carbon form of development.

Given the anticipated developments at Cavendish House and North Place, the County Council and Cheltenham Council will have to work together to find a joint policy position, so that existing parking zones can be flexibly amended in order for car free developments to be prevented from applying for residents permits. Or alternatively to promote car club provision in existing on-street bays to help provide transport options for new car free developments or existing car free households.

Nevertheless, given this development has the potential to cause some harm, it would be reasonable to seek some mitigation from the developer. The County Council has recommended to the planning authority that the development only proceed with provision of a financial contribution towards amending the residents parking legal order, to preclude residents of the car free flats from applying for residents permits of Zone 12.

The developer has provided their evidence to the planning officer that their proposed development is not viable and they cannot afford to provide either affordable housing or to fund the changes to the residents parking permit. If the planning officer is mindful to accept this argument, the County Council would have to fund amending the existing parking restrictions themselves. The public purse subsidising this aspect of the development is not something that the County Council support, although it is recognised the County Council does have to deal with the general over subscription in the zone in any event.

The other risk with this approach is that due to the absence of a Section 106 agreement for the contribution, the prospective owners/occupiers would not be aware that they are not able to apply for parking permits. The only other option available would be to include an informative on the planning consent that the development is car free and will be precluded from the Zone 12 residents park scheme. However, it is unlikely that all conveyancing solicitors would make purchasers aware of this informative. Alternatively, if the planning officer does not accept the developers argument that development of the site is not viable, then the alterations to the residents parking legal order could be secured by Grampian Condition.

The remaining issues that do need to be controlled through planning conditions are set out below. The construction management plan is particularly important given the constrained nature of the site and need for loading and unloading of construction materials on the busy approach to the nearby traffic signals.

## Planning Conditions

### Reinstatement of Redundant Access

The development hereby permitted shall not be occupied until the existing vehicular accesses to the site have been permanently closed in accordance with details to be submitted to and agreed in writing beforehand by the Local Planning Authority.

Reason: In the interests of highway safety.

### Bicycle Parking

The Development hereby approved shall not be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The storage area shall be maintained for this purpose thereafter.

Reason: To promote sustainable travel and healthy communities

### Construction Management Plan

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

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- Advisory routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud and dust being carried onto the highway;

- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Highway Condition survey;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

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

### Informative

#### Car Free Development Informative.

The development site provides no off-street parking provision and no mitigation to offset the impact of the lack of availability of parking in the existing controlled parking zone, which is currently significantly oversubscribed. Accordingly, the County Council consider the consented development to be a car free site and residents will be precluded from applying for residential parking permits in the existing controlled parking zone.

#### Works on the Public Highway

The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 184 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out. Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk) allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Council's costs in undertaking the following actions: Drafting the Agreement A Monitoring Fee Approving the highway details Inspecting the highway works Planning permission is not permission to work in the highway. A Highway Agreement under Section 184 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

- 1.5 Members will note that whilst HDM still consider some mitigation to be necessary, the level of harm that would arise from this car-free development is not severe and as such *"is unlikely to warrant refusing planning permission"*, with reference to paragraph 115 of the NPPF (2023).
- 1.6 HDM also recognise that, notwithstanding this proposal and the lack of a financial contribution towards amending the residents parking legal order, *"the County Council does have to deal with the general over subscription in the zone in any event."*
- 1.7 HDM now also support the use of an informative to highlight the fact that future occupiers of the development would not be eligible for permits, should planning permission be granted.

## **2. CONCLUSION AND RECOMMENDATION**

- 2.1 With the above in mind, and for the reasons set out within the main officer report published in December last year (attached as an appendix), officers remain satisfied that the proposed development would be in accordance with all relevant national and local planning permission and continue to recommend that planning permission be granted subject to the schedule of conditions below, and a Unilateral Undertaking



towards mitigation of any adverse recreational impacts on the Cotswold Beechwoods SAC.

- 2.2 Officers acknowledge that the NPPF has been updated since the publication of the main officer report, and that the paragraph references in the earlier report relate to the previous version of the Framework, but the revisions to the Framework do not materially impact on the conclusions reached in the earlier report.
- 2.3 It is also recognised that a minimum 10% biodiversity net gain (BNG) in all new major developments is now mandatory; however, the requirement only relates to applications submitted on or after 12th February 2024, and is not applicable in this case.

### 3. SCHEDULE OF 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, other than those works necessary to comply with the requirements of this condition, a Phase 2 ground investigation shall be carried out as per the recommendations at paragraph 6.3 of the Pre-Planning Geo-Environmental Desk Study Report Assessment (Wilson Associates, Report No: 4963, dated March 2022) and the results and any remediation measures shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having regard to adopted policy SD14 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 4 Prior to the commencement of development (including demolition and site clearance), a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the development process and shall include, but not be restricted to:

- i) Provision of parking for vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- ii) Advisory routes for construction traffic;
- iii) Any temporary access to the site;
- iv) Locations for the loading/unloading and storage of plant, waste and construction materials;

- v) Method of preventing mud and dust being carried onto the highway;
- vi) Arrangements for turning vehicles;
- vii) Arrangements to receive abnormal loads or unusually large vehicles;
- viii) Highway condition survey;
- ix) Measures to control the emission of noise, dust and dirt during demolition and construction;
- x) Measures for controlling the use of site lighting whether required for safe working or for security purposes; and
- xi) Methods of communicating the plan to staff, visitors, and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development, and to prevent any loss of amenity to neighbouring land users, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and policies SD14 and INF1 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 5 Prior to the commencement of development (including demolition and site clearance), a Site Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the development process and shall:

- i) identify the specific types and amount of waste materials forecast to be generated from the development during site preparation, and demolition and construction phases;
- ii) identify the specific measures that will be employed for dealing with the waste materials so as to:
  - minimise its creation, and maximise the amount of re-use and recycling on-site;
  - maximise the amount of off-site recycling of any wastes that are unusable on-site; and
  - reduce the overall amount of waste sent to landfill; and
- iii) set out the proposed proportions of recycled content that will be used in construction materials.

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures, having regard to adopted Core Policy WCS2 of the Gloucestershire Waste Core Strategy (2012), and adopted Minerals Local Plan for Gloucestershire Policy SR01.

- 6 Prior to the commencement of development (other than demolition and site clearance), a detailed scheme for the incorporation of water and energy efficiency measures, and renewable or low carbon energy technologies within the development shall be submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details and thereafter so retained.

Reason: To promote sustainable building design, having regard to adopted policy SD3 of the Joint Core Strategy (2017) and the adopted Cheltenham Climate Change SPD (2022). Approval is required upfront because sustainable design is an integral part of the development and its acceptability.

- 7 Prior to the commencement of development, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning

Authority. The scheme shall thereafter be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution, having regard to adopted policies SD14 and INF2 of the Joint Core Strategy (2017). Approval is required upfront because the design of the drainage is an integral part of the development and its acceptability.

- 8 Prior to any works above ground level, details of the provision made for facilitating the management and recycling of waste generated during occupation of the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include appropriate and adequate space and infrastructure to allow for the separate storage of recyclable waste materials. The management of waste during occupation must be aligned with the principles of the waste hierarchy and not prejudice the local collection authority's ability to meet its waste management targets. The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures, having regard to adopted Core Policy WCS2 of the Gloucestershire Waste Core Strategy (2012).

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

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017).

- 10 The external facing brickwork shall not be carried out unless in accordance with a sample panel which shall have first been constructed on site and approved in writing by the Local Planning Authority. The sample panel shall show the type, size, colour, bond, pointing, coursing, jointing, profile and texture of the facing brickwork, including perforated brickwork. The approved sample panel shall be retained on site and made available for inspection by the Local Planning Authority for the duration of the construction works.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020), and adopted policy SD4 of the Joint Core Strategy (2017).

- 11 The following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority:
- a) Window system;
  - b) External doors;
  - c) Parapet detail;
  - d) Rainwater goods;
  - e) External vents and flues;

- f) External lighting; and
- g) Cycle store for Block B.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020), and adopted policies SD4 and SD8 of the Joint Core Strategy (2017).

- 12 Notwithstanding the approved plans, prior to the implementation of any landscaping, a detailed 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 any part 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 30 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. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017).

- 13 The development shall be carried out in accordance with the recommended mitigation measures detailed in Section 7 of the Air Quality Assessment (Air Quality Consultants Ltd, Report No: J10/13186A/10/1/F1, dated April 2022). The mechanical ventilation system shall be installed and operational prior to first occupation of the development.

Reason: To ensure that suitable mitigation measures are installed to protect future residents of the dwellings, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 14 Should piled foundations be proposed on site, prior to any piling activities taking place, a Piling Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall identify the likely impact of piling activities and identify suitable mitigation of those effects.

Reason: To safeguard the amenity of nearby residential properties and the general locality, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 15 Prior to first occupation of the development, the existing vehicular accesses to the site shall be permanently closed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, having regard to adopted policy INF1 of the Joint core Strategy (2017).

- 16 Prior to first occupation of the development, secure covered cycle storage shall be provided in accordance with the approved plans. The cycle storage shall thereafter be retained available for such use in accordance with the approved plans at all times.

Reason: To ensure the adequate provision and availability of cycle parking, so as to ensure that opportunities for sustainable transport modes have been taken up, having regard adopted policy INF1 of the Joint Core Strategy (2017).

- 17 Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with approved plans and shall be retained as such thereafter.

Reason: In the interests of sustainable waste management and recycling, having regard to adopted Core Policy WCS2 of the Gloucestershire Waste Core Strategy (2012).

- 18 Prior to first occupation of the development, ecological enhancements to include bird nesting and bat roosting boxes shall be installed on the building or within the site in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to preserve and enhance biodiversity, having regard to adopted policy SD9 of the Joint Core Strategy (2017).

- 19 Prior to first occupation of the development, a residential welcome pack promoting sustainable forms of access to the development shall be submitted to and approved in writing by the Local Planning Authority. The approved pack shall thereafter be provided to each resident at the point of the first occupation of each dwelling.

Reason: To reduce vehicle movements and promote sustainable access, having regard adopted policy INF1 of the Joint Core Strategy (2017).

### **SUGGESTED INFORMATIVES**

- 1 The development makes no provision for off-street parking, nor mitigation to offset the impact of the lack of availability of parking in the existing controlled parking zone (Cheltenham Westend Zone 12) which is currently significantly oversubscribed. Accordingly, the County Council consider the consented scheme to be a car-free development and residents will be precluded from applying for residential parking permits in the existing controlled parking zone.
- 2 The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out.

Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk) allowing sufficient time

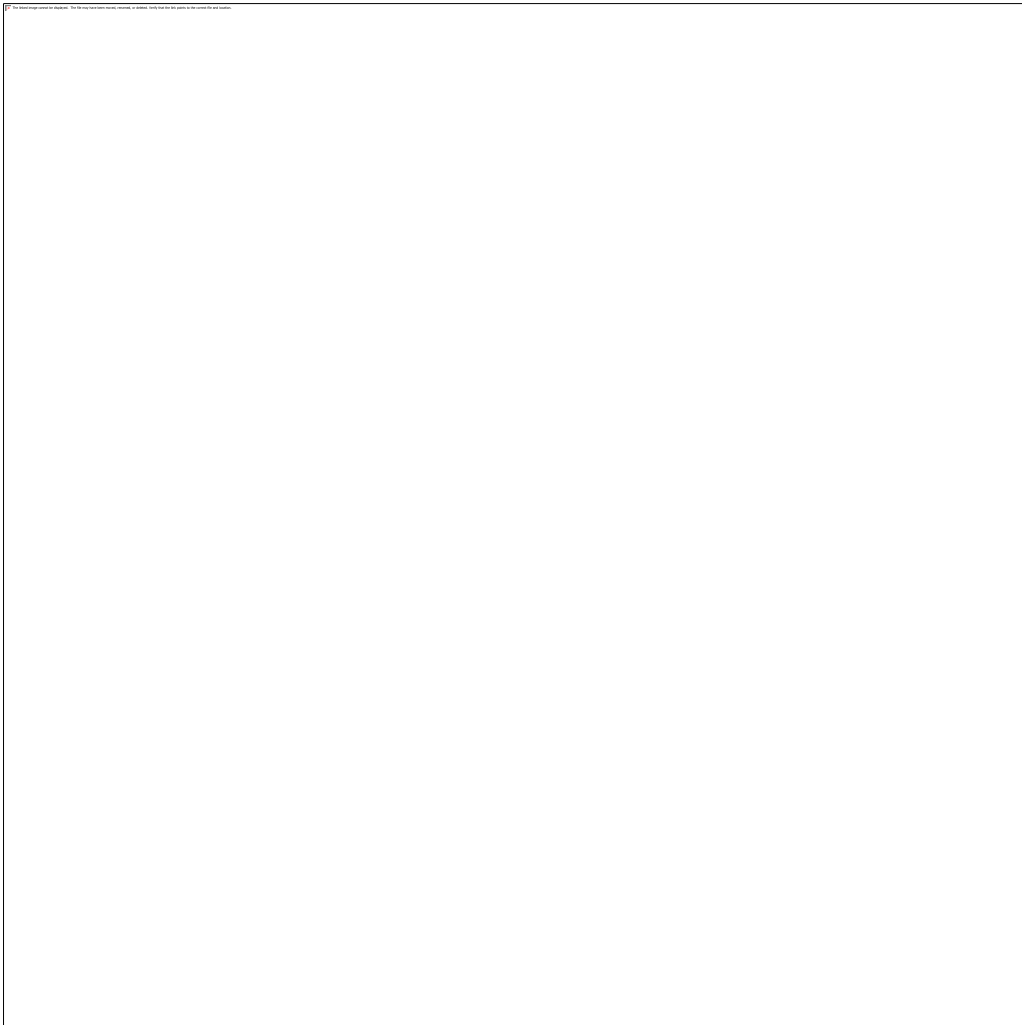
for the preparation and signing of the Agreement. You will be required to pay fees to cover the Councils costs in undertaking the following actions:

- Drafting the Agreement
- A Monitoring Fee
- Approving the highway details
- Inspecting the highway works

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

<b>APPLICATION NO: 23/00625/FUL</b>		<b>OFFICER: Michelle Payne</b>
<b>DATE REGISTERED: 14th April 2023</b>		<b>DATE OF EXPIRY: 14th July 2023</b> (extension of time agreed until 22nd December 2023)
<b>DATE VALIDATED: 14th April 2023</b>		<b>DATE OF SITE VISIT:</b>
<b>WARD: St Peters</b>		<b>PARISH:</b>
<b>APPLICANT:</b>	Lane Britton and Jenkins	
<b>AGENT:</b>	Zesta Planning Ltd	
<b>LOCATION:</b>	456 High Street Cheltenham Gloucestershire	
<b>PROPOSAL:</b>	Full planning application for the redevelopment to provide a residential development of 18no. apartments (12no. one bed and 6no. two bed) contained within two blocks, following demolition of an existing commercial building	

**RECOMMENDATION:** Permit subject to Unilateral Undertaking



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located on the southern side of the Lower High Street, directly adjacent to the Honeybourne Line to the west, and just within the Central Conservation Area boundary (Lower High Street Character Area). The site is also located within the Principal Urban Area (PUA) and is approximately 0.07 hectares in size. The site is not subject to any other designation. A small part of the site is owned by the Council who are selling the land.
- 1.2 The site is currently in a Class B2 employment use and occupied by J R Laboratories Ltd, an optical product manufacturers. The existing building on site, whilst set back from the highway, covers much of the site. The building is single storey and utilitarian in its appearance, dating from the 1950s. Its front elevation is red brick with a stepped art deco style gable end with two solid courses. The building is identified as a 'Significant neutral building/space' on the Townscape Analysis Map within the Lower High Street Character Area Appraisal. The frontage of the site is hard surfaced and used for car parking and is devoid of any landscaping.
- 1.3 To the northwest of the site, beyond the Honeybourne Line, sits Honeybourne Gate, a modern, five storey development comprising 55 retirement apartments. To the south-east, the site sits adjacent to no. 452 High Street, an end-of-terrace property with a vacant shop unit at ground floor and a flat on the upper floor. To the rear, the site backs onto the Winston Churchill Memorial Gardens which house the grade II listed St Marys Mission (St Marys Cemetery Chapel). Immediately opposite the site, on the High Street, is a recent, four storey residential development.
- 1.4 The application proposes the demolition of the existing building on site and the erection of a new residential development comprising 18no. apartments (12no. one bed and 6no. two bed) within two separate blocks. The proposed buildings are four storeys in height, with the top floor recessed. Externally, the buildings are faced in red brick, with a tiled finish to the recessed top floor.
- 1.5 Revised plans have been submitted during the course of the application and these are discussed in the report below. The quantum of development is unchanged.
- 1.6 In addition to drawings, the application is supported by the following detailed reports and statements; all of which have been available to view on the Council's website:
  - Planning Statement
  - Design and Access Statement (including Sustainability and Waste Management)
  - Heritage Statement
  - Phase 1 Geo-Environmental Desk Study Report
  - Air Quality Assessment
  - Building Inspection Report
  - Arboricultural Impact Assessment
  - Drainage and Maintenance Strategy
  - Planning Viability Report
  - Transport Note: Car Parking Assessment (updated)
- 1.7 The application is before the planning committee at the request of Cllr Willingham whose full comments can be read in the appendix to this report.
- 1.8 Members will have the opportunity to visit the site on planning view.



## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Conservation Area  
Central Conservation Area  
Core Commercial Area  
Honeybourne Line  
Principal Urban Area  
Residents Association  
Lower High Street Shopping Area  
Smoke Control Order

### **Relevant Planning History:**

None

## 3. POLICIES AND GUIDANCE

### **National Planning Policy Framework 2023 (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 11 Making effective use of land  
Section 12 Achieving well-designed places  
Section 14 Meeting the challenge of climate change, flooding and coastal change  
Section 15 Conserving and enhancing the natural environment  
Section 16 Conserving and enhancing the historic environment

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

EM2 Safeguarding Non-Designated Existing Employment Land and Buildings  
D1 Design  
BG1 Cotswold Beechwoods Special Area Of Conservation Recreation Pressure  
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  
SD8 Historic Environment  
SD9 Biodiversity and Geodiversity  
SD10 Residential Development  
SD11 Housing Mix and Standards  
SD12 Affordable Housing  
SD14 Health and Environmental Quality  
INF1 Transport Network  
INF2 Flood Risk Management  
INF3 Green Infrastructure

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

Development on garden land and infill sites in Cheltenham (2009)  
Lower High Street Character Area Appraisal and Management Plan (2008)  
Cheltenham Climate Change SPD (2022)

#### 4. CONSULTATION RESPONSES

See appendix at end of report

#### 5. PUBLICITY AND REPRESENTATIONS

- 5.1 Letters of notification were sent to 54 neighbouring properties on receipt of the application. In addition, site notices were posted and an advert published in the Gloucestershire Echo.
- 5.2 Additional consultation was carried out on receipt of the revised plans.
- 5.3 In response to the publicity, 12 representations have been received; 11 in objection, and one general comment. The comments have been circulated in full to members.
- 5.4 The comments are summarised below:
  - Concerned about noise and disruption during construction and ongoing noise once complete
  - Height will impact on light to, and views from, Honeybourne Gate
  - Parking is already difficult / roads are congested
  - Impact on value of properties in Honeybourne Gate
  - Building is too large
  - There is no parking proposed on-site
  - Concerns over rubbish collection
  - The narrow gap proposed between the building and the Honeybourne Line will make repairs to the embankment and the line very difficult
  - Honeybourne Gate is a retirement development
  - Scale, height and mass of the proposal represents overdevelopment
  - Unreasonable impact on living conditions of residents in Honeybourne Gate in terms of privacy, overshadowing and loss of light – will be oppressive and overbearing
  - No provision for access for servicing vehicles, emergency services, etc.
  - Unconvincing argument for change of use – Cheltenham has lack of employment land
  - No objection to change of use but object to height and size of new building – should be no more than two storeys
  - Four storey building would impact on views and make Honeybourne Line more enclosed and less safe
  - LPA has duty to preserve or enhance the conservation area
  - Loss of views from Honeybourne Gate
  - Due to proximity to Honeybourne Gate, the mass and scale of the development will have detrimental overbearing impact, and block light
  - No Health Impact Assessment submitted
  - Access to Block B for larger deliveries and removals appears to be totally impractical
  - No objections in principle but any proposal should be of a much reduced size and scale – no more than two storeys
  - Building should be finished in white render which would be more in-keeping
  - Honeybourne Gate not designed to have windows overlooking it
  - Suggestion that public car parks locally could be used for 'visitors and delivery vehicles' is comical - delivery vehicles and vans will park on the single carriageway main road or illegally on the pavement
  - Visitors coming into town along the major access road will see the proposed building looming above the Honeybourne Bridge
  - Need to install 'mechanical ventilation systems' does not seem very green or healthy for the residents
  - Noise levels during construction will impact daily life
  - Congestion in an already busy area will be added to

- Unrealistic to think residents won't have cars
- Occupants of the proposed building would have their bedroom and/or lounge windows directly overlooked by the Honeybourne Gate windows and vice versa
- The building would completely dominate the view from all windows of Honeybourne Gate apartments on this side
- Residents on the affected side of Honeybourne Gate have chosen to live on the 'quiet' side of the building - unfair to inflict on them the inevitable noise, vibration and disruption of the building works
- The proposal represents a gross overdevelopment of a restricted site and will be out of scale with adjacent properties
- The proposal will require the removal of two trees at the entrance to Winston Churchill Gardens
- No objection to the proposed building but the developer should provide a new staircase up to the Honeybourne Line
- The site is very small and believed to have been previously found not to be financially viable for development
- There is a lack of outdoor amenity space at ground floor
- Ideal situation would be that the site be developed together with 452 High Street and other adjacent empty retail units

## 6. OFFICER COMMENTS

### 6.1 Determining issues

6.1.1 The main considerations when determining this application relate to the principle of redevelopment in terms of the loss of the existing employment site and the proposed residential use; design, layout and impact on the historic environment; climate change; parking and highway safety; affordable housing; neighbouring amenity; and recreational impacts on the Cotswold Beechwoods Special Area of Conservation.

### 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. In accordance with paragraph 11 of the National Planning Policy Framework (NPPF) which sets out a "*presumption in favour of sustainable development*" proposals that accord with an up-to-date development plan should be approved without delay.

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). Other material considerations include the NPPF, and Planning Practice Guidance (PPG).

#### *Loss of existing employment use*

6.2.3 Adopted CP policy EM2 seeks to safeguard non-designated employment land and buildings and advises that:

*Development proposals for a change of use of land and buildings currently or last in employment use (Note 1) will only be permitted where:*

*a) buildings were constructed and first occupied for residential use; or*

*b) the loss of the site to other uses does not have a detrimental impact on the continuing operation of existing businesses in the vicinity (Note 2) and;*

*i. The proposed use is job-generating (Note 3) with any loss of existing provision being offset by a net gain in the quality (Note 4) and / or the number of jobs provided on the site; or*

*ii. Development of the site will ensure the relocation of an existing firm to a more suitable location within the Borough (Note 5); or*

*iii. There has been a sustained and long-term absence of economic activity on the land with no reasonable prospect of the land being used for employment (Note 6); or*

*c) The applicant for planning permission can demonstrate that employment use creates unacceptable environmental or traffic problems which cannot be satisfactorily resolved.*

6.2.4 In this case, whilst officers acknowledge that the site is not yet vacant, regard has been given to paragraph 1.2 of the Planning Statement, and the Building Inspection Report, which accompanies the application. These documents set out that the existing commercial building on site is in a poor state of repair and has reached the end of its natural life span, and that the existing business on site is currently reducing its operations with a view to vacating the site. In this respect, the alternative use of the site would not have a detrimental impact on the continuing operation of existing businesses in the vicinity, and given the number of residential properties that have been relatively recently constructed within the vicinity of the site, any redevelopment of the site within a B2 employment use would have the significant potential to cause harm to the amenities of neighbouring land users. On balance, officers are therefore satisfied that a change of use of this site would be compliant with the aims and objectives of CP policy EM2.

### *Proposed residential use*

6.2.5 As previously noted, the application site is sustainably located within the PUA, wherein adopted JCS policy SD10 supports new housing development on previously-developed land. However, in any event, the housing policies are out-of-date as the Council is currently unable to demonstrate a five year supply of deliverable housing sites (the latest published figure is 4.84 years), and therefore the 'tilted balance' in favour of granting permission is triggered. The proposed development would result in the welcome provision of an additional 18no. residential units in this highly sustainable location, and make a valuable contribution to the borough's housing stock.

6.2.6 With all of the above in mind, officers are satisfied that, in principle, the proposed redevelopment of the site is acceptable, subject to the material considerations discussed below.

6.2.7 As previously noted, the existing building on site is identified as being a neutral building within the Lower High Street Character Area Appraisal and is not considered to make a positive contribution to the character and appearance of the conservation area; as such no objection is raised to its demolition subject to a satisfactory scheme for redevelopment.

## 6.3 Design, layout and impact on the historic environment

6.3.1 Paragraph 130 of the NPPF requires decisions on planning applications to ensure that new developments "*will function well and add to the overall quality of the area...; are visually attractive...; are sympathetic to local character...including the surrounding built environment...whilst not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place...; optimise the potential of the site...; and create places that are safe, inclusive and accessible...with a high standard of amenity for existing and future users*".

6.3.2 The above requirement is generally consistent with the design requirements set out in adopted CP policy D1 and JCS policy SD4.

6.3.3 Additional guidance of relevance to this application can be found in the Council's adopted SPD relating to development on garden land and infill sites, which sets out that various elements combine to create the character of an area. The document states at paragraph 3.5 that *"Responding to character is not simply about copying or replicating what already exists in an area...Change in itself is not considered a bad thing automatically..."*

6.3.4 With particular regard to development within the historic environment, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. JCS policy SD8 also requires development to make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment.

6.3.5 The main access to the development would be located via a passage to the side (northwest) of Block A between the building and the Honeybourne Line, leading through to Block B at the rear. Each block would be provided by dedicated refuse, recycling and bike storage facilities, with the refuse/recycling store integral to Block A having an access direct onto the High Street for collection. No on-site car parking provision is proposed.

6.3.6 Externally, the space about the buildings is largely shown to be hard surfaced with only small pockets of low level landscaping to soften the site; however, officers feel that there is scope to introduce more generous areas of soft landscaping within the site, and this could be secured via a condition requiring a detailed hard and soft landscaping scheme to be submitted for approval. Although there are no large areas of open recreational space within the development, there are opportunities for recreation reasonably close to the site.

6.3.7 With regard to the external appearance of the buildings, as previously noted, the scheme has been revised during the course of the application resulting in significant improvements: the revisions include:

- The introduction of a red brick finish throughout the main elevations of the buildings;
- a recessed, tile hung, top floor helping to break up the massing and bulk of the buildings; and
- changes to the fenestration.

6.3.8 In its revised form, officers consider the external appearance of the scheme to be acceptable. Although concerns have been raised in relation to the height of the buildings, officers are satisfied that no particular harm will occur. The top floors are now recessed from the buildings below, and are effectively the 'roof'; and the use of an alternative facing material at this level would further help to ensure that the top floor reads as part of the roofscape. In addition, the street scene elevations demonstrate that the height of the buildings would step up along this part of the High Street to address the corner, the proposed buildings sitting well below the height of the neighbouring Honeybourne Gate.

6.3.9 Moreover, it is important to acknowledge that the removal of the top floors, or limiting the development to two storeys would result in a reduction in residential units which, given the Council's shortage of housing land supply, would be at odds with JCS policy SD10 which requires new residential development proposals to achieve maximum densities compatible with good design. Moreover, throughout the NPPF emphasis is given to new development optimising the potential of the site; with the Government recognising the benefits of extending upwards in terms of maximising development potential.

6.3.10 In terms of heritage impacts, the Conservation Officer's detailed comments in response to the original scheme (which can be read in the appendix below) have been duly

noted, and officers are satisfied that the revised proposals go some way in addressing their concerns. With regard to scale and massing, as mentioned above, the top floor of the buildings now appears more recessed in line with neighbouring new developments and officers do not agree that the development is overly tall in this context, nor that its dense form would be harmful to the character and appearance of the conservation area, particularly given the scale and density of the neighbouring Honeybourne Gate development.

6.3.11 It is acknowledged that views of the site from the Winston Churchill Memorial Gardens to the rear would be altered, and that the proposed development would be a far more prominent addition than the building already on site but, again, it is important to consider the impacts in relation to surrounding developments. In this case, the proposals would be read in the context of the much larger development on the opposite side of the Honeybourne Line built in 2015. Moreover, the proposals do go some way in mitigating the impact on the gardens, with the rear part of Block B being only three storeys. For the same reasons, officers do not consider the development to be detrimental to the nearby grade II listed St Marys Mission.

6.3.12 Officers accept that the proposed development would undoubtedly have a far greater visual impact within the street scene, and from other public vantage points than the existing building but this, in itself, is not considered to be unacceptable or harmful.

6.3.13 The Conservation Officer also found the proposed materials and detailing to be poor, and officers shared the view that blue/grey brick plinth originally proposed was inappropriate. However, officers strongly disagree that the use of red brick is inappropriate in this location, and that the building should be rendered. Given that the predominant finish in the locality is render, the use of red brick in the external elevations of this development, will maintain a balance of red brick and render. That said, a high quality palette of external facing materials and finishes will be key to the success of the scheme, particularly the extensive brickwork, and therefore conditions are suggested which require the submission of additional design details, and the construction of a sample panel of brickwork on site for consideration.

6.3.14 The level of harm to the designated heritage assets (the conservation area and nearby grade II listed building) identified by the Conservation Officer is considered to be 'less than substantial', and as such NPPF paragraph 202 requires the harm to *"be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*

6.3.15 PPG (Paragraph: 020 Reference ID: 18a-020-20190723) sets out that public benefits can be *"anything that delivers economic, social or environmental objectives"* and *"be of a nature or scale to be of benefit to the public at large and not just be a private benefit"*.

6.3.16 In this case, officers are therefore wholly satisfied that the development of the site for residential purposes will result in public benefits that outweigh the identified harm. Given the current shortage of housing within the borough, the public benefits of the residential use in this highly sustainable location are apparent.

#### 6.4 Climate change

6.4.1 In addition to the aforementioned design policies, adopted JCS policy SD3 requires new development to be designed and constructed to maximise the principles of sustainability; development proposals are required to *"demonstrate how they contribute to the aims of sustainability"* and *"be adaptable to climate change in respect of the design, layout, siting, orientation..."* The policy requires major planning applications to be accompanied by an Energy Statement.

6.4.2 JCS paragraph 14.4.11 goes on to advise that:

*Before considering the use of renewable energy technologies the design of a development should first identify measures to reduce overall energy demand. This can include choice of building fabric and construction techniques, optimising solar gain, natural lighting and ventilation to reduce the need for space heating and/or cooling and lighting. Secondly, the design should include measures to use energy more efficiently such as increasing levels of insulation in walls, floors and roofs and improved air-tightness.*

6.4.3 The adopted Cheltenham Climate Change SPD also provides guidance on how applicants can successfully integrate a best-practice approach towards climate change and biodiversity in all new development proposals.

6.4.4 As required, the application is accompanied by an Energy/Sustainability Statement (within the Design and Access Statement) in support of the application that sets out that a 'fabric first' design approach is proposed to reduce the energy demand of the property and reduce carbon accordingly. The statement also sets out additional energy efficiency measures that could be incorporated into the development.

6.4.5 Notwithstanding the above, officers consider that the development offers the real opportunity to incorporate additional measures to help Cheltenham meet its commitment to become a net zero carbon council and borough by 2030. A condition is therefore suggested which requires a more detailed scheme to be submitted and agreed.

### 6.5 Parking and highway safety

6.5.1 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, which reiterates advice at paragraph 111 of the NPPF.

6.5.2 From a highways perspective, the access, parking and highway safety impacts associated with the proposed residential use has been assessed by the Highways Development Management Team (HDM) at the County Council, acting as the Highway Authority in its role as Statutory Consultee, and their full comments can be read in the Appendix below.

6.5.3 The application does not propose any car parking, and in their initial response HDM raised concerns "*that the failure to provide for off-street parking at this location or to introduce mechanisms that will preclude future residents from acquiring a parking permit in zone 12 will result in added parking pressures on the local road network*", and requested that additional information be submitted. HDM advise that the permit statistics at this location show that 392% more permits have been issued than there are permit bays within the parking permit zone (Cheltenham Westend Zone 12).

6.5.4 Following receipt of additional information, namely an updated transport note comprising of a car parking assessment, HDM continue to have concerns over the additional demands the development would have on parking in the surrounding area, and continue to suggest that an s106 legal agreement is required to preclude car ownership or the ability for future occupiers from acquiring a parking permit in zone 12.

6.5.5 However, it is not appropriate to secure such an obligation through an s106 agreement as it would fail to meet the necessary tests, in that it is not required to make the development acceptable in planning terms. HDM raise no objection in principle to the lack of car parking,

and it is for the County Council to control the issuing of permits. That said, an informative is suggested that highlights the fact that future occupiers of the development would not be eligible for permits.

6.5.6 Furthermore, the County's Manual for Gloucestershire Streets identifies that "*For both residential and commercial developments in town and city centres the applicant may choose not to provide car parking spaces at all or to provide a reduced parking provision*" and that one of the considerations will relate to "*the opportunity to access the site sustainably*".

6.5.7 In this regard, NPPF paragraph 112 advises that priority should first be given to pedestrian and cycle movements, and secondly, to facilitating access to high quality public transport.

6.5.8 With regard to access for emergency vehicles, the situation will not be dissimilar to that elsewhere along the lower High Street and in other densely populated areas of the town centre.

6.5.9 Overall, given this highly sustainable town centre location, officers are therefore satisfied that the requirements of JCS policy INF1 and NPPF paragraphs 110 – 113 are met.

### 6.6 Affordable housing

6.6.1 JCS policy SD12 requires the provision of affordable housing in new developments. In Cheltenham, outside of Strategic Allocation sites, a minimum of 40% affordable housing is sought on sites of 11 dwellings or more. Where a development cannot deliver the full affordable housing requirements, the policy sets out that a viability assessment will be required, and will be independently appraised at the expense of the applicant.

6.6.2 As this application proposes 18no. dwellings, policy SD12 is triggered; a policy compliant 40% provision of affordable housing would equate to 7no. affordable units.

6.6.3 In response to policy SD12, the applicant has submitted a Planning Viability Report prepared by Stuart Larkin and Associates Ltd to demonstrate that the affordable housing policy requirement cannot be met on this site. The viability report has been independently reviewed by the District Valuer Service (DVS), the specialist property arm of the Valuation Office Agency (VOA) which provides independent valuation and professional property advice to bodies across the public sector. The DVS report concludes that "*that the proposed scheme cannot viably provide any level of Affordable Housing, or any amount by way of payment towards an off-site Affordable Housing Contribution*".

6.6.4 The proposed scheme is therefore a 100% Open Market scheme; officers have no reason to dispute the findings of the DVS.

### 6.7 Neighbouring amenity

6.7.1 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.*

6.7.2 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, NPPF



paragraph 130 highlights the need to ensure a high standard of amenity for both existing and future users.

6.7.3 The proposed development has given rise to a number of objections on amenity grounds which primarily relate to a loss of privacy, daylight and outlook. Concerns have also been raised in relation to noise and disturbance during construction.

6.7.4 From a privacy perspective, officers are satisfied that no unacceptable loss of privacy or overlooking would occur as a result of the development. Note 2 to CP policy SL1 advises that in determining privacy for residents, the Council will seek a minimum distance of 21 metres between dwellings which face each other where both have windows with clear glazing, and 12 metres between dwellings which face each other where only one has windows with clear glazing.

6.7.5 In this case, the windows in the side elevation of Block A facing Honeybourne Gate have been amended to be projecting, angled windows to direct views back towards the Honeybourne Line, away from Honeybourne Gate. This window arrangement, together with the distances involved, which are in excess of 15 metres is considered to be acceptable. Moreover, it is important to be recognised that in this situation, the windows in Honeybourne Gate are already overlooked by users of the Honeybourne Line, they are not facing onto private amenity space. A similar window arrangement is proposed in the other side elevation facing no. 452 High Street. The windows in Block B facing no.452 have been conditioned to be obscurely glazed.

6.7.6 Turning to daylight, the proposed development passes the relevant 25° daylight test when assessed against facing windows in Honeybourne Gate. Furthermore, given the distances involved, officers are satisfied that the proposed development will not appear overbearing, nor result in any unacceptable level of harm in terms of outlook.

6.7.7 Any increase in noise from the residential properties should not be detrimental to the amenity of neighbouring land users in this town centre location.

6.7.8 With regard to noise and disturbance during demolition and construction, whilst inevitable, Members will be aware that this is not a reason to withhold planning permission. That said, the Environmental Health team (EH) have requested that a Construction Management Plan, to control emissions of noise and dust, be submitted for approval prior to the commencement of development. Similarly, they request a condition which requires a piling plan to be submitted for approval prior to any piling activities being carried out on site, should piled foundations be proposed.

6.7.9 The site is located within an Air Quality Management Area and the application is therefore supported by an Air Quality Assessment. EH have reviewed the assessment and are satisfied that, subject to the installation of the specified mechanical ventilation system and fenestration, acceptable air quality for future residents would be achieved. The implementation of the specified system can be secured by condition.

6.7.10 On balance, officers are therefore satisfied that the development would not result in any unacceptable impact upon the amenities or living conditions of those residential neighbours living close to the site, nor on future residents of the development.

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

6.8.1 The application site lies within a zone of influence as set out in the Cotswold Beechwoods SAC Recreation Mitigation Strategy (May 2022) for recreational pressure for the Cotswold Beechwoods SAC, which is afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended).

6.8.2 Adopted CP policy BG1 states that development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site Network and the effects cannot be mitigated. All development within the borough that leads to a net increase in dwellings will be required to mitigate any adverse effects. Without appropriate mitigation, the proposed development is likely to have a significant effect on the Cotswold Beechwoods SAC (either alone or in combination with other development) through increased recreational pressure.

6.8.3 The Council has undertaken an Appropriate Assessment and considers the measures set out in the abovementioned mitigation strategy to be necessary to provide adequate mitigation to address the impacts of the proposal. The applicant can choose to make a contribution towards the measures in the strategy, or to provide their own bespoke strategies to mitigate the impacts the proposed development will cause.

6.8.4 In this case, the applicant has opted to make the contribution of £673 per dwelling which would be secured via a Unilateral Undertaking.

### 6.9 Other considerations

#### *Flooding and drainage*

6.9.1 JCS policy INF2 states that development proposals must avoid areas at risk of flooding, and seek to minimise the risk of flooding. It goes on to state that new development should, where possible, contribute to a reduction in existing floor risk, and that new development should incorporate Sustainable Drainage Systems (SuDS) where appropriate.

6.9.2 The site is located within Flood Zone 1 in an area at low risk from fluvial flooding, and the site is not identified as being susceptible to surface water flooding. The application is supported by a Drainage and Maintenance Strategy. As this is an application for major development, the County Council acting as the Lead Local Flood Authority (LLFA) have been consulted.

6.9.3 Having reviewed the submitted strategy, the LLFA state "*The drainage strategy submitted with this application proposes a 40% reduction in the rate of discharge of surface water however it is not clear where this water is going. There is a combined sewer and a surface water sewer in the high street and the LLFA require clarity that the surface water will go to the surface water sewer and not the combined sewer.*" Additional detailed is therefore required by condition.

#### *Waste Minimisation*

6.9.4 Waste Minimisation has been addressed within the submitted Design & Access Statement. The County Minerals and Waste Policy Team have reviewed the application and raise no objection in principle. They are satisfied that waste minimisation matters have been considered, but request that additional information be secured by condition.

#### *Community infrastructure*

6.9.5 The County Council have confirmed that they are not seeking any contributions towards libraries or education as the development does not meet the thresholds. Only developments of 10 or more 2 or more bed units are qualifying for education, and only developments of 25 or more 1 bed or more units are considered qualifying for libraries.

#### *Trees*

6.9.6 The Trees Officer consider the Arboricultural Report which accompanies the application is well considered and of good quality; they do not object to the removal of the

Ash trees on site or to the modest pruning of the Ash-leaf Maple growing on the Council's land.

### *Protected species*

6.9.7 Gloucestershire Centre for Environmental Records (GCER) have identified that a number of protected species have been sighted in proximity to the application site in the past, including bats. However, there are no particularly recent sightings, and the most recent bat sighting recorded was in 2020 some 364 metres away.

6.9.8 Nevertheless, the proposed development does provide the opportunity to include enhancement measures such as bat and bird boxes; and a condition is suggested in this regard.

### *Biodiversity Net Gain (BNG)*

6.9.9 NPPF paragraph 174 (d) states that decisions on planning applications "*should contribute to and enhance the natural and local environment by...providing net gains for biodiversity*". As such, providing any biodiversity gain, however small, is currently compliant with national policy. The requirement to provide a 10% net gain is not yet mandatory.

6.9.10 In this case, officers are satisfied that a scheme for ecological enhancement measures such as those mentioned above is sufficient to meet the requirements of JCS policy SD9 and the NPPF.

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

6.9.11 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.

6.9.12 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.

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

## **7. CONCLUSION AND RECOMMENDATION**

7.1 Decisions on planning applications must be made in accordance with the development plan, unless material considerations indicate otherwise.

7.2 Officers are satisfied that the general principle of redeveloping this site for residential purposes is acceptable. The proposed development would, on balance, be in accordance with the aims and objectives of adopted CP policy EM2; and the application site is highly sustainably located within the Principal Urban Area, wherein adopted JCS policy SD10 supports new housing development. Moreover, throughout the NPPF emphasis is given to new development optimising the potential of the site; and policy SD10 also requires new residential development proposals to "*seek to achieve the maximum density compatible*

*with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network.”*

- 7.3 Notwithstanding the above, where housing policies are out-of-date (as is the case in Cheltenham) development proposals for housing must be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole, or specific NPPF policies provide clear reason for refusal.
- 7.4 In this case, whilst some harm has been identified, officers are satisfied any adverse impacts resulting from the revised scheme are clearly outweighed by the benefits of providing 18no. residential units in this highly sustainable location. Although the number of dwellings proposed would normally trigger the need to provide 40% affordable housing, the viability of the scheme has been tested, and no affordable housing contribution can be secured.
- 7.5 From a highway safety perspective, the scheme has been assessed by the Highways Development Management Team (HDM) at the County Council, who raise no highway objection subject to a number of conditions. For the reasons set out in the report above, officers do not consider it appropriate enter into an s106 legal agreement to preclude car ownership or the ability for future occupiers from acquiring a parking permit in zone 12.
- 7.6 The amenity concerns raised by local residents living in close proximity to the site, have been carefully considered. On balance, officers are satisfied that the development would not result in any unacceptable impact upon the amenities and living conditions of any neighbouring land user.
- 7.7 Suitable mitigation of any adverse recreational impacts on the Cotswold Beechwoods SAC can be achieved.
- 7.8 With all of the above in mind, taking into account the economic, social, and environmental aspects of the application, officers are satisfied that, as a whole, the proposed development would not result in any adverse impacts that would outweigh the clear benefits of the scheme.
- 7.9 The recommendation therefore is to grant planning permission subject to a Unilateral Undertaking and the schedule of conditions set out below; in accordance with The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, agreement has been sought in respect of the pre-commencement conditions:

## 8. SUGGESTED 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, other than those works necessary to comply with the requirements of this condition, a Phase 2 ground investigation shall be carried out as per the recommendations at paragraph 6.3 of the Pre-Planning Geo-Environmental Desk Study Report Assessment (Wilson Associates, Report No: 4963, dated March 2022) and the results and any remediation measures shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having regard to adopted policy SD14 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 4 Prior to the commencement of development (including demolition and site clearance), a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the development process and shall include, but not be restricted to:

- i) Provision of parking for vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- ii) Advisory routes for construction traffic;
- iii) Any temporary access to the site;
- iv) Locations for the loading/unloading and storage of plant, waste and construction materials;
- v) Method of preventing mud and dust being carried onto the highway;
- vi) Arrangements for turning vehicles;
- vii) Arrangements to receive abnormal loads or unusually large vehicles;
- viii) Highway condition survey;
- ix) Measures to control the emission of noise, dust and dirt during demolition and construction;
- x) Measures for controlling the use of site lighting whether required for safe working or for security purposes; and
- xi) Methods of communicating the plan to staff, visitors, and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development, and to prevent any loss of amenity to neighbouring land users, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and policies SD14 and INF1 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 5 Prior to the commencement of development (including demolition and site clearance), a Site Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the development process and shall:

- i) identify the specific types and amount of waste materials forecast to be generated from the development during site preparation, and demolition and construction phases;
- ii) identify the specific measures that will be employed for dealing with the waste materials so as to:
  - minimise its creation, and maximise the amount of re-use and recycling on-site;
  - maximise the amount of off-site recycling of any wastes that are unusable on-site; and
  - reduce the overall amount of waste sent to landfill; and

iii) set out the proposed proportions of recycled content that will be used in construction materials.

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures, having regard to adopted Core Policy WCS2 of the Gloucestershire Waste Core Strategy, and adopted Minerals Local Plan for Gloucestershire Policy SR01.

- 6 Prior to the commencement of development (other than demolition and site clearance), a detailed scheme for the incorporation of water and energy efficiency measures, and renewable or low carbon energy technologies within the development shall be submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details and thereafter so retained.

Reason: To promote sustainable building design, having regard to adopted policy SD3 of the Joint Core Strategy (2017) and the adopted Cheltenham Climate Change SPD (2022). Approval is required upfront because sustainable design is an integral part of the development and its acceptability.

- 7 Prior to the commencement of development, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution, having regard to adopted policies SD14 and INF2 of the Joint Core Strategy (2017). Approval is required upfront because the design of the drainage is an integral part of the development and its acceptability.

- 8 Prior to any works above ground level, details of the provision made for facilitating the management and recycling of waste generated during occupation of the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include appropriate and adequate space and infrastructure to allow for the separate storage of recyclable waste materials. The management of waste during occupation must be aligned with the principles of the waste hierarchy and not prejudice the local collection authority's ability to meet its waste management targets. The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures, having regard to adopted Core Policy WCS2 of the Gloucestershire Waste Core Strategy.

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

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017).

- 10 The external facing brickwork shall not be carried out unless in accordance with a sample panel which shall have first been constructed on site and approved in writing by the Local Planning Authority. The sample panel shall show the type, size, colour, bond, pointing, coursing, jointing, profile and texture of the facing brickwork, including perforated

brickwork. The approved sample panel shall be retained on site and made available for inspection by the Local Planning Authority for the duration of the construction works.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020), and adopted policy SD4 of the Joint Core Strategy (2017).

- 11 The following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority:

- a) Window system;
- b) External doors;
- c) Parapet detail;
- d) Rainwater goods;
- e) External vents and flues;
- f) External lighting; and
- g) Cycle store for Block B.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020), and adopted policies SD4 and SD8 of the Joint Core Strategy (2017).

- 12 Notwithstanding the approved plans, prior to the implementation of any landscaping, a detailed 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 any part 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 30 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. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: In the interests of the character and appearance 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).

- 13 The development shall be carried out in accordance with the recommended mitigation measures detailed in Section 7 of the Air Quality Assessment (Air Quality Consultants Ltd, Report No: J10/13186A/10/1/F1, dated April 2022). The mechanical ventilation system shall be installed and operational prior to first occupation of the development.

Reason: To ensure that suitable mitigation measures are installed to protect future residents of the dwellings, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 14 Should piled foundations be proposed on site, prior to any piling activities taking place, a Piling Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall identify the likely impact of piling activities and identify suitable mitigation of those effects.

Reason: To safeguard the amenity of nearby residential properties and the general locality, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 15 Prior to first occupation of the development, the existing vehicular accesses to the site shall be permanently closed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, having regard to adopted policy INF1 of the Joint core Strategy (2017).

- 16 Prior to first occupation of the development, secure covered cycle storage shall be provided in accordance with the approved plans. The cycle storage shall thereafter be retained available for such use in accordance with the approved plans at all times.

Reason: To ensure the adequate provision and availability of cycle parking, so as to ensure that opportunities for sustainable transport modes have been taken up, having regard adopted policy INF1 of the Joint Core Strategy (2017).

- 17 Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with approved plans and shall be retained as such thereafter.

Reason: In the interests of sustainable waste management and recycling, having regard to adopted Core Policy WCS2 of the Gloucestershire Waste Core Strategy.

- 18 Prior to first occupation of the development, ecological enhancements to include bird nesting and bat roosting boxes shall be installed on the building or within the site in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to preserve and enhance biodiversity, having regard to adopted policy SD9 of the Joint Core Strategy (2017).

- 19 Prior to first occupation of the development, a residential welcome pack promoting sustainable forms of access to the development shall be submitted to and approved in writing by the Local Planning Authority. The approved pack shall thereafter be provided to each resident at the point of the first occupation of each dwelling.

Reason: To reduce vehicle movements and promote sustainable access, having regard adopted policy INF1 of the Joint Core Strategy (2017).



## APPENDIX – CONSULTATIONS RESPONSES

### Ward Councillor – Cllr David Willingham

I would like to call-in this planning application (23/00625/FUL, 456 High Street, GL50 3JA) if the officer recommendation is to approve.

I will endeavour to submit a more detailed representation in due course, but I have been contacted by a number of constituents who are concerned about this proposal, and it seems in the public interest for it to be heard at committee.

In terms of material planning considerations, I am concerned that the design of the building with narrow alleyways does not seem to have done a great deal to design out crime. The bin storage being only in block A seems likely to lead to dumping and other waste storage issues, similar to those seen in other alleyways off of the High Street.

The site is within the Cheltenham Central Conservation Area, and aesthetically the building seems to be a rather unappealing block that adds little to the character of the area. The size and massing seems likely to enclose the Honeybourne Line and the High Street creating a more oppressive feeling on the Honeybourne Line, and an unappealing gateway feature on when entering the town on the A4019. I am also concerned that this would be detrimental to the setting of the listed façade of the former gas works when viewed from the Swindon Street / High Street junction.

The parking assessment is contradictory, either the development is in a sustainable location, in which case no car parking is necessary and save for visitor permits and compliance with the s149 PSED, flats should not be eligible for any parking permits. Otherwise, the assumption must be that the every one of the flats will apply for the maximum number of permits they are able to have and be assessed on the basis of it requiring 36 parking spaces. It is also noticeable that the applicant has not mentioned roads such as Stoneville Street, Bloomsbury Street, Market Street or Park Street in their assessment. When I last checked the super cul-de-sac of Market Street, Park Street and Great Western Road was oversubscribed in terms of permits issued versus spaces available. It is disingenuous to assess the number of available spaces in other roads without considering the current number of permits issued, to ensure that this proposal will not lead to local oversubscription of on-street parking if occupants purchased their maximum quota of two permits per dwelling. As an example, the document misleadingly suggests that 50 parking spaces are available on Burton Street, without considering how many permits have been issued to extant residents living on that road. The only reasonable conclusion is that the assessment methodology used by the car parking assessment is so deeply flawed as to be of negligible value in accurately assessing the true impact of the proposal on parking.

If an enforceable planning condition is agreed with Gloucestershire County Council that these dwellings will not be eligible for permanent on-street parking permits, and this is enforced by both GCC and CBC, then I would be happy to withdraw this part of my objection.

If permission is granted, then an enforceable planning condition requiring the removal of the redundant dropped kerbs and reinstatement of a kerb line should be agreed between CBC, GCC Highways and the applicant. The proposal also needs to ensure that the 4.4m / 14'6" height limit sign attached to the lamp column directly outside the application site is not impinged on in any way.

Finally, it seems likely that the proposal would interfere with the advertising board on the side of 452 High Street, and legal clarification may be needed about what, if any, planning implications this has, given the owner of that property paid CBC for planning permission to install the advertising board, and if CBC grants this application, it is thwarting the purpose of the permission it previously granted. I suspect this needs an assessment to show compliance

with and consideration of the Human Rights Act duty, with respect to possessions and property.

Hopefully the above is sufficient to justify the call-in.

### **Clean Green Team**

**21st April 2023**

Report available to view in documents tab.

### **Minerals and Waste Policy Gloucestershire**

**12th June 2023**

Response available to view in documents tab.

### **Environmental Health**

**14th June 2023**

Air Quality

The proposed development site is located within an Air Quality Management Area. The applicant has provided an assessment of the air quality affecting future residents. This assessment includes a specification for a mechanical ventilation system and fenestration which will ensure acceptable air quality for residents. I would therefore suggest a condition is attached to ensure the specified system is installed and operating before first occupation of the property.

Control of Noise and Dust during construction and demolition.

As with most sites of this scale, there is potential for works of demolition and construction to cause emissions of noise and dust that will affect nearby property. I would therefore request a condition is attached to any permission for development at this site to require a Construction Management Plan to be submitted for approval before works commence on site. This plan should identify suitable mitigation of noise and dust at all stages of the project.

Piling

It is not specified in the application that piled foundations will be in use at this site, but I expect that is likely to be the case. Given the proximity of nearby residential properties which are likely to be affected by noise and vibration from piling operations, I must request a condition is attached to any permission for this development which requires a piling plan to be submitted for approval before works commence on site. The plan must identify the likely impact of piling activities and identify suitable mitigation of those effects. Note: It is highly unlikely that driven piles will be suitable for this site.

### **GCC Highways Development Management**

**26th May 2023**

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 be deferred. The justification for this decision is provided below.

The proposal seeks Full planning application for the redevelopment to provide a residential development of 18no. apartments (12no. one bed and 6no. two bed) contained within two blocks, following demolition of an existing commercial building at 456 High Street Cheltenham Gloucestershire GL50 3JA. A Transport Note has been submitted in support of the application by Zesta Planning & Development Consultancy.

The site comprises of an extant commercial use and benefits from an existing vehicular and pedestrian access onto the A4019 High Street immediately to the north. The site is located

within a parking permit zone (Cheltenham Westend Zone 12), and no parking is proposed as part of the development plan.

The Highway Authority has concerns that the failure to provide for off-street parking at this location or to introduce mechanisms that will preclude future residents from acquiring a parking permit in zone 12 will result in added parking pressures on the local road network. The permit statistics at this location show that 392% more permits have been issued than there are permit bays within zone 12. Reliance on the location of the site in relation to proximity to local services and amenities, as set out in the Transport Note, is not sufficient to ensure that the development does not cause an adverse impact on the operation of the local road network, which would be the resulting effect should this application be permitted in its current form. A revised Transport Statement should be produced to explore and mitigate the undue effects associated with lack of off-street parking, these could comprise of a S106 agreement that will preclude car ownership or the ability for future occupiers from acquiring a parking permit in zone 12, the introduction of a travel plan and/or potential contributions to car clubs.

The Highway Authority therefore submits a response of deferral until the required information has been provided and considered.

### ***1st November 2023 – revised comments***

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 has no objection subject to conditions and financial obligations. The justification for this decision is provided below.

Further to the Highway Authority's (HA) recommendation dated 25th May 2023, an updated transport note comprising of a car parking assessment carried out by Zesta Planning & Development Consultancy has been submitted in support of the application.

As formerly mentioned, the development site is inserted within a Residential Parking Zone 'Cheltenham Westend Zone 12. The permit statistics at this location show that 392% more permits have been issued than there are permit bays within this zone.

The parking surveys submitted in support of this application were carried on Tuesday 4th July 2023 – Evening period between 18:30 and 19:30 hours; and Thursday 6<sup>th</sup> July 2023 – Daytime period between 10:30 and 11:30 hours. The outputs of the assessment demonstrated a capacity of some 35 available parking spaces on Thursday 4th July, and 63 available spaces on Thursday 6th July. The assessment goes to ascertain that there is ample opportunity to accommodate in excess of the 10 cars likely to be generated through the development proposal within nearby streets included in Zone 12.

The HA has extensive concerns with regards to the additional parking demands this proposal will arise within Zone 12. Whilst the submitted parking survey is appreciated, it only shows but a scope in time i.e. two instances both of which for the duration of 1 hour; and thus not fully robust nor truly representative of the parking demands in this area.

The HA's former assertion that a S106 agreement that will preclude car ownership or the ability for future occupiers from acquiring a parking permit in zone will therefore be sought. Manual for Gloucestershire Streets is clear that "Where development is proposed in a controlled parking zone future residents will be entitled to apply for permits. The LHA will consider the capacity of permit scheme to consider if it has the potential to cater for the development. Where no capacity exists and car free development would otherwise be acceptable the applicant will be required to fund amendments to the traffic regulation order to exclude the future dwellings."

## Conditions

### Reinstatement of Redundant Access

The development hereby permitted shall not be occupied until the existing vehicular accesses to the site have been permanently closed in accordance with details to be submitted to and agreed in writing beforehand by the Local Planning Authority.

Reason: In the interests of highway safety.

### Bicycle Parking

The Development hereby approved shall not be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The storage area shall be maintained for this purpose thereafter.

Reason: To promote sustainable travel and healthy communities

### Residential Welcome Pack

The Development hereby approved shall not be occupied until the applicant has submitted to and had approval in writing from the Local Planning Authority a residential welcome pack promoting sustainable forms of access to the development. The pack shall be provided to each resident at the point of the first occupation of the dwelling.

Reason: To reduce vehicle movements and promote sustainable access.

### Construction Management Plan

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

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

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

## Informatives

### Works on the Public Highway

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

Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk) allowing sufficient time for the preparation

and signing of the Agreement. You will be required to pay fees to cover the Councils costs in undertaking the following actions:

Drafting the Agreement  
A Monitoring Fee  
Approving the highway details  
Inspecting the highway works

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

### Traffic Regulation Order (TRO)

You are advised that a Traffic Regulation Order (TRO) is required. You must submit a plan to scale of an indicative scheme for a TRO, along with timescales for commencement and completion of the development. Please be aware that the statutory TRO process is not straightforward; involving advertisement and consultation of the proposal(s).

You should expect a minimum of six months to elapse between the Highway Authority's TRO Team confirming that it has all the information necessary to enable it to proceed and the TRO being advertised. You will not be permitted to implement the TRO measures until the TRO has been sealed, and we cannot always guarantee the outcome of the process.

We cannot begin the TRO process until the appropriate fee has been received. To arrange for a TRO to be processed contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov](mailto:highwaylegalagreements@gloucestershire.gov).

The cost of implementing any lining, signing or resurfacing required by the TRO is separate to the TRO fees, which solely cover the administration required to prepare, consult, amend and seal the TRO.

### Impact on the highway network during construction

The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at [Network&TrafficManagement@gloucestershire.gov.uk](mailto:Network&TrafficManagement@gloucestershire.gov.uk) before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed. No Drainage to Discharge to Highway Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

### Construction Management Plan (CMP)

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

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

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

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

Contractors should ensure that courtesy boards are provided, and information shared with the local community relating to the timing of operations and contact details for the site coordinator in the event of any difficulties. This does not offer any relief to obligations under existing Legislation.

### Planning Obligations

Specific Purpose – Amendment to Traffic Regulation Order within Residential Parking Permit Zone 12 to exclude future dwellings from acquiring a parking permit.

Contribution - £15,000.00

Trigger – Prior to Commencement

Retention Period – 5 years from first occupation.

### ***10th November 2023 – revised comments***

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 has no objection subject to conditions. The justification for this decision is provided below.

Further to the Highway Authority's recommendation dated 1st November 2023, the development proposal will still necessitate a S106 agreement to preclude car ownership, however the agreement is not dependent on the introduction of a Traffic Regulation Order, thus the formerly suggested planning obligation is void. The remaining conditions and informatives are still deemed appropriate.

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

### **Building Control**

#### ***25th April 2023***

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

### **Heritage and Conservation**

#### ***14th June 2023***

The proposed works are for the redevelopment to provide a residential development of 18no. apartments (12no. one bed and 6no. two bed) contained within two blocks, following demolition of an existing commercial building. An important consideration regarding the acceptability of the proposal will be its impact on the development site and its context, which includes the Central Conservation Area. It is therefore important these are understood.

The development site contains 456 High Street. It dates from the 1950s and is a single storey brick building with a centrally located, double door with a modest projecting flat roof canopy above, flanked by small windows either side. It is simply detailed, with a stepped art deco style gable end with two solid courses, on its front elevation facing the Lower High Street. Usually for its Lower High Street location it is setback from its front boundary, with this open frontage given over to hard surfacing for vehicle parking. It is identified on the 1947-1965 OS map as historically being an Engineering Works.

456 High Street is located within the Central Conservation Area in the Lower High Street Character Area. It is identified within the Lower High Street Character Area Appraisal and Management Plan (adopted July 2008) (the Appraisal) as a neutral building. It is not considered to make a positive contribution to the character and appearance of the conservation area. The General principle of its demolition is acceptable, provided any replacement development sustains and enhances the significance of the affected heritage assets.

The Lower High Street runs northwest from the southeast, across the frontage of the development site. The character of the area is defined by modern and historic buildings. Typically these are two and three storey buildings, mostly render, some limited brick, many with shopfronts to the ground floor. Para 2.5 of the Appraisal notes, "building heights are inclined to increase towards the town centre, particularly to the east of no. 330 High Street.", although several modern developments now buck this tendency, in being taller than is characteristic for the streetscene.

A number of buildings make a positive contribution to the character and appearance of this part of the Central Conservation Area, identified in the Townscape Analysis Map of the Lower High Street, within the Appraisal. These include 442-452 (evens) High Street located on the same side of the street as the development site, 449-451 (odd) High Street located opposite the development site, along with numerous other buildings on the High Street and streets off the High Street.

This part of the Conservation Area has been subject to change since adoption of the Appraisal. There are now a small number of modern examples of four storey buildings on the High Street. However, of the four storey buildings on the Lower High Street only three are externally expressed as four storeys. These are one half of 453 High Street immediately opposite the site, 401 High Street at the junction with Poole Way and 337 High Street, which appears to be Victorian. The other four storey properties either have their third floors significantly recessed or incorporated within a roof form, with the result the top storey has a diminished visual impact on the streetscene.

Winston Churchill Memorial Gardens lies to the south of the site. It is the former cemetery ground of St. Mary's Cemetery Chapel (St. Mary's Mission), a grade II listed former burial chapel dated 1831 by architect C. Paul of Rowland Paul and Sons, builders George Wood and Thomas Newton, in the Greek Revival style, constructed of Cotswold stone. Today the character of Winston Churchill Memorial Gardens is open space, with formal and informal trees and planting. The boundary of Winston Churchill Memorial Gardens is defined by tall brick walls along the Honeybourne Line and to the rear of surrounding two storey Victorian terraced houses on Park Street and the rear of the two and three storey buildings on the High Street. There is a low stone wall, planting and railings, with a second entrance off Market Street, which is faced with two storey Victorian terraced houses opposite. Notably there is generally a sense of openness behind these boundaries, i.e. they are not occupied by dense forms of development.

To the immediate west of the development site is the Honeybourne Line, a former elevated railway line now used as a linear park. It generally has a verdant character due to the tree and vegetation planted along it. The character of the area is also defined by views of the roofs, side and rear elevations of adjacent buildings. The Honeybourne Line is connected to Winston Churchill Gardens through a ramped public footpath, which is adjacent to the side and rear development site. The development proposal will have a significant impact on this ramped public footpath area. The edge of the boundary of the Central Conservation Area is located to the west of the boundary of the development site, with the Honeybourne Line located outside the Conservation Area but with Winston Churchill Gardens within the Conservation Area.

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Over the Honeybourne Line to the west of the development site is Honeybourne Gate, an imposing, modern 5 storey render and brick retirement apartments which, due to its scale and massing, is prominent over the Honeybourne Line from the High Street.

Immediately adjacent to the northwest of the development site is a former railway bridge, associated with the Honeybourne Line. It acts as a strong edge separating this part of the Lower High Street from the area to the northwest. Through the former railway bridge arch partial oblique views of the Cheltenham Gas Company building are possible. The Cheltenham Gas Company building is a grade II listed former gas works offices, dated 1880, in the Gothic Revival style, constructed of red brick and terracotta. A distant vista of the circular upper stage and conical roof of the tower of St. Peter's Church is also possible. St. Peter's Church is a grade II\* former Parish church, dated 1847-8, by architect S.W Daukes and builder Thomas Haines, in the Norman style, constructed of Cotswold stone. Due to the strong edge create by the Honeybourne Line, the oblique location and distance from the development site it is not considered the development proposal will have an adverse impact on the setting of these listed buildings.

Given the sensitivity of the site and its context, regard needs to be given to the legal and policy context as it applies to heritage assets. The cornerstone of heritage legislation is the Planning (Listed buildings and Conservation Area) Act 1990 of which para 72(1) states, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area and para 16(2), which requires local planning authorities to have special regard to the desirability of preserving the special architectural or historic interest of listed buildings and their setting.

A core principle of the National Planning Policy Framework 2021 (NPPF) is heritage assets be conserved in a manner appropriate to their significance. Chapter 16, paragraphs 199-208 set out how potential impacts on heritage assets shall be considered. This assessment takes account of the relevant considerations in these paragraphs, including paragraph 197 of the NPPF, which requires the significance of heritage assets to be sustained and enhanced, with paragraph 199 requiring great weight be given to the asset's conservation.

Concern is raised over the proposed scale and massing of the development proposal. Specifically a concern is also raised over the cumulative impact of the height, width, depth which result in overdevelopment of the site, out of keeping with this part of the Central Conservation Area: Lower High Street character area.

Regarding height, as noted previously, typically development within the context of the site is two or three storeys in height. While, there are now several examples of new development that is four storeys in height, including 453 High Street directly opposite, four storey development is still atypical of Lower High Street and where it does exist third floors are usually discreetly located, either being recessed or within the roof. It is noted 453 High Street has an element that is a full four storeys but this was partly justified through the planning gain associated with the provision of a stepped access onto the Honeybourne Line forming part of the application. There is no such planning gain associated with the current application.

It is considered the proposed four storeys, with its limited set back to the third floor, results in a development proposal with an overly tall height. As a result its relates poorly to the neighbouring two storey buildings facing the High Street it is directly attached to and the streetscene. Also, the proposed width and depth of the development proposal is wider and deeper than those in its context which, when considered with the height, is cumulatively considered to exacerbate concerns of overdevelopment of the site. The development proposal results in an excessively dense form of development with a height, width, depth that is out of keeping with its context, to the detriment of the character and appearance of the Conservation Area.



## Page 45

It is considered the application lacks convincing justification and a detailed contextual analysis of buildings within the more immediate context, if undertaken, would not help to justify the proposed scale and massing is in keeping with this part of the Conservation Area.

Specific concerns are also raised over the impact of the proposed scale and massing of block B of the development proposal. There is considered to be a poor understanding of the impact the rear of the development proposal will have on the setting of Winston Churchill Memorial Gardens. As the former cemetery ground of St. Mary's Cemetery Chapel (St. Mary's Mission), it is considered part of the curtilage of the listed building. Block B of the development proposal is visible to the northwest from the north and west elevation of Mary's Cemetery Chapel (St. Mary's Mission) and from the northern corner of the Gardens, where it will appear as a dense, three and four storey development.

As previously described above, St. Mary's and the Gardens have a verdant quality as a result of formal and informal planting, typically defined within tall brick walls around the boundaries. Immediately adjacent to the curtilage of St. Mary's and the Gardens, build form is set away from the walled boundaries, allowing more of a sense of openness to the setting of St. Mary's and the Gardens.

The setting of the curtilage of the listed building typically has significantly less dense forms of development or open rear gardens/amenity spaces. It is considered the scale and massing of the development proposal in this backland location will appear bulky with the result it would be imposing, incongruous overdevelopment within this context. It is considered block B would have a detrimental impact on the listed building and its setting. It is noted the supporting information states "The scheme also includes a landscaped buffer between the rear block and the boundary wall to the west part of the former cemetery, now Winston Churchill Memorial Gardens." And that the rear of block B is a reduced three storeys, not four storeys. However, this is not considered sufficient to mitigate the overbearing impact of the development proposal.

Notwithstanding the concerns over the scale and massing, concern is also raised over the proposed detailing and materials, which are poorly considered. These concerns are detailing below.

The use of a blue/grey brick for the plinth is not considered to reinforce the local character of buildings in this part of the conservation area. It is noted there is an engineering brick within the railway bridge but reference to this within the proposed building is considered inappropriate as this material is distinct to railway structures.

The uniform use of a red brick to the upper floors is not considered an appropriate material. Render is the most common material, with brick only making a small contribution to the character of the Conservation Area. It is important to maintain this balance. It is advised the development proposal be largely rendered (but not the silicon / self-coloured type which does not have the same appearance as the render found in the conservation area and typically weathers poorly).

The proposed use of a grey membrane to the attic storey is not considered to be a sufficiently high quality material. It is considered alternative materials, metal such as zinc or slate hanging (as per neighbouring 453 High Street should be considered).

The proposed works are not considered to sustain the designated heritage assets, nor do they give great weight to the affected assets conservation. The development proposal does not comply with Section 16 of the Planning (Listed Building and Conservation Area) Act 1990, Chapter 16 of the National Planning Policy Framework 2021 and Policy SD8 of the Joint Core Strategy 2017.

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

**28th April 2023**

The drainage strategy submitted with this application proposes a 40% reduction in the rate of discharge of surface water however it is not clear where this water is going. There is a combined sewer and a surface water sewer in the high street and the LLFA require clarity that the surface water will go to the surface water sewer and not the combined sewer. The LLFA would normally expect the drainage strategy to include WASC asset maps to identify this level of detail at outline application stage.

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

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

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

## **Social Housing**

**5th June 2023**

Letter available to view in documents tab.

## **Contaminated Land Officer**

**14th June 2023**

The applicant has provided a suitable Phase 1 assessment of the site which recommends that a Phase 2 investigation is carried out as per para 6.3 of the report. I would suggest that a condition is applied to any permission for this development to ensure this takes place at a suitable point during the re-development process.

## **Architects Panel**

**12th May 2023**

Design Concept

The panel had no objection to the principle of redeveloping this site to provide residential apartments. However, it was felt that the scheme submitted was over development of the site and a wasted opportunity to come up with a design that related more specifically to the special characteristics of the site.

Design Detail

The panel felt the scheme had a poor relationship to the Honeybourne line and that it could address the site better. The relationship of the new buildings to the Memorial Gardens is not addressed. The spaces around the buildings are too tight and will be unattractive. There is a lack of amenity space. The buildings are particularly bland and austere.

Recommendation

Not supported.

## **Tree Officer**

**28th April 2023**

The Arb Report submitted with the application is of good quality and well considered. The Trees Section does not object to the removal of the ash trees on site, nor to modest pruning to the ash-leaf maple growing on Council land to facilitate the proposal. However, the proposal should be used as an opportunity to plant some trees to improve the site. Currently the scheme affords limited room for such planting. It would be preferable therefore for the scale of the proposal to be reduced to offer more space for soft landscaping, especially new trees. A landscape plan should be submitted for approval, detailing species, size and location, as well as tree pit details.

**Gloucestershire Centre for Environmental Records**

***21st April 2023***

Report available to view in documents tab.

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<b>APPLICATION NO:</b> 23/00625/FUL	<b>OFFICER:</b> Miss Michelle Payne
<b>DATE REGISTERED:</b> 14th April 2023	<b>DATE OF EXPIRY :</b> 14th July 2023
<b>WARD:</b> St Peters	<b>PARISH:</b>
<b>APPLICANT:</b>	Lane Britton and Jenkins
<b>LOCATION:</b>	456 High Street Cheltenham Gloucestershire
<b>PROPOSAL:</b>	Full planning application for the redevelopment to provide a residential development of 18no. apartments (12no. one bed and 6no. two bed) contained within two blocks, following demolition of an existing commercial building

## REPRESENTATIONS

Number of contributors	<b>18</b>
Number of objections	<b>17</b>
Number of representations	<b>1</b>
Number of supporting	<b>0</b>

Apartment 53  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 24th October 2023

Dear sirs/Madam,

I wish to raise objections to the above planning application on the following grounds:

There is practically no difference to the original plans

It is far too dense a development for such a small site. The windows on the upper floors still face into our building thus depriving us on the upper floors of Honeybourne of privacy. I spend a great deal of my time in my flat &/do not relish having to live with drawn curtains or the expense of shutters. It is depressing living in gloom & detrimental to health .

There is absolutely no parking space on the plans. How are deliveries to be made? And where will the occupants park their cars. Just because it is in town does not mean there will be no car owners.

You seem not to have made adequate plans for refuse storage for both blocks. That will inevitably lead to mounds of rubbish being dumped in the general area. Apart from the aesthetic appearance, it will also be a health hazard & an attraction to vermin.

The impact on the Churchill memorial garden does not seem to have been considered. At the moment, High Street property is walled off. Will that remain the case? The gardens are a huge benefit to the local community but cannot withstand much more

Graffiti or rubbish being left there.

I really object to this development. It is far too much on too small a site & the amendments are so slight as to be negligible. None of the original objections have been addressed.

Yours faithfully,

Apt 42 Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
GL51 8DW

**Comments:** 28th April 2023

Dear Sirs

I am writing to register my disapproval with planning application 23/00625/FUL.

My very strong concerns are as follows:-

I live on the third floor facing this development with my living room and bedroom windows both looking towards that direction. I am an elderly woman who spends a lot of time in the apartment but the proximity of this proposal fills me with horror and apprehension!

I am concerned about the noise from construction and ongoing noise once the development is complete.

Four stories will undoubtedly restrict my light and view

Parking in this whole area is extremely difficult.

Congestion is already continuous throughout the day and night on the immediate roads in the surrounding area and a further 18 dwellings will add to his sorry state.

In conclusion I feel that the proposal will severely impair the value of the Honeybourne Gate Retirement complex, particularly the apartments on my side which are so close.

I am a \*\* year old woman who would Like to see her days out in peace and tranquility, not overlooking a building site!

Yours faithfully

\*\*\*\*\*

Reception  
Honeybourne Gate  
Cheltenham  
GL51 8DW

**Comments:** 26th October 2023

I write in my capacity as managing agent to 2 Gloucester Road (Management) Ltd, trading as Honeybourne Gate and on behalf of the residents of Honeybourne Gate.

We strongly object to the current proposal and have previously objected. The revised proposal has not in any way addressed our previously expressed concerns.

We draw the planning committees attention to the comments included in the report from the Council's Heritage and Conservation Officer:

'The comments from that the Concern is raised over the proposed scale and massing of the development proposal. Specifically a concern is also raised over the cumulative impact of the height, width, depth which result in overdevelopment of the site, out of keeping with this part of the Central Conservation Area: Lower High Street character area.'

Our specific concerns are:

- The scale, height and massing of the building proposal is inappropriate to such a small site and would represent a gross overdevelopment which would erode the character and appearance of this part of High Street. Whilst a low level, residential development at that site might be appropriate, creating a four storey apartment block is not. It would singularly fail to meet the design standards required by paragraph 130 of the National Planning Policy Framework and Policy D1 of the adopted Cheltenham Plan.

- The height of the building, its bulk and close proximity to Honeybourne Gate (separated only by the width of the Honeybourne Line) will have an unreasonable harmful impact on the living conditions of residents at Honeybourne Gate. These effects will include loss of privacy by overlooking windows at close quarters, shadowing and loss of light, and a generally oppressive and overbearing imposition in the outlook enjoyed from habitable room windows at Honeybourne Gate that face south-eastwards. This would be contrary to paragraph 130(f) of the National Planning Policy Framework, Policy SD14 of the Joint Core Strategy, and Policy SL1 of the adopted Cheltenham Plan, which require developments to ensure high standards of amenity for neighbours.

- There is no on-site parking or servicing proposed for the scheme. Whilst it is true that there is good public transport links to local services it is not realistic to assume that the residents will not have vehicles - many will need vehicles to access their places of work even if they don't need them for shopping trips, etc. and this will place more parking pressure on already congested streets and tight junctions, raising highway safety concerns. The lack of any servicing, means that future residents demands in terms of removal vehicles, delivery vehicles, tradespersons and maintenance vans and lorries will all be inclined to park on the site frontage where there are double yellow lines and opposite the Swindon Street junction; this will be an accident waiting to happen. These serious highway safety concerns mean that the proposal conflicts with paragraphs 110, 111 AND 112 of the National Planning Policy Framework

- The applicant's loss of employment premises case under Cheltenham Plan Policy EM2 is wholly unconvincing. It is well known that Cheltenham has serious supply issues of employment land and policies, hence the protection afforded by Policy EM2. The site has not been marketed for employment purposes and the policy case has not been made. This is a refusal issue.

- The viability report claiming to provide a justification for avoiding the normally applied affordable housing content is not published or open to scrutiny. Given the nature of the site and local sales values, we find it surprising that the development cannot meet the policy requirements of JCS policy SD12. The Council is encouraged to subject any viability appraisal to a robust external RICS scrutiny.

For all the above reasons we respectfully ask that the application is refused.

**Comments:** 4th May 2023

I write as the managing agent for Honeybourne Gate, the retirement development at 2 Gloucester Road, Cheltenham.

I have been asked to make representations about the above planning application by residents of Honeybourne Gate who strongly oppose the proposed development.

First of all, I note that currently the application is scheduled for determination by an officer rather than by elected councillors. For a development of this intensity and in the proposed location I consider it important that councillors scrutinise the proposal.

The residents of Honeybourne Gate have several concerns about the proposal itself:

- The massing of the building is inappropriate to such a small site. Whilst a low level, residential development at that site would be appropriate, creating a four storey apartment block, without parking and with insufficient allowance for refuse and recycling is not.
- The height of the building, and its close proximity to Honeybourne Gate (separated only by the width of the Honeybourne Line) will restrict light to those Honeybourne Gate apartments facing the development and will also impact on the privacy of people living in their apartments both in Honeybourne Gate and in the proposed development.
- There is no on-site parking proposed for the scheme. Whilst it is true that there is good public transport links to local services it is not realistic to assume that the residents will not have vehicles - many will need vehicles to access their places of work even if they don't need them for shopping trips, etc. The nearby roads that allow for residential parking are already congested at night when residents are at home and will become more so when residents in the proposed building seek to park their vehicles there.
- The suggestion that rubbish should be left on the high street only early in the morning is unrealistic and it will inevitably be left on the High Street from the night prior to collection. This is likely to leave the High Street pavements impassable and are likely to be unusable by disabled people. Honeybourne Gate is a retirement development and many of its elderly residents have restricted mobility and need clear disabled access to the pavements at all times.
- During the development there will inevitably traffic disruption on the High Street and there are no details in the application as to how they developers will mitigate noise and disruption during the build.
- Only a narrow gap is proposed between the building and the Honeybourne Line which will make repairs to the embankment and the Line very difficult. When Honeybourne Gate was built a more significant gap was insisted on at design stage and the same requirement does not appear to have been imposed with this scheme.

Honeybourne Gate is a retirement development and its residents are elderly people looking for quiet enjoyment of their homes. They believe very strongly that this



development is not suitable for this site and will have a significant impact on the quality of their life and the ability to have quiet enjoyment of their homes.

Apartment 54  
Honeybourne Gate  
2 Gloucester Road Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 22nd October 2023

Apartment 54 Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
GL51 8DW

22rd October 2023

Dear Sir/Madam

Ref: Planning Application 23/00625/FUL

Following the revision to this planning request I wish to restate my original appeal with revisions to counter these changes which do little to answer my original appeal.

1. The scale, height and mass of this proposal is total inappropriate to such a small area and represents a gross overdevelopment of an unsuitable site. This is evidenced by the lack of any vehicular access or any access beyond very narrow pedestrian pathways. Further evidence of this can be seen in the plan view of the site and the asymmetric design to accommodate some form of free space for recreation or bins. Whilst a low-level residential development might be appropriate this is not: failing to meet the design standards required in para. 130 of the National Policy Framework and Policy D1 of the adopted Cheltenham Plan.

New Comment: Revisions to the earlier proposal show minimal and largely cosmetic and token changes amounting to less than 10% of the main building footprint and minimal changes to the elevation.

2. The height and mass of this building with its proximity to Honeybourne Gate (separated only by the width of the Honeybourne line) will have an unreasonably harmful impact on the living conditions of its residents. These effects will include gross loss of privacy from overlooking windows in close proximity, overshadowing and loss of light and a generally oppressive and overbearing imposition on the outlook currently enjoyed by those residents in habitable rooms with a south easterly aspect. Bearing in mind that like myself most of these residents are elderly, some with infirmities or limited mobility, thus tied to their outlook positions. This denial of amenity to neighbours is contrary to para.

130(f) of the National Policy Framework. Policy SD14 of the Joint Core Strategy and Policy SL1 of the adopted Cheltenham Plan.

New Comment: See above additional comments.

3. With no onsite parking the assumption seems to be that all travel and transport requirements by residents can be met from the very good local transport links. This is totally unrealistic as many residents will wish to own cars for work travel at the very least. This will place more pressure on already very congested streets and tight junctions raising road safety concerns.

Then there is the concern for servicing the site for which no provision has been made. This means that future resident demand in terms of removal vehicles, delivery vehicles, maintenance vans or lorries and finally emergency vehicles will be forced to park on the site frontage where there are double yellow lines, opposite the Swindon Road junction and just where the road narrows: there will be traffic carnage. Many times of the day there will be two static lines of traffic with impatient drivers backed up to traffic lights and so with any added blockages accidents ready to happen. These are very serious highway safety concerns which mean that the proposed development conflicts with paras. 110, 111 and 112 of the National Policy Framework

4. With reference to the concerns shown at para. 3 access to Block B will be a particular problem for persons moving in or out but especially for emergency services. In the case of an ambulance visit the vehicle will need to be parked, probably for some considerable time, on a busy main road causing a major lane blockage. The crew, meantime, need to get to Block B, carry on with their task, then move a patient over a considerable distance by stretcher, trolley or wheelchair. Not a pleasing prospect if you have just had a heart attack. Serious health and safety concerns.

5. The applicant puts forward a wholly unconvincing argument for a change of use to the existing premises. It is known that Cheltenham has serious supply issues of employment land and policies hence the protection afforded by the mentioned Policy EM2. The site has not been marketed for employment purposes so any supposition that the current use is not viable is therefore irrelevant at this point.

6. It would appear from reading the planning document paragraphs 6.1 to 6.7 that this attempts to justify the avoidance of the normally applied affordable housing content to meet the requirements of JCS policy SD12. Is this acceptable?

7. A factually incorrect assertion at para. 6.14 that 2 Gloucester Road consists of bedsits when in fact it is a retirement complex containing 55 one or two bedroom flats owned by mainly elderly residents.

8. New Comment: One other significant addition is the traffic carnage, with associated risks during the construction phase, that is guaranteed to paralyse the lower High Street area for considerable periods.

Yours faithfully

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**Comments:** 18th May 2023

Apartment 54 Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
GL51 8DW

17th May 2023

Dear Sir/Madam

Ref: Planning Application 23/00625/FUL

I wish to register an objection to this proposal on the following grounds: -

1. The scale, height and mass of this proposal is total inappropriate to such a small area and represents a gross overdevelopment of an unsuitable site. This is evidenced by the lack of any vehicular access or any access beyond very narrow pedestrian pathways. Further evidence of this can be seen in the plan view of the site and the asymmetric design to accommodate some form of free space for recreation or bins. Whilst a low-level residential development might be appropriate this is not: failing to meet the design standards required in para. 130 of the National Policy Framework and Policy D1 of the adopted Cheltenham Plan.

2. The height and mass of this building with its proximity to Honeybourne Gate (separated only by the width of the Honeybourne line) will have an unreasonably harmful impact on the living conditions of its residents. These effects will include gross loss of privacy from overlooking windows in close proximity, overshadowing and loss of light and a generally oppressive and overbearing imposition on the outlook currently enjoyed by those residents in habitable rooms with a south easterly aspect. Bearing in mind that like myself most of these residents are elderly, some with infirmities or limited mobility, thus tied to their outlook positions. This denial of amenity to neighbours is contrary to para. 130(f) of the National Policy Framework. Policy SD14 of the Joint Core Strategy and Policy SL1 of the adopted Cheltenham Plan.

3. With no onsite parking the assumption seems to be that all travel and transport requirements by residents can be met from the very good local transport links. This is totally unrealistic as many residents will wish to own cars for work travel at the very least. This will place more pressure on already very congested streets and tight junctions raising road safety concerns. Then there is the concern for servicing the site for which no provision has been made. This means that future resident demand in terms of removal vehicles, delivery vehicles, maintenance vans or lorries and last but not least emergency vehicles will be forced to park on the site frontage where there are double yellow lines, opposite the Swindon Road junction and just where the road narrows: there will be traffic carnage. Many times of the day there will be two static lines of traffic with impatient drivers backed up to traffic lights and so with any added blockages accidents ready to happen. These are very serious highway safety concerns which mean that the proposed development conflicts with paras. 110, 111 and 112 of the National Policy Framework

4. With reference to the concerns shown at para. 3 access to Block B will be a particular problem for persons moving in or out but especially for emergency services. In the case of an ambulance visit the vehicle will need to be parked, probably for some considerable time, on a busy main road causing a major lane blockage. The crew, meantime, need to get to Block B, carry on with their task, then move a patient over a considerable distance by stretcher, trolley or wheelchair. Not a pleasing prospect if you have just had a heart attack. Serious health and safety concerns.

5. The applicant puts forward a wholly unconvincing argument for a change of use to the existing premises. It is known that Cheltenham has serious supply issues of employment land and policies hence the protection afforded by the mentioned Policy EM2. The site has not been marketed for employment purposes so any supposition that the current use is not viable is therefore irrelevant at this point.

6. It would appear from reading the planning document paragraphs 6.1 to 6.7 that this attempts to justify the avoidance of the normally applied affordable housing content to meet the requirements of JCS policy SD12. Is this acceptable?

7. A factually incorrect assertion at para. 6.14 that 2 Gloucester Road consists of bedsits when in fact it is a retirement complex containing 55 one or two bedroom flats owned by mainly elderly residents.

Yours faithfully

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13 St Pauls Parade  
Cheltenham  
Gloucestershire  
GL50 4ET

**Comments:** 8th May 2023

Object

The applicant proposes replacing a single storey industrial building with a pitched roof with a four-storey residential building. I have no objection to the change of use to residential. Though it is a shame to lose more town centre employment land, there is a demand for housing. I strongly object to the proposed height and size of the new building. It is overdevelopment of a small plot, leaving residents with no amenity space. Unlike the existing building it extends all the way to the front of the plot and far closer to the Honeybourne Line itself, far closer than Honeybourne Gate on the opposite side, and leaving a very restricted space for access for maintenance of the retaining wall.

This building should be restricted to two storeys with a flat roof - i.e. no higher than the Honeybourne Line boundary wall.

The distinctive feature of the northern end of the Honeybourne Line from the Waitrose bridge onwards is being at rooftop height and the views across the town, and across to the Escarpment in places. From the stretch of the Honeybourne Line between the Winston Churchill Memorial Garden and the High Street, you can see across towards the town centre, and back towards the front elevation of the grade II listed St Mary's Mission. Permitting a four-storey building would obliterate this view from the Winston Churchill Memorial Garden ramp to the High Street bridge.

Along with the existing Honeybourne Gate building, a four-storey building would create a canyon effect for this stretch, which would make the Honeybourne Line feel far more enclosed and less safe. The four-storey building extends close to the ramp leading down to the Winston Churchill Memorial Garden, which will contribute to this route also feeling far more enclosed and less safe.

This is within the Lower High Street conservation area. The local planning authority has a duty to preserve or enhance the conservation area.

The 2008 Character Appraisal and Management Plan identifies the setting and views for the Character Area as very important Development Control Proposal Action LH6 "The Council will ensure that all development respects the important views within, into and from the Lower High Street Character Area. These views are noted but not exclusively identified on the Townscape Analysis map. The Council will ensure that these remain protected from inappropriate forms of development and redevelopment and that due regard is paid to these views in the formulation of public realm works or enhancement schemes in accordance with the Cheltenham Borough Local Plan"

The views from the Honeybourne Line along the lower High St, towards the Mission, towards St Gregory's spire, and the treelines of the Winston Churchill Memorial Garden should be protected, and the height of any development on this site restricted in order to do so.

At four storeys high, it would also block the views of Honeybourne Gate residents on the third and fourth floors who currently look out over the Honeybourne Line. Instead, they would be looking at the brick wall and windows of this proposed development. Although no-one has a right to a view from their windows, it should be borne in mind that Honeybourne Gate is a retirement complex run on the Extracare model, which means that residents as they become increasingly incapacitated and housebound with age, are able to stay in their apartments without moving into a care home. When you are unable to leave your apartment, your views onto the outside world are all the more important.

The Lower High St Character Appraisal and Management Plan also recognises that "some modern developments do not sit well within the historic context of the area. They have a negative impact upon its character and appearance, through factors such as size, scale, footprint, [and] massing". This would be one such development if allowed to proceed as proposed. Another feature of the Lower High St as identified in the Character Appraisal and Management Plan is that "building heights are inclined to increase towards the town centre" making a taller building less appropriate in this location. Sadly, many recent buildings in this area have been unsympathetic to their setting and too tall. 401-403 High St being a glaring example. These recent developments do not relieve the planning authority of their duty to preserve or enhance the conservation area.

Apartment 49  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 25th October 2023

Letter attached.

Apartment 3  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 25th October 2023

Letter attached.

Apartment 29  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 30th October 2023

Letter attached.

**Comments:** 9th May 2023

Dear Sir/Madam

Planning Application No. 23/00625/FUL

I live at 29 Honeybourne Gate, which is a second floor apartment with three principal windows facing the application site. These windows provide the only natural light to - and outlook from - my kitchen, living room and main bedroom. I wish to object to the planning application for the following reasons:

Due to the close proximity of the proposed four storey buildings - at their closest point just 15 metres away using the scale bar on the plans - the mass and scale of the development will have a significant detrimental overbearing impact on both my apartment and other apartments facing the site. The proposed buildings will be overpowering visually, will block light, and will result in a significant loss in the enjoyment of my property.

The proposed windows to habitable rooms in Block A will face my apartment and given the close proximity of the development this will have a substantial impact on the privacy

of my home. The nearest habitable room windows in Block A to my apartment will be significantly less than the 21 metres stipulated in Policy SL1 of the adopted Cheltenham Plan (July 2020). Note 2 to the policy states:

' In determining privacy for residents, the Council will apply the following minimum distances:

- \* 21 metres between dwellings which face each other where both have windows with clear glazing.....'

In this regard, paragraph 14.1 of the Local Plan states that the well-being of the Borough's residents is a key consideration in all policy-making and no less in the determination of planning applications.

I have noticed that it appears that the Applicant has not submitted a Health Impact Assessment with the application despite this being a specific requirement for major planning applications.

The Planning Statement submitted with the planning application makes a factually incorrect statement (para. 2.4) by commenting that the Honeybourne Gate development is used for bedsits. Honeybourne Gate contains one and two bed apartments occupied by older people, many of whom spend a considerable amount of time in their homes. For those residents occupying homes facing the application site, the proposed development will have a substantial negative impact on their well-being and quality of life.

The Applicant has sought to justify the lack of on-site parking provision in the Transport Note, however in practice the site will not work without space for visitor parking and access / space for deliveries and loading / unloading. The lack of such facilities within the development clearly demonstrate that the proposals constitute unacceptable over-development of this small site. The consequence of having no facilities for visitors, deliveries etc. will be that vehicles will park illegally on the foot way in the Lower High Street, giving rise to considerable safety risks to pedestrians using a busy walking route into the town centre.

Access to Block B for larger deliveries and removals appears to be totally impractical given that the block will only benefit from a single pedestrian access which is stepped at the front of the site. The location of the refuse / recycling bins within Block A will be highly inconvenient to the occupiers of the other units in Block B, and it is quite reasonable to predict that rubbish will be left more conveniently in the courtyard and other paved areas which will be unsightly both to residents and users of the Honeybourne Line.

I have no objections in principle to the redevelopment of this brownfield site for housing, however any proposal should be of a much reduced size and scale so that it is commensurate with the small size and shape of the site, and respects its surroundings. I suggest that any development should be no more than two storeys in height and finished with white painted render, which would be in keeping with the wider prevailing character of the area.

As submitted, the application proposal fundamentally conflicts with Policy SL1 of the adopted Cheltenham Plan.

Yours faithfully

\*\*\*\*\*

Apartment 5  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 25th October 2023

Letter Attached.

Apartment 4  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 4th May 2023

I would like to register an objection to the proposed development on many grounds including the following;

1. Over development of the site, resulting in impacting the privacy of the nearby apartments at Honeybourne Gate, which were not designed to be faced by windows level with them and overlooking them, only separated by the width of the Honeybourne line.
2. Parking, The fact that the occupiers of the proposed buildings have a genuine choice of sustainable transport methods does not apply to deliveries made to the building. As there has been no provision on the site, the building, apart from a narrow strip of planting, is up to the edge of the pavement, and parking on the pavement is illegal, delivery vehicles and vans will park on the single carriageway main road or illegally on the pavement while deliveries are carried to the 18 four storey flats.

Either would cause problems for the busy road or pedestrians and handicapped buggy users.

The suggestion of the report which points out that public car parks locally could be used for 'visitors and delivery vehicles', would seem comical - settees and fridge freezers being carried by delivery drivers across main roads!!!! they would in reality park illegally on the pavement or hold up the traffic on the busy single carriageway main road.

3. The Street Scene and air pollution.

Visitors coming into the town along the major access road, will see the proposed building looming above the honeybourne bridge. The view will be of a "canyon" (the expert's words) formed by 2 four story buildings right up to the pavement either side.

apart from the aesthetics of the look of this main approach to the town, this will cause, according to the air report, air pollution problems either side of this canyon so that they will have to instal 'mechanical ventilation systems'. This does not seem very green or healthy for the residents.

If the proposed devt. of the site was limited to 2 floors with provision for refuse storage, the problems of overlooking, parking and air pollution would be solved, and the street scene coming into our lovely town would not be spoiled by this unpleasant 'street canyon'.



**Comments:** 25th October 2023

Letter attached.

Apartment 41  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 24th April 2023

Letter attached.

**Comments:** 25th October 2023

Letter attached.

**Comments:** 25th October 2023

Letter attached.

Apartment 39  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 26th April 2023

Dear planning people

The above planning proposal has come as a bombshell to those of us living at Honeybourne Gate (HG) on the side facing the proposed development. In particular to me as I occupy the 3rd floor flat nearest to the Honeybourne Line walkway. My more specific comments follow, in the categories suggested in your letter.

Privacy:

Occupants of the proposed building would have their bedroom and/or lounge windows directly overlooked by HG apartment windows and vice versa. At my end of the building the distance between the buildings would be barely a road's width.

Visual Impact and amenity value:

## Page 62

This is my biggest concern. The proposed building would completely dominate the view from all windows of HG apartments on this side. For the many users of the Honeybourne Line walkway it would block a view which appears to be much appreciated and would give a feeling of walking through a dark alleyway between the two buildings. It would also provide yet another surface for the hated 'tagging' that already plagues the rest of the Honeybourne Line. I invite someone from the planning committee visit my apartment to assess the impact for themselves.

Noise and Disturbance:

I appreciate that construction disturbance does not count as a planning consideration - but residents on the affected side of HG have chosen to live on the 'quiet' side of the building. Some are vulnerable and possibly in the final stages of life. It does not seem fair to inflict on them the inevitable noise, vibration and disruption of the building works.

Yours sincerely

Apartment 52  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 9th May 2023

6th May 2023

Dear Sir

Ref : Planning Application 23/00625/FUL

I wish to comment on this application on the following grounds.

1. The proposal represents a gross overdevelopment of a restricted site and will be entirely out of scale with the immediately adjacent properties.

2. While the application indicates a low level of traffic accidents at the nearby Gloucester Road / High Street junction, it does not address the other traffic incidents which occur on a quite regular basis i.e. over-sized articulated lorries hitting the bridge. These events are rarely reported to the Authorities but are witnessed by the occupants of apartments in Honeybourne Gate .

When the vehicle hits the bridge the driver has to reverse out and into Swindon Street, which is immediately opposite the proposed development. In order to carry out this manoeuvre the drivers cab has to mount the pavement and encroach onto the existing forecourt of No 456, High Street.

The proposed development will eradicate this forecourt making the entire procedure very difficult, if not impossible and creating a major traffic hazard. Furthermore, I believe that a building so close to the bridge will further disguise the hazard that it represents.

3. The suggestion that car parking facilities will not be needed on the site is absurd. And unsupported by any substantial evidence. Whilst there is Permit Parking in the

surrounding streets, a walk round the named streets at almost any time of day or evening will confirm that the spaces are fully used by existing residents.

There is little or no substantive evidence that car use will fall significantly in the foreseeable future and therefore it seems at best irresponsible to permit town- centre developments which do not include provision for car parking.

4. The Proposal involves the removal of two trees at the entrance to the award-winning Winston Churchill Gardens. This will reduce the amenity value of the entrance to this valuable community resource.

Yours faithfully

\*\*\*\*\*

**Comments:** 25th October 2023

Letter attached.

Apartment 47  
Honeybourne Gate  
2 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8DW

**Comments:** 25th October 2023

Letter attached.

452 High Street  
Cheltenham  
Gloucestershire  
GL50 3JA

**Comments:** 9th May 2023

Letter attached.

Apartment 39  
Honeybourne Gate  
2 Gloucester Road Cheltenham  
Gloucestershire  
GL51 8DW

### **Comments:** 13th October 2023

Following the revision of the plans I would like to restate and revise my objections first listed on 26 April 2023 and add more. The revised plans have not addressed any of my concerns.

#### Privacy

I note that windows on the top floor on the South West elevation are angled to avoid overlooking a single storey premises (?) but the windows on the 3rd floor of the North East elevation - a few feet directly opposite my lounge windows - will still be looking straight into my rooms.

#### Visual impact and amenity value

The length, breadth and height of the development is out of keeping with an already congested stretch of the high street which also happens to be part of the conservation area. A view over Cheltenham that is currently much appreciated by users of the Honeybourne Line would no longer exist. There would be a dark 'canyon' effect between 2 tall buildings especially from the ramp up from Winston Churchill Gardens.

#### Delivery/Drop Off

The assumption that no cars will be required on or near the site by any residents does not appear to be reasonable. Even if residents can find parking spaces in an already overused parking zone, drivers delivering large or heavy parcels or furniture will not be able or willing to carry them from any of the suggested local public car parks.

Honeybourne Gate residents have paid a premium to move in here expecting to live out the last years of our lives without the usual upheaval and burdens we have dealt with in the past. The prospect of this development is now hanging over us and is causing much distress. There is also resentment and a feeling that the council and developers have disregarded the presence of a retirement complex when considering these plans. Please spare us a thought.

42 Nine Elms Road  
Longlevens  
Gloucester  
GL2 0HB

**Comments:** 7th May 2023

I oppose the proposed development on a number of grounds.

My \*\* year old mother recently purchased apartment 27 Honeybourne Gate and we were not aware of this proposed development.

The apartment looks out directly on to the proposed development site with 3 full length windows. My mother is \*\*\*\*\* and the amount of natural daylight the outlook provides was one of the main factors determining our choice. Her main living area looks directly onto the proposed site. With poor \*\*\*\*\* and needing a \*\*\*\*\* to get around good light is crucial to enable her to live safely and independently in her new apartment. The proposed development will result in a dramatic loss of light in the room she spends 95% of her day and therefore impact her life significantly.

In addition there will be sustained invasion/loss of privacy, both during any construction period and if the proposed apartment block is built.

The noise levels during any construction period will again impact her daily life for a considerable period of time at a time when she is seeking to live out her later years in peace and quiet.

The size of the proposed development seems too big for the size of plot and with an influx of so many residents it is inevitable that congestion in an already very busy area will be added to. With no proposed parking, and most households these days owning at least one car, parking in the surrounding area will become more congested. Access for delivery vehicles, etc will force vehicles to park on a very busy single carriage road causing an obstruction or park illegally on the pavement posing a risk to pedestrians and as my mother walks with a walker clear pathways are crucial.

It is unrealistic to believe none of the residents will own a vehicle and these along with additional vehicles requiring access to the site will only add to pollution in an area already recognised in the report as 'experiencing potential poor air quality'.

1 Pittville Crescent  
Cheltenham  
Gloucestershire  
GL52 2QZ

**Comments:** 21st April 2023

No objection to the proposed building, but surely the developer should provide a new staircase up to the Honeybourne Line (HL), similar to the one on the other side of the High Street. The redevelopment of this site is likely to be the only opportunity to provide that. It would prevent residents having to cross the road to access the HL, which of course is a very useful route to the station, to the leisure centre, etc. The more points of access are provided to the HL, the better used and safer it will become.



452 High Street  
Cheltenham  
GL50 3JAL

The Head of Planning  
Cheltenham Borough Council  
Municipal Offices  
Cheltenham  
GL50 1PP

4<sup>th</sup> May 2023

(By Hand)

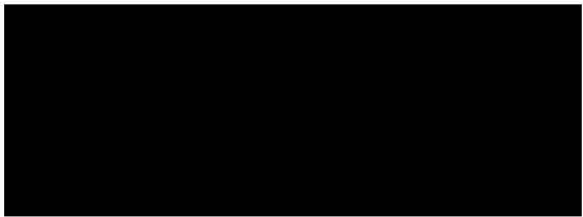
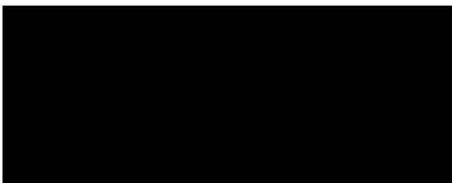
**Planning Application: 23/00625/FUL**

1. We write to totally object to the Planning application in respect of residential development involving 456 High Street, Cheltenham.
2. My wife and I own and have lived at the adjacent property 452 High Street, Cheltenham for the past 50 years. We are aged [REDACTED] years and [REDACTED] years, and both suffer from ill health and mobility problems. We live in the flat over a shop known as Walkleys Cycles. This business we operated for some 50+ years until about 8 years ago when we closed the business due to ill-health. We are both Cheltonians and have good knowledge of the vicinity.
3. The proposed development site is very small. As a consequence other potential developers in the past expressed the view that it would be extremely difficult to develop the site effectively due to access problems from the High Street. As a result it was not thought financially viable for reasonable development.
4. If permitted our concern is that the present proposed residential development would present a massive and excessive over development of the site with detrimental impact of immediate surrounding properties including 452 High Street and Honeybourne Gate.
5. Because of the height and mass of the two proposed buildings it would be inevitable that occupiers of adjacent buildings would suffer severely from the visual and overpowering impact. There would be a major loss of privacy and inevitable heavy noise and disturbance emanating from any built property.
6. The development site is within the Cheltenham Central Conservation area. The proposed excessive mass of building coupled with poor design and materials is unlikely to enhance the character and appearance the site and area warrant. The proposals simply indicate overbearing high buildings and excessive over development of a small difficult site.





7. We highlight the fact that the small site at 456 High Street, Cheltenham is located on a very busy major road carrying a heavy traffic volume. The obvious difficult site access problem that exists, coupled by the consistent heavy traffic volume, together with the nearby presence of Gloucester Road traffic light junction, presents obvious problems. It is therefore reasonable to anticipate major obstruction and traffic flow problems for long periods at the site entrance and on immediate roads including the High Street. Clearly there would also be extreme difficulty on-site for development and storage of materials.
8. The Planning application makes no provision for on-site parking for vehicles. This situation will create increased difficulty for residents parking on already over congested nearby roads. We have in mind the number of proposed apartments and bedrooms (18 and 24) and likely occupants with vehicles.
9. A further disturbing feature of the Planning proposal is the lack of space at ground floor level for the proposed 18 Apartments containing 24 bedrooms. The residents would have little ground floor amenity area for safe storage, exercise, sitting out etc. In the absence of effective management we anticipate the area would soon degenerate and present on-going social problem such as abandoned rubbish, sprawling waste bins, vermin control etc.
10. We stress that we are not nimby people! Our view is that any improvement or development of the empty 'factory site' at 456 High Street should be smaller and less intrusive. Our ideal situation would be that 456 High Street, together with 452 High Street and two other adjacent long empty, and increasingly derelict, shops be recognised by Cheltenham Borough Council as a large suitable site for providing rare opportunity to provide social housing on an acceptable scale.
11. The present planning application, if allowed, would create a traumatic situation for local residents for the various reasons outlined. The proposals indicate an inappropriate overbearing development on a small difficult site. We strongly object to the proposals for the reasons given.



- Copies:
1. Honeybourne Gate residents
  2. Miss Michelle Payne, Planning Officer
  3. Ward Councillors (Atherstone and Willingham)



Further Objection to Planning Application No. 23/00625/FUL


I live at no. 29 Honeybourne Gate which is close to the application site, and I have previously objected to planning application ref. 23/00625/FUL.

Having looked carefully at the revised plans received by the Council on 2<sup>nd</sup> October, my objections to the development still remain.

Whilst some design alterations have been made to the elevations and third floor elements of the buildings, the overall size and scale of the development remain essentially the same, and the impact of the scheme will be unacceptable overdevelopment of the site.

The Council's Heritage and Conservation Officer has submitted thorough and well-researched objections to the proposals. The applicant has not provided any design justification for the changes to the proposals in response to these objections, and the amendments in no way overcome the conclusions reached by the Heritage and Conservation Officer that the proposals will result in over-development and will have a detrimental impact on the setting of St. Mary's Cemetery Chapel which is a Grade II listed building.

The objections from the Heritage and Conservation Officer are substantive and compelling, and clearly demonstrate that this application should be refused.

  
29 Honeybourne Gate  
Cheltenham  
Glos

  
27/10/23

Apt 11 Honeybourne Gate  
2 Gloucester Road  
Cheltenham GL51 8DW

23-10-23

The Planning Office  
Cheltenham Borough Council  
Municipal Offices  
Promenade GL50 1PP

REF  
23/00625/FUL

Dear Michelle Payne

I do not agree with the planning application even though the plans have been revised. It is a very high proposed block of flats which will still present the same problems building on an overdeveloped plot of land.

The plans indicate an inappropriate overbearing development on a small difficult site.

Page 72

It will be difficult to develop the site effectively because of access problems from the High Street.

There is not enough parking space for services eg refuse lorries, deliveries, work done to the flats etc.

The air pollution will be an even bigger problem, so will the extra traffic on a very busy dangerous corner where there are daily many near accidents

Yours sincerely

[Redacted signature]

Parking

From: [REDACTED]

Date: Sat, 21 Oct 2023 09:56

To: [REDACTED]

Cc:

Bcc:

Response to Zesta's  
'Updated Transport Note: Car Parking Assessment.'

CBC application ref :23/00625/FUL

We, who are residents of Parking Zone 12, were pleased, that in response to GCC concerns about the lack of capacity in this zone. (392% more permits issued for this zone than there are parking places available - and this before the 36 permits to which this development will be entitled!) the developer has commissioned a Car Parking Survey of Zone 12. Unfortunately, it appears that their times chosen, ie. Tuesday 18.30- 19.30 and Thursday 10.30-11.30am, were not the times which would be most relevant to the needs of residents.

We, who live here permanently do not recognise the findings of this report as being what happens day in and day out.

We therefore decided to do our own research, but assumed that the most relevant time to look at the situation, was when residents would most require parking and would not want to be scouring local streets for a spare parking space, maybe on their own, in the dark and possibly in bad weather.

We therefore went out at the following times: Saturday 14 October 2023, 8.00 to 8.30am and Sunday 15th October 6.00 - 6.30am, and 21.00 - 22.00pm to take photos and other times in the week to see what the situation was.

We enclose attachment showing our findings on Sunday 15 October 21.00 - 22.00pm but have many more photos showing the problem of congested parking.

On first sight there was the odd space but on the whole, the entire area looked at was full, with many cars parked on double yellow lines. (These were not blue badge). Also cars were parked half on pavements which made moving down the road difficult and would have made it impossible for emergency vehicles.

In our view, our findings disprove Zesta's assertion that there is spare capacity for further permit parking.

In addition, we found some inaccuracies in the report :- for example

- Point,  
3 - "than there are permit zones available in Zone 1"  
6 - "Given the sites' sustainable credentials and 'the one bedroom nature of the development' - not





68 two bed and 12 one bed.

Page 76

16- "access to footpath/cycle paths". Difficult cycle access to Honeybourne Line either through park (no cycling) or carry bike up a steep flight of steps having crossed the constantly busy main road.

18 - "170 metres South....access is provided" access on to Market Street- this would be either through the non-cycling Churchill Gardens or round the busy junction of the Gloucester and Tewkesbury Roads.

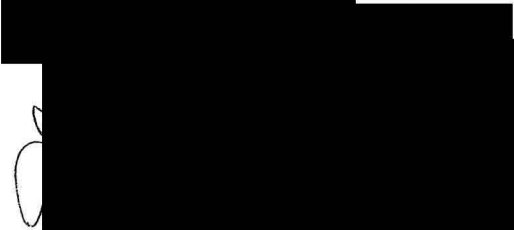
34 - "car free as on similar sites"- 449 High Street only 5 flats and not 18. ~~The garage~~ Any other schemes of this size with no parking or delivery access?

37 - These are not the 2 main time periods that are used by residents.

43 - Local car parks not suitable for delivery vehicles. No provision made for delivery vehicles on the front of the site, on a very busy main road. Any parking of delivery vans eg online food deliveries, Asda, Sainsbury and lorries ie delivery of furniture, white goods to the 18 flats would cause major hold ups back along the High Street, Poole Way and Swindon Road. Parking on the pavement outside, which would inevitably happen, would also, apart from being illegal, affect the pedestrians and mobility users locally.

44 - "the one bedroom nature of the building" ~~6~~ 2 bed and 12- 1 bed

 Apt 4, Honeybourne Gate, GL51 8DW

 Apt 47, Honeybourne Gate  
GL51 8DW

 Apt 52, Honeybourne Gate.





**RE Full planning application: 23/00625/FUL**

**Objections to Redevelopment of No. 456 High Street, Cheltenham**

Due to the close proximity of the proposed four storey buildings, the mass and scale of the development will have a significant detrimental overbearing impact on the apartments in Honeybourne Gate facing the site.

Honeybourne Gate contains one and two bed apartments occupied by older people, many of whom spend a considerable amount of time in their homes. For those residents occupying homes in Honeybourne Gate facing the application site, the proposed development will have a substantial negative impact on their well-being and quality of life as a result of its overpowering impact.

The proposed windows in the buildings, particularly at 3<sup>rd</sup> floor level, will overlook the apartments in Honeybourne Gate, and given the close proximity of the development this will have a substantial negative impact on the privacy of the apartments.

There is no on-site parking provision within the proposed development. The lack of on-site parking spaces clearly shows that the proposals constitute unacceptable over-development of this small site. There can be no certainty that residents will be able to park in nearby resident streets.

The consequence of having no facilities for visitors, deliveries etc will be that vehicles will park illegally on the footway in the Lower High Street, giving rise to unacceptable safety risks to pedestrians using a busy walking route into the town centre.

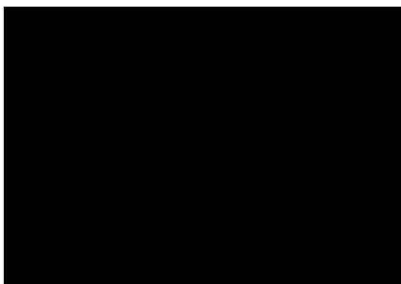
Access to Block B for larger deliveries and removals appears to be totally impractical given that the block will only benefit from a single pedestrian access which is stepped at the front of the site.

The location of the refuse / recycling bins within Block A will be highly inconvenient to the occupiers of the apartments in Block B, and inevitably rubbish will be left more conveniently in the courtyard other paved areas which will be unsightly both to residents and users of the Honeybourne Line.

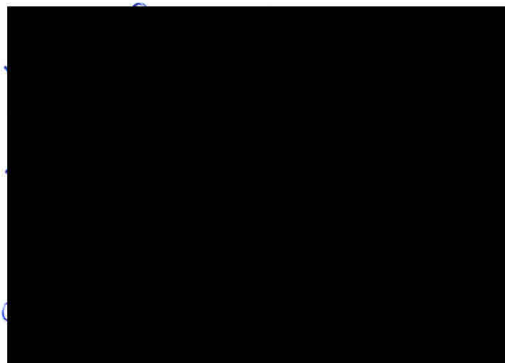
The Council's Heritage and Conservation Officer has submitted detailed and strong objections to the application on the grounds that the scale and massing of the proposal results in overdevelopment of the site which would be out of keeping with the Conservation Area, and that Block B would have a detrimental impact on the setting of the Grade II listed St. Mary's Cemetery Chapel.

I have looked at the revised plans submitted by the application which show a revised roof design at 3<sup>rd</sup> floor level and a small reduction in height. However the number of flats and the scale of the development remains essentially the same and I do not consider that the changes overcome the strong objections of the Council's Heritage and Conservation Officer.

This is unacceptable overdevelopment of the site which is insensitive to its surroundings and should be refused by the Council.



Apt 5.  
Apt 49  
Apt 41  
Apt. 3



The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data.

In the second section, the author details the various methods used to collect and analyze the data. This includes both manual data entry and the use of specialized software tools. The goal is to ensure that the data is both accurate and easy to interpret.

The third part of the document focuses on the results of the analysis. It shows that there is a clear trend in the data, which is consistent with the initial hypothesis. This finding is significant as it provides strong evidence for the proposed model.

Finally, the document concludes with a summary of the findings and a list of recommendations for future research. It suggests that further studies should be conducted to explore the underlying causes of the observed trends and to test the model under different conditions.

# Parking survey

9-10pm 15 Oct, 2023

# Overview

New Street

Devonshire St

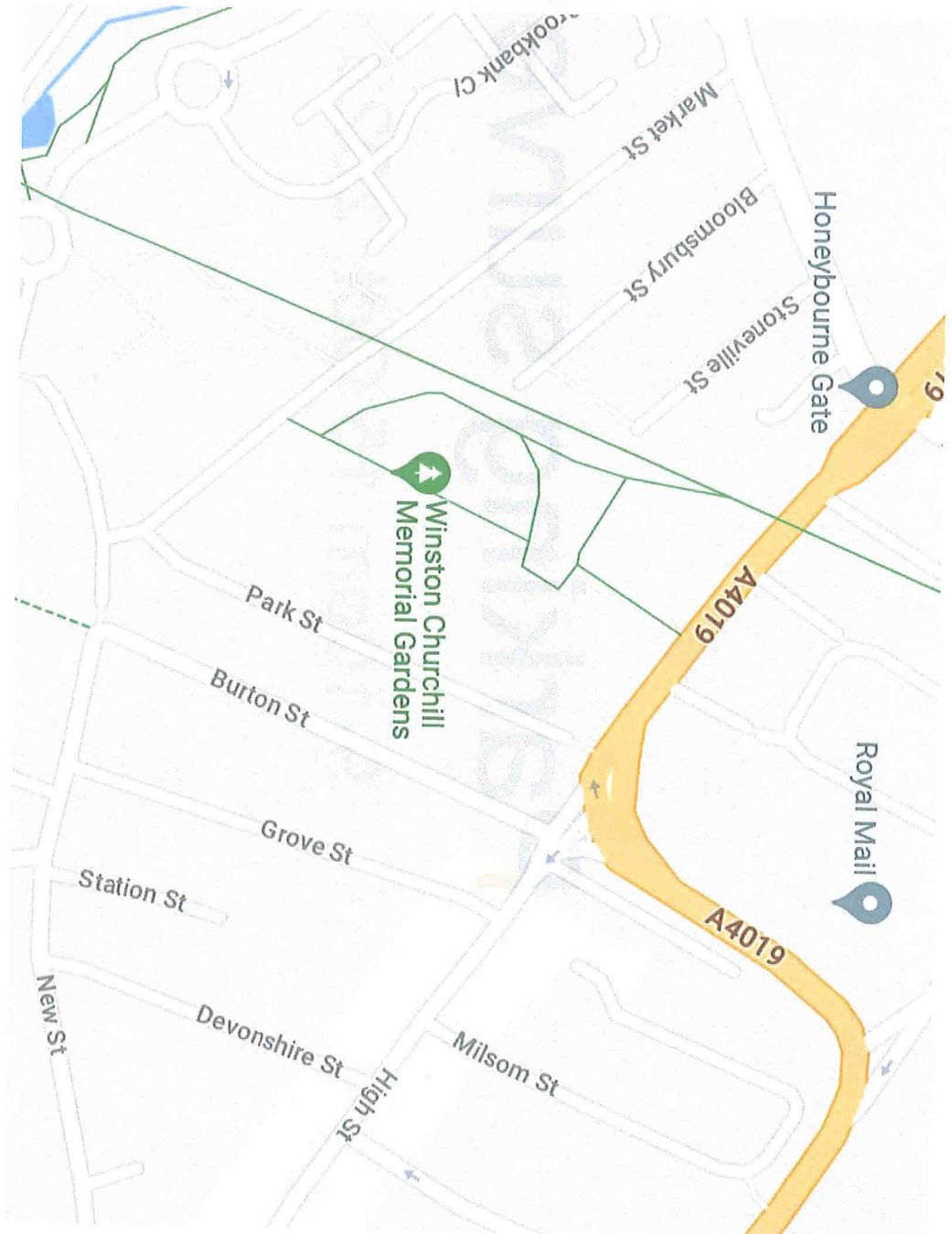
183 Burton St

Page 81  
Park St

Market St

Bloomsbury St

Stoneville St



## New St

There were no spaces on New St, although parking was very orderly and three cars were parked on double yellow lines.

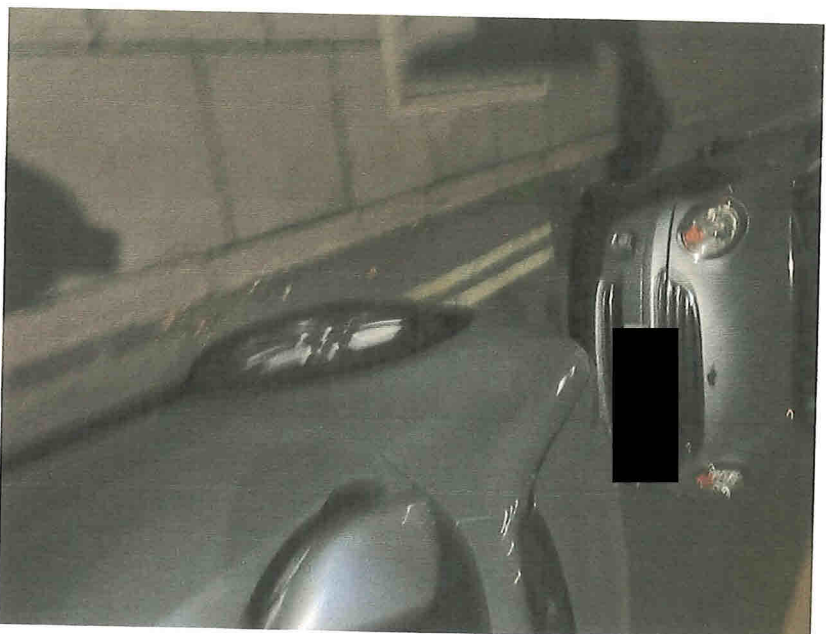
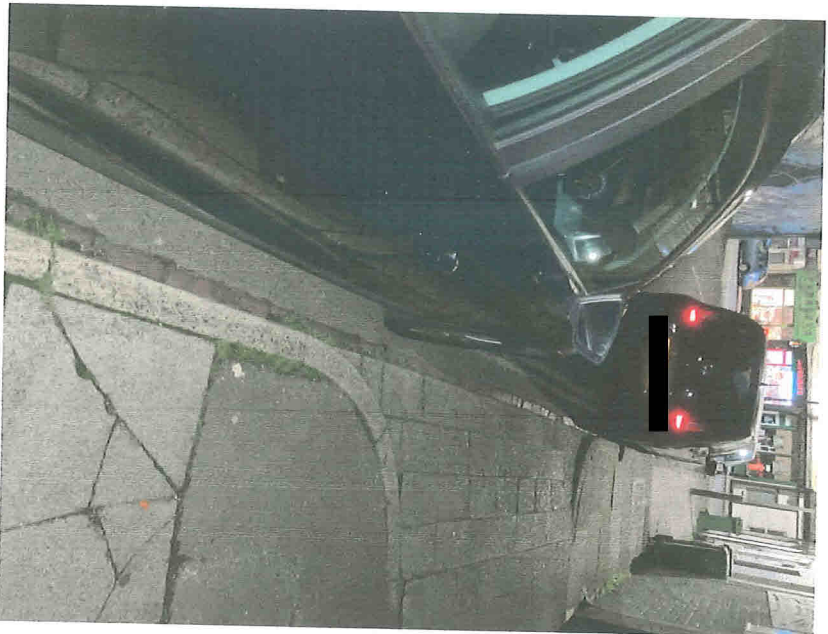




# Devonshire St

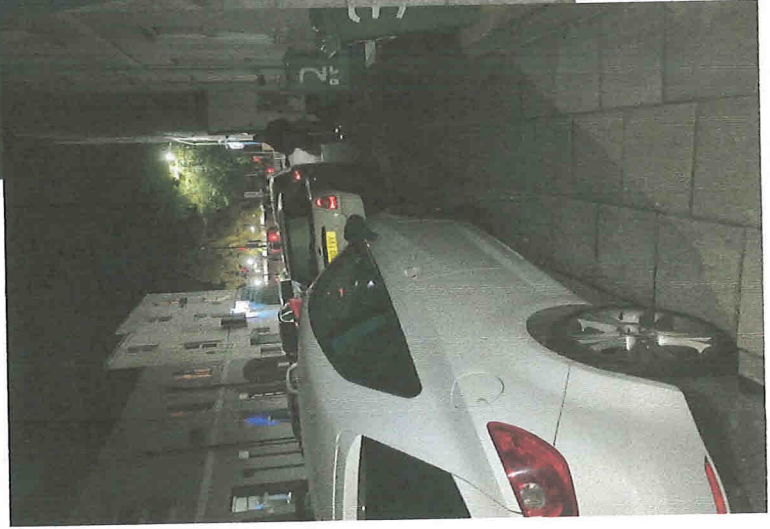
There were three spaces on Devonshire St but there were also three people parked on double yellow

Page 83  
lines.



## Burton St

There are five free spaces but this is only achieved by multiple cars parked on the pavement, since the street is too narrow for parking on both sides. Two cars parked on double yellow lines, and in one disabled space.





# Park St / Market St

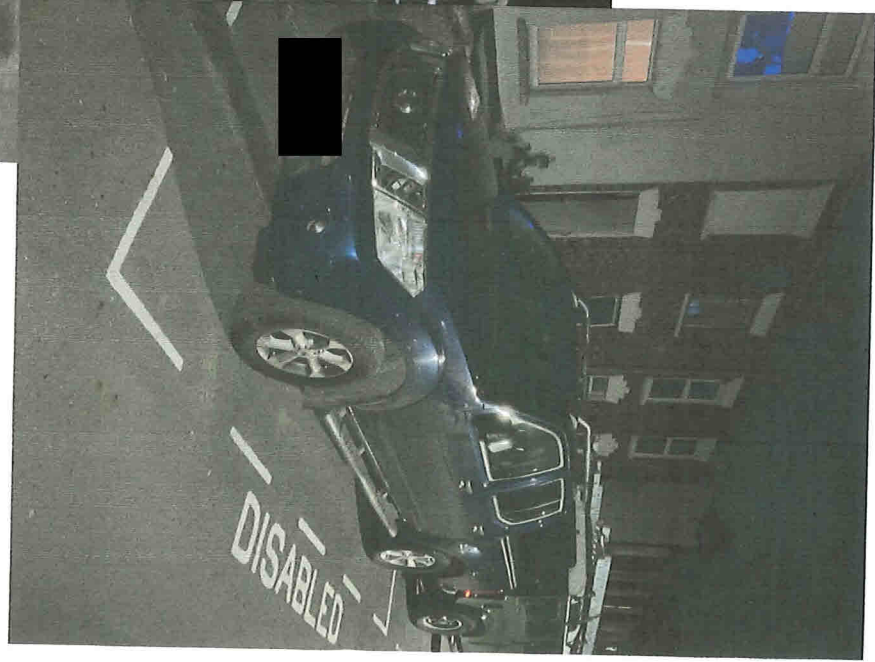
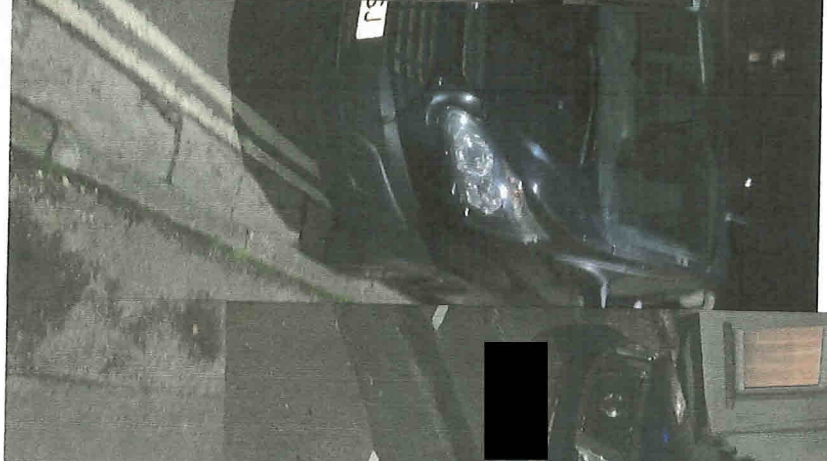
There were four spaces on Park

Street, but five cars

were on double yellow

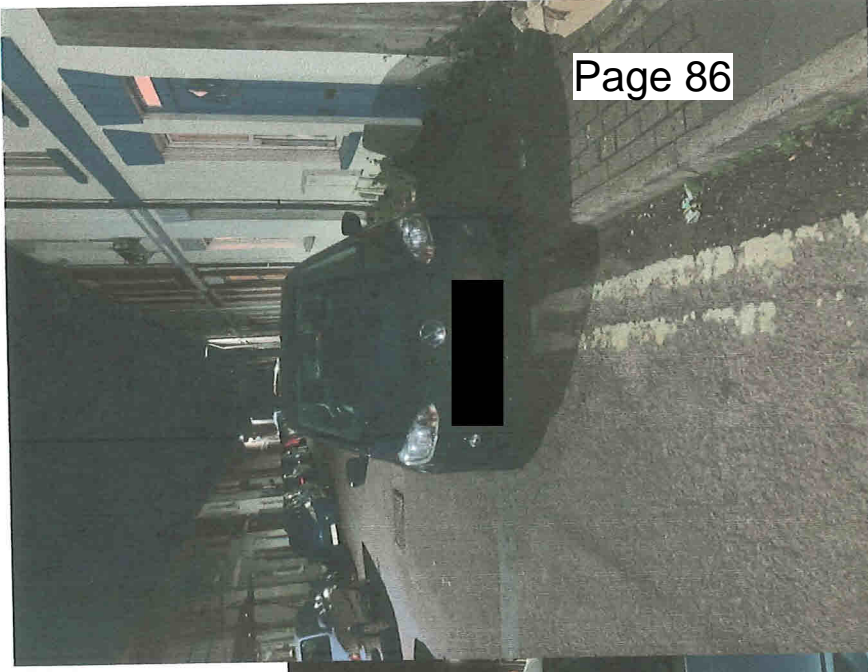
lines.

Market Street had no free spaces, and both disabled spaces were blocked by trucks with no badges.



## Bloomsbury St

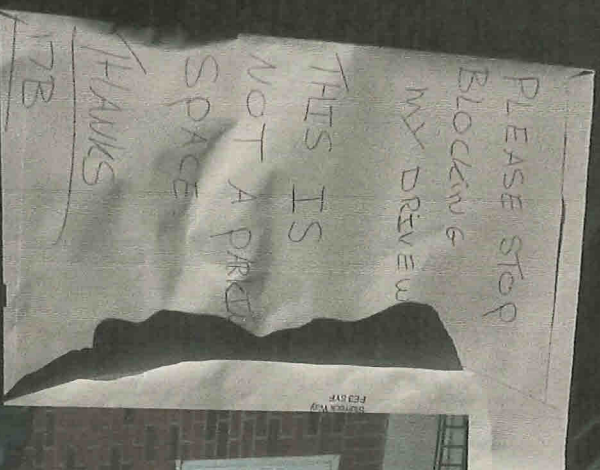
There were four free parking spaces on Bloomsbury Street, but only because almost half of the cars parked on pavements making it impossible for people with buggies or in wheelchairs to pass.



# Stoneville St

There were no free spaces on Stoneville Street, and many cars were parked in front of garages with cones or No Parking signs displayed. One van was parked blocking a driveway, and bore a note on the windshield to that effect.

Please stop blocking my drive



This is not a parking space

Thanks

17B





## Summary

Dozens more photos like these.

Lots of illegal parking - on double yellow lines, in disabled bays with no disabled badge - and inconsiderate parking - on the pavement, blocking driveways.

Much more illegal and inconsiderate parking than spare spaces (of which there were only a small handful)

**How much worse would it be with additional high density housing with no parking?**



The Planning Offices  
Cheltenham Page 90 Council  
PO Box 12  
Municipal Offices  
Promenade Cheltenham  
Glos GL50 1PP

Apt 41  
Honeybourne Gate  
2 Gloucester Rd  
Cheltenham  
GL51 8DW  
22-4-'23

REF 23/00625/FUL

Dear Michelle Payne

I strongly object to the planning application made for the redevelopment of an old factory to provide a residential development of 18 apartments in an already overcrowded corner of High St. Parking is very limited and Gloucester Rd / Tewkesbury Rd / High St have constant traffic and jams everyday with queues of cars and many huge lorries. It is not safe as it is.

Another large building is only going to add to the problems and frustration.


There are so many near misses.

Most people moving into their flats will own cars and there will be constant delivery vans, tradesmen etc. servicing the flats which is only going to increase the already dangerous congestion.

I hope when you are planning the building that due consideration will be made to the impact on the local community.

As I am on the third floor and the plans are for four floors, it will inevitably take some of my light.

Yours sincerely



Supporting photographs from Apartment 52 Honeybourne Gate comment:



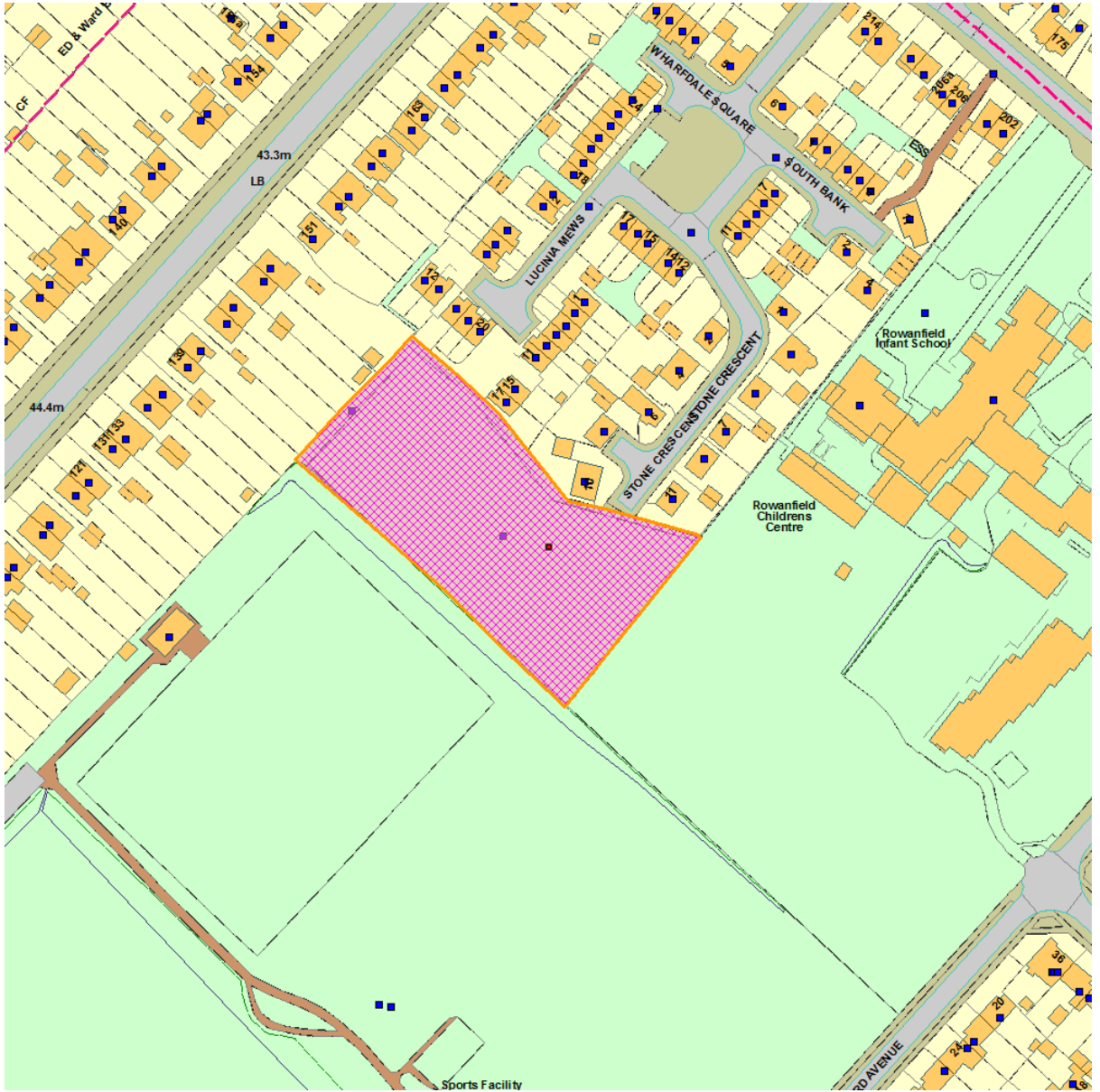




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<b>APPLICATION NO:</b> 23/01545/CONDIT	<b>OFFICER:</b> Mr Ben Warren
<b>DATE REGISTERED:</b> 15th September 2023	<b>DATE OF EXPIRY:</b> 15th December 2023
<b>DATE VALIDATED:</b> 15th September 2023	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> St Marks	<b>PARISH:</b>
<b>APPLICANT:</b>	New Dawn Homes Ltd
<b>AGENT:</b>	
<b>LOCATION:</b>	Playing Field Adj 10 Stone Crescent Cheltenham
<b>PROPOSAL:</b>	Variation of condition 2 (approved plans) - site layout changes, addition of solar panels to all house types, 3.no A house types replaced with 3no C house types, increase in ground floor plan of F house types and removal of affordable housing provision of planning permission 18/02215/FUL.

**RECOMMENDATION:** Permit subject to a 106 Obligations



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to a parcel of land located adjacent to the existing residential development known as Stone Crescent. The application site is within the Principle Urban Area (PUA) and is an allocated site under policy HD5 of the Cheltenham Plan.
- 1.2 Planning permission was granted in 2018 (ref: 18/02215/FUL) for the construction of 13 dwellings and associated ancillary works, the site is accessed via the existing Stone Crescent development. The 2018 permission is extant as works had already commenced on site prior to the expiration of the permission. This is confirmed and documented by the Council's Compliance Team.
- 1.3 More recently, planning permission has been granted for a further 6 dwellings (ref: 22/01891/FUL) on land in the south-eastern section of the site. The total number of permitted dwellings across the whole development site is therefore 21.
- 1.4 The applicant is now seeking permission to vary condition 2 of the approved plans for 18/02215/FUL to allow for some minor site layout changes, the addition of solar panels to all house types, a change in 3no. house types, a change in ground floor plan for house type 'F'. The applicant is also seeking to remove the provision of affordable housing required by the existing S.106 agreement for 18/02215/FUL.
- 1.5 The original 2018 application was determined at planning committee, given that this application is seeking to remove the affordable housing provision which would have been a material consideration in determining that application, in the interests of transparency, officers consider it necessary that this application is also determined at planning committee.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Land Allocated for Housing  
Airport safeguarding over 15m  
Landfill Sites region  
Principal Urban Area

### Relevant Planning History:

**18/01932/PREAPP 30th October 2018 CLO**

Construction of 13 new dwellings and associated road and sewers

**17/02460/FUL 22nd June 2018 REF**

Erection of 13no. dwellings with associated road and sewers

**18/01661/FUL 1st November 2018 WDN**

Erection of 18no. dwellings with associated road and sewers

**18/02215/FUL 21st December 2018 OBL106**

Construction of 13 dwellings and ancillary works

**21/00399/DISCON 29th June 2021 DISCHA**

Discharge of conditions 3 (materials), 7 (Drainage), 9 (Suds), 10 (Tree Protection plan), 12 (Hard and soft landscaping) of planning permission 18/02215/FUL

**22/01891/FUL 18th August 2023 PER**

Construction of 6 semi-detached dwellings

**23/01478/DISCON 9th October 2023 DISCHA**

Discharge of condition 3 (Construction Management Plan) of granted permission 22/01891/FUL.

### **3. POLICIES AND GUIDANCE**

#### **National Planning Policy Framework**

Section 2 Achieving sustainable development

Section 3 Plan-making

Section 4 Decision-making

Section 5 Delivering a sufficient supply of homes

Section 8 Promoting healthy and safe communities

Section 9 Promoting sustainable transport

Section 11 Making effective use of land

Section 12 Achieving well-designed places

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

#### **Adopted Cheltenham Plan Policies**

D1 Design

SL1 Safe and Sustainable Living

GI2 Protection and replacement of trees

GI3 Trees and Development

H1 Land Allocated for Housing Development

HD5 Land at Stone Crescent

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

SP1 The Need for New Development

SP2 Distribution of New Development

SD3 Sustainable Design and Construction

SD4 Design Requirements

SD9 Biodiversity and Geodiversity

SD10 Residential Development

SD11 Housing Mix and Standards

SD12 Affordable Housing

INF1 Transport Network

INF2 Flood Risk Management

INF3 Green Infrastructure

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

Development on garden land and infill sites in Cheltenham (2009)

Climate Change (2022)

### **4. CONSULTATIONS**

A full list of the consultation responses can be read in Appendix 1 at the end of this report.

### **5. PUBLICITY AND REPRESENTATIONS**

5.1 Letters were sent to 25 neighbouring land users and 3 site notices were displayed in the adjacent housing estate at Stone Crescent. In response to this consultation process one letter of objection has been received, the concerns have been summarised but are not limited to the following:

- Provision of a footpath link and concerns around crime and safety
- Loss of affordable housing provision

- Copies of comments and objections raised in previous letters of objections to the earlier applications on the site.

## 6. OFFICER COMMENTS

### 6.1 **Determining Issues**

6.2 As noted in the introduction, planning permission has already been granted for the erection of 13 dwellings on this site under ref: 18/02215/FUL and the permission is extant.

6.3 Under section 73 of the Town and Country Planning Act 1990 an applicant can seek amendments to a previously approved scheme and allows for conditions of a previous permission to be amended or omitted. If approved, a section 73 application results in a new planning permission which would sit alongside the original permission.

6.4 This application seeks consent to vary condition 2 (the approved plans) of application ref:18/02215/FUL to enable a number of site layout changes and changes in house types. The applicant is also seeking consent to remove the provision of affordable housing which is required and secured by the existing S.106 agreement for the consented scheme.

6.5 The principle of development, general site layout, number of dwellings, scale, form, design of dwellings, materials, landscaping, access and parking, impact on amenity and drainage has already been considered and approved under the extant permission. As such, only matters that are material to the proposed changes are for consideration in this current application. Matters of principle, number of dwellings, scale, form and design, materials, access and drainage remain acceptable and are not considerations of this application.

### 6.6 **Proposed site layout changes and amendment to house types**

6.7 The proposed changes in this application require consideration in terms of site layout, form and design, and impact on neighbouring amenity.

6.8 In summary the proposed changes include:

- Change in house types for plot 2, 3 & 4. (Change from 2 bedroom to 3 bedroom dwellings)
- Increased parking provision for plots 2, 3 & 4
- Change in garage location and parking provision for plots 7 & 8
- Change in garage roof form for plot 9
- Addition of single storey extension to plot 11 & 12
- Change in position and garage for plot 12
- Change in house type for plot 12 A
- Change in garage size and parking layout for plot 12 A to enable future pedestrian link to playing field

6.9 The proposed change in house types for plot 2, 3 & 4 will match other previously approved house types in the consented scheme. The scale, form and design of these dwellings is appropriate and acceptable.

- 6.10 The amendments to the parking provision and garage positions across the site are considered to be acceptable in terms of site layout, and no concerns have been raised by Gloucestershire Highways in terms of parking provision and access.
- 6.11 The small ground floor additions to plot 11 and 12 are acceptable in terms of scale, form and design, the dwellings will still sit comfortably within their plots.
- 6.12 The proposed site layout changes and house type amendments all require associated amendments to the landscaping areas, these changes are also acceptable and appropriate landscaping provision is provided.
- 6.13 The proposed site layout changes and changes in house types do not give rise to any increased impact on neighbouring amenity in terms of a loss of light, loss of outlook, overbearing impact or loss of privacy.
- 6.14 **Future pedestrian link**
- 6.15 The proposed site layout changes also make provision for a potential pedestrian link between the new development and the King George V playing field, which lies to the south of the application site.
- 6.16 During the most recently consented application for the additional 6 dwellings (ref: 22/01891/FUL) Councillor Pinegar and Councillor Horwood raised concerns about pedestrian connectivity for the new dwellings and requested the introduction of a pedestrian link. Whilst this was not fully possible within that previous scheme, amendments were made to the site layout to help facilitate this. The next stage of the process to enable the provision of a future link was for the developer to submit amendments to the site layout for the earlier consented scheme, which is what is now being proposed.
- 6.17 The proposed site layout changes now allow for the provision of a potential future link at the side of plot 12 A to allow for connections between the existing dwellings in Stone Crescent, the new dwellings that will be built as part of these permissions and the King George V playing field.
- 6.18 With respect to this future link, the local ward councillors have differing opinions, Councillor Holiday raises concerns and objects to this link, the concerns relate to potential crime, anti-social behaviour and the potential for increased parking pressure in the estate by users of the playing field. Whereas, Councillor Pinegar supports this provision, stating that the link would benefit residents of Stone Crescent, will increase connectivity and improve the sustainability of the development, meeting the aims and objectives of Cheltenham's Climate Change SPD.
- 6.19 Gloucestershire County Council's Crime Prevention officer has been consulted on this application and raises concerns with the introduction of a link, their comments can be read in full in the appendix at the end of this report. A concern about crime and safety has also been raised in the local letter of objection received.
- 6.20 Officers duly note the comments and concerns around the introduction of this link, however, it is important to note that the proposed changes within this application do not fully facilitate a link, but instead makes provision for a future link. The reason being is that further works on land outside of the site boundary would be necessary in order to formalise a connection. The land level of the application site and playing field is significantly different, as such, a number of engineering works would be required in order to fully and properly create a safe and accessible link between the site and the playing field. The full connection of these spaces would be the subject of a future application for necessary works on the playing field side of the boundary, which would most likely be the



responsibility of the council. Councillor Pinegar and Councillor Horwood are fully aware of the further commitment that would be necessary.

6.21 Given that the changes within this application do not facilitate a formal link or connection, but instead provide scope for a possible future link, officers are satisfied that the development would not give rise to any increased risk of crime or anti-social behaviour. Officers consider that these matters would be dealt with at a time when an application is submitted for the further works required to facilitate the link.

### 6.22 Affordable housing provision

6.23 JCS policy SD12 requires the provision of a minimum of 40% affordable housing for sites of 11 dwellings or more. The permitted and extant scheme (18/02215/FUL) was approved with a policy compliant affordable housing provision, which amounted to a total of 5 units. This provision was secured by a S.106 agreement.

6.24 In this application, the applicant is seeking to remove the affordable housing provision for the development due to the viability of the project. As required by JCS policy SD12 a viability statement is necessary, has been provided and is publicly available to view on the Council's website. The council appointed the District Valuer Services (DVS) to independently appraise the submission and to provide their conclusions on the scheme. The DVS report is also publicly available to view on the Council's website.

6.25 The DVS have concluded that the development would not be viable when taking in to account the required affordable housing provision. This has been assessed in both scenarios, ie the 13 dwellings in isolation, and in respect of the additional 6 houses also now permitted, totalling 19 dwellings. In both scenarios the DVS have confirmed the development to not be viable when providing affordable housing.

6.26 Whilst it is disappointing to be revisiting affordable housing provision on a consented and extant scheme, JCS policy SD12 includes provision to challenge the affordable housing provision on a scheme, as long as an appropriate viability assessment has been submitted and independently reviewed. This process has been undertaken in accordance with policy. Given the conclusions of the DVS, in this instance it is not considered possible to secure affordable housing provision for this site.

6.27 The DVS have however recommended that a 'late stage review' clause is applied. This would allow for the viability of the project to be re-assessed at a later stage, and if applicable, an appropriate provision secured. Officers consider this to be an acceptable and reasonable approach to take. As such, the recommendation will be subject to a S.106 agreement which requires a 'late stage review' to be undertaken.

### 6.28 Education

6.29 The permitted and extant scheme (18/02215/FUL) was permitted subject to a contribution towards education, required by Gloucestershire County Council (GCC). The contribution was secured by its own S.106 agreement. GCC have confirmed that the proposed changes within this current application do not trigger a change to the required contribution, as such the contribution remains the same. The original S.106 agreement did not however include a Section 73 clause which would enable this S.106 agreement to be carried over to a new permission, as such it is necessary for a new S.106 agreement to be drawn up.

6.30 As such, the officer recommendation is subject to the relevant S.106 agreement being in place to secure the contribution.

### 6.31 **Climate Change and Sustainability**

6.32 Since the extant scheme in 2018 was approved, Cheltenham has adopted a new Supplementary Planning Document – Cheltenham Climate Change (adopted June 2022) which is therefore relevant to the considerations of this application. This SPD sets out a strategy for how buildings should respond to the climate change and biodiversity crisis and sets out how applicants can successfully integrate a best practice approach towards climate and biodiversity in their development proposals.

6.33 As part of the proposed changes to the approved scheme, the applicant is now seeking to install solar panels on all of the dwellings, this is a significant enhancement to the sustainability credentials of the approved scheme which did not include such technologies. Given the fall-back position of the extant scheme, the provision of solar panels on each dwelling is a welcomed introduction to the scheme. Solar panels in combination with the requirement to install EV charging points is considered to suitably address the SPD and provides an acceptable response to sustainability and climate change.

### 6.34 **Impact on Beechwood’s Special Area of Conservation (SAC)**

6.35 The site is within a zone of influence as set out in the Cotswold Beechwoods SAC Recreation Mitigation Strategy (May 2022) for recreational pressure for the Cotswold Beechwoods SAC, which is afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended).

6.36 Cheltenham plan policy BG1 states that development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site Network and the effects cannot be mitigated. All development within the Borough that leads to a net increase in dwellings will be required to mitigate any adverse effects. Without appropriate mitigation, the proposed development is likely to have a significant effect on the Cotswold Beechwoods SAC (either alone or in combination with other development) through increased recreational pressure.

6.37 Officers acknowledge that the development would result in a net increase in dwellings which would normally require mitigation. However, as already discussed, there is planning permission on the site for 13 dwellings, which has been commenced and is therefore extant. As such, this existing application could be fully implemented at any time.

6.38 As the amendments being sought within this current application do not include any further increase in the number of dwellings from that already approved, there will be no increased pressure on the Beechwoods SAC beyond that already approved. As such, in this instance, officers do not consider it necessary or reasonable to secure a financial contribution as mitigation.

### 6.39 **Bio-Diversity Net Gain**

6.40 As of 12<sup>th</sup> February 2024, all major developments require a mandatory 10% requirement for Bio-diversity Net Gain. Whilst this application is major development, the application was submitted well before the BNG requirement came into effect and is therefore exempt.

### 6.41 **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 The council cannot currently demonstrate a 5 year housing land supply and therefore there is a presumption in favour of sustainable development, as required by paragraph 11 of the NPPF. However, this presumption in favour of sustainable development, is caveated at part d)i) and ii) where it sets out that permission should be granted unless:
- i) The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing development proposed;
- or
- ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework.
- 7.2 The application site forms part of an allocated housing site (Cheltenham Plan policy HD5), as such the principle of development has to be considered as acceptable.
- 7.3 Whilst it is regrettable that affordable housing provision cannot be achieved on this scheme, officers are satisfied that the appropriate viability testing has been undertaken and therefore provision is not necessary in order to grant planning permission. However, as discussed, a late stage review clause is considered reasonable to allow for this position be re-assessed at a later date.
- 7.4 In terms of the test required by NPPF Paragraph 11 d), in this instance, no protected areas or assets of particular importance have been identified for this development, as such, no clear reason for refusing the development has been identified. Furthermore, officers do not consider that the development would result in any adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme, which includes the addition of 13 much needed residential units to Cheltenham’s housing stock, as well as the associated economic benefits associated with the construction stages of development.
- 7.5 Having considered all of the above, officers consider the scheme to be acceptable and compliant with local and national planning policy. As such, officer recommendation is to grant planning permission, subject to the conditions set out below. As already mentioned the recommendation is also subject to relevant S.106 agreements, one for Education contributions and one in relation to the late stage review for viability.
- 7.6 With regards to conditions, in the main these have been copied across from the extant permission but have been updated where necessary. One new condition has been suggested (condition 11) which requires the installation of the solar panels.

**8. CONDITIONS / INFORMATIVES**

- 1 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of the decision notice issued in respect of planning application ref. 18/02215/FUL, unless amended by the approved plans listed in Schedule 1 of this decision notice.

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

- 2 No external facing or roofing materials shall be applied unless in accordance with details previously approved under ref: 21/00399/DISCON.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017).

- 3 The buildings hereby permitted shall not be occupied until the layout, vehicular parking and turning facilities have been provided in accordance with the approved drawings and those facilities shall be maintained available for those purposes thereafter.

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).

- 4 Throughout the construction period of the development hereby permitted, provision shall be within the site that is sufficient to accommodate the likely demand generated for the following: i. parking of vehicles of site operatives and visitors; ii. loading and unloading of plant and materials; iii. storage of plant and materials used in constructing the development; iv. provide for wheel washing facilities.

Reason: To minimise disruption on the public highway and to adjacent land users, and accommodate the efficient delivery of goods and supplies during the course of the construction works, having regard to adopted policy INF1 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable highway impact during construction.

- 5 Prior to the occupation of the first dwelling, the drainage strategy approved under ref: 21/00399/DISCON for the disposal of foul and surface water flows shall be implemented.

Reason: To ensure sustainable drainage of the development, having regard to adopted policy INF2 of the Joint Core Strategy (2017).

- 6 All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 0800 Hours and 1800 Hours on Mondays to Fridays and 0800 and 1300 Hours on Saturdays and; at no time on Sundays and Bank Holidays.

Reason: To ensure that the living conditions of neighbouring residents are not unduly affected by the development pursuant to the guidance contained within JCS policy SD14 and the National Planning Policy Framework.

- 7 No dwellings hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with the details approved under ref: 21/00399/DISCON.

Reason: To ensure sustainable drainage of the development, having regard to adopted policy INF2 of the Joint Core Strategy (2017).

- 8 The development hereby permitted shall not be carried out unless in accordance with the Tree Protection Plan (TPP) details approved under ref: 21/00399/DISCON. The protective measures specified within the TPP shall remain in place until the completion of the construction process.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020).

- 9 All service runs shall fall outside the tree Root Protection Area(s) shown on the approved drawings, unless otherwise first agreed in writing by the Local Planning Authority. Any such works shall be carried out in accordance with the National Joint Utilities Group; Volume 4 (2007) (or any standard that reproduces or replaces this standard).

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020).

- 10 All landscaping works shall be carried out in accordance with the approved drawing number 124-20\_E prior to first occupation of any part 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 character and appearance of the area, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017).

- 11 No dwelling shall be occupied until solar panels have been installed on the dwelling, in accordance with the approved plans. The solar panels shall be retained as such thereafter.

Reason: In the interests of sustainable development, having regard to policy SD3 of the Joint Core Strategy (2017), Cheltenham's Climate Change Supplementary Planning Document and section 14 of the National Planning Policy Framework (2021).

### **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.

### **Appendix 1 – Consultation responses**

#### **Ward Councillors - 24th October 2023**

I would like to make a further objection to this application, and am happy for these comments to be published on PublicAccess.

The submitted viability assessment has used the wrong methodology for calculating the viability of the development. It has only taken into account the thirteen (13) proposed dwellings associated with 18/02215/FUL, and not the full quantum of development on the site. This methodology is specifically contrary to paragraph two of policy SD12 of the Joint Core Strategy, which states "Where a development site has been divided into parts, or is being delivered in phases, the site will be considered as a whole for the purpose of determining the appropriate affordable housing requirement." Given that on page seven of their submission S106 Management quoted from paragraph one of the same JCS document, this wrong selection of methodology seems highly unlikely to have been an accidental omission.

In terms of the land values, some of the figures used are demonstrably not representative, which would suggest they have been used to artificially drag down the values derived when calculating the arithmetic mean property values per unit area. Examples of this include:  
Page 15: 7 Russett Road - because the property needed full renovations.  
Page 16: 4 Essex Avenue - too far away from development site to be a fair comparison.  
Page 17: 7 Bramley Road & 18 Cornwall Avenue - because the properties need modernisation.  
Page 18: Arle Drive - again because modernisation of the property is needed.

Since these proposed dwellings are new build, it is clearly disingenuous to use local house prices that include houses that are in need to renovation or modernisation when trying to calculate the arithmetic mean house price per unit area for the proposed development. There is also a question about whether the methodology of summing the total sale price and summing the total property area and using this to calculate the cost per unit area is representative, or whether it would be more appropriate to take the cost per unit area calculated for each property and then divide this by the number of properties. The document does not make the methodology used clear, and the methodology used results in a lower average cost per unit area, suggesting it unfairly advantages the applicant.

On page 26 of the document, it is suggested, without the presentation of any supporting evidence, that the marketing costs are 3% of the cost price + £1,000. However, an online search finds Checkatrade suggesting that the costs are more likely to be 1.18% of the cost price + £1,000 fixed fees + £67.50 for EPC fees. This suggests that the marketing costs could have been exaggerated by just over £100,000. Again, this suggests an unfair advantage in favour of the applicant.

Since limited scrutiny of the supplied document has found examples indicative of costs being inflated and income being underrepresented, it is not unreasonable to conclude that the document does not stand up to scrutiny and cannot be adduced to demonstrate the claim that the development is not viable unless the affordable housing provision is removed.

In light of this non-compliance with the assessment policy, the use of unrepresentative house sale prices to bring down the average price per unit area, and the lack of evidence about the costs of the development, this assessment document must be rejected as flawed.

Consequently, I believe this application must be refused, or that better evidence to back up the values and costs must be supplied to allow proper scrutiny of the proposal. If further evidence is supplied, then I believe it must be thoroughly and independently tested by the Council to ensure that every figure is clearly evidenced and neither artificially inflates costs, nor diminishes income. It is the Council's social responsibility to ensure the testing of these figures is robust to ensure that the duty to provide much-needed affordable housing cannot be avoided via the presentation of unverified figures stacked in favour of the applicant.

*3rd October 2023* - In my role as County Councillor for the Division in which the application site is located, I wish to formally object to this planning application based upon either the applicant's failure to submit documents related to the viability assessment, or the borough council's failure to publish them. This being in relation to the removal of the affordable housing provision of planning application 18/02215/FUL.

The grounds for this objection are based on Policy SD12: Affordable Housing, of the Joint Core Strategy, which states at paragraphs eight and nine (emphasis mine):

"Viability

8. Where there is an issue relating to the viability of development that impacts on delivery of the full affordable housing requirement, developers should consider:

- i. Varying the housing mix and design of the scheme in order to reduce costs whilst having regard to the requirements of other policies in the plan, particularly Policy SD4, and the objective of creating a balanced housing market;
- ii. Securing public subsidy or other commuted sums to assist delivery of affordable housing;

9. If a development cannot deliver the full affordable housing requirement, a viability assessment, conforming to an agreed methodology, in accordance with Policy INF7 will be required. Viability assessments will be published in full prior to determination for all non-policy compliant schemes except in exceptional circumstances when it can be proven that publication of certain specific information would harm the commercial confidentiality of the developer to no public benefit. Where necessary the JCS authorities will arrange for them to be independently appraised at the expense of the applicant

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

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

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

The documents currently on PublicAccess associated with the application do not contain any viability assessment to allow wider scrutiny of the affordable housing provision that it has been requested to removed. I therefore conclude the council would be acting ultra vires if the application were to be determined without the publication of the viability report, as the publication of said viability report is overwhelmingly indicated by policy SD12, and no evidence of harm to rebut the presumption of publication has been presented by either the applicant or the borough council.

## Page 108

I note that the Housing Enabling Officer report details a DVS viability assessment dated 10/07/2023 in relation to scheme 22/01891/FUL, and this viability assessment was also not published on the website with that application. This further suggests that neither the public nor the planning committee were furnished with all material documents prior to determination of that planning application, and that application was unlawfully determined and should be set aside, because contrary to its own adopted policy SD12, the viability documents were not made public.

Given the shortage of housing, including affordable housing, if developers are not going to provide any affordable housing as part of a development, then as per policy SD12, the public should have the right to scrutinise the associated viability documents to ensure they are a true and accurate reflection of the situation. In light of this representation, I trust that the viability assessment documents will be published and the consultation process restarted so that the proposal can be reappraised based upon full disclosure of material planning documentation.

Cllr Dr David Willingham

Lib Dem Councillor for St Mark's and St Peter's division

### **Building Control - 18th September 2023**

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

### **Ward Councillors - 17th October 2023**

I wish to register a strong objection to this proposal. I have been ward councillor for this area since this estate was built and have during the course of this time dealt with many anti-social issues.

I feel quite strongly that the proposal for a path from Stone Crescent will affect not just the residents of the Crescent but also many residents who live on the estate and nearby. In this regard although a consultation has been mentioned, as a ward councillor I am unaware of the level of consultation and who has been consulted.

I have also been involved in complaints about motor bikes etc driving around KGV at speed and this will provide a further escape route out of the field in addition to the existing entrances in Brooklyn Road and Bedford Avenue.

It is also of concern that to permit this access will undoubtedly lead to further increased vehicular parking within the estate as a means to enter King George V Playing Field.

Parking is already an issue around the Bedford Avenue entrance, especially at weekends when the sports teams are using the field and when Parkrun is taking place.

The approximate distance from the Alstone Lane entrance to Wharfdale Square to the main entrance of King George Playing Field in Brooklyn Road is 0.469 miles and with an average walking speed this will take around 8- 10 mins. The distance from the Alstone Lane entrance to Wharfdale Square to the Bedford Avenue entrance to King George V Playing Field is 0.281 miles and at an average walking speed will take around 4-6 minutes.

I believe that this additional access is unnecessary, is superfluous to requirements and will undoubtedly lead to an increase in traffic and anti-social behaviour.

I would urge committee to support the residents of this estate and to refuse this application.

### **GCC Highways Planning Liaison Officer - 9th October 2023**

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 has no objection to the variation of condition 2.

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that



there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained. The Highway Authority therefore submits a response of no objection.

### **Social Housing - 26th September 2023**

Letter available to view in documents tab.

### **Crime Prevention Design Advisor - 11th October 2023 –**

In my capacity as Designing out Crime Officer (DOCO) for Gloucestershire Constabulary I would like to object to the proposed changes of the planning application at the end of Stone Crescent with reference number 23/01545/CONDIT.

At present Stone Crescent is a cul-de-sac which was fenced off from the neighbouring public open space, despite this local residents have contact the Constabulary over the years complaining of adults and children trying to gain access to the park; some of these have included attempts to climbing the garden walls.

Providing a dedicated path into the park will encourage a greater flow of pedestrian and cycle traffic, this in turn will reduce the security of the surrounding properties and increase the amount of anti-social behaviour reports.

Since January 2018, Gloucestershire Constabulary have received 193 calls relating to King George V Playing Field. These incidents relate to assault, criminal damage, arson, drug use and anti-social behaviour.

In the last 5 years, 47 incidents have been reported relating to motorcycles racing around the field. With similar incidents being reported by the residents of Bedford Avenue and Buckingham Avenue as both roads have direct access to this public open space.

Considering the level of issues already affecting the surrounding area and neighbouring streets, it is felt the inclusion of another footpath will enable these problems to spread and directly affect another residential area.

### **Ward Councillors - 27th October 2023**

I am a borough councillor, Chair of Friends of KGV Playing Field, and Non-Exec Director of Cheltenham Borough Homes. I've been working with residents, the Friends group, planning officers and the cabinet member for planning to improve the plans, particularly traffic considerations, and sustainability measures. I fully support these plans and would like them to be approved.

As a borough councillor I am pleased that New Dawn Homes have added the footpath and solar panels to the plans in good faith to support this council's sustainability goals and the Cheltenham Climate Change Supplementary Planning Document (SPD), approved by this council in June 2022. In the Transport and travel section, the SPD encourages active travel for saving energy and carbon, improving local air quality, health and wellbeing, being more active, and a greater potential for social interactions. Unfortunately, the electricity network is not sufficient to support heat pumps.

I'd like to thank New Dawn Homes for working with myself and the cabinet member to incorporate a new 3-metre wide path to the park with good visibility from Stone Crescent. The new path to the park, should encourage families who are keen on parks and active travel to settle in Stone Crescent, and over time, displace car-dependent residents, mitigating or even reducing the traffic through Wharfdale Square.

As Chair of Friends of KGV Playing Field, and on behalf of the Friends group, I can confirm that we have minuted, unanimous support for the path between KGV and Stone Crescent

for local residents. We believe that the park should be accessible to the whole community like the parks described in the Green Flag standard which we may one day achieve.

As a Non-Exec Director of Cheltenham Borough Homes, I regret that new builds in this area of town are currently unlikely to provide S106 or affordable housing. However, I know that we need housing of all types, whether affordable or not. To me, the viability assessment looks sound, the costs look realistic and in my judgement, the estimated sale prices could even look a little on the high side for the area.

In the current economic climate, I believe that our future residents will be lucky if these houses get built at all, with or without affordable housing provision because profits look difficult to achieve. To encourage the development to go ahead I would object to the imposition of Review Mechanisms to claw back any windfall profit because this creates a further disincentive. I'm sure that the district valuer's report will find similarly. I hope New Dawn Homes can make the figures work for them, I sincerely do.

Studies and policy:

- Cheltenham Climate Change SPD, June 2020
- 
- Neighbourhoods with good connectivity generate 10% less carbon emissions from transport throughout their life - ref?
- 
- "People who live in neighbourhoods with greater amounts of green infrastructure tend to be happier, healthier and live longer lives than those who live in less green places" - Natural England, 2020
- 

I note that the objection from Lucidia Mews is now neutral on the issue of the path, stating, "I have no strong feelings either way." I cannot remember whether I previously noted this resident as an objection or an abstention.

It is with regret that I must disagree with the comments of the other ward borough councillor, Comment Date: Tue 17 Oct 2023.

I am responsible for a large number of the police reports of motorbikes in the park, having been encouraged by the police to make these reports. I can confirm that the existence of escape routes is not the problem. The problem is that the police do not attend the reports and the perpetrators know this. To my knowledge, with only 2 entrances, no riders have been stopped and no bikes have been seized in the last 10 years that we have been reporting this crime.

Increased parking for sports events is likely to be low to non-existent because of the difficulty of accessing Stone Crescent through Wharfdale Square. There is also a lack of on-road parking in the new scheme. A driver who makes the trip to the entry path runs the risk of no space being available. As a case study, the recent Brickfield Drive development on Gloucester Road provides a similar level of access to parking for the Honeybourne Line, a pleasant afternoon walk and a popular exercise resource. Because of the convoluted route, Cobblestone Way suffers from very little additional parking.

The calculated distances of 0.3 or 0.5 miles are measured from Stone Crescent, which is an arbitrary point. The new entrance opens up the park for residents within reach of that entrance. For example, residents of Orchard Avenue who want to access the park, must walk these distances in addition to their journey. Also, no resident is average; for residents with low mobility these distances subtract from the distance they can cover after they reach the park so having a closer entrance could be life-changing.

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Councillor also states, "I would urge committee to support the residents of this estate and to refuse this application." Residents of Stone Crescent told me, 19 in favour, 2 against and 1 abstention that they are in favour of this path. Surely then, to support the residents is to support this application.

Can I simply repeat back and highlight the evidence that the Police DOCO used to object to the footpath to underline how unreasonable it is. The DOCO objects because:

"At present Stone Crescent is a cul-de-sac which was fenced off from the neighbouring public open space, despite this local residents have contact the Constabulary over the years complaining of adults and children trying to gain access to the park; some of these have included attempts to climbing the garden walls."

So some of the reports of ASB are related to (lack of) access to the park. If our residents want to access the park, then I believe that it is our obligation to facilitate that. These families pay council tax. It is their park. Access to green space increases wellbeing and improves mental health which in itself reduces the propensity to commit crime. The increased footfall of decent, honest people, reduces opportunistic crime.

Please allow this application and let's get these houses built.

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<b>APPLICATION NO: 23/01545/CONDIT</b>	<b>OFFICER: Mr Ben Warren</b>
<b>DATE REGISTERED:</b> 15th September 2023	<b>DATE OF EXPIRY :</b> 15th December 2023
<b>WARD:</b> St Marks	<b>PARISH:</b>
<b>APPLICANT:</b>	New Dawn Homes Ltd
<b>LOCATION:</b>	Playing Field Adj 10 Stone Crescent Cheltenham
<b>PROPOSAL:</b>	Variation of condition 2 (approved plans) - site layout changes, addition of solar panels to all house types, 3.no A house types replaced with 3no C house types, increase in ground floor plan of F house types and removal of affordable housing provision of planning permission 18/02215/FUL.

## REPRESENTATIONS

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

15 Wharfdale Square  
Cheltenham  
Gloucestershire  
GL51 8DL

### Comments: 3rd October 2023

Please record that I Object to this proposal. My concerns are as follows:

#### Footpath

- The last-minute rushed introduction of a new pathway directly to the playing fields which if implemented without proper consultation with local residents has the potential to increase criminality within the area. Note - the area has previously been subject to a Policing SARA due to anti-social behaviour
- It will create additional footfall through the local area (via Wharfdale Square, through to Stone Crescent and beyond) from individuals who will just use it as a shortcut and who don't actually live in the local area.
- It has the potential to increase crime in the local area, as individuals who would not know about the houses in this currently secluded cul-de-sac will now become aware of it. Individuals escaping the police can also use it as an escape route if being chased. Although, the likelihood of this happening is low, due to the general lack of police presence!
- Individuals who currently attend Parkrun on Saturday mornings and are required to go access KG5 playing field via certain access points, will now be able to use this new public footpath as a shortcut (i.e., increased footfall).
- Individuals are known to use dirt bikes on KG5 playing field. These individuals will now be able to use the new public footpath as a shortcut to / from the playing fields.

Affordable Housing

- I am not sure why NDH feel that they should not be providing affordable housing. It is a fact that there is a housing shortage in the UK, so NDH should be doing their bit to address this, as should every other socially responsible developer.

### Scope Creep

- NDH are suggesting changes to their existing Planning Application which was approved circa 2018. Some of these are far reaching and I would say this calls into question their existing approval to proceed. I do not feel that CBC or our local Councillors are proactively making residents in our area about the ongoings with various Planning Applications impacting residents in our area. All Planning Applications related to the houses off Stone Crescent should be resubmitted and considered in their entirety. Currently a piecemeal approach is being adopted and as such approvals are being granted without understanding the big picture and bigger impact.

Planning Committee Objection - 17/08/2023.

Note, that I have represented the views of local residents twice in Planning Committee meetings. Below is my most recent Objection.

### Planning Committee Meeting - Objection to Planning Application

Good evening, I am representing the views of residents who OBJECT to the development going ahead. We do not feel that the Developer or Planning Office have fully engaged with or provided us with any assurance that our daily lives will not be negatively impacted. Only around 20% of those dwellings in the impacted area have been targeted; about 12 houses out of a possible 60.

Our main Objection points centre on:

- Health and safety issues including traffic related incidents due an increase in traffic flow
- Negative impact on already constrained parking in the area
- Access issues and roads being unsuitable for constant construction traffic
- An increase in HMOs and total lack of affordable housing
- The last-minute rushed introduction of a new pathway directly to the playing fields which if implemented without proper consultation with local residents has the potential to increase criminality within the area. Note - the area has previously been subject to a Policing SARA due to anti-social behaviour

To provide greater clarity:

The development will only be accessible via a single entry / exit point for motor vehicles. The already congested area will be heavily impacted by a significant increase in traffic.

There will be a reduction in the amount of parking available to residents. This is already an issue due to a significant number of HMOs. These additional houses will exacerbate this issue causing overspill into the existing estate. Note - none of the new houses have been earmarked as affordable housing.

Due to the narrow roads, no real turning areas and overgrown hedges around Wharfdale Square which are renowned for blocking and impairing the vision of drivers, all manner of vehicles currently have a hard time getting around. Construction vehicles will experience the same issues thereby causing major obstructions, inconvenience and potential health and safety issues.

Inconsiderate parking by school run parents is also a current health and safety issue forcing residents to regularly drive on the wrong side of the road or perform evasive manoeuvres to avoid collisions.

Due to there being no pavements in Wharfdale Square, pedestrians including young children can regularly be seen walking and playing on the brick paved roads. This poses a health and safety issue, as traffic flow will increase significantly. 'Near misses' are already a common occurrence. Cyclists in the area can also attest to this situation.

In closing, the future of the area and its community is very important to residents. This development will be a massive change that will impact our daily lives and yet not all impacted residents have been properly consulted, let alone been given an opportunity to have meaningful conversation with the Developers and the Planning Office to discuss our concerns. As such, if this Planning Application is given the go-ahead, we strongly recommend that the Developers and Planning Office initiate a public consultation. Residents would like assurance that strict measures are imposed on the Developers to ensure that their ways of working do not negatively impact on the daily lives of existing residents. Thank you for listening.

**Comments:** 3rd October 2023

This Objection has been uploaded on behalf of \*\*\*\*\* (.....), as he is unable to use his laptop at the moment:

Footpath.

I don't have strong feelings either way.

It will generate pedestrian through traffic, which will exacerbate the general issue of traffic on existing site roads to some extent. I understand there may be periodic pedestrian surges due to a park run, which may be a further consideration. The claimed health and green transport benefits seem both marginal and aspirational.

Solar panels

Welcomed.

Type A/Type C/Type F

I don't know what these are, can't find them quickly, and don't have time to investigate today. If the replacement types house more people, that will increase resident density on the NDH site to a level higher than that currently approved. That appears to be an attempt by NDH to reimpose the density they first proposed (in 2018?) and which was rejected.

The council should assess the effect of the proposed replacements. Increased resident density on the NDH site would automatically increase traffic on the existing site roads, which is already an issue.

Removal of affordable housing

I object on grounds of national affordable housing shortage.

On the general traffic issue, note that the hedge at the blind corners is heavily overgrown again despite recent promises to get it trimmed. On road safety grounds it should be no more than 1m high, so that approaching vehicles and pedestrians can see each other.







## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application is submitted under section 73 of the Town and Country Planning Act 1990 and proposes the variation of Condition 13 (Harp Hill main access and estate road gradients) of outline planning permission 20/01689/OUT. The variation proposed (from the applicant's perspective) is a re-wording of the condition to clarify the purpose of the condition and to remove any ambiguity in its wording in respect of road gradients between 1/20 and 1/12.
- 1.2 The original outline planning permission was granted on appeal in 2022 for development comprising of up to 250 residential dwellings, to include provision of affordable housing, associated infrastructure, ancillary facilities, open space and landscaping, demolition of all existing buildings and the formation of a new vehicular access from Harp Hill, under reference APP/B1605/W/21/3273053 (20/01069/OUT). All matters were reserved for future consideration.
- 1.3 An application seeking approval of the reserved matters details (design, appearance, layout, scale, landscaping and access arrangements) (REM) pursuant to the above outline planning permission was submitted to the Council on 3<sup>rd</sup> October 2023 (reference 23/01691/REM). Members will recall that in a report to the December 14th 2023 meeting of the Planning Committee officers recommended approval of the reserved matters details, plus approval of details to discharge other conditions attached to the outline permission. However, following the subsequent publication of an Update Officer Report, Members resolved to defer the application at the December 2023 Planning Committee meeting. In summary, issues became apparent late in the application process as to whether the reserved matters proposals were in conformity with the requirements of Condition 13, specifically in relation to road gradients between 1:20 and 1:12.
- 1.4 Officers sought clarification on conformity with Condition 13 from the County Council Highways Development Management team (HA), acting in its role as Local Highway Authority. The HA reviewed the proposals and determined that the road gradients within the site, although not exceeding 1:12, include sections of the estate roads between 1:20 and 1:12 that exceed 30 metres in length. As such, the HA conclude that the REM proposals, as currently submitted, do not comply with the terms of Condition 13.
- 1.5 This report should therefore be read in conjunction with the Officer Update report presented to the December 2023 Planning Committee for application 23/01691/REM (attached to the end of this report). The update report sets the HA's full response on REM conformity with original Condition 13.
- 1.6 Condition 13 reads currently as follows, with the proposed amended element underlined/bold text:

*Notwithstanding the illustrative proposed access arrangements on to Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847\_02 Sheet No.3 rev F and the Alternative Illustrative Masterplan ref. 18017.202 Rev B, full details of the proposed access junction on to Harp Hill shall be submitted to and approved in writing by the local planning authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients **up to** 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres.*

- 1.7 The applicant has suggested the re-wording (bold text) of Condition 13 as follows:

*Notwithstanding the illustrative proposed access arrangements on to Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847\_02 Sheet No.3 rev F and the Alternative Illustrative Masterplan ref. 18017.202 Rev B, full details of the proposed access junction on to Harp Hill shall be submitted to and approved in writing by the local planning authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients of 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres.*

**1.8** At the request of officers, the applicant has provided additional supporting information during the course of the application. This includes the following plans and a summary of the explanatory text provided by the applicant:

- Vertical General Arrangement Plan - an estate road layout which provides coloured differentiation between the various sections of the roads within the site and their gradients. It differentiates between sections of uniform gradient where a conventional measurement can be provided (linear sections) and interceding sections that combine hog and sag curves – these are vertical curves that transition between the linear sections (i.e. mild undulating sections that are interspersed and necessary to achieve the transition and break the slope). At no point within any of the vertical curve sections does the gradient exceed 1:12. There is nothing in MfGS that would require calculation of an average linear gradient across these sections of the estate roads.
- Longitudinal Sections drawing - this shows the road sections through the site which are colour coded to the corresponding sections of the coloured General Arrangement Plan above. The existing profile of the site topography is also shown.
- Roads Vertical Design Extent – this plan shows the extent of the road arrangement that conforms to the standards set by MfGS and illustrates that the proposals accord with MfGS standards.
- Alternative Master Plan Road Levels & Interfacing (feasibility drawing) – the applicant's transport consultant (PJS) carried out assessment/appraisal work in early 2023 when Vistry (the applicant) acquired the site to assess the feasibility of following the Alternative Illustrative Masterplan (AIM) and the main access routes through the site.

PJS established that the layout shown on the AIM was not deliverable without significant engineering interventions to raise the level of the site in parts, the result of which would have been removal of a large number of the TPO trees and much greater prominence of a number of the dwellings. In comparison with the REM proposals, this would have resulted in greater overlooking into neighbouring properties, particularly along the eastern road, which runs towards the boundary with the listed reservoir and the adjoining dwellings. The edge of carriageway at this point is some 5m higher than the ground level of the TPO trees to the west at the end of the cul de sac. To achieve an acceptable MfGS gradient (no greater than 1:12) from the carriageway edge to the end of the cul de sac and the garages shown would mean that the end of the cul de sac would be c.3m above the bole of the tree. This would require a large retaining structure within the root protection zone of this and the adjoining trees that would cause their failure/removal.

Similarly, the significant TPO oak tree located to the west (within the REM proposed oak tree neighbourhood), would sit around 3-4m below the end of the carriageway shown on the AIM drawing. To achieve the level change to comply

with MfGS would require a retaining structure to be built within the RPZ of this oak, causing this tree to also fail. The northern spur of the eastern access road on the AIM would need to be constructed at a level approximately 4.5 – 5.0m above the prevailing ground level to ensure that the gradients required by MfGS could be achieved.

- The applicant was also asked to consider whether a reduction in the number of dwellings would allow for a different and shallower profile for the access roads. Their advice is that the proposed configuration of the roads is not affected particularly by dwelling numbers, it is a product of the topography. Therefore cutting the number of dwellings, within the parameters of the outline planning permission, would not make a material difference to the road gradients.

**1.9** The application is also accompanied by a Deed of Variation of one of the original s106 Unilateral Undertakings. This UU covers education and libraries provision/contributions. The s106 variation is necessary to ensure that the obligations contained therein apply to the current s73 application proposals, if approved (i.e. any new outline planning permission issued).

**1.10** A Screening Opinion under Part 2, Regulations 8 & 9 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) was issued by the Council on 6<sup>th</sup> March 2024. The LPA considers that the scope and information set out with the ES accompanying the original outline application is sufficient for the consideration of this current s73 (proposed variation of Condition 13) application. The LPA concludes that there is no requirement for an Environmental Impact Assessment (EIA) to accompany the application.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Cotswolds National Landscape (AONB)

### Relevant Planning History:

**19/00526/SCREEN 2nd April 2019 ISSUE**

Request for a screening opinion under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended)

**19/00916/SCOPE 12th July 2019 SCOPE**

Request for EIA Scoping Opinion for Land at Oakley Farm

**19/01610/DEMCON 10th September 2019 NPRIOR**

Application to determine whether prior approval is required for the demolition of a detached dwelling (The Farmhouse, Oakley Farm) (method of demolition and restoration of the site)

**20/01069/OUT 7th October 2022 UNDET**

**APPEAL ALLOWED 5<sup>th</sup> October 2022**

Outline application for development comprising of up to 250 residential dwellings including provision of associated infrastructure, ancillary facilities, open space and landscaping, demolition of existing buildings and formation of new vehicular access from Harp Hill. All matters reserved except for means of access to site from Harp Hill.

**23/01677/DISCON PCO**

Discharge of condition 7 (housing mix statement) of planning permission 20/01069/OUT

**23/01691/REM PCO**

Application for approval of Reserved Matters (access, appearance, landscaping, layout and scale) following outline planning permission for residential development of up to 250 dwellings and associated infrastructure, ancillary facilities, open space and landscaping, demolition of existing buildings and creation of a new vehicular access from Harp Hill (in accordance with the terms of outline planning permission 20/01069/OUT). Details are also submitted in relation to conditions 6 (phasing), 9 (Energy and Sustainability Statement), 13 (Harp Hill access junction details) and 25 (hard and soft landscaping and boundary treatment) of 20/01069/OUT.

### 3. POLICIES AND GUIDANCE

#### **National Planning Policy Framework**

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 Policies**

D1 Design

L1 Landscape and Setting

BG1 Cotswold Beechwoods Special Area Of Conservation Recreation Pressure

SL1 Safe and Sustainable Living

GI2 Protection and replacement of trees

GI3 Trees and Development

CI1 Securing community infrastructure benefits

CI2 Sports and open space provision in new residential development

CI3 Statutory and Non-Statutory Allotments

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

SD3 Sustainable Design and Construction

SD4 Design Requirements

SD6 Landscape

SD7 The Cotswolds Area of Outstanding Natural Beauty

SD8 Historic Environment

SD9 Biodiversity and Geodiversity

SD10 Residential Development

SD11 Housing Mix and Standards

SD12 Affordable Housing

SD14 Health and Environmental Quality

INF1 Transport Network

INF2 Flood Risk Management

INF3 Green Infrastructure

INF4 Social and Community Infrastructure

INF5 Renewable Energy/Low Carbon Energy Development

INF6 Infrastructure Delivery

INF7 Developer Contributions

**Supplementary Planning Guidance/Documents**  
Cheltenham Climate Change (2022)

**4. CONSULTATIONS**

See appendix at end of report

**5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>581</b>
Total comments received	<b>43</b>
Number of objections	<b>27</b>
Number of supporting	<b>0</b>
General comment	<b>0</b>

- 5.1** Letters of notification were sent to 581 neighbouring residential properties. In addition a site notices were displayed at various points around the periphery of the application site and an advert was placed in the Gloucestershire Echo. At the time of writing, a total of 43 representations were received in response to the publicity.
- 5.2** All representations received during the course of the application have been made available to Members separately.
- 5.3** It should be noted that many of the representations are concerned with matters considered at the outline planning permission stage (e.g. the principle of the development within the AONB, housing numbers and density, traffic impact and highway safety on Harp Hill, community services provision, biodiversity, air quality, heritage, flooding and drainage, noise and disturbance). As such, these matters are of little to no material relevance when determining the current application.
- 5.4** The concerns raised which relate specifically to the current proposals to vary Condition 13 are summarised as follows:-
- Developer cost implications in meeting the current condition wording
  - The current 'up to' wording is not ambiguous or a drafting error and was imposed by the appeal Inspector for a reason
  - By using the word 'of' in the condition, gradients up to 1:13 could be of any length. The 30m length restriction should apply to all gradients between 1:20 and 1:12.
  - Manual for Gloucestershire Streets sets out that gradients for cyclists and pedestrians should ideally be no more than 1:20
  - Steeper gradients would impact pedestrians, cyclists, wheelchair users and families with push chairs
  - Steep roads increase the risk of accidents and collisions, particularly for vehicles and pedestrians navigating sharp inclines.
  - Water runoff and drainage issues and dangerous road conditions in snow and ice are associated with steeper gradients
  - Now evident that the site is not suitable for residential development

- The spirit of condition 13 was to ensure safety for all. Whether the Manual for Streets is legally enforceable or not, the guidance is there to protect all road users.
- A reduction in the number of dwellings could satisfy the condition requirements
- Longer-term risk of slippage and settlement issues, to both roads and properties.

**5.5** The Friends of Oakley Farm Pasture Slopes ('Friends') have also made representations and oppose any variation to the wording of Condition 13. The 'Friends' were a Rule 6 Party at the planning appeal Inquiry to determine the outline planning application. Their comments are set out in full within the Consultee Appendix. In summary the 'Friends' consider that there is no ambiguity in the current condition wording and set out the various Inquiry discussions over road gradients and the drafting of Condition 13, as they have documented/recall.

**5.6** The representations of the Parish Council are also included in the Appendix.

**5.7** Any representation made by the Cotswold National Landscape Conservation Board (AONB) will follow as an Update to Members.

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

**6.2** Guidance set out within the National Planning Practice guidance (nPPG) acknowledges that issues may arise after planning permission has been granted, which require a modification of the approved proposals and that where less substantial changes are proposed, an application seeking a minor material amendment can be made under section 73 of the Town and Country Planning Act 1990, where there is a relevant condition that can be varied (Paragraph: 013 Reference ID: 17a-013-20140306).

**6.3** If granted, the application results in the issuing of a new planning permission which sits alongside the original permission which remains intact and un-amended (Paragraph: 015 Reference ID: 17a-015-20140306).

**6.4** As such, the only consideration in the determination of this application is the acceptability of the proposed re-wording of Condition 13, i.e. the acceptability of allowing longer than 30 metre lengths of roads where gradients are between 1:20 and 1:12. The remainder of Condition 13 is unaltered by the proposed condition variation. The development must still be generally designed so that the internal estate road gradients are between 1:100 and 1:20.

**6.5** The principle of the redevelopment of this site for up to 250 dwellings and other matters including the proposal's overall impact upon the character and landscape qualities of the Cotswold National Landscape (AONB), neighbour amenity, highway impact, biodiversity and ecology, drainage, heritage and community infrastructure and services have been established through the original grant of outline planning permission which is subject to the obligations of 6no. s106 Agreements.

**6.6** In light of the above, the matters for Members to consider and focus on are as follows:

- The consultation response of the Highway Authority
- The purpose of the condition and whether there is any ambiguity in the current wording of the second part of Condition 13, as the applicant maintains.



- The intentions and reasoning of the appeal Inspector behind the inclusion of 'up to' within the condition wording. This necessitates a review of the relevant sections of the appeal decision letter (DL); gradients and conditions.
- Overview of the applicant and LPA legal opinions on the purpose and meaning of the current condition wording and whether there is any ambiguity arising.
- The potential impacts on the environment and amenities of adjoining land users and road user accessibility should the current REM scheme be revised to comply with the terms of the original Condition 13.
- Would the proposed variation of Condition 13, to allow road gradients between 1:20 and 1:12 to exceed 30 metres in length, produce a better overall development than one which complies with the terms of the original Condition 13.
- Whether the suggested re-worded condition is sufficiently robust and appropriate, should any revised scheme be submitted following the first grant of reserved matters details (and discharge of Condition 13) in respect of the estate road layout and design.

### **6.7 Officer Comments**

**6.8** Each of the above points will be discussed in turn below.

### **6.9 Highway Authority Response**

**6.10** The Highway Authority was consulted on the proposed variation Condition 13. No objection is raised and their full response is set out below.

**6.11** In summary, the HA considers that the applicant suggested wording for Condition 13 complies with the Manual for Gloucestershire Streets (MfGS). The HA has already accepted the principle of a proposed road vertical alignment for adoption purposes in respect of the REM proposals. The HA also comments that the original wording of Condition 13 is likely to have been drafted by the appeal Inspector to limit the length of gradients between 1/20 and 1/12 to 30 metres but accepts that not all sites will lend themselves to 1:20 gradients throughout and in the MfGS an allowance is made for an absolute maximum of 1:12 which should be restricted to no greater than 30m lengths.

**6.12** However, the HA draws officers' attention to the lack of reference to gradients between 1:20 and 1:12 in the proposed re-worded Condition 13. Condition 13 could therefore be interpreted as no gradients between 1:20 and 1:12 are permissible. By contrast, officers consider that the proposed re-wording could allow too much flexibility in respect of gradient lengths between 1/20 and 1/12. This matter is discussed in the report conclusions, where alternative Condition 13 wording is suggested.

*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 has no objection.*

*This application is only to alter the wording of Condition 13 to read .." The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that*

*gradients of 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 meters.”*

*As this is in accordance with the current revision of Manual for Gloucestershire Streets (MfGS), the Highway Authority cannot reasonably refuse this wording and have already accepted the principle of a proposed road vertical alignment for adoption purposes. However, this revision in wording does not appear to clarify the interpretation, as the wording now does not implicitly include any reference to gradients between 1:20 and 1:12. So it does appear a bit ambiguous and could therefore be interpreted as no gradients between 1:20 and 1:12 would be permissible. This is an issue for the planning officer consider whether the condition is precise enough.*

*We note the submission of the expert opinions on the interpretation of the original wording of Condition 13 and the extensive investigations these opinions have relied upon. We also note that the subject of the gradients across this site was considered in depth throughout the planning appeal process, and the original wording of Condition 13 is likely to have been drafted to limit the length of gradients between 1/20 and 1/12 to 30 metres.*

*Most accepted National Guidance and Best Practice indicate that gradients for highways, in particular footways, should be 1:20 or flatter. This maximum gradient has been established to provide a highway suitable for all users, including wheelchairs, pushchairs, pedestrians with limited mobility, visual impairments or other constraints. It is accepted that not all sites will lend themselves to 1:20 gradients throughout and in the Manual for Gloucester Streets an allowance is made for an absolute maximum of 1:12 which should be restricted to no greater than 30m lengths. The Manual for Gloucestershire Streets makes many references to good design including the Local Transport Plan's objective of creating a safer, securer transport system, that applications should give priority to pedestrian and cycle movements and should address the needs of people with disabilities and reduced mobility. The Manual states that pedestrians should be considered first and that developments should meet the needs of people with protected characteristics with age, disability, pregnancy and maternity being listed among those characteristics.*

*While the proposed wording does not specifically consider gradients between 1:20 and 1:12, we can clearly see from the submitted supporting drawings that the applicant has interpreted this to mean any length of highway with any gradient less than 1:12 would be accepted. This is clearly not what the MfGS and National Guidance is seeking to achieve, which promotes designs which do not disadvantage users with restricted mobility.*

*We also note the submitted drawings do not appear to include any provision for Active Travel and highlight the section in MfGS which states Active Travel Corridors will be a maximum gradient of 1:20.*

*We accept that the gradients throughout the site are restricted by existing topography and advise that, in the Highway Authority's opinion, it is not reasonably practical to improve those gradients without either lowering the level of the proposed top of the site through the ridge and furrow pasture and relocating the water main or raising levels at the bottom of the site and affecting retained trees. Those are issues which need to be considered in the planning balance concerning impact on the landscape, trees and infrastructure costs.*

*The County Council will be updating their guidance to explicitly deal with the gradients between 1/12 and 1/20 in order to avoid these issues in the future.*

### **6.13 Ambiguity/Appeal Decision**

- 6.14** Firstly, there are no issues associated with the first part of Condition 13, which relates to the provision of the main site access from Harp Hill. The requirements of the condition in this respect are clear and details for Harp Hill have been submitted as part of the reserved

matters application (23/01691/REM). The HA has raised no objection to this element of the REM proposals.

- 6.15** However, interpretations of the second part of the condition differ between the HA and applicant, specifically in relation to the meaning of the words 'up to'. The second part of the condition deals with road gradients within the site which '*are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres*'.
- 6.16** The applicant points to the fact that MfGS imposes "a general requirement for maximum and minimum gradients of 1/100 and 1/20, but consideration is given to 1/12. Where a gradient of 1/12 is proposed no length shall exceed 30 metres in length". Given the appeal Inspector's reasoning and intention behind Condition 13 (DL paragraphs 72-6), the applicant maintains that the condition relating to gradients should therefore be worded and interpreted to meet the MfGS standards as set out.
- 6.17** The HA are of the view that 'gradients up to 1/12', means that the sections of the estate roads where gradients fall between 1/20 and 1/12 shall not exceed 30 metres in length. The HA does not consider there to be any ambiguity in the current wording, which does not require that only gradients of 1/12 shall not exceed 30 metres in length. In summary, the HA considers that, whilst the proposed estate roads would be of adoptable standard and MfGS compliant, the current REM proposals are not in accordance with the second part of Condition 13 (road gradients).
- 6.18** In support of their application, the applicant refers to the relevant sections of the appeal decision letter (DL), where gradients are discussed under a separate heading. The site's topography and whether a road layout/scheme could be designed that conformed with the requirements of MfGS were determining factors of the appeal decision. An Alternative Illustrative Masterplan (AIM) was produced during the appeal Inquiry with the specific purpose to demonstrate that a MfGS compliant scheme could be achieved.
- 6.19** The Inspectors conclusions on road gradients, at DL paragraph 76, comment on the need for flexibility when taking account of site topography. This is caveated by the need for development to offer attractive and accessible pedestrian and cycle routes for all users. The Inspector was satisfied that the AIM demonstrated that a road layout in compliance with the MfGS could be achieved. On this basis, no objection with respect to road gradients could be sustained. For ease of reference, the relevant paragraphs of the DL are reproduced as follows:

### Gradients

*(72). The second highway issue raised by the County Council on which there was much discussion relates to gradients across the appeal site. Policy SD4(vii) of the JCS requires, amongst other things, that new development should be fully consistent with guidance set out in the Manual for Gloucestershire Streets (MfGS) and other relevant guidance in force at the time. The MfGS, published in July 2020 [70], states that generally the maximum gradients allowable in new developments should not exceed 1:20, but consideration can be given to 1:12. Where the latter is proposed, no stretch should exceed 30 metres.*

*(73). The Council argues that any failure to comply with these standards would represent a clear breach of development plan policy. Conversely, the appellant says that the current draft of the MfGS postdates the adoption of the JCS (December 2017) and therefore cannot logically require compliance with it in any event. However, it seems to me that the clear intention of the JCS Policy is that the relevant applicable guidance is that in force when a planning application is determined, and not some earlier superseded iteration of it. The appellant's approach would run counter to a common-sense application of the policy.*

*(74). To complicate matters, in addition to the local standards within the MfGS, there are a range of standards in national guidance documents. For example, Manual for Streets does not impose a requirement of 1:12 but says in respect of cyclists and pedestrians that gradients should ideally be no more than 5% (1:20), although it is acknowledged topography may make this difficult to achieve [71]. Manual for Streets 2 (MfS2), in respect of carriageway gradients, allows for a practical maximum of 8% (1:12) but allows for steeper gradients where there are 'particular local difficulties' [72]. In relation to pedestrian routes, MfS2 states the gradient should ideally be no more than 5% (1:20), although topography make this difficult to achieve; and that as a general rule 8% (1:12) should be considered a maximum, which is the limit for most wheelchair users, as advised in Inclusive Mobility [73].*

*(75). As the appellant notes, the MfGS has not been consulted upon publicly and has not been through the same statutory processes that govern development plans. The MfGS is ultimately technical guidance. This means it cannot have statutory force, but it should not be ignored. During the Inquiry, to address the Council's concerns, the appellant produced an Alternative Illustrative Masterplan which demonstrated that a road layout could technically be achieved to comply with the more stringent local MfGS requirements. A condition has also been suggested requiring full compliance with the MfGS standards, although the appellant does not consider it to be necessary.*

*(76). In my judgement, there must be some degree of flexibility to take account of natural topography, but developments should be as permeable as possible and offer attractive pedestrian and cycle routes which are accessible for all users[74]. Given it has been demonstrated that it is possible to design a scheme that would adhere to the MfGS, I see no good reason why a suitably worded condition cannot be imposed in this instance. In these circumstances, no objections with respect to gradients can be sustained, nor can it be a reason for the appeal to fail.*

[Footnotes: 70 CD I4; 71 CD I2, Paragraph 6.3.27; 72 CD I3, Paragraph 8.4.2; 73 Department of Transport, 2005; 74 Paragraph 112 of the Framework]

- 6.20** Although Condition 13 does not reference MfGS, officers consider that there is little doubt that compliance with MfGS was a determining factor for the Inspector when considering the topography of the site, access road gradients and the need for a condition restricting road gradients accordingly across the site.
- 6.21** It is important to note here that the AIM was produced for illustrative purposes only. It was not accompanied by detailed technical engineering drawings, and the illustrative road layout was produced in the absence of a thorough consideration of the various potential house types, cul de sac spurs, drainage features and retaining structures within the scheme layout and the resultant impacts on significant TPO's trees and other landscape features, designated heritage assets and the amenities of neighbouring properties. Nonetheless, at that time, it did provide the Inspector with sufficient comfort that a MfGS compliant development could be achieved for this site.
- 6.22** Legal Advice on Interpretation of Condition 13
- 6.23** In light of the conflicting views on the matter, both the applicant and local planning authority (LPA) sought Counsel legal opinion on the interpretation of Condition 13, as currently worded; specifically whether the County Council is correct to conclude that Condition 13 requires that all road sections between 1:20 and 1:12 in gradient cannot be longer than 30 metres in length.

- 6.24** The advice received from the respective Counsel differs. The legal opinions produced for both parties are set out in full at the end of the report.
- 6.25** The legal advice to the applicant concludes that the County Council has adopted an incorrect approach to the natural and ordinary language of the condition, in summary as follows:-
- a. All gradients are to be “generally designed” to fall between 1:100 and 1:20, with gradients up to 1:12 “permissible”. The County Council’s reading would render the word “generally” redundant;*
- b. The final references to “they” relates only to gradients which are actually at the absolute maximum permissible of 1:12.*
- 2. The County Council’s reading does not correctly take into account the Inspector’s reasons given at DL72 through to DL76, notably the DL72 and DL76 both of which expressly refer to MfGS (pages 30 and 36), which identifies 1:12 as the only gradient where a 30m limit will be imposed;*
- 3. It is not a correct reflection of the various technical guidance documents noted at DL72-76, including Inclusive Mobility (2005), MfS, MfS2 and MfGS.*
- 4. Put another way (not applying strict principles of interpretation, but a reasonable sense check), the County Council’s reading suggests that the Inspector invented his own test. That is inherently implausible. On the contrary, the Inspector stated that he wished to apply the MfGS limit only. That is what Condition 13 now requires.*
- 6.26** The legal advice to the LPA focuses on the key words ‘up to’ within Condition 13, as follows:-
- This makes it clear in plain wording that gradients up to 1:12 are permissible, provided that where those gradients of up to 1:12 are proposed, they shall be limited to maximum lengths of 30m. I do not consider that there is room for much confusion here.*
- Nor do I consider that the applicant’s interpretation properly takes into account the effect of the words ‘up to’; the condition would have had to have included a further qualification to refer to 1:12 gradients within the clause: “...provided that where they [1:12 gradients] are proposed...”.*
- I do not take the same assistance from the word ‘generally’ as does the applicant. In my view, the better interpretation is that the word ‘generally’ means that the following parameters refer to the whole scheme. I do not think that it means instead that the restrictions are effectively aspirational in some way*
- 6.27** However, the Council’s legal advice does “*take into account that the MfGS is silent on lengths between 1:20 and 1:12 and I acknowledge that that could be persuasive in favour of the applicant’s interpretation. I also wish to stress that I do not consider that the applicant’s interpretation is unreasonable or outside the range of possible interpretations. However, in my view GCC’s interpretation is the least strained of the two competing interpretations*”. Given that the Council and HA are minded to support the REM scheme under consideration, Counsel advises that the best way forward is for the applicant to submit a s73 application “*so that the wording of Condition 13 can be reconsidered along with the effect (if any) of the silence within the MfGS in relation to lengths of highway between 1:20 and 1:12*”.
- 6.28** The applicant also points to the Technical Note accompanying the REM application and comments on the result of pre-application discussions with the HA. Both confirm that the access arrangements were designed generally to achieve the maximum and minimum gradients of 1:20 and 1:100, and that where gradients exceeded 1:20 these would be limited in occurrence and length. Gradients of 1:12 would be confined to a distance not exceeding 30m. The vertical design and the proposed road levels of the REM proposals

are in accordance with these requirements and previous agreement/discussions with the HA. In this respect, both the applicant and HA had applied the requirements of MfGS without proper consideration of the terms of Condition 13 which, in accordance with the LPA's legal advice above, requires section of roads where gradients fall between 1/20 and 1/12 not to exceed 30 metres in length.

- 6.29** It is unfortunate that the HA, having raised no objection to the proposed REM proposals on 9<sup>th</sup> November 2023, subsequently provided amended comments to the Council in December 2023 which concluded that the REM scheme did not comply fully with the terms of Condition 13. These comments are set out in full in the Update report attached to the end of this report.
- 6.30** Concluding Comments/Compliance with Condition 13
- 6.31** Having reviewed the Inspector's decision letter, considered the legal advice offered to both parties and the standards set by MfGS, officers conclude that there is no obvious ambiguity in the current wording of Condition 13. The terms of the condition are sufficiently clear in that sections of roads where gradients fall between 1/20 and 1/12 should not exceed 30 metres in length. Albeit, it is noted that the MfGS is silent on gradient lengths between 1/20 and 1/12.
- 6.32** The representations made by the 'Friends' has also been carefully considered in reaching the above conclusion.
- 6.33** Notwithstanding the above, officers are concerned that the delivery of a scheme for 250 dwellings that adheres to the full terms of original Condition 13 (and the parameters set by the AIM) would likely result in adverse effects on the environment and local amenity; caused specifically by the need to significantly raise and lower ground levels and introduce high retaining walls above those of the current REM scheme. These potential adverse effects have been brought to officers' attention by both the applicant and Highway Authority.
- 6.34** The HA consider it not reasonably practical to improve the gradients currently proposed for the REM scheme without either lowering the level of the southern field parcels through the ridge and furrow pasture and relocating the water main or raising existing ground levels at the bottom of the site and affecting retained trees. The applicant equally sets out the impacts of significant required engineering works to achieve a scheme that corresponds with the AIM road layout.
- 6.35** Officers are in little doubt that the above presented scenarios would increase the potential for harmful visual impact on the environment, greater overlooking into neighbouring residential properties, the removal of a larger number of trees/vegetation and impact on the long term health and survival of retained TPO'd trees. As such, these are important considerations in the planning balance.
- 6.36** **Other Considerations**
- 6.37** Cotswold Beechwoods Special Area of Conservation (SAC)
- 6.38** Policy BG1 of the Cheltenham Plan states that development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site network (alone or in combination), and the effects cannot be mitigated.
- 6.39** Therefore, in order to retain the integrity of the Cotswold Beechwoods Special Area of Conservation (SAC) all development within the borough that leads to a net increase in dwellings will be required to mitigate any adverse effects.

- 6.40** This application would result in the issuing of a new planning permission, therefore the above effects of the proposals on the SAC must be considered.
- 6.41** The original outline application was accompanied by an EIA Environmental Statement, including a shadow Habitats Regulations Assessment which recognised the application site's location relative to the SAC and considered whether the outline proposal, in combination with other new residential development in the authority area, would have potential significant effects on the SAC. Natural England and the Council's ecology advisor were also consulted on the original outline application. The effects on the SAC and other related ecology/biodiversity matters were material considerations when determining the appeal.
- 6.42** The sHRA concluded that no risk of adverse effects on the integrity of the Cotswold Beechwoods SAC is expected to arise as a result of the proposed development of the site in isolation. However, the risk of a potential cumulative effect as a result of increased recreational pressure was identified and it was recommended that further mitigation is secured. The Council's Ecology advisor considered that suitable mitigation could be secured in the form of a homeowner pack/information leaflet issued to all first occupiers of the dwellings. NE did not offer any further comment.
- 6.43** Members will recall that the outline planning permission is subject to a number of planning conditions which secure appropriate biodiversity net gain, landscaping and protection of important ecological species and a Homeowner Information Pack (HIP) to be issued to every new household. The HIP will be produced in accordance with the advice from Natural England (letter dated 13 April 2021) and include reference to alternative local recreation opportunities (off site), and website information for the Cotswolds AONB. The application proposals also include on-site recreation facilities in the form of the retained southern field parcels and open/amenity spaces within the built up areas of the development. The appeal Inspector considered these measures appropriate to mitigate any adverse effects on the SAC.
- 6.44** The original outline planning application was validated on 16<sup>th</sup> July 2020 and the appeal allowed on 5<sup>th</sup> October 2022. As such, officers are also mindful that Natural England has stated in its letter to Councils of 9 September 2022 that the Cotswolds Beechwoods SAC Mitigation Strategy of May 2022 should apply to relevant applications (constituting habitat development) submitted on or after the 1st November 2022. Although a s73 application (if granted) results in the issuing of a new planning permission, in this instance and given the nature of the proposals, Members should note that SAC mitigation in the form of a financial contribution is not being sought for the proposed development at outline/s73 or REM stage.
- 6.45** Public Sector Equalities Duty (PSED)
- 6.46** 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.
- 6.47** 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.

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

### **CONCLUSION**

- 6.49** The relevant policies of the development plan currently in force are out of date due to a shortfall in the Council's five-year supply of housing land. The proposal has therefore been assessed against the guidance contained within the NPPF (2023). Paragraph 11(d) of the NPPF applies a presumption in favour of sustainable development unless:-
- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole.
- 6.50** In this case, the 'areas and assets of particular importance' referred to in paragraph 11d(i) are the Cotswolds National Landscape and the grade II listed structures at Hewlett's Reservoir.
- 6.51** In carrying out an objective assessment of the proposals (in line with NPPF paragraph 11d), officers have had to balance any potential adverse impacts of the proposals on the environment, road users, amenities of neighbouring land users and any other highway safety implications, against the positive contribution the proposal would make towards the Council's housing land supply and any wider economic or social benefits that the scheme might bring. In this regard, the contribution of 250 houses (including 100 affordable dwellings) towards meeting the Council's identified housing needs weighs heavily in favour of the proposals.
- 6.52** Whilst officers conclude that the current wording of Condition 13 is clear in respect of gradient lengths between 1/20 and 1/12, the considerations of this application are not limited to the reasoning and intentions of the appeal Inspector when imposing the condition and whether the current REM scheme complies with the original condition.
- 6.53** Nor does the outline planning permission require the reserved matters details to adhere to the internal estate road layout/gradients shown on the AIM. It was produced for illustrative purposes only. It is not uncommon, particularly in respect of larger outline development proposals, that more is known about a site and the required technical engineering aspects of a development at the detailed design and layout stage of reserved matters applications. This is particularly the case for significantly sloping sites.
- 6.54** It is equally acknowledged that given the unique characteristics of the site's topography and landscape features and its location within the AONB, the implications of allowing greater roads lengths at steeper than 1/20 gradients has the potential to impact on the environment, local amenity and the accessibility of all road users. With this in mind, officers have considered very carefully the underlying purpose of the condition, the appeal decision, the comments of the Highway Authority, the legal advice provided and the concerns raised by local residents, the Parish Council and the 'Friends'.
- 6.55** Notwithstanding the above, officers have sought to adopt a pragmatic approach to the difficult situation in which both parties find themselves and have needed to balance the many competing elements in reaching their recommendation to Planning Committee.
- 6.56** The topography and characteristics of the site are, without doubt, challenging and this has required an entirely bespoke and carefully considered approach to the design and layout of the REM scheme, including that of the estate road gradients. Although the overall



merits of the REM scheme do not form part of the considerations of this application, it is worth adding that the current REM proposals (which include gradients lengths between 1/20 and 1/12 greater than 30 metres) have sought to retain and protect as much of the distinctive landscape features as possible and integrate these positively into the scheme, whilst protecting the amenities of neighbouring land users.

- 6.57** The potential implications of delivering a scheme for c250 dwellings in compliance with the terms of the original condition would likely result in adverse impacts on the environment and local amenity, over and above any impact caused by the current REM proposals. Although this has not been demonstrated explicitly by the applicant, any meaningful reduction in the number of dwellings proposed is unlikely to materially alter those potentially harmful effects. The significant and altered engineering works necessary to make the current REM scheme accord fully with the terms of original Condition 13 are highlighted by both the applicant and Highway Authority. Regardless of any reduction in house numbers and alterations to layout, the challenges presented by the topography of the site would still exist within the built up areas and highway flexibility zone set by the approved Parameter Plans of the outline planning permission.
- 6.58** In light of the above and put simply, Members must determine whether the above suggested revised condition may produce a better overall development for this site than one which would need to comply with the terms of the original Condition 13.
- 6.59** The Highway Authority has raised no objection to the proposed condition variation and, at the time of writing, their agreement is being sought to the terms of the alternative suggested re-worded condition set out below. Importantly, the HA has also confirmed that the proposed road design of the REM scheme (which includes road gradients between 1/20 and 1/12 greater than 30 metres in length) would be of adoptable standard and would adhere to MfGS.
- 6.60** Taking all of the above factors into consideration and on balance, officers consider the variation of Condition 13 to allow greater flexibility in the design of the estate roads in instances where gradients between 1/20 and 1/12 are proposed is acceptable. Although silent on gradients lengths between 1/20 and 1/12, the MfGS does not offer guidance preventing or limiting this flexibility. Officers are therefore satisfied that Condition 13 can be amended accordingly and as set out below.
- 6.61** The proposals have been assessed in accordance with NPPF paragraph 11(d). The 'tilted balance' in favour of sustainable development is engaged in this case and there are no other adverse impacts arising from the proposals that would significantly outweigh the benefits of the scheme and substantiate a refusal.
- 6.62** The suggested wording varies from that proposed by the applicant. This is to add the necessary clarity and preciseness to the condition in relation to gradients permissible between 1/20 and 1/12 and conformity with the requirements of MfGS.

### **Revised Condition 13**

***Notwithstanding the illustrative proposed access arrangements on to Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847\_02 Sheet No.3 rev F and the Alternative Illustrative Masterplan ref. 18017.202 Rev B, full details of the proposed access junction on to Harp Hill shall be submitted to and approved in writing by the local planning authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. The reserved matters submissions relating to access are required to be generally***

***designed in accordance with the Manual for Gloucestershire Streets so that maximum and minimum gradients allowable will be between 1/20 and 1/100 respectively, save that gradients between 1/20 and 1/12 are permissible, provided that where they are proposed gradients of 1/12 shall be limited to maximum lengths of 30 metres. Where gradients between 1/20 and 1/12 are proposed, and where their respective lengths exceed 30 metres, the reserved matters submissions relating to access shall include evidence, to the satisfaction of the local planning authority, that site typography and the need to retain important existing landscape features and protect both the environment and amenities of neighbouring land users, necessitate gradients between 1/20 and 1/12.***

***Reason: To ensure that safe and suitable access is provided for all users in the interests of highway safety and to ensure an appropriate design in the interests of the character and appearance of the AONB and locality in general and the amenities of neighbouring land users having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020) and adopted policies INF1, SD4, SD7 and SD14 of the Joint Core Strategy (2017) and sections 9, 12 and 15 of the NPPF (2023).***

## **7. RECOMMENDATION**

- 7.1 The recommendation is to allow the variation and re-wording of Condition 13 as suggested by officers. All other conditions attached to the original outline planning permission are reproduced below and amended where necessary (reasons for each condition have been added). The applicant has agreed to the terms of all pre-commencement conditions.

## **8. CONDITIONS / INFORMATIVES**

- 1 Details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved by the local planning authority before any development takes place and the development shall be carried out as approved.

Reason: To accord with s92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Application for the approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this decision.

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

- 3 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is later.

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

- 4 The development hereby permitted shall provide no more than 250 dwellings.

Reason: To limit the terms of the permission in the interests of landscape and visual amenity and the protection and conservation of heritage assets, having regard to

adopted policies D1 and L2 of the Cheltenham Plan (2020), adopted policies SD4, SD7 and SD8 of the Joint Core Strategy (2017) and sections 15 and 16 of the NPPF (2023).

- 5 The details to be submitted as part of the reserved matters for access, layout and landscaping shall be in general accordance with the design and layout principles of the Alternative Illustrative Masterplan Ref 18017.202 Rev B in respect of the following:
- a. the proposed and retained structural landscaping (trees, shrubs and hedgerows) and public open space within the green infrastructure areas shown on drawing P18-0847-02 sheet 02 Rev D;
  - b. the design and alignment of the main vehicular access road and vehicular junction within Harp Hill within the Highway Corridor Flexibility Zone shown on drawing P18-0847-02 sheet 03 Rev F (excluding other internal estate roads).

For the avoidance of doubt, applications for approval of reserved matters shall be in substantial accordance with the submitted Land Use Parameter Plan (drawing P18-0847\_02 sheet 02 Rev D), Access and Movement Parameter Plan (drawing P18-0847\_02 sheet 3 Rev F), Building Heights Parameter Plan (drawing P18-847\_02 sheet 04 Rev C) and Green Infrastructure Parameter Plan (drawing P18-0847\_02 sheet 05 Rev D).

Reason: In the interests of landscape and visual amenity, protection and conservation of heritage assets and to ensure the development accords with the required principles and standards of urban design; having regard to adopted policies D1 and L2 of the Cheltenham Plan (2020), adopted policies SD4, SD7 and SD8 of the Joint Core Strategy (2017) and sections 12, 15 and 16 of the NPPF (2023).

- 6 The first reserved matters applications required by Condition 1 shall be accompanied by a Phasing Plan, giving details of the phasing of the development. The development shall be carried out in accordance with the approved Phasing Plan unless any variations have first been approved in writing by the local planning authority.

Reason: To ensure the development is delivered in an appropriate manner.

- 7 Prior to the submission of the first reserved matters, a Housing Mix Statement for the open market housing shall be submitted to the local planning authority for approval. The Statement shall set out an appropriate mix of dwelling sizes, types and tenures to be provided on site that will contribute to a mixed and balanced housing market. The Statement will address the needs of the local area having regard to the Council's current local housing evidence base. The development shall be implemented in accordance with the approved Statement.

Reason: To ensure the development meets the identified housing needs of the area, having regard to adopted policies SD11 and SD12 of the Joint Core Strategy (2017) and section 5 of the NPPF (2023).

- 8 The reserved matters required to be submitted and approved under Condition 1 shall include:
- a. details of the design, form and architectural features of the dwellings, including materials to be used on the external walls and roofs;
  - b. details of the position, design, materials and type of boundary walls within the development;
  - c. details of cycle storage facilities for each dwelling;
  - d. details of refuse and recycling storage to allow for the separate storage of recyclable waste materials;
  - e. details of electrical vehicle charging points (including appearance, location and type) to accord with the relevant Council standards;

The development shall be carried out in complete accordance with approved details.

Reason: To ensure a high quality design and appearance in the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020), adopted policies SD4, SD7 and SD8 of the Joint Core Strategy (2017) and sections 12, 15 and 16 of the NPPF (2023).

- 9 The details to be submitted for approval as part of the reserved matters application(s) for appearance, scale and layout pursuant to Condition 1 shall include an Energy and Sustainability Statement. The statement shall demonstrate an improvement on the energy efficiency of the scheme over and above the Building Regulations in place at the time of this decision and shall include, but not be limited to, the following information:

- a. details of the methods used to calculate predicted annual energy demand and associated carbon emissions;
- b. measures to reduce impact on climate change (including consideration of heat proofing, construction techniques, building fabric, solar gain, natural lighting, shading, orientation, water retention, flood mitigation and landscaping).

Reason: In the interests of reducing carbon emissions, having regard to adopted policies adopted policy SD3 of the Joint Core Strategy (2017) and guidance set out in Cheltenham Climate Change SPD (2022).

- 10 No development shall take place until details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the principles set out in the Flood Risk Assessment and Drainage Strategy prepared by Phoenix Design dated March 2020. An assessment shall be made regarding the potential for disposing of surface water by means of a sustainable drainage system (SuDS) in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall provide:

- a. an assessment of the hydrological and hydro-geological context of the development;
- b. information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- c. a timetable for its implementation;
- d. a management and maintenance plan for the SuDS. The plan shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage scheme, including its management and maintenance, shall be implemented strictly in accordance with approved details and thereafter retained as such for the lifetime of the development.

Reason: To ensure sustainable drainage of the development and to avoid increased flood risk to neighbouring properties., having regard to adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront because the design of the drainage is an integral part of the development and its acceptability.

- 11 No development shall take place until full details for the treatment and disposal of foul water (including pollution control and monitoring measures) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure suitable foul drainage of the development, having regard to adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront because the design of the drainage is an integral part of the development and its acceptability.

- 12 No development shall take place until plans showing the existing and proposed ground levels of the site and existing ground levels of adjacent land have been submitted to and approved in writing by the local planning authority. The submitted details shall include existing and proposed cross section drawings of the site indicating the extent of ground works required to achieve finished site levels. The reserved matters application(s) submitted pursuant to Condition 1 shall include details of the proposed slab levels of the proposed buildings and ridge heights of proposed and adjacent buildings. The development shall be implemented strictly in accordance with the agreed details.

Reason: In the interests of a high quality design and the character and appearance of the landscape and visual amenity and to ensure a satisfactory relationship between the proposed development and adjacent buildings and land, having regard to adopted policies D1, L2 and SL1 of the Cheltenham Plan (2020) and adopted policies SD4, SD7 and SD14 of the Joint Core Strategy (2017). Approval is required upfront to allow the impact of the development to be accurately assessed.

- 13 Notwithstanding the illustrative proposed access arrangements on to Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847\_02 Sheet No.3 rev F and the Alternative Illustrative Masterplan ref. 18017.202 Rev B, full details of the proposed access junction on to Harp Hill shall be submitted to and approved in writing by the local planning authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. The reserved matters submissions relating to access are required to be generally designed in accordance with the Manual for Gloucestershire Streets so that maximum and minimum gradients allowable will be between 1/20 and 1/100 respectively, save that gradients between 1/20 and 1/12 are permissible, provided that where they are proposed gradients of 1/12 shall be limited to maximum lengths of 30 metres. Where gradients between 1/20 and 1/12 are proposed, and where their respective lengths exceed 30 metres, the reserved matters submissions relating to access shall include evidence, to the satisfaction of the local planning authority, that site typography and the need to retain important existing landscape features and protect both the environment and amenities of neighbouring land users, necessitate gradients between 1/20 and 1/12.

Reason: To ensure that safe and suitable access is provided for all users in the interests of highway safety and to ensure an appropriate design in the interests of the character and appearance of the AONB and locality in general and the amenities of neighbouring land users having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020) and adopted policies INF1, SD4, SD7 and SD14 of the Joint Core Strategy (2017) and sections 9, 12 and 15 of the NPPF (2023).

- 14 No dwelling hereby permitted shall be occupied until the Footpath and Cycleway link between Priors Road and the development area (as shown on Drawing No 333.E.33) has been fully implemented in accordance with a detailed design previously submitted to and agreed in writing by the local planning authority.

Reason: To ensure appropriate and timely delivery of highway works and that opportunities for sustainable transport modes have been taken up; in the interests of highway safety and to minimise impact on the local highway network, having regard to

adopted policy INF1 of the Joint Core Strategy (2017) and section 9 of the NPPF (2023).

- 15 No more than 50 dwellings shall be occupied until the following highway works have been implemented in full:
- Alterations to the junction of Priors Road / Hales Road / Harp Hill / Hewlett Road (shown on Drawing No H628/04 Rev C);
  - Harp Hill pavement extension and pedestrian linkages (shown on Drawing No H628/05 Rev A)

Reason: To ensure appropriate and timely delivery of highway works and that opportunities for sustainable transport modes have been taken up; in the interests of highway safety and to minimise impact on the local highway network, having regard to adopted policy INF1 of the Joint Core Strategy (2017) and section 9 of the NPPF (2023).

- 16 No dwelling shall be occupied until: (i) the carriageways providing access from the public highway to that dwelling have been completed to at least binder course level, and the footways to surface course level and in accordance with the approved plans; and (ii) the car/vehicle parking area, visitor parking and turning space associated with that dwelling (including garages and car ports where proposed) have been completed in accordance with the approved plans.

Reason: To ensure that safe and suitable access is provided and maintained in the interests of highway safety, having regard to adopted policy INF1 of the Joint Core Strategy (2017), and Section 9 of the National Planning Policy Framework (2023).

- 17 Prior to first occupation of the development, details of the arrangements for future management and maintenance of the roads/streets within the development shall be submitted to and approved in writing by the local planning authority. The roads/streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

Reason: To ensure that safe and suitable access is provided and maintained in the interests of highway safety, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 18 No development shall take place until a Construction Traffic Environmental Management Plan (CTEMP) has been submitted to and approved in writing by the local planning authority. The CTEMP shall include: details of parking or vehicles of site operatives and visitors (including measures to ensure satisfactory access and movement for existing occupiers during construction); details of any temporary access into the site; details of loading and unloading of plant and materials; arrangements for turning vehicles; details of storage of plant and materials; measures for traffic management (including routing) so as to minimise the impacts of construction traffic on the highway; details of types, size and numbers of construction related vehicles anticipated daily, including arrangements to receive abnormal loads or unusually large vehicles; means to prevent deposition of mud or other substances on the highway; details of wheel washing facilities; measures for the control of site lighting (required for safe working or for security); means to control dust and emissions to air; means to control noise and vibration; methods of communicating the CTEMP to staff, visitors and neighbouring residents and businesses. The approved CTEMP shall be adhered to throughout the demolition and construction period.

Reason: In the interests of highway safety and to safeguard the amenity of occupiers of neighbouring properties, having regard to adopted policy SL1 of the Cheltenham Plan

and adopted policies SD14 and INF1 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable highway impact during construction.

- 19 No development shall take place until a Site Waste Management Plan (SWMP) has been submitted to and approved in writing by the Local Planning Authority. The SWMP shall include: information on the type and amount of waste likely to be generated prior to and during the construction phase; details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation. The approved SWMP shall be adhered to throughout the demolition and construction period.

Reason: To ensure the effective implementation of waste minimisation in accordance with the Gloucestershire Waste Core Strategy. Approval is required upfront because without proper mitigation the works could have an unacceptable highway impact during construction.

- 20 Demolition, construction works or other operations that generate noise beyond the site boundary shall be only carried out between the hours of 0800 hrs and 1800 hrs Mondays to Fridays, and between 0800 hrs and 1300 hrs on Saturdays and at no time on Sundays and Bank Holidays. Deliveries to, and removal of plant, equipment, machinery and waste from the site shall only take place within the permitted hours detailed above.

Reason: To safeguard the amenity of adjacent properties and the general locality, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 21 No piling activities shall be carried out until a full piling method statement has been submitted to and approved in writing by the local planning authority. The method statement must assess and include full details of the noise and vibration impact from the piling operations on the nearest residential properties; dates and times of piling; and details of monitoring measures. All piling activities shall be carried out in accordance with the approved details.

Reason: To safeguard the amenity of adjacent properties and the general locality, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 22 In the event contamination is found at any time when carrying out the approved development that was not previously identified, it must be immediately reported in writing to the local planning authority, and development shall be halted on that part of the site affected by the unexpected contamination. An investigation and risk assessment must then be undertaken in accordance with the Environment Agency's relevant guidance and, where necessary, a remediation scheme also submitted. Following completion of measures identified in the approved remediation scheme, a verification report shall be submitted to and approved in writing by the local planning authority before development can recommence on the part of the site identified as having unexpected contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with adopted policy SD14 of the Joint Core Strategy (2017).

- 23 The development hereby approved shall be carried out at all times (including during all ground and vegetation clearance works) and thereafter maintained in accordance with the recommendations and measures within the Construction Environmental Management Plan (CEMP) (Ecology Solutions March 2021 7807.CEMP.vf); and the Landscape and Ecology Management Plan (LEMP) (Ecology Solutions dated March 2021 7807.LEMP.vf). In addition to the approved LEMP, hedgehog tunnels shall be installed in accordance with details which shall have been previously submitted to and approved in writing by the local planning authority. Any modifications to the approved details within the CEMP and LEMP (for example as a result of requirements of a protected species license) must be submitted to and agreed in writing by the local planning authority prior to the implementation of any modifications.

Reason: To safeguard important ecological species and to ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider area during the construction and operational phases of the development, having regard to adopted policy SD9 of the Joint Core Strategy (2017) and section 15 of the NPPF (2023).

- 24 Full details of the external lighting scheme, following the principles and recommendations of the approved lighting strategy (Illume Design Lighting Strategy 03.03.2021 No. 4218 rev 0.2), shall be submitted to and approved in writing by the local planning authority. The details shall include but shall not be limited to the following:
- a. the position, height and type of all external lighting (including any security lighting);
  - b. the intensity of lighting and spread of light as a lux contour plan (including horizontal and vertical components);
  - c. lighting calculations and assessment;
  - d. measures to minimise light spill/pollution, having regard to the sensitive location of the site within an AONB;
  - e. measures to minimise the effects of lighting on protected wildlife species;
  - f. the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

The development shall be carried out in accordance with the approved scheme, maintained thereafter for the lifetime of the development and in accordance with the manufacturer's recommendations.

Reason: In the interests of the character and appearance of the locality, including the Cotswolds National Landscape and to safeguard the amenity of adjacent properties and the general locality, to safeguard important ecological species and to ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider area during the construction and operational phases of the development; having regard to adopted policy SL1 of the Cheltenham Plan (2020), adopted policies SD9 and SD14 of the Joint Core Strategy (2017) and section 15 of the NPPF (2023).

- 25 The submission of details required by Condition 1 shall include full details of a hard and soft landscaping and boundary treatment scheme for both the residential and open space elements of the proposed development. The scheme shall include the following:
- a. a written specification describing the species, sizes, spacing, densities and planting numbers;
  - b. details of all retained trees, hedgerow and other ecological features;
  - c. details of the phasing of implementation of all proposed hard and soft landscaping;
  - d. details of proposed aquatic planting for the indicative SuDS feature shown in the north-west corner of the site;
  - e. details of meadow grassland planting within the areas of public open space;



- f. details of hard and soft boundary treatment (including details of materials and elevation drawings where relevant);
- g. details of ridge and furrow retention, planting and maintenance;
- h. buffer/protection and deterrent planting measures (from deer and other predators) around retained mature, veteran and ancient trees;
- i. details of biodiversity net gain (BNG), in accordance with Natural England's Biodiversity Metric 2.0;
- j. a detailed Landscape and Tree Management and Maintenance Scheme (LTMMS) (for the short, medium and long term - 5, 10 and 30 years) for areas of proposed open space and children's play areas based on the principles set out in the approved LEMP.

All hard and soft landscaping and boundary treatments (as well as the LTMMS) shall be implemented and maintained in accordance with the approved details, and in accordance with a timetable agreed with the local planning authority. Any trees, hedgerows or other plants which, within a period of 5 years from the date that they were planted, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season (October to March) with others of the same size or species unless otherwise first agreed in writing by the local planning authority. Any pruning works shall be carried out in accordance with BS 3998:2010 (or any standard that reproduces or replaces this standard).

Reason: In the interests of biodiversity and the character and appearance of the area, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4, SD7, SD8 and INF3 of the Joint Core Strategy (2017).

- 26 All works including roads, paths, parking areas, drainage runs and other areas of hard landscaping that fall within Root Protection Areas of retained trees shall be constructed using a no-dig method. All trenches and service runs shall fall outside the Root Protection Area(s) of any retained trees shown on the approved drawings, unless otherwise first agreed in writing by the local planning authority. Any such works shall be carried out in accordance with the National Joint Utilities Group; Volume 4 (2007) (or any standard that reproduces or replaces this standard). No fires shall be lit within 5m of the Root Protection Areas and materials that will contaminate the soil such as cement or diesel must not be discharged within 10m of any tree stem. Existing ground levels shall remain the same within the Root Protection Areas and no building materials or surplus soil shall be stored therein.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020) and adopted policies SD3, SD4, SD7 and SD9 of the Joint Core Strategy (2017).

- 27 Prior to the commencement of development (including site and vegetation clearance works), the following shall be submitted and approved in writing by the local planning authority:
- a. a Tree, Shrub and Hedgerow Retention and Removal Plan, identifying all trees, shrubs and hedgerow to be removed and retained (including tree BS 5837:2012 categorisation);
  - b. details of tree protective fencing to comply with BS 5837:2012;
  - c. an Arboricultural Monitoring scheme for the construction phase which shall include details of (a) persons to conduct the monitoring; (b) the methodology and programme for reporting; and (c) a timetable for inspections;
  - d. an Arboricultural Method Statement (AMS) to comply with BS 5837:2012 which shall include (a) any no-dig construction method details for parking areas, footpaths, roads, drainage runs and other forms of hard landscaping; (b) foundation details for properties near to retained trees on or adjacent to the site; (c) the storage of materials and siting of

temporary structures for contractors; and (d) any access facilitation pruning in accordance with BS 3998 (2010).

No trees, shrubs or hedges within the site which are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed, without the prior written consent of the local planning authority. Any retained trees, shrubs or hedgerow indicated on the approved drawings which, within a period of 5 years following the completion of the construction phase die, become seriously damaged or diseased shall be replaced during the next available planting season (October to March inclusive) with other trees or plants of a location, species and size to be first approved in writing by the local planning authority. Any pruning works shall be carried out in accordance with BS 3998:2010 (or any standard that reproduces or replaces this standard).

No tree and/or hedge clearance shall be carried out during bird nesting season (1st March to 31st August inclusive) unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has first been submitted to and approved in writing by the local planning authority.

The development shall be carried out at all times in accordance with the details approved and the tree protective fencing shall be installed and inspected prior to the commencement of development and shall thereafter remain in place until the completion of the relevant construction phase.

Reason: To safeguard important existing trees and hedgerow in the interests of visual amenity and to safeguard important ecological species and their habitat, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020) and adopted policies SD3, SD4, SD7 and SD9 of the Joint Core Strategy (2017).

- 28 Details of a scheme for Public Art within the area(s) of public open space shall be submitted to and approved in writing by the local planning authority. The approved scheme be installed within six months following the completion of the development or in accordance with a timetable previously agreed in writing by the local planning authority.

Reason: To allow provision of public art in accordance with the public realm objectives of adopted Policy SD4 of the Joint Core Strategy (2017) and having regard to the Cheltenham Public Art Strategy (2017).

- 29 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that order with or without modification), no extensions, garages and outbuildings (other than sheds and greenhouses, and those forming part of the development hereby permitted) shall be erected without the permission of the local planning authority.

Reason: Any further extension or alteration requires further consideration to safeguard the character and appearance and amenities of the area and those of future occupiers of the development, having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020) and adopted policies SD4, SD7 and SD14 of the Joint Core Strategy (2017).

- 30 Prior to first occupation of the development, details of a Homeowner's Information Pack providing information on recreation resources in the locality shall be submitted to and approved in writing by the local planning authority. The pack shall be in accordance with the advice from Natural England (letter dated 13 April 2021) and include reference to: Alternative local recreation opportunities (off site), and website information for the

Cotswolds AONB. Each household shall be provided with an approved Homeowner Information Pack on occupation.

Reason: To assist in mitigating any impacts the proposed development may cause to designated landscape areas having regard to Policy BG1 of the Cheltenham Plan, Policy SD9 of the Joint Core Strategy (2017) and guidance set out at section 15 of the NPPF (2023).

- 31 Details of a scheme of interpretation for the adjacent heritage assets at Hewlett's Reservoir (which shall include details of the location, content and design of interpretation boards to provide the public with a better understanding of the heritage assets adjoining the site) shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the completion of the development.

Reason: In the interests of heritage and conservation, having regard to Section 16 of the NPPF (2023).

## Consultations Appendix

### Parish Council

*8th March 2024* - Objection:

The wording of the relevant section of the Manual for Gloucestershire Streets (MfGS) is a little clumsy, but its intention is very clear: Generally maximum gradients of 1 in 20, save for sections no longer than 30m of up to 1 in 12.

The appellant's chosen interpretation means that there is no length limit for gradients between 1 in 20 and 1 in 12, which is clearly nonsensical, as it would in effect remove the maximum gradient of 1 in 20 and replace it with a maximum gradient of 1 in 12.1.

The Planning Inspector has correctly understood the requirements of the MfGS with the use of the word 'up to' in their condition:

'maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres.'

Replacing the word 'up to' with 'of' allows for the creation of gradients slightly shallower than 1 in 12 for unlimited lengths, as detailed on drawing PJS22-068. Increasing the length of gradients in excess of 1 in 20 beyond 30m will result in a lower quality development, that will be harder for all non-motorised road users, and in particular for the infirm or wheelchair users, to use / live with.

The Parish Council can see no benefit in such a reduction in quality, with its resulting loss of amenity both to residents of, and visitors to, the proposed development. As such it strongly objects to the proposed variation and requests that, if the Case Officer is minded to recommend permit, the application is considered by CBC's Planning Committee rather than being determined under delegated powers.





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Highways Development  
Management  
Economy Environment and  
Infrastructure  
Shire Hall  
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Gloucester  
GL1 2TG

7 March 2024  
Your ref: 24/00251/CONDIT  
Ask for: Nathan Drover

Dear Lucy White

**TOWN AND COUNTRY PLANNING ACT 1990  
(DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015  
ARTICLE 18 CONSULTATION WITH HIGHWAY AUTHORITY**

**PROPOSAL:** Variation of condition 13 (access arrangements onto Harp Hill and road gradients) of outline planning permission 20/01069/OUT - revised wording of condition 13 in respect of road gradient lengths

**LOCATION:** Oakley Farm Priors Road Cheltenham Gloucestershire GL52 5AQ

**APPLICANT:** Vistry Homes Limited And Stonewater Limited

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 has **no objection**.

*This application is only to alter the wording of Condition 13 to read .." The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients of 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 meters."*

As this is in accordance with the current revision of Manual for Gloucestershire Streets (MfGS), the Highway Authority cannot reasonably refuse this wording and have already accepted the principle of a proposed road vertical alignment for adoption purposes. However, this revision in wording does not appear to clarify the

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interpretation, as the wording now does not implicitly include any reference to gradients between 1:20 and 1:12. So it does appear a bit ambiguous and could therefore be interpreted as no gradients between 1:20 and 1:12 would be permissible. This is an issue for the planning officer to consider whether the condition is precise enough.

We note the submission of the expert opinions on the interpretation of the original wording of Condition 13 and the extensive investigations these opinions have relied upon. We also note that the subject of the gradients across this site was considered in depth throughout the planning appeal process, and the original wording of Condition 13 is likely to have been drafted to limit the length of gradients between 1/20 and 1/12 to 30 metres.

Most accepted National Guidance and Best Practice indicate that gradients for highways, in particular footways, should be 1:20 or flatter. This maximum gradient has been established to provide a highway suitable for all users, including wheelchairs, pushchairs, pedestrians with limited mobility, visual impairments or other constraints. It is accepted that not all sites will lend themselves to 1:20 gradients throughout and in the Manual for Gloucester Streets an allowance is made for an absolute maximum of 1:12 which should be restricted to no greater than 30m lengths.

The Manual for Gloucestershire Streets makes many references to good design including the Local Transport Plan's objective of creating a safer, securer transport system, that applications should give priority to pedestrian and cycle movements and should address the needs of people with disabilities and reduced mobility. The Manual states that pedestrians should be considered first and that developments should meet the needs of people with protected characteristics with age, disability, pregnancy and maternity being listed among those characteristics.

While the proposed wording does not specifically consider gradients between 1:20 and 1:12, we can clearly see from the submitted supporting drawings that the applicant has interpreted this to mean any length of highway with any gradient less than 1:12 would be accepted. This is clearly not what the MfGS and National Guidance is seeking to achieve, which promotes designs which do not disadvantage users with restricted mobility.

We also note the submitted drawings do not appear to include any provision for Active Travel and highlight the section in MfGS which states Active Travel Corridors will be a maximum gradient of 1:20.

We accept that the gradients throughout the site are restricted by existing topography and advise that, in the Highway Authority's opinion, it is not reasonably practical to improve those gradients without either lowering the level of the proposed top of the site through the ridge and furrow pasture and relocating the water main or raising levels at the bottom of the site and affecting retained trees. Those are issues which need to be considered in the planning balance concerning impact on the landscape, trees and infrastructure costs.

**The County Council will be updating their guidance to explicitly deal with the gradients between 1/12 and 1/20 in order to avoid these issues in the future.**

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Yours Sincerely

**Nathan Drover**  
**Highway Development Management Team Manager**

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Application Response

# Land at Oakley Farm, Cheltenham 24/00251/CONDIT



Friends of Oakley Farm  
Pasture Slopes



[www.oakleyfarmpastures.wixsite.com/oakley](http://www.oakleyfarmpastures.wixsite.com/oakley)

## The Friends of Oakley Farm Pasture Slopes - Response to Planning Application 24/00251/CONDIT.

Thank you for the opportunity to comment on this application.

### **From our detailed review below, Points for Consideration:**

1. When read by a reasonable reader the gradients condition is clear and unambiguous as to its requirements.
2. The Inspector's aim in imposing the gradient conditions as written, was to guarantee the provision of safe, suitable, permeable, and sustainable access for all users.
3. During the appeal condition's meetings, GCC were concerned that any gradients between 1:20 and 1:12 could potentially be unrestricted in length and wanted tighter constraint on section lengths between these gradients. The appellants agreed and introduced the "up to" preposition to address GCC's concerns.
4. The appellant understood the reason why "up to" was required by GCC.
5. The appellant intentionally and precisely formulated the draft proposed condition utilizing the term "up to".
6. The appellant was conscious of the requirement that any gradients between 1:20 and 1:12 would be conditioned to a length no greater than 30m.
7. There was no objection to the use of "up to" for any reason in the formulation of the gradients condition by any main party to the appeal.
8. The Inspector was fully aware of the use of "up to" in the draft condition and had been made aware why the phrase was deemed to be necessary.
9. The Inspector had no objection to the use of "up to" in the draft condition.
10. The Inspector didn't find the proposed draft condition ambiguous, and neither did Gloucestershire County Council, Robert Hitchins (the Appellant), The Cotswold Conservation Board, Cheltenham Borough Council or The Friends of Oakley Farm Pasture Slopes.
11. The Inspector was considering all potential road and footpath users when establishing the gradients condition.
12. The appellant at the appeal submitted an Alternative Illustrative Masterplan (AIM) to the Inspector during the inquiry. This AIM demonstrated that a development scheme could be successfully implemented within the parameters of the gradients as per the gradients condition.
13. The Inspector could have explicitly limited road and footpath gradients according to the MfGS but chose instead to provide clear and unambiguous specific limits, without the need to reference the MfGS when forming the gradient's condition.

14. The Inspector's choice of an unambiguously written gradients condition, distinct from the MfGS, was deliberate and appropriate for the appeal at hand.
15. Conditions are imposed to make a development acceptable in planning terms; therefore, failure to comply with conditions can make them unacceptable, as the Inspector implied in this case. DL76<sup>1</sup>
16. The applicant has not provided any credible evidence to explain why the use of the words “up to”, in any context, is ambiguous. Their legal advisors seem to offer questionable clarity.
17. Replacing the words “up to” with “of”, to our minds, introduces ambiguity.
18. A significant portion of the applicant's argument aims to persuade the reader that the Inspector intended to formulate his condition solely in accordance with the MfGS. However, it is evident that this was not the Inspector's intention.
19. The Council’s legal opinion is clear that the courts would favour GCC’s view that the condition restricts lengths between gradients of 1:20 and 1:12.
20. Our evidence below would add weight to the Council’s legal advice in supporting GCC’s view.
21. Crucially, the evidence in this document clarifies precisely why the words 'up to' were included in condition 13, dispelling any perceived ambiguity about the intended purpose of the condition. Consequently, it rebuts the sole reason<sup>2</sup> for the applicant's proposal to modify the condition, and, as a result, the application should be recommended for refusal.
22. The Town and Country Planning Act empowers planning inspectors to impose "such conditions as they think fit".
23. The Inspector determined, at DL125, that his gradients condition 13 was necessary to provide safe access to and across the site.
24. We can all engage in speculation and conjecture about the Inspector's reasoning behind deeming the specified condition on gradients as the most suitable and necessary, as well as his intentions concerning the MfGS. Nevertheless, the undeniable reality is that the condition was imposed as written, substantiated by evidence that validates both its wording and the rationale for its inclusion. No compelling arguments have been made to warrant its modification.

## **The Detail:**

### **PART 1 – The Question of Ambiguity.**

The Friends have accepted the inevitability of development at Oakley Farm. Outline approval is in place for up to 250 houses on the site, and there is no doubt that Cheltenham needs homes of all types. However, it is crucial that any new homes are appropriately situated in sustainable and accessible places, ensuring suitable locations for all future occupants.

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<sup>1</sup> See endnote i

<sup>2</sup> Application covering letter. ...to address ambiguity inherent in the original wording of the condition...

The Friends of Oakley Farm Pasture Slopes actively participated as a Rule 6 party in the appeal inquiry 3273053, which was subsequently allowed. This extensive appeal covered various topics over several days, with a particular focus on highway-related issues, especially those concerning gradients. Throughout the discussions, concerns were raised about the appropriateness of establishing access on a significantly sloping site. Despite addressing the potential traffic impact on Harp Hill, a persistent question lingered: Could any developer create access that is compliant, safe, sustainable, and suitable for all users? According to “The Friends”, it was never convincingly demonstrated that such a feat could be achieved.

The original applicant has now moved on, and the new developer has discovered the subtleties of the access arrangements as conditioned. Compliance will be challenging when aiming to accommodate 250 properties on this steeply sloping and TPO-restricted site, within an Area of Outstanding Natural Beauty (AONB).

**Planning Application 24/00251/CONDIT:**

The proposal from the applicant’s covering letter:

“The application seeks consent to vary condition 13 of the outline permission ... to address ambiguity inherent in the original wording of the condition that has become apparent during the latter stages of the reserved matters determination process (23/01691/REM)”.

Applicant’s reasoning from the covering letter:

“It is proposed to vary the wording of the final sentence of condition 13, removing the words ‘up to’ and replacing them with ‘of’ to avoid any ambiguity as to the intended purpose of the condition having regard to the provisions of The Manual for Gloucestershire Streets (MfGS) which is the quoted authority relied upon by the Inspector in reaching his decision for determining the acceptability of gradients within the site.”

**Planning conditions general:**

Conditions are intended to ensure that proposed developments align with specific criteria or mitigate potential negative impacts.

NPPF 56 states:

“Planning conditions should only ... be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”

Planning Practice Guidance states:

“... conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission...”

The Town and Country Planning Act enables planning Inspectors in granting planning permission to impose “such conditions as they think fit”.

### **Our Understanding:**

The Inspector deemed it necessary to impose the gradients condition as written, to make the development acceptable. Therefore, without the condition as imposed, and having regard to DL 76,<sup>i</sup> the appeal would have failed.

The applicant is requesting a variation to the wording of the final sentence of condition 13. Specifically, they propose removing the words ‘up to’, and replacing them with the word ‘of’. Their reasoning is to avoid any ambiguity in the intended purpose of the condition, having regard to the MfGS.

### **Our Intentions:**

The Friends will demonstrate that there is no ambiguity in the offending sentence of condition 13, as claimed. We will evidence this by explaining the evolution of the condition, which will also clarify why “up to” is incorporated into the condition as it is. Furthermore, we will consider the Inspector’s reasoning behind his including the condition as written. Additionally, in Part 2 we will demonstrate that the MfGS was not the only authority relied upon by the Inspector when he imposed condition 13.

In turn, we will explain why condition 13 should remain unmodified and why it remains relevant.

### **Condition 13, “up to” evolution:**

As is common practice at appeals, planning conditions can be negotiated and agreed by interested parties connected to, but operating on the edge of the public inquiry, subsequently the conditions are presented to the Inspector for approval. Records show that condition 13 was arrived at in this way.

A detailed email trail should be available in the CBC planning system for inspection, which shows how the relevant sentence of condition 13 evolved. However, it is summarised in endnote <sup>ii</sup> at the end of this document, and précised below:

1. The Council initially proposed a condition for site access requiring an average gradient of 1:20 on footpaths and cycleways, with steeper gradients no greater than 1:12 limited to 30m lengths.
2. The appellant suggested an amendment to this, requiring access to be generally designed with gradients between 1:12 and 1:100, with gradients of 1:12 limited to 30m.
3. The Council rejected this, emphasizing adherence to the 1:20 average, because the wording proposed by the appellant would allow a gradient of, for example, 1:12.5 to be acceptable at any length. (“The Friends” understand that this was included to remove any ambiguity in the suggested condition. A similar clarifying note was made to the Inspector in “The Friends” response to the AIM)<sup>iii</sup>
4. The appellant responded and finalised with: The reserved matters submissions relating to access are required to be generally designed so that maximum and

minimum gradients allowable will be 1:20 and 1:100 respectively, save that gradients **up to** 1:12 are permissible provided where they are proposed these shall be limited to maximum lengths of 30m.

5. This was accepted by GCC and subsequently forwarded to the Inspector.

The key takeaway from the evolution of the agreed condition, is that it was the appellant who introduced the words 'up to', to limit lengths to 30m where gradients steeper than 1:20 are proposed. This change was made at the specific request of GCC. The planning inspector was fully aware of this detail.

If there is ambiguity in the use of “up to” as the current applicant proposes, which is contrary to our view, then the above evidence clears that assertion.

### **Overview:**

Throughout the process, the Planning Inspectorate was regularly updated with the latest amendments to the conditions. As noted in endnote i, the Appellant’s Counsel informed both the Inspector and the inquiry, specifically, about the modified gradients condition. Attention was repeatedly drawn to gradients during the inquiry, casting doubt on their achievability within the then-current masterplan. The Inspector sought assurance on this matter and requested the appellant provide an Alternative Illustrative Masterplan (AIM) to demonstrate, among other things, that the proposed gradients, as per the suggested condition, could be achieved. The appellant agreed, and an AIM was produced, claiming to meet the required gradients, thereby satisfying the Inspector. To eliminate any uncertainty regarding the appellant’s motivation for providing the AIM, they informed the inquiry of several points for clarity. For completeness, we have included these as an endnote.<sup>iv</sup>

### **Part 2 - The intention of the Inspector.**

#### **The applicant’s proposal:**

“It is proposed to vary the wording of the final sentence of condition 13, removing the words ‘up to’ and replacing them with ‘of’ to avoid any ambiguity as to the intended purpose of the condition having regard to the provisions of The Manual for Gloucestershire Streets (MfGS) which is the quoted authority relied upon by the Inspector in reaching his decision for determining the acceptability of gradients within the site.”

#### **Our Understanding:**

We understand that from the applicant’s perspective the inspector primarily relied on the MfGS when assessing the acceptability of the site's road gradients, and as such, this influence should be reflected in the condition's wording.

#### **Our response:**

We argue that had the Inspector intended to specifically limit gradients solely according to the MfGS guidelines as written, he could have easily made that choice. However, he decided to use clear, fresh, and unambiguous language, establishing precise limits for

expected gradients without referencing the MfGS in the condition. This approach avoids any conflict and potential ambiguity with the condition's wording. While it's likely that the chosen condition drew inspiration from the MfGS, the Inspector had total insight into its development and a thorough understanding of the reasons behind its wording.<sup>3</sup>

We perceive the applicant's position as overly simplified, offering a limited assessment of the factors considered by the inspector in addressing the gradient issue. In our view, the Inspector considered the MfGS as just one factor in shaping the gradients condition, accepting compliance with its standards perhaps as a starting point. However, he also considered alternative sources of guidance, including MfS, MfS2, IM,<sup>4</sup> and their gradient related content, such as permeability, accessible routes for all, including cyclists and pedestrians, and considerations for those with protected characteristics. Importantly, he also had in mind the scheme proposed by the appellant, the Alternative Illustrative Masterplan (AIM).

The Inspector was satisfied the AIM adhered entirely to the widely supported, cross-party agreed draft gradients condition, and also the MfGS. The Inspector had requested that the appellants provide the AIM to ascertain that a scheme was possible that could align with the proposed draft condition. The AIM did just that, and so the Inspector chose to use the draft gradients condition. A condition that was not only AIM compliant, but satisfied the requirements of the MfGS, had been proposed and agreed by the appellant, was precise and unambiguous, and was satisfactory to GCC Highways. The Inspector clearly deemed it the most suitable gradients condition for the appeal that he was determining and had no inclination to reference the MfGS.

After considering the above, had the Inspector been minded to formulate a condition strictly and exclusively in accordance with, and referencing the MfGS' gradient factors, it is remarkable that he refrained from doing so, despite having the option to draft one straightforwardly. Evidently, he required more than this, determining that an overarching unambiguous condition was needed.

In the future, when reviewing the reserved matters application, the decision maker's sole focus in assessing gradient compliance is to determine whether the gradients adhere to the specified limits outlined in condition 13. There is no requirement to consider MfGS, as it does not constitute a component of the condition.

### **Summary:**

The inspector meticulously reviewed various guidance documents, with the MfGS being just one among them. Already familiar with the draft gradients condition, he acknowledges its alignment with the MfGS and is content with the AIM's compliance. Deeming the draft gradients condition the most effective solution, he integrates it into his decision.

Our findings indicate that the Inspector thoroughly took into account a diverse range of gradient-related factors, affirming that the gradient condition was not

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<sup>3</sup> Email evidence is available to show that the Planning Inspectorate were informed of the progress of the draft gradient condition's development.

<sup>4</sup> Manual for Streets, Manual for Streets 2, Inclusive Mobility.



exclusively derived from the MfGS. The primary objective behind imposing the gradient condition as written, was to guarantee the establishment of safe, suitable, permeable, and sustainable access for all users. There is no ambiguity in this respect. We argue that the inclusion of the gradients condition, as expressed, was crucial to facilitating the outline proposal, and its absence would have inevitably led to the rejection of the appeal.

**Overall conclusion:**

Based on the presented evidence, succinctly summarized at the beginning of this document, the evolution of the words “up to” in condition 13 has been established, including the rationale for their inclusion, intended interpretation, and the overall purpose of conditioning the gradients as published. Additionally, we have shown that the Inspector, was well-informed when determining the gradient’s condition, balancing multiple gradient factors. In summary, there is no ambiguity in the use of the words “up to” in condition 13, which limits any proposed gradients between 1:20 and 1:12 to lengths of no more than 30m. This aligns with the opinions of GCC Highways and CBC’s legal advice. The Inspector was fully aware of the condition that he was applying and the gradient restrictions that it imposed.

If, as suggested by the applicant, the words "up to" are substituted with "of," we contend that such a change would introduce imprecision, uncertainty, and ambiguity within the condition. This deviation from clarity would not align with the policy outlined in NPPF 56 and would, in this instance, contravene good planning practice. Allowing the planning proposal to influence the planning condition, in this way, runs counter to sound planning principles.

**Considerations:**

In determining this application to amend the planning condition, we believe it should not be considered by the decision maker as yet another planning balance exercise. The Inspector has already performed this, determining the necessity of the condition in its current form to allow the appeal, and to make the outline plan acceptable. Consequently, such assessment stands as a specific prerequisite for any forthcoming detailed planning proposal.

The application to change the wording of condition 13 as proposed should be refused.

## Endnotes:

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<sup>i</sup> Appeal Decision Letter. DL 72-76

72. The second highway issue raised by the County Council on which there was much discussion relates to gradients across the appeal site. Policy SD4(vii) of the JCS requires, amongst other things, that new development should be fully consistent with guidance set out in the Manual for Gloucestershire Streets (MfGS) and other relevant guidance in force at the time. The MfGS, published in July 2020, states that generally the maximum gradients allowable in new developments should not exceed 1:20, but consideration can be given to 1:12. Where the latter is proposed, no stretch should exceed 30 metres.

73. The Council argues that any failure to comply with these standards would represent a clear breach of development plan policy. Conversely, the appellant says that the current draft of the MfGS postdates the adoption of the JCS (December 2017) and therefore cannot logically require compliance with it in any event. However, it seems to me that the clear intention of the JCS Policy is that the relevant applicable guidance is that in force when a planning application is determined, and not some earlier superseded iteration of it. The appellant's approach would run counter to a common sense application of the policy.

74. To complicate matters, in addition to the local standards within the MfGS, there are a range of standards in national guidance documents. For example, Manual for Streets does not impose a requirement of 1:12 but says in respect of cyclists and pedestrians that gradients should ideally be no more than 5% (1:20), although it is acknowledged topography may make this difficult to achieve. Manual for Streets 2 (MfS2), in respect of carriageway gradients, allows for a practical maximum of 8% (1:12) but allows for steeper gradients where there are 'particular local difficulties'. In relation to pedestrian routes, MfS2 states the gradient should ideally be no more than 5% (1:20), although topography make this difficult to achieve; and that as a general rule 8% (1:12) should be considered a maximum, which is the limit for most wheelchair users, as advised in Inclusive Mobility.

75. As the appellant notes, the MfGS has not been consulted upon publicly and has not been through the same statutory processes that govern development plans. The MfGS is ultimately technical guidance. This means it cannot have statutory force, but it should not be ignored. During the Inquiry, to address the Council's concerns, the appellant produced an Alternative Illustrative Masterplan which demonstrated that a road layout could technically be achieved to comply with the more stringent local MfGS requirements. A condition has also been suggested requiring full compliance with the MfGS standards, although the appellant does not consider it to be necessary.

76. In my judgement, there must be some degree of flexibility to take account of natural topography, but developments should be as permeable as possible and offer attractive pedestrian and cycle routes which are accessible for all users. Given it has been demonstrated that it is possible to design a scheme that would adhere to the MfGS, I see no good reason why a suitably worded condition cannot be imposed in this instance. In these circumstances, no objections with respect to gradients can be sustained, nor can it be a reason for the appeal to fail.

<sup>ii</sup> Content from emails of the appeal condition's negotiations.

The Council's initially suggested Condition relating to site access:

"The reserved matters submissions relating to highways and access are required to demonstrate how an average gradient of 1:20 on all internal footpaths and cycleways can be achieved across the site, with steeper gradients of no greater than 1:12 being limited to 30m lengths of pathways.

Reason: To ensure that safe and suitable access is provided for all users and is maintained in the interests of highway safety."

The appellant's team reviewed the above and suggested the following amendment:

“The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/12 and 1/100 respectfully, where 1/12 gradients are proposed these shall be limited to maximum lengths of 30m.”

The council’s response: (This iteration is released by way of information to the Planning Inspectorate)

“GCC cannot agree this amendment, guidance is clear, an average of 1:20 across a site should be achieved with stretches of 1:12 being no longer than 30m. This wording would permit 1:12.5 to be acceptable across the site, which does not comply with the spirit of the guidance nor proactively encourage active travel or inclusivity for people with protected characteristics.”

The appellant’s responded with:

“The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients **up to** 1/12 are permissible provided where they are proposed these shall be limited to maximum lengths of 30m.

The above text was included in a covering email, info to the inspectorate, which specifically highlighted the use of the words “up to”.

On the previous day there was an email sent from the Appellants Counsel to the Planning Inspectorate reiterating the inclusion of “up to”: “...The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible provided where they are proposed these shall be limited to maximum lengths of 30m.”

<sup>iii</sup> Extract from “The Friends” response to the AIM: We would consider it a not unreasonable assumption to read gradients of 1:12 (8.33%) as “gradients up to 1:12” otherwise a gradient of 1:12.1 (8.26%) could be deemed completely acceptable at any length. The appellant appears to concur with this assumption should it be the case that the inspector is in agreement with the GCC gradients detail. This is reflected in the proposed/modified condition 11.

<sup>iv</sup> “The Appellant has always maintained that the original masterplan is deliverable and remains appropriate for an outline application.

The alternative masterplan was only produced because we were asked to produce it. That is because questions that were being raised by the other parties about whether it would be deliverable with the GCC preferred gradients.

The Appellant’s primary position is that the GCC preferred gradients are not a requirement of the scheme – see the Highways evidence and cross examination.

**Even if the Inspector was to impose the GCC preferred gradients, the Appellant has simply demonstrated that they could still be achieved within the same development footprint but with an altered internal layout (which will be addressed at RM stage anyway).**

The additional detail that was provided to GCC in terms of sections etc. was simply for information purposes for GCC so that they could understand how the levels would work.

The alternative Masterplan is simply a second iteration of the original plan based on the same principles and in accordance with the tested parameter plans.

The scheme has not changed. The submitted information is simply to assist the inquiry and to provide the Inspector with comfort that the scheme is deliverable.

We don't consider it necessary to recall witnesses as the information should already answer the queries that have been raised by the LPA, GCC and the R.6 parties."

IN THE MATTER OF THE TOWN AND COUNTRY PLANNING ACT 1990

AND LAND AT OAKLEY FARM, CHELTENHAM

AND PLANNING APPLICATIONS 20/01069/OUT AND 23/01691/REM

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OPINION (2)

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**Introduction**

1. I am instructed to advise Vistry Homes Limited (“Vistry”) through their consultants, Nexus Planning, in respect of the development of Land at Oakley Farm (“the Site”), within Cheltenham Borough Council (“the Borough Council”).
2. I am specifically asked to advise as to the correct interpretation of Condition 13 attached to Planning Permission 20/01069/OUT (“the Outline Permission”), which was granted permission on appeal (APP/B1605/W/21/3273053) on 5 October 2022, in the context of:
  - (1) Planning Application 23/01691/REM seeking to discharge reserved matters (“the Reserved Matters Application”);
  - (2) Gloucestershire County Council, the Highway Authority (“the County Council”) change of position in respect of the interpretation of Condition 13 between July 2023 and December 2023 in the course of considering the Reserved Matters Application.
3. In summary, my advice is that the current Application does comply with Condition 13 as it is presently worded. There is no requirement for variation.
4. My instructing consultants met with the Borough Council and County Council on Thursday 11 January 2024. This advice supplements an earlier Opinion discussed at that meeting, providing a more extensive reference to the key sections of the Inspector’s Report and the consequent explanation for the interpretation of the Condition.

**Factual Background**

5. The factual background will be well-known to those instructing and to the Borough Council and County Council and I shall therefore only summarise the core facts.
6. On 5 October 2022, Inspector Nunn granted the Outline Permission, with the following description, following an inquiry heard during 2021 and 2022:

*“development comprising up to 250 residential dwellings, associated infrastructure, ancillary facilities, open space and landscaping; demolition of existing buildings; creation of new vehicular access from Harp Hill’.”*

7. The Inspector considered the disputed issue of gradients of access across the Site as follows, with footnotes 70-74 in square brackets:

Gradients

72. The second highway issue raised by the County Council on which there was much discussion relates to gradients across the appeal site. Policy SD4(vii) of the JCS requires, amongst other things, that new development should be fully consistent with guidance set out in the Manual for Gloucestershire Streets (MfGS) and other relevant guidance in force at the time. The MfGS, published in July 2020 [70], states that generally the maximum gradients allowable in new developments should not exceed 1:20, but consideration can be given to 1:12. Where the latter is proposed, no stretch should exceed 30 metres.

73. The Council argues that any failure to comply with these standards would represent a clear breach of development plan policy. Conversely, the appellant says that the current draft of the MfGS postdates the adoption of the JCS (December 2017) and therefore cannot logically require compliance with it in any event. However, it seems to me that the clear intention of the JCS Policy is that the relevant applicable guidance is that in force when a planning application is determined, and not some earlier superseded iteration of it. The appellant’s approach would run counter to a common sense application of the policy.

74. To complicate matters, in addition to the local standards within the MfGS, there are a range of standards in national guidance documents. For example, Manual for Streets does not impose a requirement of 1:12 but says in respect of cyclists and pedestrians that gradients should ideally be no more than 5% (1:20), although it is acknowledged topography may make this difficult to achieve [71]. Manual for Streets 2 (MfS2), in respect of carriageway gradients, allows for a practical maximum of 8% (1:12) but allows for steeper gradients where there are ‘particular local difficulties’ [72]. In relation to pedestrian routes, MfS2 states the gradient should ideally be no more than 5% (1:20), although topography make this difficult to achieve; and that as a general rule 8% (1:12)

*should be considered a maximum, which is the limit for most wheelchair users, as advised in Inclusive Mobility [73].*

*75. As the appellant notes, the MfGS has not been consulted upon publicly and has not been through the same statutory processes that govern development plans. The MfGS is ultimately technical guidance. This means it cannot have statutory force, but it should not be ignored. During the Inquiry, to address the Council's concerns, the appellant produced an Alternative Illustrative Masterplan which demonstrated that a road layout could technically be achieved to comply with the more stringent local MfGS requirements. A condition has also been suggested requiring full compliance with the MfGS standards, although the appellant does not consider it to be necessary.*

*76. In my judgement, there must be some degree of flexibility to take account of natural topography, but developments should be as permeable as possible and offer attractive pedestrian and cycle routes which are accessible for all users [74]. Given it has been demonstrated that it is possible to design a scheme that would adhere to the MfGS, I see no good reason why a suitably worded condition cannot be imposed in this instance. In these circumstances, no objections with respect to gradients can be sustained, nor can it be a reason for the appeal to fail.*

[Footnotes:

70 CD I4

71 CD I2, Paragraph 6.3.27

72 CD I3, Paragraph 8.4.2

73 Department of Transport, 2005

74 Paragraph 112 of the Framework]

8. Those reasons were briefly supplemented at DL125:

*“Conditions relating to highway works, their implementation and future management, including cycle ways and footways are necessary to provide safe access to and across the site (13, 14, 15, 16, 17).”*

9. Condition 13 of the Outline Permission provided (NB with all underling and bold emphasis added both in this excerpt and below):

*13) Notwithstanding the illustrative proposed access arrangements on to Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847\_02 Sheet No.3 rev F and the Alternative Illustrative Masterplan ref. 18017.202 Rev B, full details of the proposed access junction on to Harp Hill shall be submitted to and approved in writing by the local planning authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. **The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres.***

10. During 2023, Nexus and Vistry’s other instructed consultants (including PJS in respect of highways and transport matters) engaged in considerable detailed work and discussions with the Borough Council, the Gloucestershire County Council (as Highways Authority) and other parties, including work under a Planning Performance Agreement.
  
11. On 19 July 2023, PJS wrote to the County Council to confirm that in applying Condition 13 the intended approach was as follows: *“we can go up to 1:12 for 30m and then enter a vertical (i.e. value 2) to transition into 1:20 and then vertical curve into 1:12 (i.e. 1:12 for a maximum of 30m between tangent points).”*<sup>1</sup>
  
12. PJS then excerpted the Manual for Gloucestershire Streets (July 2020) (“MfGS”), which the Appeal Inspector had referred to a number of times (throughout DL72-76 recorded above). The key section provides as follows (page 30):

**Vertical Alignment**

*The Developer must consider the following when designing vertical curves on new developments. **Generally, the maximum and minimum gradients allowable on new developments will be as detailed within the table below:***

<i>Category</i>	<i>Maximum Gradient</i>	<i>Minimum Gradient</i>
<i>All Streets</i>	<i>1:20 (5%), <b>but consideration give to 1:12</b></i>	<i>1:100</i>
<i>Active Travel Corridors</i>	<i>1:20 (5%)</i>	<i>1:100</i>

**Where a 1 in 12 gradient is proposed no length shall exceed 30m.**

*For clarity the gradient tolerances apply to private driveways and proposed streets.*

*Additionally, the Developer must consider the curvature of the new highway. The design curve length will be a function of the algebraic change of gradient, expressed as a percentage, multiplied by the ‘K’ value. ‘K’ values are provided in the table below:*

<i>Category</i>	<i>Minimum “K” Value</i>
<i>Enhanced Streets</i>	<i>6</i>
<i>Informal Streets / Pedestrian</i>	<i>2</i>
<i>Prioritised Streets</i>	<i>2</i>
<i>Active Travel Corridors</i>	<i>2</i>

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<sup>1</sup> Excerpts of these e-mails are provided in the Technical Note Access Strategy Compliance Statement (December 2023)



*The Developer should note that side road gradients into junctions should be set at a maximum of 1:20 (5%) for the first 10m. Additionally, the minimum vertical curve length of any section of road should be not less than 20m.*

*Example*

*The 'K' Value is given by:*

$$\begin{aligned} & \text{Design curve length / Algebraic change of gradient} \\ & = 20\text{m} / 10 \\ & = 2 \end{aligned}$$

*Therefore the above example falls within the design criteria and would be acceptable. The developer should note that where gradients exceed 5% there may be a requirement for a grit bin. In such instances, the developer will need to ensure the design provides an adequate location and that a suitable grit bin is provided.*

13. MfGS page 36 records the same text:

***Common Design Requirements***

*The below table details features that apply to all proposed new streets. Where innovative designs are promoted it may be appropriate to deviate from the below give the unique character of the design.*

*Gradient:*

*1 in 20*

***1 in 12 can be permitted, 30m (max)***

14. The County Council's Principal Development Coordinator confirmed that the stated approach was a "reasonable interpretation". Additional drawings were requested to illustrate the intended approach. By reply on 20 July 2023, PJS then confirmed that they would proceed "on that basis (1:12 for a maximum of 30m between tangent points) and then supply a contour drawing off the back of the model update".
15. On 29 September 2023, Vistry and Stonewater Ltd submitted the Reserved Matters Application, and this was validated on 4 October 2023.
16. On 4 December 2023, a Technical Note (Access Strategy Compliance Statement) was provided by PJS which recorded the earlier discussion and then summarised the position reached.

17. The Officer's Report summarised the position reached as at early December 2023, including the submission of (a) a Technical Transport Note; (b) Highways drawings; (c) a Revised Technical Transport Note and (d) an additional Longitudinal Section Plan of access arrangements:

*6.89 The application is accompanied by a Transport Technical Note and various highway related technical drawings. The Transport Technical Note was revised to add commentary on the proposed road gradients and their conformity with the terms of Condition 13. In summary, the horizontal alignment of the roads has been established to achieve the most effective alignment overall, whilst respecting the constraints of the existing TPO trees and their associated root protection areas across the site. The GCC MfGS Highways Design Guidance prescribes maximum and minimum grades of 1:20 and 1:100 respectively, with 1:12 sections permitted for max 30m lengths, as per the requirements of Condition 13. These requirements have been discussed and agreed with the HA; the vertical design and the proposed road levels are in accordance with these requirements. Similarly, vehicular swept path analysis across the site (including the requirements for refuse vehicles) has also been discussed and agreed with the HA.*

*6.90 Irrespective of the above, the HA has been re-consulted in respect of the additional Longitudinal Section Plan of access arrangements submitted on 4th December 2023. Members will be notified of their response and whether this alters the HA's recommendation, in an Update report or at Committee.*

18. The Update to the Officer Report then recorded a change of position by the County Council, following the departure of the Principal Development Coordinator and the appointment of a new Officer:

*1.7. The second issue relates to road gradients and whether the proposed development is in conformity with the requirements of Condition 13 of the outline planning permission. In summary, Condition 13 requires reserved matters submissions relating to access to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres.*

*1.8. The Highway Authority's formal consultee response was received on 9th November 2023 and no objection to the proposals was raised. In response to officers seeking clarification from the applicant that the proposed road gradients comply with the requirements of Condition 13, the Highway Authority has since reviewed the proposed access arrangements and now reached the conclusion that the road gradients within the site, although not exceeding 1:12, include lengths between 1:20 and 1:12 longer than the 30 metre length permissible.*

*1.9. Accordingly, the Highway Authority has provided the following update to their previous consultee response:*

We have received information from Vistry concerning the impact of potential changes to the gradients to fully comply with Condition 13.

By way of background, the County Council accepted the currently proposed road gradients for highways adoption purposes and had agreed that Vistry had complied with the planning condition on the basis that none of their 1/12 gradients were longer than 30 metres. The condition requires the access to be generally designed so that maximum gradients allowable will be 1/20, save that gradients up to 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres.

**However, upon reviewing the wording of the planning condition, it is GGC's opinion that the correct interpretation of the condition is that all gradients that are steeper than 1/20 should be restricted to 30m in length.**

There are a number of vertical curve transitions between the proposed 1/12 gradients that exceed 30 metres in length and where the average gradient is steeper than 1/20 and therefore it is GCC's opinion that this aspect would not comply with the condition.

Nevertheless, the objective of the condition is to ensure that gradients have been optimised to provide the best circumstances for wheel-chair users etc. So GCC have been working with Vistry to see whether everything that is reasonably practicable has been done to achieve the gradients and whether the proposal can be modified to comply with the exact wording of the condition, i.e. the gradients between 1/12 and 1/20 are shorter than 30m in length.

As mentioned above had accepted the proposed gradients, however if the levels were modified so that they were fully compliant with the wording of the condition, that would have to be done by either raising the lower end of the road or lowering the upper section of the road.

Lowering the upper section of road has some implications that would need to be considered in the planning balance:

- Reduces the currently proposed levels through the open space by a further c.2.2m and widens the earthworks embankments affecting the adjacent public open space;
- Reduces the level of the connecting road and would require additional removal of some hedge / trees where the road crosses the retain north/south hedge.
- Would require further diversion of a 12inch and 18inch water main.
- Would require the exportation of significant higher level of surplus soil.

Raising the lower end of the road has some implications that would need to be considered in the planning balance:

- Raises the existing low spot at least 3m above currently proposes levels.
- Adversely impacts the veteran protected Oak tree by raising levels in the vicinity of the tree.
- Would require additional retaining structures to accommodate the increase in levels.
- Would require the exportation of significant higher level of surplus soil.

1.10. The Highway Authority and planning officers are still in discussion with the applicant on how to resolve this issue. However, at this stage officers are generally not

*supportive of the design solutions set out above, which would also need very careful consideration and consultation with the Council's specialist advisors, to minimise harmful impacts on the landscape. It is more likely that the applicant will be advised to submit an application to vary Condition 13 (under s73 of the Town and Country Planning Act). The current scheme (or an amended scheme) could then subsequently be considered alongside an approved varied wording of Condition 13.*

*1.11. Officers and the Highway Authority will provide a verbal update and explanation of the highway related matters concerning the proposed development's conformity with Condition 13 at Planning Committee on Thursday 14th December 2023.*

*1.12. In light of the above and to allow for further discussion with the applicant, the officer recommendation is therefore changed to DEFERRAL of the application.*

19. I am instructed that, subsequent to the deferral, Nexus have held further telephone discussions with the Borough Council.
20. I understand that the Borough Council's Officers agree that engineering interventions of the nature described in order to achieve compliance with the County Council's interpretation of Condition 13 would not be acceptable for other material reasons.
21. The fundamental question now is therefore whether the County Council's current interpretation of Condition 13 is correct.

### **Analysis**

22. There is a considerable body of case law in recent years on the interpretation of planning conditions, from *Trump International Golf Club Scotland Ltd v Scottish Ministers* [2016] 1 WLR 85, [33] through to *Lambeth LBC v SSCLG & Aberdeen Asset Management* [2019] UKSC 3315, *DB Symmetry Limited v Swindon Borough Council* [2021] PTSR 432 ; *R v Ashford Borough Council ex parte Shepway District Council* [1999] PLCR 12 ; *Patel v Secretary of State for Housing, Communities and Local Government* [2021] EWHC 2115 (Admin) ; *Norfolk Homes Limited v North Norfolk District Council* [2021] PTSR 863. As the Planning Court summarised in *Swire v Canterbury City Council* [2022] EWHC 390, [32]

*“32. In general, the same principles apply to the interpretation of a planning permission as apply to other legal documents. The question is what would a reasonable reader understand the words used in a permission to mean, read in*

the context of the conditions and the consent as a whole. The court has regard to the natural and ordinary meaning of the words used, and the purpose of the consent and other conditions casting light on those words. The context in which a planning permission or a condition must be interpreted includes the legal framework within which permissions are granted. Accordingly, the reasonable reader must be treated as being equipped with some knowledge of planning law and practice.”

23. In my view, it is important to take matters in three stages:

- (1) The wording of the final sentence itself (read in the immediate context of Condition 13;
- (2) The reasons for the condition (recorded at DL72-76 and DL125);
- (3) The external documents referred to in that section of the Report.

(1) *Condition 13's Text*

24. Condition 13's final sentence is commenced with a "generally designed" introduction. I agree with my instructing consultant that this is an important provision which is expressly intended to promote flexibility in the implementation of the condition. In particular, I agree that if maximum was to apply to all distances between 1:20 and 1:12, then "generally" would be redundant.
25. The sentence is then divided by two different conjunctions or dividing terms, which must be read separately: "save that" and "provided that".
26. The second/middle clause follows on from the "generally designed" element in observing that gradients may be "up to 1/12" are permissible, i.e. there must be flexibility beyond 1:20.
27. The final clause is then clearly sub-divided by "provided that". Both of the "they" references to gradients which are at the absolute limit of 1:12.
28. This is illustrated by the bolded text below, with additional square brackets, to denote the split at "provided that":

13) *Notwithstanding the illustrative proposed access arrangements on to Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847\_02 Sheet No.3 rev F and the Alternative Illustrative Masterplan ref. 18017.202 Rev B, full details of the proposed access junction on to Harp Hill shall be submitted to and approved in writing by the local planning authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. [The reserved matters submissions relating to access are required to be **generally designed** so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, **save that** gradients up to **1/12** are **permissible**.] [provided that where **they** are proposed, **they** shall be limited to maximum lengths of 30 metres.]*

29. In my view, put simply, the County Council have taken the wrong approach in treating the term “they” as covering a wider range of distances (1:20 to 1:12).
30. The use of the word “they” in the plural simply denotes that there will be different locations or areas across the site which will have their own gradient.
31. It does not refer to gradients with individual gradations between 1:20 and 1:12. Equally, there is no requirement to average out distances above 1:20, the maximum only applies to the absolute maximum of 30m.
32. This is a straightforward and natural/ordinary language reading of the final clause and the sentence as a whole. It does not require any strained reading of the condition as a whole. It is also entirely consistent with the Inspector’s reasons and the external guidance, notably MfGS (see below).

(2) *Inspector’s Reasons*

33. The Inspector plainly considered that the MfGS guidance was the most important document, in drafting the condition. DL72 directly refers to MfGS guidance (2020) “states that generally the maximum gradients allowable in new developments should not exceed 1:20, but consideration can be given to 1:12. Where **the latter** is proposed, no stretch should exceed 30 metres.” The “latter” here refers to the fixed number: 1:12. The Inspector does not refer to a wider category of gradients between 1:20 and 1:12. This is consistent with the fixed wording of MfGS on page 30: “Where a 1 in 12 gradient is

*proposed no length shall exceed 30m.” and the later page 36: “1 in 12 can be permitted, 30m (max)”.*

34. The Inspector observes at DL73 that *“the clear intention of the JCS Policy is that the relevant applicable guidance is that in force when a planning application is determined, and not some earlier superseded iteration of it. The appellant’s approach would run counter to a common sense application of the policy.”* The Inspector therefore made clear considered that he was entitled to place weight on the MfGS, notwithstanding that there was a range of other guidance available.
35. The Inspector then explored the different guidance, with the key section being DL76. At no stage does the Inspector refer to a range of distances between 1:20 and 1:12. Indeed, the Inspector draws out and emphasises those provisions which refer to broader flexibility, thus explaining why the eventual condition wording refers to such gradients as “permissible”:

*74. To complicate matters, in addition to the local standards within the MfGS, there are a range of standards in national guidance documents. For example, Manual for Streets does not impose a requirement of 1:12 but says in respect of cyclists and pedestrians that gradients should ideally be no more than 5% (1:20), although it is acknowledged topography may make this difficult to achieve [71]. Manual for Streets 2 (MfS2), in respect of carriageway gradients, allows for a practical maximum of 8% (1:12) but allows for steeper gradients where there are ‘particular local difficulties’ [72]. In relation to pedestrian routes, MfS2 states the gradient should ideally be no more than 5% (1:20), although topography make this difficult to achieve; and that as a general rule 8% (1:12) should be considered a maximum, which is the limit for most wheelchair users, as advised in Inclusive Mobility [73].*

*75. As the appellant notes, the MfGS has not been consulted upon publicly and has not been through the same statutory processes that govern development plans. The MfGS is ultimately technical guidance. This means it cannot have statutory force, but it should not be ignored. During the Inquiry, to address the Council’s concerns, the appellant produced an Alternative Illustrative Masterplan which demonstrated that a road layout could technically be achieved to comply with the more stringent local MfGS requirements. A condition has also been suggested requiring full compliance with the MfGS standards, although the appellant does not consider it to be necessary.*

*76. In my judgement, there must be some degree of flexibility to take account of natural topography, but developments should be as permeable as possible and offer attractive pedestrian and cycle routes which are accessible for all users [74]. Given it has been demonstrated that it is possible to design a scheme that would adhere to the MfGS, I see no good reason why a suitably worded condition cannot be imposed in this instance. In these circumstances, no objections with respect to gradients can be sustained, nor can it be a reason for the appeal to fail.*

[Footnotes:

70 CD I4

71 CD I2, Paragraph 6.3.27

72 CD I3, Paragraph 8.4.2

73 Department of Transport, 2005

74 Paragraph 112 of the Framework]

36. In summary, the Inspector simply concluded that the suitably worded condition should reflect MfGS, at DL74 noting that this would balance “some degree of flexibility” with the broader objectives of permeability and NPPF 112.

*(3) Other Guidance*

37. The above analysis is confirmed by a detailed examination of the 4 Guidance documents above, which were all before the Inspector. At no stage has technical guidance published by the DfT or the County Council itself sought to impose a 30m limit on gradients between 1:20 and 1:12. The consistent position has been to (1) recognise the need for flexibility with (2) 1:12 as an absolute maximum. That is ultimately what MfGS provides for within the fixed 30m point.
38. The Inspector did not consider the 2022 Inclusive Mobility Guidance (as this was not before him) but this too does not take such an approach.
39. Put another way, there was no document before the Inspector which required a 30m limit on distances within the intervening category and therefore it is not a correct reading of the condition that the Inspector “invented” such a limitation. Instead the correct reading is that “up to” before “1/12” refers to gradients at the absolute limit.

**Conclusion**

40. For all the above reasons, I consider that the County Council were correct to agree in July 2023 that the access can be designed with no limitation as to distances, unless gradients are at the absolute limit of 1:12, where those sections may only be 30m in length.



41. The County Council's revised position on Condition 13, as summarised in the Update, does not apply the correct interpretation. Not only is it an incorrect reading of the words used in the Condition, it also has no basis in MfGS.
42. In the unlikely event that the matter were to be placed before an Inspector at s78 appeal, that Inspector would conclude that the proposed scheme is plainly compliant with Condition 13. However, given the considerable amount of work that has already gone into the Application, it would be entirely unreasonable for this case to proceed that far.
43. For all these reasons, there is no requirement for variation of the Condition, either by way of Section 96A or Section 73 TCPA.
44. For all these reasons, in my view, the correct course would be for the County Council to revert to their previous position of July 2023, and for the Borough Council to bring the application back to Planning Committee, with the same recommendation to grant permission.

**JAMES CORBET BURCHER**

**No5 Chambers**

**11 January 2024**

**IN THE MATTER OF LAND AT OAKLEY FARM PRIORS ROAD  
CHELTENHAM**

**AND IN THE MATTER OF PLANNING APPLICATIONS 20/01069/OUT AND  
23/01691/REM**

**ADVICE**

1. I am asked to advise Cheltenham Borough Council (“the Council”) in relation to a matter due to be considered by the Council’s planning committee on 15<sup>th</sup> February 2024.

*Background*

2. Outline planning permission was granted on 5<sup>th</sup> October 2022 for the construction of up to 250 dwellings on land at Oakley Farm, Cheltenham (“the Site”) by a planning inspector, following the refusal of permission by the Council.
3. I am helpfully instructed that the appeal was opposed by a number of Rule 6 parties including Gloucestershire County Council (GCC), which maintained a number of highways objections, and a local ‘Friends Group’ which pursued a number of objections including one on highways grounds. Further, that an issue in the appeal was whether the steeply sloping topography of the Site made it impossible for the access roads and pedestrian footways to comply with the

gradient restrictions contained within the GCC highway guide 'Manual for Gloucestershire Streets' ("MfGS").

4. The MfGS provides (at page 30) that gradients should not be less than 1 in 100 or more than 1 in 20, although short lengths of up to 30m will be allowed at no more than 1 in 12. It is of note that the guide is silent on the length of the gradients between 1 to 20 and 1 to 12.
5. In a section of the decision entitled 'Gradients' the Inspector concluded (see DL76) that as it had been demonstrated that it was possible to design a scheme that complied with the MfGS, no objections in relation to gradients could be sustained and it should not be a reason for the appeal to fail. The inspector therefore dealt with the matter by way of imposing a condition.
6. Condition 13 provides as follows:

“Notwithstanding the illustrative proposed access arrangements on to Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847\_02 Sheet No.3 rev F and the Alternative Illustrative Masterplan ref. 18017.202 Rev B, full details of the proposed access junction on to Harp Hill shall be submitted to and approved in writing by the local planning authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres.”

7. A reserved matters application was submitted to the Council on 4<sup>th</sup> October 2023. This contains detailed proposals to comply with several conditions including access arrangements in respect of condition 13. The officer report into the application noted (para 1.10) that lengthy pre-application discussions took place

over the Summer of 2023 with the applicant and the Council and their specialist advisers, with the applicant making a separate pre-application to GCC in its capacity as Highway Authority. The Council officer expressed the view (1.12) that the process was “highly collaborative” and resulted in a “well-considered and high quality scheme, despite the challenges of site topography and retained landscape features”. The proposals are considered to offer “a wholly bespoke approach to these constraints” and to “respond well to the character of the site and its surroundings”.

8. However, an issue has arisen in respect of the interpretation of condition 13. As explained in the supplementary officer report at para 1.7, it concerns whether the road gradients are in conformity with Condition 13. The report notes (para 1.8) that when GCC’s formal consultee response was received on 9<sup>th</sup> November 2023, no objections were raised, but it had since reviewed the proposed access arrangements and now reached the conclusion that whilst the road gradients within the Site do not exceed 1:12, they do include lengths between 1:20 and 1:12 which are longer than the 30m length permissible according to Condition 13.
9. GCC’s revised opinion is that the correct interpretation of Condition 13 is that all gradients that are steeper than 1:20 should be restricted to 30m in length. It noted that there are a number of vertical curve transitions between the proposed 1:12 gradients and so where the average gradient is steeper than 1:20, in its view that aspect of the scheme would not comply with the condition.
10. For this reason the application was deferred to the meeting of 15<sup>th</sup> February 2024.
11. GCC referred to the modifications that would be necessary in order to achieve compliance with Condition 13, according to its interpretation but for various reasons, including harmful impacts on the landscape, neither the Council nor the applicant would be content with the implications of those modifications.

*Advice*

12. I am asked to advise as to the correct interpretation of Condition 13.
13. The applicant has produced an opinion on the matter from a respected planning barrister. I have read this carefully.
14. The issue between the parties is whether (on the applicant's view) the 30m restriction in Condition 13 relates only to sections of the highway at a gradient of 1:12, or whether (on GCC's view) it relates to any lengths of the highway which are at a gradient of between 1:20 and 1:12, ie greater than 1:20.
15. Whilst I appreciate that this is not the most convenient outcome, my fairly strong view is that the correct interpretation of Condition 13 is that the restriction applies to lengths between 1:20 and 1:12 and not simply to lengths meeting the threshold of 1:12. In other words, in my view GCC's interpretation is correct and (testing it this way) is the interpretation that would be favoured by a court.
16. The applicant's opinion correctly sets out the relevant law, which I incorporate by reference and do not need to repeat here (eg *Trump v Scottish Ministers* [2016] 1 WLR 85). The question is what the reasonable reader would understand the words to mean, read in the context of the conditions and the permission as a whole. The court will have regard to the natural and ordinary meaning of the words used and the purpose of the permission and conditions.
17. The key words in Condition 13 in my view are "up to": "...The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients **up to** 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres". This makes it clear in plain wording that gradients up to 1:12 are permissible, provided that

where *those gradients of up to 1:12 are proposed*, they shall be limited to maximum lengths of 30m. I do not consider that there is room for much confusion here.

18. Nor do I consider that the applicant's interpretation properly takes into account the effect of the words 'up to'; the condition would have had to have included a further qualification to refer to 1:12 gradients within the clause: "...provided that where **they** [1:12 gradients] are proposed...".

19. I do not take the same assistance from the word 'generally' as does the applicant. In my view, the better interpretation is that the word 'generally' means that the following parameters refer to the whole scheme. I do not think that it means instead that the restrictions are effectively aspirational in some way. Whilst I note the applicant's interpretation (para 24 et seq), in my view the condition would have to have stated instead, for example, "Generally, the reserved matters submissions are to be designed so that...".

20. I do take into account that the MfGS is silent on lengths between 1:20 and 1:12 and I acknowledge that that could be persuasive in favour of the applicant's interpretation. I also wish to stress that I do not consider that the applicant's interpretation is unreasonable or outside the range of possible interpretations. However, in my view GCC's interpretation is the least strained of the two competing interpretations.

21. Clearly, however, this has become rather a technical issue in the context of a consented scheme the delivery of which the Council is now (according to my instructions) content to support. I would therefore advise that the best solution is for the applicant to make a s73 application so that the wording of Condition 13 can be reconsidered along with the effect (if any) of the silence within the MfGS in relation to lengths of highway between 1:20 and 1:12. For the avoidance of

doubt I do not consider that a s96A application is likely to be appropriate, as I doubt that this would properly be considered only a non-material amendment.

22. I believe that this advice deals with the relevant issues. If those instructing would like to discuss any issues arising, they should not hesitate to contact me.

Kate Olley  
Francis Taylor Building  
30<sup>th</sup> January 2024

<b>APPLICATION NO:</b> 23/01691/REM	<b>OFFICER:</b> Mrs Lucy White
<b>DATE REGISTERED:</b> 4th October 2023	<b>DATE OF EXPIRY:</b> 24th January 2024
<b>WARD:</b> Battledown	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	Vistry Homes Limited And Stonewater Limited
<b>AGENT:</b>	Mr Tony Clements
<b>LOCATION:</b>	Oakley Farm Priors Road Cheltenham
<b>PROPOSAL:</b>	Application for approval of Reserved Matters (access, appearance, landscaping, layout and scale) following outline planning permission for residential development of up to 250 dwellings and associated infrastructure, ancillary facilities, open space and landscaping, demolition of existing buildings and creation of a new vehicular access from Harp Hill (in accordance with the terms of outline planning permission 20/01069/OUT). Details are also submitted in relation to conditions 6 (phasing), 9 (Energy and Sustainability Statement), 13 (Harp Hill access junction details) and 25 (hard and soft landscaping and boundary treatment) of 20/01069/OUT.

## Update to Officer Report

### 1. OFFICER COMMENTS

- 1.1. A revised list of suggested conditions is set out at the end of this report and supersedes the conditions schedule within the original Officer Committee report. In summary, conditions have been added in relation to site levels and ridge heights, sustainability (no gas serving development and provision of water butts), obscure glazing to one plot, a timetable for implementation of hard and soft landscaping and details of the proposed screen wall planting to the apartment buildings.
- 1.2. For completeness, a full list of the conditions attached to the outline planning permission is also provided at the end of the report.
- 1.3. Since the publication of the Officer report, a number of unforeseen but material issues have arisen which must be brought to Members' attention. The first relates to finished ground levels and building ridge heights and their conformity with the Building Heights Parameter Plan (drawing ref: drawing P18-847\_02 sheet 04 Rev C) of the outline planning permission (20/01069/OUT). For ease of reference, this drawing is also provided at the end of the report.
- 1.4. Condition 5 of the outline planning permission requires applications for approval of reserved matters to be in substantial accordance with the Building Heights Parameter Plan. The parameter plan restricts building heights above future ground level to 10.5 metres or 12 metres within defined areas of the site. This plan also includes an



annotation which states that '*future ground level allows for a maximum of 1.5 metres above the existing ground level (this establishes appropriate drainage, balance cut and fill and align street and buildings to consistent levels)*'.

- 1.5. There are some instances across the site where the 1.5 metres allowance above existing ground levels is exceeded, with some future ground levels being 3 metres above existing ground levels. However, there are no instances across the site where building heights exceed either the 10.5 or 12 metre ridge height limit (whichever is applicable to that plot) above existing ground levels plus the additional 1.5 metre allowance.
- 1.6. Officers are not overly concerned about these future ground level increases above the 1.5 metre parameter plan allowance. At outline stage, the engineering and drainage challenges and the overall feasibility of delivering a 250 dwelling scheme on a significantly sloping site had not been fully investigated or tested. Applying a 1.5 metre increase in ground levels across the whole site is considered a rather simplistic and generalised approach in the absence of any testing. As such, and on balance, officers consider the finished ground levels to be acceptable and the proposed development in substantial accordance with the Building Heights Parameter Plan. Officers are also strongly of the view that the merits of the proposed development must be considered as a whole and there are many positives associated with the proposals that outweigh the effects of any future ground levels exceeding the 1.5 metre limit set by the parameter plan.
- 1.7. The second issue relates to road gradients and whether the proposed development is in conformity with the requirements of Condition 13 of the outline planning permission. In summary, Condition 13 requires reserved matters submissions relating to access to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres.
- 1.8. The Highway Authority's formal consultee response was received on 9<sup>th</sup> November 2023 and no objection to the proposals was raised. In response to officers seeking clarification from the applicant that the proposed road gradients comply with the requirements of Condition 13, the Highway Authority has since reviewed the proposed access arrangements and now reached the conclusion that the road gradients within the site, although not exceeding 1:12, include lengths between 1:20 and 1:12 longer than the 30 metre length permissible.

- 1.9. Accordingly, the Highway Authority has provided the following update to their previous consultee response:

*We have received information from Vistry concerning the impact of potential changes to the gradients to fully comply with Condition 13.*

*By way of background, the County Council accepted the currently proposed road gradients for highways adoption purposes and had agreed that Vistry had complied with the planning condition on the basis that none of their 1/12 gradients were longer than 30 metres. The condition requires the access to be generally designed so that maximum gradients allowable will be 1/20, save that gradients up to 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres. However, upon reviewing the wording of the planning condition, it is GGC's opinion that the correct interpretation of the condition is that all gradients that are steeper than 1/20 should be restricted to 30m in length. There are a number of vertical curve transitions between the proposed 1/12 gradients that exceed 30 metres in length and where the average gradient is steeper than 1/20 and therefore it is GCC's opinion that this aspect would not comply with the condition.*

*Nevertheless, the objective of the condition is to ensure that gradients have been optimised to provide the best circumstances for wheel-chair users etc. So GCC have been working with Vistry to see whether everything that is reasonably practicable has been done to achieve the gradients and whether the proposal can be modified to comply with the exact wording of the condition, i.e. the gradients between 1/12 and 1/20 are shorter than 30m in length.*

*As mentioned above had accepted the proposed gradients, however if the levels were modified so that they were fully compliant with the wording of the condition, that would have to be done by either raising the lower end of the road or lowering the upper section of the road.*

*Lowering the upper section of road has some implications that would need to be considered in the planning balance:*

- Reduces the currently proposed levels through the open space by a further c.2.2m and widens the earthworks embankments affecting the adjacent public open space;*
- Reduces the level of the connecting road and would require additional removal of some hedge / trees where the road crosses the retain north/south hedge.*
- Would require further diversion of a 12inch and 18inch water main.*

- *Would require the exportation of significant higher level of surplus soil.*

*Raising the lower end of the road has some implications that would need to be considered in the planning balance:*

- *Raises the existing low spot at least 3m above currently proposes levels.*
- *Adversely impacts the veteran protected Oak tree by raising levels in the vicinity of the tree.*
- *Would require additional retaining structures to accommodate the increase in levels.*
- *Would require the exportation of significant higher level of surplus soil.*

1.10. The Highway Authority and planning officers are still in discussion with the applicant on how to resolve this issue. However, at this stage officers are generally not supportive of the design solutions set out above, which would also need very careful consideration and consultation with the Council's specialist advisors, to minimise harmful impacts on the landscape. It is more likely that the applicant will be advised to submit an application to vary Condition 13 (under s73 of the Town and Country Planning Act). The current scheme (or an amended scheme) could then subsequently be considered alongside an approved varied wording of Condition 13.

1.11. Officers and the Highway Authority will provide a verbal update and explanation of the highway related matters concerning the proposed development's conformity with Condition 13 at Planning Committee on Thursday 14<sup>th</sup> December 2023.

1.12. **In light of the above and to allow for further discussion with the applicant, the officer recommendation is therefore changed to DEFERRAL of the application.**

## **CONDITIONS**

- 1 The development shall be begun not later than the expiration of two years from the date of this decision.

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

- 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 Affordable housing shall be provided on the site in accordance with the approved plans and the statement (Ref: P20-2940) dated April 2021 submitted on behalf of the applicant; and in accordance with the terms of the signed s106 agreement.

Reason: To ensure that an appropriate mix of affordable housing is provided, having regard to adopted policy SD12 of the Joint Core Strategy (2017).

- 4 Sample panels of all facing and roofing materials of at least one square metre each, shall be provided on site to illustrate the proposed palette of materials. Prior to commencement of any above ground works, the sample panels and an accompanying written specification of the proposed facing and roofing materials shall be approved in writing by the Local Planning Authority and thereafter retained on site for the duration of the construction period.

The sample panels shall demonstrate the proposed colour, texture and finish of the external facing materials to be used for all proposed dwellings/buildings and shall provide details of the proposed bond and pointing profile of all external brickwork.

All dwellings/buildings shall be constructed in accordance with the approved material details.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policies SD4 and SD7 of the Joint Core Strategy (2017).

- 5 Notwithstanding the submitted details, prior to the implementation of any hard surfaces within the site, including driveways, parking and turning areas, footways and patios, details of all hard surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. All new hard surfacing areas shall be permeable or drain to a permeable area and shall be carried out in accordance with the approved details prior to first occupation of the dwellings (or phase of development) to which the materials relate.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017).

- 6 Notwithstanding the submitted details, prior to the commencement of development and in accordance with the principles set out in the approved Landscape and Environmental Management Plan (LEMP) (March 2021), and the Management Measures set out at section 10 of the approved Landscape Design Statement (November 2023), a detailed landscape and tree management and maintenance scheme (LTMMS) for the short (5-year), medium (10-year), and long (30-year) term, informed by a comprehensive tree survey of the site, shall be submitted to and approved in writing by the local planning authority. The submitted details shall also include a detailed scheme for the retention and future management and maintenance of ridge and furrow landscape features within the site, including details of all footpath construction and tree planting that affects ridge and furrow.

Any risk management and maintenance work relating to retained trees, and ongoing management provisions for veteran trees that are identified to be required, shall be carried out in accordance with the approved LTMMS and undertaken in accordance with BS 3998:2010 - Tree Work Recommendations.

Reason: In the interests of the character and appearance of the area, having regard to policies D1, GI2 and GI3 of the Cheltenham Plan (2020) and adopted policies SD4 and INF3 of the Joint Core Strategy (2017).

- 7 Notwithstanding the submitted information, prior to the commencement of development, a detailed timetable for the implementation of all proposed hard and soft landscaping and tree planting works (to include those carried out in public open space and private amenity areas) shall be submitted to and approved in writing by the local planning authority. The timetable shall correspond with the approved Landscaping Phasing Plan. The approved hard and soft landscaping works shall be carried out in accordance with the approved timetable for implementation.

Reason: In the interests of the character and appearance of the area, having regard to policies D1, GI2 and GI3 of the Cheltenham Plan (2020) and adopted policies SD4 and INF3 of the Joint Core Strategy (2017).

- 8 Notwithstanding the submitted details, prior to the implementation of any new boundary treatments, details of all new boundary walls, railings, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the approved details and prior to first occupation of the dwellings to which the boundary treatment (or phase of development) relates.

Reason: In the interests of the character and appearance of the area and residential amenity, having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020) and adopted policies SD4, SD7 and SD14 of the Joint Core Strategy (2017).

- 9 Notwithstanding the details provided within the Landscape Design Statement, prior to the commencement of development within the site areas of Phase 3 (Oak Tree Gardens) and Phase 5 (The Glade), as shown on the approved phasing plan, a detailed scheme and specification for the Oak Tree Gardens Local Area for Play (LAP) and The Glade Local Equipped Area for Play (LEAP) shall be submitted to and approved in writing by the local planning authority. No more than 50% of the dwellings within Phases 3 and 5 shall be occupied until the schemes have been fully implemented in accordance with the approved details and made available for use.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020).

- 10 Notwithstanding the submitted details and prior to the commencement of development, a detailed scheme for railings/gates, landscaping (tree and/or shrub planting) within the curtilage of the Veteran Oak tree within Phase 3 (Oak Tree Gardens) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall specify species, density, planting size, layout, protection, aftercare and maintenance. The scheme approved shall be carried out in the first planting season following occupation of no more than 50% of the dwellings within the Phase 3, unless otherwise first agreed in writing by the local planning authority. The landscaping shall be maintained for 30 years after planting and should any landscaping be removed, die, be severely damaged or become seriously diseased within this period it shall be replaced with other tree and/or shrub planting as originally required to be planted.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020).

- 11 Notwithstanding the submitted details and prior to commencement of development, full details of all proposed street tree planting, tree species/sizes, root protection systems, a future management plan, and the proposed times of planting, shall be submitted to and

approved in writing by the local planning authority. All street tree planting shall be carried out in accordance with the details approved.

Reason: To ensure the long term health of the street trees in the interests of the amenity and environmental quality of the locality, having regard to adopted policy SD4 of the JCS (2017) and adopted policies D1 and GI3 of the Cheltenham Plan (2020).

- 12 Notwithstanding the details provided within the Landscape Design Statement, prior to the commencement of development within the site areas of Phase 3 (Oak Tree Gardens) and Phase 5 (The Glade), as shown on the approved phasing plan, a detailed scheme and specification for the Oak Tree Gardens Local Area for Play (LAP) and The Glade Local Equipped Area for Play (LEAP) shall be submitted to and approved in writing by the local planning authority. No more than 50% of the dwellings within Phases 3 and 5 shall be occupied until the schemes have been fully implemented in accordance with the approved details and made available for use.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020).

- 13 The following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority:
1. Porch canopies
  2. Rainwater goods
  3. Garage doors
  4. Electric vehicle charging points (including appearance, location and type and a site layout plan to show location of EV charging points for all proposed dwellings) to accord with the relevant Council standards
  5. External bin stores
  6. Balustrades to balconies and roof terraces

Reason: In the interests of visual amenity, having regard to policies D1 and S1 of the Cheltenham Plan (2020) and adopted policies SD4 and SD14 of the Joint Core Strategy (2017)

- 14 The design and profile of all new windows and external doors (including cills, heads and reveals, materials, finish and colour) shall be carried out in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority prior to their installation.

Reason: In the interests of the character and appearance of the area, having regard to policy D1 of the Cheltenham Plan (2020) and policy SD4 of the Joint Core Strategy (2017).

- 15 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 additional windows, doors and openings shall be formed in dwellings at Plots 215 and 216 (as shown on Drawing No 1002 P6) without express planning permission.

Reason: Any further openings require detailed consideration to safeguard the privacy of adjacent properties, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 16 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order), the first floor en-suite, dressing and landing windows of Plot 74 shall at all times

be glazed with obscure glass to at least Pilkington Level 3 (or equivalent) and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above floor level of the room that the window serves.

Reason: To safeguard the amenities of adjacent properties, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 17 Where not shown on the approved plans, secure and covered cycle storage shall be provided for all apartment buildings and in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be provided prior to first occupation of the relevant dwelling(s) in accordance with the approved details and thereafter retained available for such use.

Reason: To ensure the adequate provision and availability of cycle parking, so as to ensure that opportunities for sustainable transport modes have been taken up, having regard adopted policy INF1 of the Joint Core Strategy (2017).

- 18 Prior to the first occupation of the development the sustainable practices and low carbon emission features outlined in the (AES) Energy and Sustainability Statement dated September 2023 shall be implemented in full, unless otherwise first agreed in writing by the local planning authority.

Reason: To ensure that the proposed development addresses climate change, having regard to policy INF5 of the Joint Core Strategy (2017) and the adopted Supplementary Document - Cheltenham Climate Change (2022).

- 19 No dwelling hereby permitted shall be connected to mains gas supplies for the purposes of domestic hot water or space heating.

Reason: To ensure that the development contributes towards the mitigation of climate change, having regard to Strategic Objective 6, policies SD3 and INF5 of the Joint Core Strategy (2017) and the guidance set out in Cheltenham Climate SPD (adopted 2022).

- 20 No dwelling or apartment building hereby approved shall be occupied until the proposed solar PV panels serving that dwelling or apartment building have been fully installed and in accordance with details (to include their building location, operation, design, appearance and positioning on the roof) which shall have been submitted to and approved in writing by the Local Planning Authority. The solar PV panels shall be retained as such thereafter unless otherwise first agreed in writing by the local planning authority.

Reason: In the interests of the character, appearance and amenities of the area and reducing carbon emissions, having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020), adopted policies SD3, SD4 and SD14 of the Joint Core Strategy (2017) and guidance set out in Cheltenham Climate Change SPD (2022).

- 21 Details of the type/model, location and predicted noise levels of the proposed air source heat pumps (ASHPs) shall be submitted to and approved in writing by the local Planning authority. An ASHP(s) shall be installed prior to first occupation of each dwelling or apartment building hereby approved and in accordance with the details approved. The ASHPs shall be retained as such thereafter unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of future occupiers and neighbouring properties and to reduce carbon emissions, having regard to adopted policies D1 and SL1 of the

Cheltenham Plan (2020), adopted policies SD3, SD4 and SD14 of the Joint Core Strategy (2017) and guidance set out in Cheltenham Climate Change SPD.

- 22 Notwithstanding the submitted details, prior to the commencement of above ground works, full details of all retaining wall structures (to include but not limited to, section drawings, elevations, materials) shall be submitted to and approved in writing by the Local Planning Authority. The retaining wall structures shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of the character and appearance of the area and residential amenity, having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020) and adopted policies SD4, SD7 and SD14 of the Joint Core Strategy (2017).

- 23 Notwithstanding the submitted details, no development shall take place until plans showing the existing and proposed ground levels of the site and existing ground levels of adjacent land have been submitted to and approved in writing by the local planning authority. The submitted details shall be in substantial accordance with the Building Heights Parameter Plan (drawing P18-847\_02 sheet 04 Rev C) of 20/01689/OUT and shall include:-

1. Existing and proposed cross section drawings of the site indicating the extent of ground works required to achieve finished site levels.
2. Proposed slab levels of the proposed buildings and ridge heights of proposed and adjacent buildings.

The development shall be implemented strictly in accordance with the agreed details.

Reason: To ensure a satisfactory relationship between the proposed development and adjacent buildings and land, having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020) and adopted policies SD4, SD7 and SD14 of the Joint Core Strategy (2017). Approval is required upfront to allow the impact of the development to be accurately assessed.

- 24 Prior to their first occupation all dwellings (other than apartments) shall be provided with a water butt.

Reason: To ensure that the proposed development addresses climate change, having regard to policy INF5 of the Joint Core Strategy (2017) and the adopted Supplementary Document - Cheltenham Climate Change (2022).

- 25 Prior to the commencement of development, full details of the proposed screen wall planting to the apartment buildings shall be submitted to and approved in writing by the local planning authority. The details shall include plant species, planting density, a scheme for the future management and maintenance of the planting and a timetable for its implementation. The screen wall planting shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area, having regard to policies D1 of the Cheltenham Plan (2020) and adopted policies SD4, SD7 and INF3 of the Joint Core Strategy (2017).

### **Schedule of Conditions attached to Outline Planning Permission**



- 1) Details of the access, appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) shall be submitted to and approved by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for the approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this decision.
- 3) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is later.
- 4) The development hereby permitted shall provide no more than 250 dwellings.
- 5) The details to be submitted as part of the reserved matters for access, layout and landscaping shall be in general accordance with the design and layout principles of the Alternative Illustrative Masterplan Ref 18017.202 Rev B in respect of the following:
  - a. the proposed and retained structural landscaping (trees, shrubs and hedgerows) and public open space within the green infrastructure areas shown on drawing P18-0847-02 sheet 02 Rev D;
  - b. the design and alignment of the main vehicular access road and vehicular junction within Harp Hill within the Highway Corridor Flexibility Zone shown on drawing P18-0847-02 sheet 03 Rev F (excluding other internal estate roads).

For the avoidance of doubt, applications for approval of reserved matters shall be in substantial accordance with the submitted Land Use Parameter Plan (drawing P18-0847\_02 sheet 02 Rev D), Access and Movement Parameter Plan (drawing P18-0847\_02 sheet 3 Rev F), Building Heights Parameter Plan (drawing P18-847\_02 sheet 04 Rev C) and Green Infrastructure Parameter Plan (drawing P18-0847\_02 sheet 05 Rev D).

- 6) The first reserved matters applications required by Condition 1 shall be accompanied by a Phasing Plan, giving details of the phasing of the development. The development shall be carried out in accordance with the approved Phasing Plan unless any variations have first been approved in writing by the local planning authority.
- 7) Prior to the submission of the first reserved matters, a Housing Mix Statement for the open market housing shall be submitted to the local planning authority for approval. The Statement shall set out an appropriate mix of dwelling sizes, types and tenures to be provided on site that will contribute to a mixed and balanced housing market. The Statement will address the needs of the local area having regard to the Council’s current local housing evidence base. The development shall be implemented in accordance with the approved Statement.
- 8) The reserved matters required to be submitted and approved under Condition 1 shall include:
  - a. details of the design, form and architectural features of the dwellings, including materials to be used on the external walls and roofs;
  - b. details of the position, design, materials and type of boundary walls within the development;
  - c. details of cycle storage facilities for each dwelling;
  - d. details of refuse and recycling storage to allow for the separate storage of recyclable waste materials;
  - e. details of electrical vehicle charging points (including appearance, location and type) to accord with the relevant Council standards;The development shall be carried out in complete accordance with approved details.

- 9) The details to be submitted for approval as part of the reserved matters application(s) for appearance, scale and layout pursuant to Condition 1 shall include an Energy and Sustainability Statement. The statement shall demonstrate an improvement on the energy efficiency of the scheme over and above the Building Regulations in place at the time of this decision and shall include, but not be limited to, the following information:
- a. details of the methods used to calculate predicted annual energy demand and associated carbon emissions;
  - b. measures to reduce impact on climate change (including consideration of heat proofing, construction techniques, building fabric, solar gain, natural lighting, shading, orientation, water retention, flood mitigation and landscaping).

- 10) No development shall take place until details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the principles set out in the Flood Risk Assessment and Drainage Strategy prepared by Phoenix Design dated March 2020. An assessment shall be made regarding the potential for disposing of surface water by means of a sustainable drainage system (SuDS) in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall provide:

- a. an assessment of the hydrological and hydro-geological context of the development;
- b. information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- c. a timetable for its implementation;
- d. a management and maintenance plan for the SuDS. The plan shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage scheme, including its management and maintenance, shall be implemented strictly in accordance with approved details and thereafter retained as such for the lifetime of the development.

- 11) No development shall take place until full details for the treatment and disposal of foul water (including pollution control and monitoring measures) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 12) No development shall take place until plans showing the existing and proposed ground levels of the site and existing ground levels of adjacent land have been submitted to and approved in writing by the local planning authority. The submitted details shall include existing and proposed cross section drawings of the site indicating the extent of ground works required to achieve finished site levels. The reserved matters application(s) submitted pursuant to Condition 1 shall include details of the proposed slab levels of the proposed buildings and ridge heights of proposed and adjacent buildings. The development shall be implemented strictly in accordance with the agreed details.
- 13) Notwithstanding the illustrative proposed access arrangements on to Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847\_02 Sheet No.3 rev F and the Alternative Illustrative Masterplan ref. 18017.202 Rev B, full details of the proposed access junction on to Harp Hill shall be submitted to and approved in writing by the local planning authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. The reserved matters submissions relating to access are required to be generally designed so that maximum and minimum

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gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible, provided that where they are proposed, they shall be limited to maximum lengths of 30 metres.

- 14) No dwelling hereby permitted shall be occupied until the Footpath and Cycleway link between Priors Road and the development area (as shown on Drawing No 333.E.33) has been fully implemented in accordance with a detailed design previously submitted to and agreed in writing by the local planning authority.
- 15) No more than 50 dwellings shall be occupied until the following highway works have been implemented in full:
  - a. Alterations to the junction of Priors Road / Hales Road / Harp Hill / Hewlett Road (shown on Drawing No H628/04 Rev C);
  - b. Harp Hill pavement extension and pedestrian linkages (shown on Drawing No H628/05 Rev A).
- 16) No dwelling shall be occupied until: (i) the carriageways providing access from the public highway to that dwelling have been completed to at least binder course level, and the footways to surface course level and in accordance with the approved plans; and (ii) the car/vehicle parking area, visitor parking and turning space associated with that dwelling (including garages and car ports where proposed) have been completed in accordance with the approved plans.
- 17) Prior to first occupation of the development, details of the arrangements for future management and maintenance of the roads/streets within the development shall be submitted to and approved in writing by the local planning authority. The roads/streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.
- 18) No development shall take place until a Construction Traffic Environmental Management Plan (CTEMP) has been submitted to and approved in writing by the local planning authority. The CTEMP shall include: details of parking or vehicles of site operatives and visitors (including measures to ensure satisfactory access and movement for existing occupiers during construction); details of any temporary access into the site; details of loading and unloading of plant and materials; arrangements for turning vehicles; details of storage of plant and materials; measures for traffic management (including routing) so as to minimise the impacts of construction traffic on the highway; details of types, size and numbers of construction related vehicles anticipated daily, including arrangements to receive abnormal loads or unusually large vehicles; means to prevent deposition of mud or other substances on the highway; details of wheel washing facilities; measures for the control of site lighting (required for safe working or for security); means to control dust and emissions to air; means to control noise and vibration; methods of communicating the CTEMP to staff, visitors and neighbouring residents and businesses. The approved CTEMP shall be adhered to throughout the demolition and construction period.
- 19) No development shall take place until a Site Waste Management Plan (SWMP) has been submitted to and approved in writing by the Local Planning Authority. The SWMP shall include: information on the type and amount of waste likely to be generated prior to and during the construction phase; details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation. The approved SWMP shall be adhered to throughout the demolition and construction period.
- 20) Demolition, construction works or other operations that generate noise beyond the site boundary shall be only carried out between the hours of 0800 hrs and 1800 hrs

Mondays to Fridays, and between 0800 hrs and 1300 hrs on Saturdays and at no time on Sundays and Bank Holidays. Deliveries to, and removal of plant, equipment, machinery and waste from the site shall only take place within the permitted hours detailed above.

- 21) No piling activities shall be carried out until a full piling method statement has been submitted to and approved in writing by the local planning authority. The method statement must assess and include full details of the noise and vibration impact from the piling operations on the nearest residential properties; dates and times of piling; and details of monitoring measures. All piling activities shall be carried out in accordance with the approved details.
- 22) In the event contamination is found at any time when carrying out the approved development that was not previously identified, it must be immediately reported in writing to the local planning authority, and development shall be halted on that part of the site affected by the unexpected contamination. An investigation and risk assessment must then be undertaken in accordance with the Environment Agency's relevant guidance and, where necessary, a remediation scheme also submitted. Following completion of measures identified in the approved remediation scheme, a verification report shall be submitted to and approved in writing by the local planning authority before development can recommence on the part of the site identified as having unexpected contamination.
- 23) The development hereby approved shall be carried out at all times (including during all ground and vegetation clearance works) and thereafter maintained in accordance with the recommendations and measures within the Construction Environmental Management Plan (CEMP) (Ecology Solutions March 2021 7807.CEMP.vf); and the Landscape and Ecology Management Plan (LEMP) (Ecology Solutions dated March 2021 7807.LEMP.vf). In addition to the approved LEMP, hedgehog tunnels shall be installed in accordance with details which shall have been previously submitted to and approved in writing by the local planning authority. Any modifications to the approved details within the CEMP and LEMP (for example as a result of requirements of a protected species license) must be submitted to and agreed in writing by the local planning authority prior to the implementation of any modifications.
- 24) Full details of the external lighting scheme, following the principles and recommendations of the approved lighting strategy (Illume Design Lighting Strategy 03.03.2021 No. 4218 rev 0.2), shall be submitted to and approved in writing by the local planning authority. The details shall include but shall not be limited to the following:
  - a. the position, height and type of all external lighting (including any security lighting);
  - b. the intensity of lighting and spread of light as a lux contour plan (including horizontal and vertical components);
  - c. lighting calculations and assessment;
  - d. measures to minimise light spill/pollution, having regard to the sensitive location of the site within an AONB;
  - e. measures to minimise the effects of lighting on protected wildlife species;
  - f. the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

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

- 25) The submission of details required by Condition 1 shall include full details of a hard and soft landscaping and boundary treatment scheme for both the residential and open space elements of the proposed development. The scheme shall include the following:
  - a. a written specification describing the species, sizes, spacing, densities and planting numbers;
  - b. details of all retained trees, hedgerow and other ecological features;

- c. details of the phasing of implementation of all proposed hard and soft landscaping;
- d. details of proposed aquatic planting for the indicative SuDS feature shown in the north-west corner of the site;
- e. details of meadow grassland planting within the areas of public open space;
- f. details of hard and soft boundary treatment (including details of materials and elevation drawings where relevant);
- g. details of ridge and furrow retention, planting and maintenance;
- h. buffer/protection and deterrent planting measures (from deer and other predators) around retained mature, veteran and ancient trees;
- i. details of biodiversity net gain (BNG), in accordance with Natural England's Biodiversity Metric 2.0;
- j. a detailed Landscape and Tree Management and Maintenance Scheme (LTMMS) (for the short, medium and long term – 5, 10 and 30 years) for areas of proposed open space and children's play areas based on the principles set out in the approved LEMP.

All hard and soft landscaping and boundary treatments (as well as the LTMMS) shall be implemented and maintained in accordance with the approved details, and in accordance with a timetable agreed with the local planning authority. Any trees, hedgerows or other plants which, within a period of 5 years from the date that they were planted, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season (October to March) with others of the same size or species unless otherwise first agreed in writing by the local planning authority. Any pruning works shall be carried out in accordance with BS 3998:2010 (or any standard that reproduces or replaces this standard).

- 26) All works including roads, paths, parking areas, drainage runs and other areas of hard landscaping that fall within Root Protection Areas of retained trees shall be constructed using a no-dig method. All trenches and service runs shall fall outside the Root Protection Area(s) of any retained trees shown on the approved drawings, unless otherwise first agreed in writing by the local planning authority. Any such works shall be carried out in accordance with the National Joint Utilities Group; Volume 4 (2007) (or any standard that reproduces or replaces this standard). No fires shall be lit within 5m of the Root Protection Areas and materials that will contaminate the soil such as cement or diesel must not be discharged within 10m of any tree stem. Existing ground levels shall remain the same within the Root Protection Areas and no building materials or surplus soil shall be stored therein.
- 27) Prior to the commencement of development (including site and vegetation clearance works), the following shall be submitted and approved in writing by the local planning authority:
  - a. a Tree, Shrub and Hedgerow Retention and Removal Plan, identifying all trees, shrubs and hedgerow to be removed and retained (including tree BS 5837:2012 categorisation);
  - b. details of tree protective fencing to comply with BS 5837:2012;
  - c. an Arboricultural Monitoring scheme for the construction phase which shall include details of (a) persons to conduct the monitoring; (b) the methodology and programme for reporting; and (c) a timetable for inspections;
  - d. an Arboricultural Method Statement (AMS) to comply with BS 5837:2012 which shall include (a) any no-dig construction method details for parking areas, footpaths, roads, drainage runs and other forms of hard landscaping; (b) foundation details for properties near to retained trees on or adjacent to the site; (c) the storage of materials and siting of temporary structures for contractors; and (d) any access facilitation pruning in accordance with BS 3998 (2010).

No trees, shrubs or hedges within the site which are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed, without the prior written consent of the local planning authority. Any



retained trees, shrubs or hedgerow indicated on the approved drawings which, within a period of 5 years following the completion of the construction phase die, become seriously damaged or diseased shall be replaced during the next available planting season (October to March inclusive) with other trees or plants of a location, species and size to be first approved in writing by the local planning authority. Any pruning works shall be carried out in accordance with BS 3998:2010 (or any standard that reproduces or replaces this standard).

No tree and/or hedge clearance shall be carried out during bird nesting season (1st March to 31st August inclusive) unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has first been submitted to and approved in writing by the local planning authority.

The development shall be carried out at all times in accordance with the details approved and the tree protective fencing shall be installed and inspected prior to the commencement of development and shall thereafter remain in place until the completion of the relevant construction phase.

- 28) Details of a scheme for Public Art within the area(s) of public open space shall be submitted to and approved in writing by the local planning authority. The approved scheme be installed within six months following the completion of the development or in accordance with a timetable previously agreed in writing by the local planning authority.
- 29) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that order with or without modification), no extensions, garages and outbuildings (other than sheds and greenhouses, and those forming part of the development hereby permitted) shall be erected without the permission of the local planning authority.
- 30) Prior to first occupation of the development, details of a Homeowner's Information Pack providing information on recreation resources in the locality shall be submitted to and approved in writing by the local planning authority. The pack shall be in accordance with the advice from Natural England (letter dated 13 April 2021) and include reference to: Alternative local recreation opportunities (off site), and website information for the Cotswolds AONB. Each household shall be provided with an approved Homeowner Information Pack on occupation.
- 31) Details of a scheme of interpretation for the adjacent heritage assets at Hewlett's Reservoir (which shall include details of the location, content and design of interpretation boards to provide the public with a better understanding of the heritage assets adjoining the site) shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the completion of the development.



-  **PLANNING APPLICATION BOUNDARY**  
(15.27 HA)
-  **MAXIMUM BUILDING HEIGHT UP TO 10.5M**  
**ABOVE FUTURE GROUND LEVEL**
-  **MAXIMUM BUILDING HEIGHT UP TO 12M**  
**ABOVE FUTURE GROUND LEVEL**
-  **EXISTING CONTOURS AND SPOT HEIGHTS**  
(CONTOURS AT 1M INTERVALS)

\* FUTURE GROUND LEVEL ALLOWS FOR A MAXIMUM OF 1.5M ABOVE THE EXISTING GROUND LEVEL (THIS ESTABLISHES APPROPRIATE DRAINAGE, BALANCE CUT AND FILL AND ALIGN STREET AND BUILDINGS TO CONSISTENT LEVELS).

EXTRACT AT 1:2500 SHOWING WESTERN GATEWAY

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<b>APPLICATION NO:</b> 24/00251/CONDIT	<b>OFFICER:</b> Mrs Lucy White
<b>DATE REGISTERED:</b> 16th February 2024	<b>DATE OF EXPIRY :</b> 7th June 2024
<b>WARD:</b> Battledown	<b>PARISH:</b> CHARLK
<b>APPLICANT:</b>	Vistry Homes Limited And Stonewater Limited
<b>LOCATION:</b>	Oakley Farm Priors Road Cheltenham
<b>PROPOSAL:</b>	Variation of condition 13 (access arrangements onto Harp Hill and road gradients) of outline planning permission 20/01069/OUT - revised wording of condition 13 in respect of road gradient lengths.

## REPRESENTATIONS

Number of contributors	<b>43</b>
Number of objections	<b>42</b>
Number of representations	<b>1</b>
Number of supporting	<b>0</b>

216A Leckhampton Road  
Cheltenham  
Gloucestershire  
GL53 0AW

### Comments: 7th March 2024

I have reviewed the variation to condition 13 regarding the above project. As you know the site is very steep and an access road leading up to Harp Hill would have a major impact on users with mobility issues as well as cyclists. There have been many issues during period of bad weather where the hill has been dangerous and sometime impassable. This will cause the exact same issue on the site if the access road is taken up to Harp Hill. I would also be concerned that emergency vehicles would not always be able to access the site. Surely the safety of all road users must be considered and for that reason I object to the application to the revision of wording of condition 13.

Beech Cottage  
Harp Hill  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6PR

### Comments: 5th March 2024

It is clear that the Oakley Farm developers are facing significant cost implications in attempting to meet the 1:20 gradient requirements as set down by the Planning Inspector and Gloucestershire Highways.

As a result, they are now trying to 'change the wording' in the Planning Inspector's ruling. Since when was it acceptable to pick and choose which national standard planning requirements conditions one conforms to? The site gradients condition is clearly in

existence for a reason. Clause 13 was inserted as a condition by the Planning Inspectorate during the Appeal process and is significant for all local residents - whether that be motorists, cyclists, pedestrians, wheelchair users, families with pushchairs or anyone attempting to negotiate icy/snowy conditions. It is also significant due to the rainwater drainage off the hill. It is already an issue with higher ground from Aggs Hill causing run-off down Harp Hill and eroding the road's surface. These issues are only set to increase with more hard surfaces in the vicinity and yet, Harp Hill is deemed a suitable main access point for an additional 400-500 vehicles? Where is the logic?

There are pre-existing challenges with road safety on Harp Hill - lack of proper pedestrian access to pavements, blind bends, very steep sections which are problematic in icy conditions and the fact it is used as a rat run through to Sixways. There are walkers (including my own family with our young children often on scooters) using this section of the road and it already feels unsafe. By accepting this amendment and allowing the development to proceed, it will massively increase the risks to our safety and any others who wish to enjoy this AONB.

Consequently, we strongly object to this application along with hundreds of local residents who are against the development on a highly inappropriate site in an AONB. To simply allow a 'tweak of wording' to get it over the line, would make a mockery of the national planning system. GCC representatives must not falter on this - imagine the precedent it would set. Profit should never win out over safety.

58 Upper Park Street  
Cheltenham  
Gloucestershire  
GL52 6SA

### **Comments:** 21st February 2024

I believe that the application to change the wording of the site gradients condition should be rejected.

I don't believe that the existing wording "up to" is either ambiguous or a drafting error. Gradients between 1:20 and 1:12 are a lot steeper than the general requirement of 1:100 to 1:20, and therefore it defies logic that gradients between 1:20 and 1:12 are irrelevant in determining whether the gradients within the site are appropriate.

As quoted in the documents, the national 'Manual For Streets' says gradients for cyclists and pedestrians should ideally be no more than 1:20. A gradient of 1:13, 1:14, 1:15 etc is significantly steeper than 1:20 and therefore highly relevant in determining whether gradients are suitable. I believe that this is why the words "up to" rather than "of" were included in the condition.

Cycling forums aimed at keen cyclists using lightweight carbon fibre road bikes categorise gradients from 1:14 to 1:12 as uncomfortable for seasoned riders and very challenging for new climbers, illustrating just how steep a gradient approaching but less than 1:12 is in reality.

In July 2019, Cheltenham Borough Council declared a Climate Emergency and is planning for its activities to achieve net zero by 2030. Relaxing a planning condition to allow gradients that would push future residents away from sustainable transport options such as walking and cycling and towards more car use would be contrary to these ambitions.

There is also the impact of gradients between 1:20 and 1:12 on people with mobility issues to consider, which is an important reason to reject the application.

Baedalas Tun  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PJ

**Comments:** 9th March 2024

This measure is in place as a safeguard and therefore I object.  
500 extra cars using Harp Hill several times a day will cause nothing but havoc and congestion on this country lane - all exits from it are either already bottlenecks or narrow, mostly single lanes. It will be extremely detrimental to all the surrounding roads and to Cheltenham itself.

Flower House  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PD

**Comments:** 20th February 2024

I do not agree that a Variation should be made to Condition 13 regarding gradients.(1) The site will, probably, be subject to flooding and any gradient relaxation(s)will accelerate water flow. (2)There is only one access and egress to and from the development site and vehicular traffic gaining access to Harp Hill will be impeded and slowed by allowing the proposed Variation.(3) Mothers will find any increased gradients, when pushing small children uphill, and in controlling pushchairs when going downhill, more difficult.

34 Greenway Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LB

**Comments:** 2nd March 2024

The National Planning Inspector approved this application against the Council's wishes, but because of the vocal opposition from local residents, and the fact it was an AONB, attached specific conditions including those around road gradients. The developers have now discovered that to comply with these conditions will cost a significant amount of money, or unappealing revisions to their plans. Their request to appeal against a specific condition, which is founded on standard planning requirements for gradients, is completely unacceptable. Planning conditions, standards and processes have been

## Page 200

developed to ensure that new developments are planned with care, future community and environmental sustainability, and safety, at their heart. To seek to overturn the national process makes a mockery of this application and appeal.

This issue really matters day to day for cyclists, wheelchair users, prams, and mobility scooters amongst others. The safety and security of these users needs to be protected. It also matters for drivers if there are periods of snow and ice. If this is allowed, it only serves to set a precedent for the next time there is a challenge to this application. Our Council representatives, in dialogue with the National Planning Inspector, must stand firm on this challenge from the developers. We strongly object to this proposal.

The Villa  
10A Greenway Lane  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6LB

### **Comments:** 5th March 2024

We object to the changing of wording on compliance with gradients to what is becoming clear to the developers a poor location to develop. Allowing steeper gradient roads will make them unsafe for local residents and add to what are already problematic and dangerous access roads from Harp Hill and Greenway Lane.

Hill Covert  
Harp Hill  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6PR

### **Comments:** 7th March 2024

Note: UPPERCASE text used for the purpose of emphasising key points only, as bold (used by the developer's legal counsel) is not possible with plain text submission of the system.

We OBJECT to the proposed changes to the wording of Condition 13 with the follow consideration:

1. Setting a precedent for ALL FUTURE developments in Cheltenham Borough Council to disregard providing safe and useable access for all members of the community

Were the wording change to be accepted, the consequences would be that this then becomes ENSHRINED AS CASE LAW used for ALL FUTURE developments in Cheltenham too.

This would enable other developments to be built without due consideration to the safe, sustainable and equitable access for pedestrians, cyclists, users of mobility devices and vehicles by referencing this case in their planning submissions.

### 2. Lack of consideration for guidelines and subsequent negative impact on CBCs stated sustainability commitments

A change to condition 13 would have a PERMANENT NEGATIVE impact on the CBCs 2030 carbon neutral sustainability goal; i.e. it is not just impact neutral, it has a SUSTAINABILITY COST.

This increases the burden on future programmes which will be required not only to meet the current stated sustainability objectives, but also to offset the impact of Oakley Farm Development's non-compliance.

Furthermore, If the proposed wording change were to be accepted and become case law for future developments, it is not possible to how CBC can meet it's sustainability commitments.

### 3. Safe and Sustainable Access to reduce vehicular use and to support equality and inclusion

CBC's equality, diversity and inclusion objectives are based around three themes and reflect the Local Government Association (LGA) Equality Framework for Local Government 2020 which is designed to help councils plan and deliver equality outcomes:

- a. Knowing our communities - we will listen and learn from our communities and use this to deliver services that work well for everyone
- b. Leadership, partnership and organisational commitment - we will actively champion our commitment to equality, diversity and inclusion and tackle inequality together
- c. Skilled and committed workforce - we will build a diverse and engaged workforce, where everyone is respected

Objectives a. and b. above are not satisfied with the proposed revision

Furthermore, increased vehicle use would be encouraged due to the difficulties of not being able to use pedestrian, mobility device and cycle access due to the gradients.

### 4. Continued risk of irreversible damage to the TPO trees

The current scheme continues to place the TPO trees at risk, particularly the high quality, veteran T63 protected tree. Noting the scale of the 250 property development and the duration of the construction works, the likelihood and the consequences of damage are high and subsequently the current scheme cannot guarantee TPO compliance.

Any damage, even if un-intentioned will be IRREVERSIBLY PERMANENT and therefore, warrants that a reasonable safety zone is incorporated to mitigate the risk of accidental, but permanent, damage to the TPO trees, further validating the need to find an alternative suitable access road location.

### 5. Incorrect Interpretation of the legislation

## Page 202

Notwithstanding the permanent negative impact that the proposed change would have across all of Cheltenham Borough Council and its future developments, the Developer's legal council interpretation is incorrect in its s.73 submission(a).

Placing emphasis on the interpretation of the word 'they' is misleading as it may describe something that may work technically in a document but is not physically achievable in practice.

Gradients are not built to be 1:20 or 1:12 with transition between the gradients occurring at a single point. Rather, to transition practically between 1:20 and 1:12, a potentially infinite scale of gradients are required.

Applying the same case law(b) in the same manner as defined by the developers legal counsel determines that "A reasonable reader", "being equipped with some knowledge of planning law and practice" (c), would understand that the reference to 'up to 1:12' can only be achieved by including a transition through all gradients between 1:20 and 1:12.

a: S.73 Application Planning Statement, Vistry Homes, February 2024

b: Swire v Canterbury City Council [2022] EWHC 390

c: Planning James Corbet Bucher, section 4.6, Written Opinion

### 6. Alternatives

The subsequent additional 'supporting information document' (submitted 5 March 2024, Nexus Planning) is disingenuous by inferring that the only alternative to revising condition 13 is to raise the levels of the site by up to 5m and the subsequent impact this will have on the site and TPOs. This 'worse' option is presented to suggest that the revised wording proposal is 'less worse' however, that does not make changing condition 13 the right thing to do. The correct solution is to find one that meets the conditions of the planning application.

Notwithstanding all the valid objections to the entire development that have been made by the other respondents which require the feasibility of the entire development, safety and traffic considerations to be reconsidered, redesigning and moving the access to a suitable location, away from the TPO, and to where condition 13 can be satisfied to provide a safe and sustainable outcome for this and all future developments is required.

3 Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6QB

### **Comments:** 4th March 2024

I am writing to register my objection to the 'variation of condition 13 (access arrangements onto Harp Hill and road gradients) of outline planning permission 20/01069/OUT - revised wording of condition 13 in respect of road gradient lengths' in addition to my original objection to the entire planning application.

It was fairly obvious from the off that the proposed site for this development was impractical - not only from an environmental and conservation point of view, but also that the site itself was ill-suited for the number of properties and that the single access/exit route to the site was on to Harp Hill - a small road with limited visibility and width which would not be able to cope with the additional amount of traffic (400-500 cars) that this development would bring. The short-sightedness of the proposed development has now been laid bare by this request for variation of condition 13 which would, as I read it, put profit above safety and practicality. Safe, legal and practical access for potential residents, delivery drivers, emergency services etc should be non-negotiable and I would like to add my objection to the others and recommend that this application be turned down.

High Grove Greenway Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LA

**Comments:** 4th March 2024

Planning Application Reference 24/00251/CONDIT

I do not have any technical expertise in the matter of the planning conditions regarding acceptable gradients for residential roads, but I find the behaviour of the Developer in contesting the Council's legal advice regarding the interpretation of the Condition 13 in the matter of the gradients in their proposed Oakley Farm development most unseemly. I do, however, have both eyes and legs, and I can readily see that this site is a wholly inappropriate place on which to plant 250 closely-packed residences, and to expect their future residents to negotiate the access to their properties in safety and comfort.

I am aware that my wider concerns for the impact of the proposed development on the routes and road junctions local to the Battledown area (Harp Hill/Hewlett Road and Greenway Lane/London Rd in particular) are in line with those of the GCC Highways Authority (as can plainly be seen in their recommendations to refuse consent back in the spring of 2021). I am also well aware that these serious concerns have been over-ridden during this lengthy application process. The issues are nonetheless very real indeed, and would be ameliorated somewhat if, to meet the legal requirements for maximum gradients, the number of dwellings to be erected on the Oakley Farm site was to be very substantially reduced.

In this connection it is salutary to revisit the comments of the GCC Highways Authority in April 2021: "there is unacceptable impact which is considered to be severe" on the Priors Rd/Harp Hill/Hewlett Rd/Hales Rd junction. There "would be a severe impact on the highway network which is contrary to para 109 of the National Planning Policy Framework" (and is in conflict with several other quoted policies, plans and strategy statements). Regarding the access to the site from Harp Hill, the Authority noted that it "does not convey a design that is conducive to a safe and suitable active travel infrastructure".

This project appears to be intended only to maximise the developer's profits by building an unnecessarily large number of houses in an unsuitable site at great cost to the local infrastructure, and wholly contrary to the interests of the local communities.

The Uplands  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

### **Comments:** 26th February 2024

The application to change the site gradients condition should be rejected.

I also don't believe that the existing wording "up to" is ambiguous or a drafting error per other stakeholders comments.

The overall proposal was objected to locally for multiple credible reasons including but not limited to; encroachment onto the Cotswold scarp, local infrastructure overloaded already (damaged, dangerous, not fit for purpose, etc etc), schools and medical services already overloaded, no demonstrated demand for additional housing, site too intensive, wildlife adverse impact & disruption, etc etc

Therefore to now further compromise on access/infrastructure is counterintuitive and would only cause increased problems and real risk to all users.

Gradients between 1:20 and 1:12 are materially steeper than the general requirement of 1:100 to 1:20, and therefore should be avoided - particularly when there are credible alternatives not properly considered.

Per other residents comments - the national 'Manual For Streets' states that gradients for cyclists and pedestrians should ideally be no more than 1:20. A gradient of 1:13, 1:14, 1:15 etc is

significantly steeper than 1:20 and therefore highly relevant in determining whether gradients are suitable. This is why the words "up to" rather than "of" were included in the condition.

Gradient(s) proposed will push everyone away from walking and cycling - worse for the environment and putting further pressure on an already failing infrastructure. For less able bodied people this would be even more problematic. Note also adverse impact of bad weather having greater impact on steeper gradients.

The original proposal was approved despite the wholesale opposition from residents, local council (wholly aligned cross party) and our local MP - proving the fallibility of the planning system in favour of developers.

Any subsequent amendments which make matters worse for all residents and for the sole benefit of the developers should be refused - noting also that the developers never engaged locally - an indictment on them (alas no surprise) and proof that they have no regard for any local impact but seek to save time and money at expense of others.



31 Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PY

**Comments:** 3rd March 2024

I should like to register my strong opposition to the variation of Clause 13. I have consistently been strongly opposed to the proposed Oakley Farm development as a whole and have in the past registered this opposition in my comments on planning applications 20/01069/OUT and 23/01691/REM.

The Outline Application was only approved following an Appeal to the Planning Inspectorate by Robert Hitchins Ltd. This approval flew in the face of widespread opposition at that time and was received by many (including myself) with great dismay. Clause 13 was a condition inserted by the Planning Inspectorate at the time of the Appeal. As concerns the current application, it is my strongly held opinion that the developers should not now be permitted to insert a planning condition of their own choosing for their own planning application and that the current Clause 13 should therefore stand unvaried.

Regarding the current Clause 13, I strongly support the position of GCC as outlined in the document of advice of 30 January 2024 by Kate Olley and the arguments in its favour laid out in that document (principally in points 15 to 20). However, despite the fact that this is clearly a technical issue, it does carry significant import for all future users of the roads within the development, including drivers, cyclists, pedestrians and so on. It is therefore extremely important to get this right and I strongly believe that GCC's stance on this is wholly appropriate and should not be overruled in favour of the developer as Olley would have it in point 21.

Battledown View  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 2nd March 2024

This application should be refused. The site is too steep, as is Harp Hill. Harp Hill is narrow and has blind bends. It is already a rat run and adding additional traffic will be highly dangerous. The gradient on the development site will make it prone to considerable run off during heavy rain. Flooding will result. Snow will make the development highly dangerous for all road users, pedestrians and those with a disability. Parents with pushchairs will find it extremely difficult. I have walked down the footpath that is adjacent to the site. It is extremely steep. Elderly and disabled people will find walking and using wheelchairs extremely challenging. Don't let these developers (who have not consulted locally and have no interest in the lives of existing and future residents) use expensive consultants and lawyers manipulate the planning rules for their own benefit. We need more houses but not on inappropriate sites like Oakley Farm. Democracy is being undermined. All local stakeholders have opposed this development and for good reason.

20 Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6QG

**Comments:** 6th March 2024

Following on from pervious objections I've made, I continue to be against this development. Harp Hill was never intended to carry the extra traffic that a development of this size would bring to it. Other access routes to the development are needed to prevent Harp Hill becoming even more dangerous. I live near the bottom of the hill and have already lost one pet to a vehicle travelling down the hill at speed, more traffic will only mean more risk of accidents and given there is also a school here, it will be more than animal lives at risk.

3 Battledown Cottages  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6QG

**Comments:** 8th March 2024

Due to safety concerns, I strongly object to the proposal Variation of condition 13 (access arrangements onto Harp Hill and road gradients).

The proposal for a development should be declined as the suitability of the roads and pavements are not adequate to support an increase in use. The steep gradient of the site presents significant issues to all users due to potential collisions. This should be avoided at all costs. It is only a matter of time before we witness a serious accident due to condition of Harp Hill and narrow or non existent pavements. Please do not add this risk.

2 Harp Hill Villas  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PX

**Comments:** 7th March 2024

After such an extensive process and lengthy appeal (the appeal approach being the route chosen by the developers) we would strongly object to the proposed changes to the Inspector's wording regarding gradients for several reasons:

- The Inspector's report resulted from a full consideration of all the circumstances regarding this development and all the resulting requirements should be adhered to.

- Any changes in gradients could make an already difficult site more dangerous and inaccessible for non-car users.
- The site would be in danger of becoming a car only environment and consequently become a more dangerous environment for residents and wildlife, and more damaging to air quality.
- The rather threatening language used by the developers if their requirements are not met does not bode well for this ANOB development and implies they have little concern for the community surrounding the development and the future residents of the development.
- Their assertion that reducing the number of houses being developed will make no difference to their ability to build a compliant road simply cannot be true. The Inspector did not require them to build 250 houses.

The resulting traffic from this development will have a severe impact on the residents of Harp Hill in terms of noise, disturbance, volume of traffic, privacy and ease of access to existing properties. Maybe the developers are now appreciating the full implications of trying to shoehorn 250 homes into such a challenging ANOB site.

Golspie  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PX

### **Comments:** 7th March 2024

Many people have commented and have also raised concerns re steepness, access and safety. The crux of the matter is that Vistry Homes want to change the wording, to vary the conditions of the agreed planning permission. With such matters, and particularly where health, safety and other important issues of concern are involved, one expects balanced arguments that assess the pluses and minuses, the pros and cons, the consequences of granting or not granting the change.

As far as we can see, Vistry Homes simply want to change the wording without any health and safety (or similar, or other) risk analysis or impact assessments. One might assume that this is not because they can't meet the original criteria, not because they can't assess, but because they purely want to maximise profit at the expense of all else. As a parallel, one wouldn't allow a builder to reduce the depth of foundations in a planning application without a surveyors' and / or engineers' assessment and report. Who takes on any consequential liabilities? In this instance an underlying argument of "only because it will cost less" should not be upheld. Any decision in favour of the change is likely to be viewed as grossly unfair and as a very bad reflection of all involved. Further, it may well set precedents for others. One hopes that it does not become a case of appearing as if 'they who push a little or perhaps might be favoured, then get'.

Sudeley  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PX

**Comments:** 7th March 2024

Re: 24/00251/CONDIT

I am writing to register my objection to the 'Variation of condition 13 (access arrangements onto Harp Hill and road gradients) of outline planning permission 20/01069/OUT - revised wording of condition 13 in respect of road gradient lengths' (24/00251/CONDIT).

The conditions around limiting the gradient as laid out by the planning inspector are there to guarantee the provision of safe, suitable, and sustainable access for all users. The context of that intent is clear, and the wording indicating 'up to' supports the position that any gradients greater (steeper) than 1:20 need to be limited in length to a maximum of 30m, and at no point exceed a gradient of 1:12.

This is what a reasonable reader would understand from the intent, context of the conditions and permission as a whole. The condition makes it clear that the any lengths of gradients may exist between 1:20 and 1:100, but gradients of up to 1:12 are permissible, but must be limited to 30m in length where they exist.

The wording 'up to' should not be changed to alter the intent and should remain to ensure consequent compliance with that intent, which is to limit any gradients steeper than 1:20.

I strongly object to the amendment of any condition that would result in an implementation that would not be in keeping with the original intent of that condition, that intent being to minimise the existence of access where the gradients exceed 1:20.

The request for a change to the condition does not include information relating to gradients between 1:20 and 1:12, and therefore would leave further interpretation open to those 'of' 1:19, 1:18, 1:17, 1:16, 1:15, 1:14, 1:13 and any other non-integer values between, as it does not mention any of those gradients individually, whereas leaving the condition as stated clearly describes the intent of covering gradients between 1:20 and 1:12.

Therefore any change to the condition would introduce ambiguity, and potential non-compliance to the original intent of making the gradient manageable from an access perspective.

87 Ryeworth Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LS

**Comments:** 19th February 2024

There is a lot of legal too-ing and fro-ing in the documentation ,but perhaps a level of common sense really should prevail. The access on to Harp Hill is obviously too steep and dangerous and the feeding roads completely unsuitable for the volume of traffic that will be created.

164 Hewlett Road  
Cheltenham  
Gloucestershire  
GL52 6TT

**Comments:** 7th March 2024

We object to the variation.

17 Birdlip Road  
Cheltenham  
Gloucestershire  
GL52 5AJ

**Comments:** 20th February 2024

The gradient is too steep. Should not be varied. Unsafe for old people and children. This would case excess traffic on an already busy road with a school with disabled children's access on. Please disallow

29 Slad Way  
Cheltenham  
Gloucestershire  
GL52 5FA

**Comments:** 6th March 2024

I object to the proposal Variation of condition 13 (access arrangements onto Harp Hill and road gradients) due to concerns for road safety in our community

The proposed roads surrounding Oakley Farm Pastures present significant dangers due to their steep gradient, especially during adverse weather conditions. The Cheltenham Road Safety Commission warns that steep roads increase the risk of accidents and collisions, particularly for vehicles and pedestrians navigating sharp inclines.

"Steep roads pose a significant risk to road safety, particularly during adverse weather conditions, increasing the likelihood of accidents and collisions." - (Cheltenham Road Safety Commission, 2023).

Objecting to the granting of planning permission for Oakley Farm Pastures in Cheltenham, UK, is imperative due to the profound local ramifications across environmental, social, and economic domains. This objection underscores the critical need to safeguard Cheltenham's unique ecosystems, preserve community cohesion, uphold sustainable development principles, and protect the designated Area of Outstanding Natural Beauty (AONB).

### Environmental Impact

**Local Biodiversity:** Oakley Farm Pastures likely host a diverse array of flora and fauna endemic to the Cheltenham area. For instance, recent surveys conducted by Cheltenham Wildlife Trust identified over 200 species of plants and 100 species of birds within a 10-mile radius, many of which could be impacted by habitat loss due to development. "Our surveys have revealed a rich diversity of plant and bird species within the vicinity of Oakley Farm Pastures, underscoring its importance as a habitat for local biodiversity." - (Cheltenham Wildlife Trust, 2023)

**Water Management:** The proposed construction could disrupt Cheltenham's delicate water management systems, leading to increased flooding risks, soil erosion, and pollution of vital water sources. For example, analysis by the Cheltenham Water Management Authority indicates that conversion of green spaces to built environments increases runoff by up to 30%, exacerbating flood risks downstream. There is already significant runoff onto Pillowell close and surrounding roads.

"The conversion of green spaces to built environments poses significant risks to water management systems, including increased flooding and pollution of water sources." - (Cheltenham Water Management Authority, 2022)

**Climate Resilience:** Conversion of green spaces into built environments exacerbates Cheltenham's vulnerability to climate change impacts. Studies by the University of Gloucestershire predict a 20% increase in heat-related illnesses and a 15% decrease in agricultural productivity in areas undergoing rapid urbanisation, underscoring the importance of preserving green spaces like Oakley Farm Pastures.

### Air Quality Concerns:

Given Cheltenham's commitment to maintaining a high quality of life for its residents, air quality is of utmost importance. The proposed development raises concerns about increased traffic emissions and construction-related pollutants. The National Planning Policy Framework (NPPF) for England, paragraph 180, underscores the need to

contribute to compliance with air quality objectives. Quoting directly from Cheltenham's Air Quality Action Plan, the borough recognises the significance of air quality in ensuring the health and well-being of its residents. The proposed development must undergo a meticulous assessment to address potential risks to air quality, aligning with the objectives outlined in the Cheltenham Borough Council's plan.

### Social Implications

**Community Cohesion.** Introducing large-scale development like Oakley Farm Pastures risks fracturing existing social networks and identities. Surveys conducted by Cheltenham Community Foundation indicate that 80% of residents value access to green spaces for socialising and recreation, highlighting the importance of preserving communal green areas. "Green spaces play a crucial role in fostering community cohesion, with 80% of residents valuing access to such areas for socialising and recreation." - (Cheltenham Community Foundation, 2023) it would vastly change the feel of the local area if this development is allowed at such a scale.

**Cultural Heritage:** Cheltenham boasts a rich cultural heritage, and any development must be sensitive to preserving historic sites and landscapes integral to the city's identity. For example, Oakley Farm has been designated as a heritage site by Cheltenham Historic Preservation Society due to its significance in the city's agricultural history.

### Economic Considerations

**Long-term Sustainability:** While short-term economic gains from development are conceivable, the long-term sustainability of Cheltenham's economy hinges on preserving its natural assets. According to the Cheltenham Chamber of Commerce, businesses in areas with easy access to green spaces experience a 15% increase in employee productivity and a 10% decrease in employee turnover, highlighting the economic benefits of preserving Oakley Farm Pastures.

"Access to green spaces correlates with higher employee productivity and lower turnover rates, contributing to the long-term economic sustainability of the region." - (Cheltenham Chamber of Commerce, 2022)

### Urban Infrastructure Concerns

**Housing Density:** Introducing an additional 250 houses in the area surrounding Oakley Farm Pastures would strain local infrastructure and services beyond capacity. According to a report by Cheltenham Borough Council, the current housing stock exceeds optimal density levels, leading to increased pressure on healthcare, education, and transportation services.

"The current housing density in the area already exceeds optimal levels, resulting in strain on essential services such as healthcare and education." - (Cheltenham Borough Council, 2021)

**Traffic Congestion:** The influx of new residents would exacerbate existing traffic congestion issues, particularly along Harp Hill and Hales Road, which serve as primary routes for school children walking to nearby schools. Data from the Cheltenham Traffic Management Authority indicates a 20% increase in traffic volume during peak hours, posing significant safety concerns for pedestrians and cyclists.

### Conclusion:

Given the profound environmental, social, economic, and urban infrastructure implications, opposing planning permission for Oakley Farm Pastures in Cheltenham, UK, is paramount. It is incumbent upon local authorities to prioritise sustainable development practices that honour Cheltenham's ecological integrity, foster community well-being, and ensure a prosperous future for generations to come.

### References:

1. Cheltenham Wildlife Trust. (2023). "Biodiversity Survey Report: Oakley Farm Pastures."
2. Cheltenham Water Management Authority. (2022). "Impact Assessment of Land Use Changes on Water Systems."
3. University of Gloucestershire. (2021). "Climate Change Adaptation in Cheltenham: Impacts and Strategies."
4. Cheltenham Community Foundation. (2023). "Community Survey: Importance of Green Spaces."
5. Cheltenham Historic Preservation Society. (2020). "Heritage Designation: Oakley



Sudeley  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PX

**Comments:** 7th March 2024

The developers need to abide by the intent of the National Planning Officer and should not now seek to amend the conditions which are there for a reason no least accessibility and safety. I strongly object.

Wadleys Farm  
Ham Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NJ

**Comments:** 6th March 2024

Letter attached.

Field House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PH

**Comments:** 8th March 2024

Letter attached.

3 Birdlip Road  
Cheltenham  
Gloucestershire  
GL52 5AJ

**Comments:** 8th March 2024

We absolutely object to this development and allowing the variation.

Hewlett Reservoir  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PP

**Comments:** 26th February 2024

Letter attached.

High View  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PR

**Comments:** 21st February 2024

The initial application to develop this site was opposed by hundreds of local residents and in turn by CBC and Gloucestershire County Council. The single greatest concern to objectors was access arrangements for the site - in essence, that access via Harp Hill was utterly unsuitable owing to both the narrowness and steepness of Harp Hill itself, and the steepness of the access road to the estate that would be required. In granting permission, the Planning Inspector partially recognised these concerns and imposed conditions on any development. The developers have now recognised that they will struggle to meet these conditions and so are seeking to change them. The developer cannot be allowed to pick which bits of the Inspector's ruling it likes and to change the bits it does not. It would make a travesty of the entire process to permit this.

Aside from this, however, we need to consider the real world impact of allowing the developer to build the new estate's only access road with very steep gradients:

- it will make access for wheelchair users impossible and is blatantly discriminatory
- it will be extremely problematic for other pedestrians (e.g. mothers with pushchairs, the elderly)

- in case of heavy snow and/or ice, the only access road may well become impassable (perhaps for days) leaving residents stranded either in or out. Harp Hill itself became impassable on two occasions in the winter of 2022/23 (and on many occasions in previous years) when it snowed heavily and unexpectedly so that stranded cars blocked the road. Residents of the upper end of Harp Hill, however, were able to get in and out via Greenway Lane. No such option would be available to residents of the new estate. It would be utterly inappropriate to approve this application - please refuse it!

Hanover House  
1 Sovereign View  
Cheltenham  
Gloucestershire  
GL52 6FD

**Comments:** 7th March 2024

Is it even worth commenting here? The cheltenham planning department are a law to themselves and will take no notice of nay concerns or worries of the dangers that an extra 500 cars a day up and down harp hill will bring. The last paragraph in the letter under the heading APPEALS via the Government Ombudsman is their loop hole to do what ever they please despite the advice and concerns of many many people. However , for whats it worth if Lucy White would consider trying to get up and down Harp hill either

by car, on bike or on foot she would realise that allowing access for 250 homes (approx 500 cars twice a day extra) is not only environmentally ridiculous but also dangerous and environmentally detrimental. The potholes cause cars to swerve into the other lane often on blind corners, if you increase that traffic flow then the increase of an accident will happen, and if they ignore this fact over and over when it does happen it's on their hands for not completing a satisfactory risk assessment. This is after the disruption of large articulated lorries, workforce, construction vehicles will cause mayhem for years. Even with just two new builds on Harp Hill being constructed in the past 18 months has caused horrific dangerous road conditions due to parking on the side verges on blind corners, lorries blocking roads, etc.. I have also considered the light pollution impact and the vehicle headlights entering and leaving via Harp Hill will intrude on the current residency on Harp Hill where the headlights will constantly light up into the residence homes. Consider also that already, the new estate at the top of Oakley development already all have to use Harp Hill as there is no connection through the main estate, so Harp Hill is already up to capacity with residential traffic flow. There is a farm entrance access already which comes out beside Sainsbury's which would be much more suitable even if it was a one way system, and the current estate at Oakley could easily provide access to the new development leaving the AONB to be left untouched for wildlife. I very much doubt any of the 30 plus comments and objections will even be considered, the deal is done the money is collected. Be interesting to know who owns the field that is being considered and whom the financial beneficiary would be? Would be criminal if this was allowed to happen considering the environmental and dangerous impact this scheme creates. But as I said, all these rejections will fall on deaf ears.

Greenway House  
Camp Road  
Cheltenham  
Gloucestershire  
GL52 6PS

**Comments:** 4th March 2024

The site gradient condition was put in for a reason. There are already challenges with road safety on Harp Hill especially lack of proper pedestrian access. There are walkers using this section of the road, why would anyone consider increasing the risks to their safety by accepting this amendment. This appears to be a variation that is made purely to put profit over safety.

33 Pillowell Close  
Cheltenham  
Gloucestershire  
GL52 5GJ

**Comments:** 21st February 2024

The changing of wording from 'up to' to 'of' significantly changes what gradients of what length are permitted and provides an unregulated loophole.

By using 'of', gradients up to 1:13 can be of any length. This will impact greatly on cyclists, pedestrians and wheel chair users alike.

The 30m length restriction should apply to all gradients between 1:20 and 1:12.

12 Brockweir Road  
Cheltenham  
Gloucestershire  
GL52 5FW

**Comments:** 5th March 2024

I strongly object to the developer trying to change things to make it easier and cheaper for them.

Surely common sense will tell us all this development should not be happening.

We can't keep being bullied by the big and powerful who don't live around here to face the consequences of their greed.

Please leave Oakley Farm Pastures alone as the gradient is always going to be a massive problem for us locals.

**Comments:** 25th February 2024

The people who actually LIVE in this area already know that it makes no sense to build 250 houses with access onto Harp Hill.

This must be refused just with approximately another 500 more vehicles in this very busy part of town.

This is another chance to do the right thing for this area.

4 Birdlip Road  
Cheltenham  
Gloucestershire  
GL52 5AJ

**Comments:** 8th March 2024

We object because:

The surrounding infrastructure is not sufficient to support the increase in traffic.

It is not realistic to increase capacity of the Harp Hill road to accommodate the increased capacity and this road is already overused as a cut through road.

The proposal includes infrastructure that is inaccessible and will prove traitorous due to the gradient.

This land is part of AONB and should only be built upon should there be no other options otherwise the AONB designation counts for nothing and we risk degrading our protected natural beauty. All conditions of planning permission should be adequately met without needing to reinterpret the rules for this AONB.

45 Birdlip Road  
Cheltenham  
Gloucestershire  
GL52 5AJ

**Comments:** 5th March 2024

A comment following documents lodged on 5th March by Vistry

The response from Vistry to all of the objections to their request to ask for variation on the wording of the gradients is to say "Ok we can make some changes to the road layouts but if we do then trees covered by TPO's will suffer and likely fail . strong arm tactics that have already overridden the principal of AONB .... surely it is time to stand firmly against these continued attempts to disregard National Planning laws - what are they there for but to protect local residents and the environment against these bullies

**Comments:** 19th February 2024

I object - If the planning application does not comply with current planning rules then surely it should not be allowed - to allow the applicant to fiddle around with the wording of the inspectorates requests to suit themselves makes a mockery of the original inspectors decision.

The inspector took months (Years?) to make his decision and note conditions on the development and these should be respected - if the roads in the plan are too steep then they are too steep.

3 Highnam Place  
Cheltenham  
Gloucestershire  
GL52 5FX

**Comments:** 10th March 2024

I strongly object to this application.

I note that the objections submitted highlight many reasons why refusal should be recommended and it is clear that the planning inspector's decision was reached after careful consideration of established regulations governing such developments. I can only add my support to those who have taken the time to clarify these reasons in their representations.

It seems that the application is nothing more than an attempt to change the rules which we, the public are led to believe were created to ensure that our infrastructure, roads & housing in the UK meet certain standards, which in turn offers protection for the wider population & establishes an order which prevents individuals or bodies taking it upon themselves to do what they want because it suits their desires, ambitions and/or business models. In the UK we are expected to abide by established rules and thankfully, most of us are happy with that.

## Page 218

To draw an analogy with what the applicant proposes, if I wish to ignore red traffic lights, park on yellow lines, shoplift, or carry out any of a myriad of other antisocial & inappropriate actions, I would rightly expect to be told I cannot do these things & accept that I would be dealt with accordingly. It would be laughable if I thought I could simply demand that the speed limit be raised to suit my desire to get to work quicker, the Highway Code amended to allow me to park on double yellow lines, and for other nefarious activities to be treated as acceptable.

Obviously our established national rules could never be allowed to be altered without good reason just because a developer thinks it would make their life easier, so why then do the applicants here think that they are any different to the rest of us? The answer is quite simple - if I can't change the rules, they shouldn't be able to either.

It may be that there is merit in allowing this to go to court. From both the LPA & the developer's perspective, determination by a court should give a definitive resolution to the matter (as unappealing that that might be to the developers) but it would also set a precedent for future such similar scenarios, as well as reinforcing the fact that attempting to undermine established planning rules could be both costly and futile.

47 Birdlip Road  
Cheltenham  
Gloucestershire  
GL52 5AJ

**Comments:** 26th February 2024

Letter attached.

12 Brockweir Road  
Cheltenham  
Gloucestershire  
GL52 5FW

**Comments:** 5th March 2024

I very strongly object to this. I have had many years pushing a wheelchair, pram and double buggy with buddy board. I have cycled with and without children on the back and also along side children on cycles and scooters. My Mom was a mobility scooter user too. So I realise how difficult this gradient will be to navigate, probably resulting in many accidents. It will be near impossible, so people will have no choice but to use their car. On an estate of 250 houses this could easily be 500 cars, which would be catastrophic for the environment, wildlife, domestic animals and most importantly adults and children with or without asthma and other breathing problems. Please, please do the right thing and put a stop to this possible development.

**Comments:** 25th February 2024

We are extremely worried about the access of up to or exceeding 500 cars- given that most households have at least two cars nowadays- on to Harp Hill. Which is a very narrow, old and windy road. With a very obscured view at the best of times. It will be really unsafe for the many local people who already use Harp Hill in cars, motorcycles, bikes and also the pedestrian's. Many of which exercise up there with or without dogs. Harp Hill and the surrounding roads were most definitely not made for so much traffic.

Please, please, please think about the safety of the local residents when considering this application. Very many thanks.

4 Landor Gardens  
Cheltenham  
Gloucestershire  
GL52 2TB

**Comments:** 27th February 2024

Regardless of differences in legal interpretation, the spirit of condition 13 was to ensure safety for all. Whether the Manual for Streets is legally enforceable or not, the guidance is there to protect all road users and should therefore be applied.

As echoed by others, this housing development was opposed by 376 local objectors who know and care about the area we live in versus one supporter. The democratic and right thing to do is to refuse permission.

129 New Barn Lane  
Cheltenham  
Gloucestershire  
GL52 3LQ

**Comments:** 4th March 2024

The Oakley Farm developers are clearly facing negative cost implications in finding ways to conform to the gradient requirements as set down by the Planning Inspector and Gloucestershire Highways. As a result, they are now trying to manipulate the Planning Inspector's ruling by appealing for a change to the wording on gradients. They cannot be allowed to cherry pick (as someone else put it) which conditions they are prepared to conform to. Please refuse this application, and keep the existing gradient requirements thereby protecting users of wheelchairs, mobility scooters, pushchairs and bicycles as well as other residents in icy conditions.

8 Pillowell Close  
Cheltenham  
Gloucestershire  
GL52 5GJ

**Comments:** 3rd March 2024

Specific to Variation Of Condition 13

Relating to Slopes;

That the slopes are too severe is obvious. Fairford road on the recent adjacent development already has issues in icy conditions with cars sliding and people slipping. I

have witnessed cars unable to make their way up at all at in some conditions. I personally am reluctant to venture around the estate in certain weather. The new proposed location is even steeper again with genuine safety issues that come with it.

There are quite likely longer-term risk of slippage and settlement issues, to both roads and properties. Is the developer to pick up the costs for this some years down the line? What if the developer no longer exists?

There will be a sizeable 'very rapid' run-off of water leading to yet more pressure on sewers and rivers which should clearly be avoided nowadays. This is totally being ignored here.

In General;

I read the planning officers full report. It was well written but despite the many negative reasons against development on this plot it was very clear that his intention was to 'get this over the line in favour of development no matter what'. To put it in simple perspective - If any normal sensible person were to visit Cheltenham and surrounding area for the first time there is no way they would select this field as a housing development plot. More likely it would be placed at the very bottom of the list for a multitude of reasons. Something has gone very wrong with the planning system here. Planning controls have been thrown out of the window.

Castle Farm  
Ashley Rd  
Cheltenham  
GL52 6NU

**Comments:** 3rd March 2024

We object to this application.

1. Allowing a gradient of more than 1:20 will cause issues for cyclists, parents with pushchairs, wheelchair users and less able people in general.
  2. The planning permission granted said gradients should not be more than 1:20. The developers cannot now cherry pick what has been a hugely contentious issue locally.
  3. Hundreds of local residents are against the overall development on an area of outstanding natural beauty, as well as Gloucester CC and CBC. To not be listened to again (the developers went direct to central government to gain permission), would make a mockery of the planning system.
- Please refuse this application.



11 Branch Hill Rise  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 9HN

**Comments:** 6th March 2024

Traffic emerging on to such a steep hill in a residential area where people are taking exercise, some with young children, is extremely dangerous & could cause serious accidents. It is disingenuous of the developer to try to circumvent the restrictions and conditions that were imposed upon them as part of the deal.

6 Withington Close  
Cheltenham  
Gloucestershire  
GL52 5AZ

**Comments:** 8th March 2024

Harp Hill does not have the infrastructure in place to support the added number of vehicles that this development will create resulting in inevitable road traffic accidents, delays and congestion.

There is already a lack of green areas for wildlife to thrive and as it stands we have seen (to name a few) hare, deer, muntjac, woodpeckers & owls on our regular walks. For a council that claims they want to protect such areas and encourage biodiversity, ripping up yet another green space is completely contradictory.

- This development will not only cause disruption to the local community by affecting their daily travels, but will cause irreparable damage to our green areas resulting in the loss of wildlife.

I strongly object to the proposed changes to the gradients condition. During the appeal, there was significant reluctance on the part of the Robert Hitchins team to accept that road gradients on the site required conditioning according to local guidance. Clearly, the Inspector held a different perspective; he not only considered the local guidance but also strengthened and enhanced it. Evidently, he was of the opinion that without such conditioning, the development would not be appropriate in the location, and I agree with him.

Now, the new owners, Vistry, are unable to meet the planning condition when attempting to build 250 houses on the site. They wish to have the condition diluted to align with their proposal, claiming that the wording is ambiguous and lacks precision. I say this is nonsense; it is as clear as day. Even their own legal team can't make a convincing case. If they could, they would be pushing their proposal through planning. The council's legal representative is evidently well-informed and correctly provides a reasonable reader's opinion, leaving no doubt about how the courts would view it.

Steep access routes, if permitted by a diluted condition, are not in the best interests of all users. The scheme would fail to encourage people to opt for more sustainable transport modes, conflicting with Chapter 9 of the NPPF, the Cheltenham Plan, and the objectives of local initiatives like the Cheltenham Climate Emergency (as a borough). Additionally, it would be a barrier and discriminating to those with limited mobility. While the reserve matters application promotes the site's proximity to local shops, the proposed modification raises the question of who would willingly embark on a steep return journey carrying shopping. Modified as proposed, the scheme would actively encourage car use.

Replacing the words 'up to', with 'of', detrimentally tempers the condition, introducing ambiguity and detracting from clarity — the opposite of what the proposal claims to achieve. The offered modification to the condition, represents a significant material change to the outline planning permission, as evidenced by the time devoted to gradients at the appeal, and the subsequent introduction of the Alternative Masterplan (Produced at appeal to demonstrate, among other things, the achievability of compliant gradients!!).

Perhaps the applicant would consider a return to the drawing board, reevaluate the site with its imposed conditions, and come back with a proposal that complies with the approved plan and garners local support. It may be that achieving 250 homes on the site is not feasible, and, therefore, a more scaled-down option should be considered.

Hewletts Reservoir Lodge  
Harp Hill  
Cheltenham  
GL52 6PP

23/02/2024

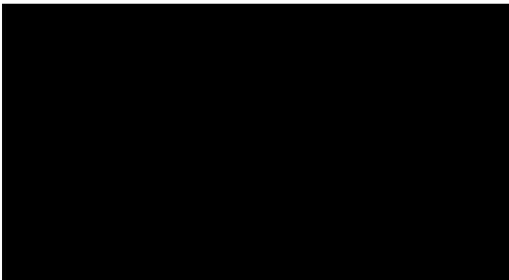
**Ref: 24/00251/CONDIT**

Dear Sir / Madam

I wish to object to the wording being changed regarding the site gradient as originally stated by the Appeal Inspector's conditions.

As a close resident to this development I would like to point out the excessive amount of traffic on Harp Hill all ready and worry about the impact this new road access will have in the future.

Your faithfully



Ref: 24/00251/CONDIT

Wadley Farm,  
Ham Lane,  
Choulton Kings,  
Cheltenham.

GL52 6NJ

2nd March 24

Dear Madam,

Re: Variation of condition 13 - access  
onto Harp Hill + road gradients.

20/0169/OUT

Against a unanimous decision of refusal by Cheltenham Borough Planning Committee, a Government Inspector granted permission for 250 houses to be built on Oakley Farm, Priors Road, in The Cotswold Area of Outstanding Beauty.

The Inspector placed conditions on this approval + I see absolutely no reason why developers should be able to vary any of these conditions, bearing

in mind that the Planning Inspector placed them on the permission which he granted in the first place.

I hope this application will be refused.

Thank you for sending a letter advising us of this, initially.

Yours faithfully,

A solid black rectangular redaction box covering the signature area.

Field House.  
Ashley Road  
Cheltenham  
GL52 6PH

7<sup>th</sup> March 2024

Dear Sir/Madam

Your Ref. 24/00251/CONDIT

Proposal: Variation of condition 13 (access arrangements onto Harp Hill and road gradients) of outline planning permission 20/01069/OUT – revised wording of condition 13 in respect of road gradient lengths. At Oakley Farm Priors Road Cheltenham.

Whilst I realize that the above proposal is of a technical nature, I strongly object to the alteration of the wording in condition 13 as it must be of benefit to the development of this site otherwise no application would have been made. The steepness of the hill is of considerable importance with the amount of traffic this development would generate.

Having lived on Battledown for over 50 years, and a regular user of Harp Hill, I am aware that any increase of traffic would be dangerous. A development of this size with a possibility of 500 or more cars using the road, or the alternative route of Greenway Lane is unbelievable. The traffic on these two roads has increased enormously over the years. Most people using it as a short cut. Next week with the races taking place, it is a well know route used by race goers. The parking either side of the lower part of Harp Hill makes it extremely dangerous. The weather and the amount of traffic means the road surface is always crumbling. In icy conditions the steepness of the hill make driving conditions extremely difficult, and I have seen parked cars being hit as those descending the hill lose control.

How this development was ever allowed on appeal beggars belief. Perhaps by not changing the wording in condition 13, it might make it more difficult for it to go ahead.

Yours faithfully,



cc Councillor Babbage  
Councillor Chidley

<b>APPLICATION NO:</b> 23/02140/FUL	<b>OFFICER:</b> Mrs Victoria Harris
<b>DATE REGISTERED:</b> 10th January 2024	<b>DATE OF EXPIRY:</b> 6th March 2024
<b>DATE VALIDATED:</b> 10th January 2024	<b>EXTENSION OF TIME:</b> 25.03.2024
<b>WARD:</b> Lansdown	<b>DATE OF SITE VISIT:</b>
<b>PARISH:</b>	
<b>APPLICANT:</b> Cheltenham Borough Council	
<b>AGENT:</b> Cheltenham Borough Homes Ltd	
<b>LOCATION:</b> Flat 1 16 Eldorado Road Cheltenham	
<b>PROPOSAL:</b> Replacement of existing critall (metal) 3no. windows with 3no. white aluminium windows	

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located along Eldorado Road, within Lansdown ward, and comprises a large, detached building which has been subdivided into flats. The building is faced in red brick, with a pitched, slate tiled roof, and white timber and metal windows. The application relates to Flat 1 16 Eldorado Road; a ground floor flat. The site is located within Cheltenham's Central Conservation area and within the Eldorado Character Area.
- 1.2 The applicant is seeking planning permission for the replacement of 3 windows within flat 1. The windows are located within the single-storey side addition. The new windows will be white, Alitherm heritage, modern double-glazed units. The hall window and kitchen window will retain the same look as the existing windows. The bathroom window will have a different design to existing and incorporate a top hung opening.
- 1.3 The plans have been revised following officers' concerns relating to design. The hall window and kitchen window have been revised so that they now match the existing windows in terms of design.
- 1.4 An extension of time has been agreed to allow for the submission of revised plans and for determination of the application at planning committee.
- 1.5 The application is at planning committee as Cheltenham Borough Homes are the applicant and Cheltenham Borough Council are the landowner.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

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

### **Relevant Planning History:**

**18/02632/CLPUD 18th January 2019 CERTPU**  
Proposed window replacement to 34 sites - see property schedule

## 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 14 Meeting the challenge of climate change, flooding and coastal change  
Section 16 Conserving and enhancing the historic environment

### **Adopted Cheltenham Plan Policies**

D1 Design  
HE1 Buildings of Local Importance and Non-Designated Heritage Assets  
SL1 Safe and Sustainable Living

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

SD3 Sustainable Design and Construction  
SD4 Design Requirements



SD8 Historic Environment  
SD14 Health and Environmental Quality

**Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

Central conservation area: Eldorado Character Area and Management Plan (July 2008)

Cheltenham Climate Change (2022)

**4. CONSULTATIONS**

See appendix at end of report

**5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>16</b>
Total comments received	<b>0</b>
Number of objections	<b>0</b>
Number of supporting	<b>0</b>
General comment	<b>0</b>

- 5.1** 16 letters were sent to neighbouring properties, a site notice was displayed and an advert was published in the Gloucestershire Echo. No letters of representation have been received.

**6. OFFICER COMMENTS**

**6.1 Determining Issues**

- 6.2** The key considerations in relation to this application are the design, the impact on the conservation area and any impact on neighbouring amenity.

**6.3 Design**

- 6.4** Section 12 of the NPPF emphasises the importance of achieving well designed places that are visually attractive and sympathetic to local character and setting. In addition, policy SD4 of the JCS and policy D1 of the Cheltenham Plan require development to be of a high standard of architectural design that positively responds to and respects the site and its surroundings.

- 6.5** The application site is located within the Conservation Area. As such the local authority should have regard to the duty to pay special attention to the desirability of preserving or enhancing its character or appearance.

- 6.6** The application proposes to replace the windows within Flat 1, 16 Eldorado Road; ground floor flat, as such this application is seeking to change only some of the windows within the building. The new hall window and kitchen window would have the same visual appearance as the existing windows. However, the replacement windows may be slightly more 'chunky' due to the modern double glazed units; however they would retain a similar appearance.

- 6.7** The property is not listed or locally indexed, is not adjacent to any Listed Buildings, nor will the setting of any listed buildings be impacted and there are a number of modern windows in the vicinity of the site. In addition, the windows will be located within the single-storey side addition and not the original building. As such, it is not considered that the replacement windows would result in harm to the character of the building or the wider Conservation Area.

**6.8** The design is therefore considered to be appropriate and complies with policy SD4 of the JCS and policy D1 of the Cheltenham Plan.

**6.9 Impact on neighbouring property**

**6.10** Policy SD14 of the JCS and saved Local Plan policy CP4 require development not to cause unacceptable harm to the amenity of adjoining land users and the locality. It is considered that as a result of the replacement windows and door there would be no harm to the amenity of surrounding land users.

**6.11 Sustainability**

**6.12** Section 14 The NPPF prescribes that the planning system should support the transition to a low carbon future in a changing climate. This is a key theme and objective of the Cheltenham Local Plan. This aim is recognised in Policy SD3 of the JCS, which sets out an expectation that all development should be adaptable to climate change.

**6.13** The Cheltenham Climate Change SPD (adopted June 2022), sets out a strategy for decarbonising homes over the next decade. For residential alterations and extensions there is an opportunity to improve the environmental performance of a home through the inclusion of technologies and features such as photovoltaics, replacement windows, heat recovery, permeable (or minimal) hard surfaces, works to chimneys, insulation, replacement heating systems (heat pump) and thoughtful kitchen design.

**6.14** In this instance the application includes new windows. Given the scale of development proposed within this application this is considered to be an acceptable response to climate change and the SPD.

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

**6.16** 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.

**6.17** 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.

**6.18** 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 proposed replacement windows are considered to be acceptable and therefore the recommendation is to 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, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

Approved Plans

Reference	Type	Received	Notes
2140.05.	Drawing	11th March 2024	
2140.03.	Drawing	4th January 2024	
2140.01.	OS Extract	21st December 2023	
2140.02.	Drawing	21st December 2023	

**CASE OFFICER:** Mrs Victoria Harris

**AUTHORISING OFFICER:**

**DATE:**

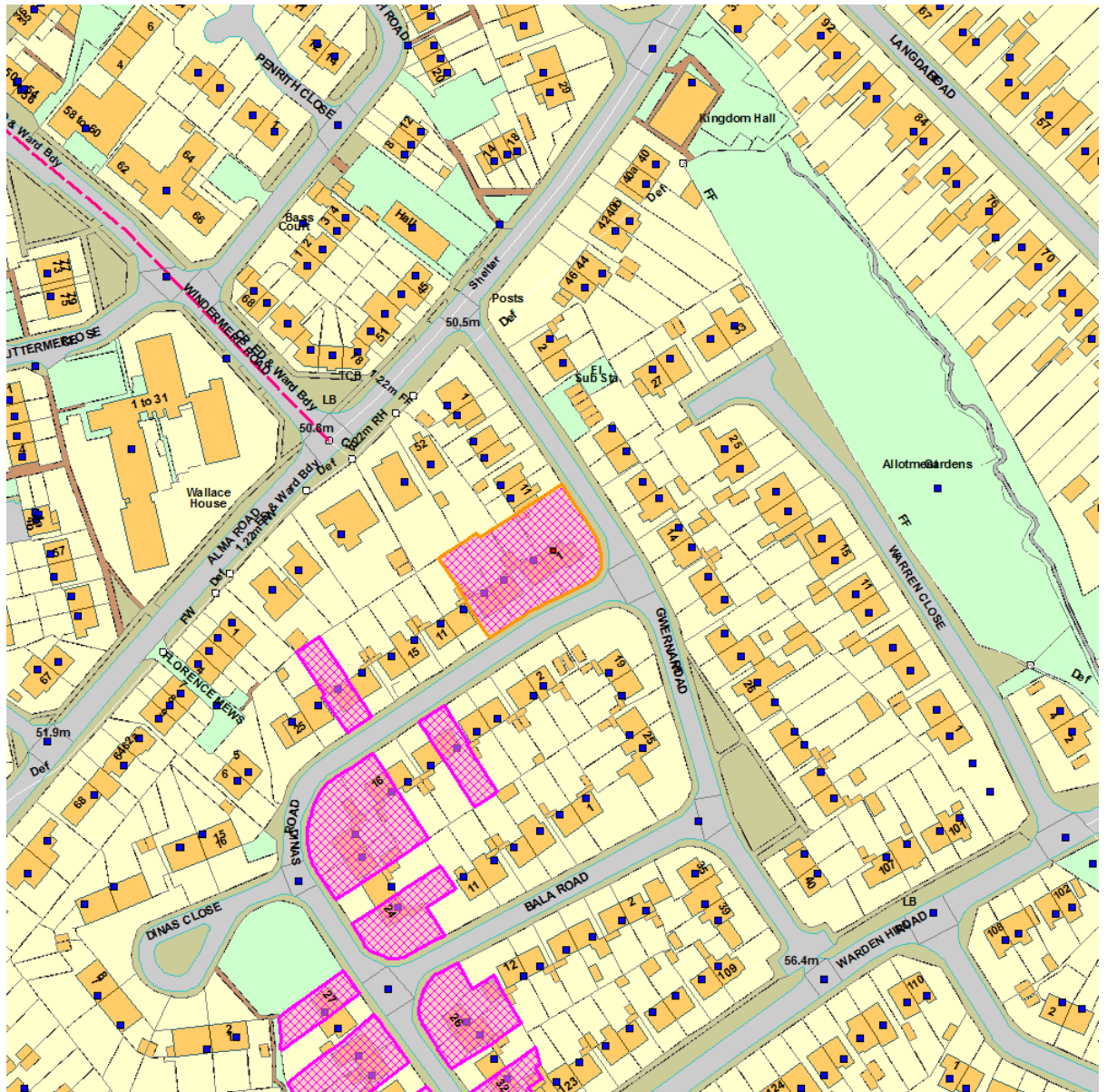
**Consultations Appendix**

**Building Control**

*1st February 2024* - This application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

<b>APPLICATION NO:</b> 24/00096/FUL	<b>OFFICER:</b> Mr Ben Warren
<b>DATE REGISTERED:</b> 24th January 2024	<b>DATE OF EXPIRY:</b> EOT 22nd March 2024
<b>DATE VALIDATED:</b> 24th January 2024	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Warden Hill	<b>PARISH:</b> Leckhampton With Warden Hill
<b>APPLICANT:</b>	Cheltenham Borough Council
<b>AGENT:</b>	Adapt Architects
<b>LOCATION:</b>	1 Dinas Road Cheltenham Gloucestershire
<b>PROPOSAL:</b>	External Insulation to properties numbered: 01,03,05,07,10,16,18,20,21,24,26,27,28,31,32,33 and 37. Finished with render and brick slip system to provide coins and plinth.

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application seeks consent for the addition of external insulation to a number of residential properties in Dinas Road, these being number 01, 03, 05, 07, 10, 16, 18, 20, 21, 24, 26, 27, 28, 31, 32, 33 and 37.
- 1.2 The application is at planning committee as Cheltenham Borough Council is the applicant and the landowner.
- 1.3 An extension of time has been agreed with the applicant's agent in order to allow for the application to be considered at planning committee.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Principal Urban Area

### Relevant Planning History:

**09/01155/PREAPP CLO**

single storey rear extension

**10/01685/PREAPP CLO**

Rear porch

**08/01169/CLPUD 26th August 2008 CERTPU**

Vehicular access and hardstanding

**77/00600/PF 7th November 1977 PER**

Erection of a private car garage.

**10/01287/PREAPP CLO**

Single storey side extension to provide ground floor bedroom and shower room for a disabled occupant

**10/01439/FUL 6th October 2010 PER**

Single storey side extension to provide ground floor bedroom and shower room for a disabled occupant

**11/00398/AMEND 25th March 2011 PAMEND**

Non-material amendment to planning permission ref. 10/01439/FUL to move the approved extension back by 600mm

**10/01439/FUL 3\_COMP**

Single storey side extension to provide ground floor bedroom and shower room for a disabled occupant

## 3. POLICIES AND GUIDANCE

### National Planning Policy Framework

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 12 Achieving well-designed places

### Adopted Cheltenham Plan Policies

D1 Design

SL1 Safe and sustainable living

### Adopted Joint Core Strategy Policies

SD3 Sustainable Design and Construction

SD4 Design Requirements

SD14 Health and Environmental Quality

**Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

Climate Change (2022)

#### **4. CONSULTATIONS**

**Building Control - 1st February 2024**

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

#### **5. PUBLICITY AND REPRESENTATIONS**

- 5.1 The application was advertised by way of 3 site notices. No letters of representation have been received in response to this neighbour notification process.

#### **6. OFFICER COMMENTS**

**6.1 Determining Issues**

- 6.2 The main considerations in relation to this application are the design, the impact of the proposal on neighbouring amenity, and sustainability.

**6.3 Design and sustainability**

- 6.4 Policy SD4 of the JCS notes how development should “respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality”. Furthermore, development “should be of a scale, type, density and materials appropriate to the site and its surroundings”. This is supported through adopted Cheltenham Plan Policy D1 which requires development to ‘complement and respect neighbouring development and the character of the locality.’

- 6.5 The Cheltenham Climate Change SPD (adopted June 2022), sets out a strategy for decarbonising homes over the next decade. For residential alterations and extensions there is an opportunity to improve the environmental performance of homes through the inclusion of various technologies and features.

- 6.6 The application proposes the addition of external insulation to a number of residential properties owned by the Council in Dina’s Road. The properties that are the subject of this application are two storey semi-detached dwellings with pitched roofs and finished in red-brick. The proposed insulation has a depth of approximately 150mm and will therefore nominally increase the footprint of these properties.

- 6.7 The supporting statement explains that an external insulation system has been selected instead of an internal insulation system in order to minimise disruption to residents. It is also noted that this option will reduce the risk of potential damp and mould problems in the future. In addition, the statement highlights that these works will help Cheltenham Borough Council meet its target to be net carbon zero by 2030 and that the project is being supported by the Governments Social Housing Decarbonisation Fund.

- 6.8 In terms of design and finish, the works would result in the main elevations of the properties being finished in render, with brick slip detailing to the corners of the properties and at a lower level on the front and side elevations. It is important to note that in some instances the proposed insulation is only proposed on one half of a pair of semi-detached properties. Details of the brick slip detail/material have been confirmed



by the applicant's agent as being 'Wetherby - 752 Red Multi Waterstruck', which would have a similar visual appearance to the existing brickwork.

- 6.9 The properties in Dinas Road are finished wholly in red-brick, the introduction of the external insulation where the main material is render, will materially change the design and appearance of these properties. However, it is also noted that properties in Dinas Close, adjacent to the sites that are the subject of this application are finished in part brick and part render. Surrounding properties in Warden Hill Road also include a mix of brick and render.
- 6.10 Officers acknowledge that the works will result in a change in the design and appearance of these dwellings, and in some instances will result in an imbalance for a pair of semi-detached dwellings. However, given the sites context, the resulting design is not considered to be wholly out of character and any harm resulting from an imbalance in the design of a pair of semi-detached properties is not considered so harmful that it would warrant the refusal of planning permission.
- 6.11 Officers are also mindful of the reason for these proposed works, which is intended to improve the thermal performance of these properties and would be compliant with the aims and objectives of Cheltenham's Climate Change SPD.
- 6.12 **Impact on neighbouring amenity**
- 6.13 It is necessary to consider the impact of development on neighbouring amenity. JCS Policy SD14 and Cheltenham Plan Policy SL1 state how development should not cause unacceptable harm to the amenity of neighbouring properties. Matters such as a potential loss of light, loss of privacy, loss of outlook, noise disturbances and overbearing impact will therefore be considered.
- 6.14 The proposed external insulation has a depth of approximately 150mm and therefore will only marginally increase the projection of the external walls of the properties. This alteration will have very limited impact on neighbouring amenity and will not result in any harmful loss of light or loss of outlook. Due to the nature of the works, no concerns are raised regarding privacy.
- 6.15 No letters of objection or concerns regarding the proposed development have been received in response to the neighbour consultation process.

### **Other considerations**

6.16 *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 Having considered all of the above, the proposed works are considered to be acceptable in terms of design and impact on neighbouring amenity, and accords with Cheltenham's Climate Change SPD in terms of sustainability. As such, officer recommendation is to permit the 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.

- 3 The proposed brick slip material shall be 'Wetherby - 752 Red Multi Waterstruck', unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017).

## 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.

Application No.	Appeal Ref	Site Address	Appeal Type	Start Date	Questionnaire	Statement	Final Comments	Decision	Date of Decision	Costs Deci	Hearing Date	Costs awarded
21/02755/FUL	23/00001/PP1	Land at Brecon House	Hearing	10.01.2023	17.01.2023	14.02.2023	14.02.2023	Dismissed	27.04.2023	n/a	22.03.2023	
22/00839/FUL	23/00002/PP1	30 St Georges Place	written	16.01.2023	23.01.2023	20.02.2023	20.02.2023	Allowed	18.05.2023			
22/01145/FUL	23/00003/PP1	3 Apple Close	written	24.01.2023	31.01.2023	28.02.2023	28.02.2023	Allowed	19.04.2023			
22/00708/FUL	23/00004/PP1	37 Market Street	written	24.01.2023	31.01.2023	28.02.2023	28.02.2023	Allowed	19.04.2023	Allowed		4,860
20/01788/FUL	23/00005/PP1	Land at Shurdington Road	Hearing	17.04.2023	24.04.2023	22.05.2023	22.05.2023	Allowed	27.02.2024		04.07.2023	
22/01162/FUL	23/00006/PP2	101 Ryeworth Road	written	08.03.2023	15.03.2023	12.04.2023	12.04.2023	Dismissed	08.06.2023	n/a		
22/01373/FUL	23/00007/PP1	129-133 The Promenade	Written	08.03.2023	15.03.2023	12.04.2023	12.04.2023	Dismissed	17.08.2023			
22/02064/FUL	23/00008/PP1	St Edmunds, Sandy Lane	written	28.03.2023	04.04.2023	02.05.2023	16.05.2023	Dismissed	19.06.2023	Refused		
22/00334/COU	23/00009/PP3	8 Imperial Square	written	29.03.2023	05.04.2023	03.05.2023	17.05.2023	Allowed	21.11.2023			
21/02750/FUL	23/00010/PP1	Land Adjoining Leckhampt	Hearing	30.03.2023	06.04.2023	04.05.2023	18.05.2023	Allowed	12.09.2023		12.07.2023	
22/01430/FUL	23/00011/PP1	10 Suffolk Road	HAS	31.03.2023	07.04.2023	n/a		Dismissed	19.05.2023			
22/01679/FUL	23/00012/PP1	28 West Down Gardens	HAS	03.04.2023	10.04.2023	N/a		Dismissed	17.08.2023			
22/00328/FUL	23/00013/PP1	os 195 High Street	Written	18.04.2023	25.04.2023	23.05.2023	06.06.2023	Dismissed	16.06.2023			
22/00328/ADV	23/00014/ADV1	os 195 High Street	Written	18.04.2023	25.04.2023	23.05.2023	06.06.2023	Dismissed	16.06.2023			
22/00326/FUL	23/00015/PP1	23 Pittville Street	Written	18.04.2023	25.04.2023	23.05.2023	06.06.2023	Dismissed	16.06.2023			
22/00326/ADV	23/00016/ADV1	23 Pittville Street	Written	18.04.2023	25.04.2023	23.05.2023	06.06.2023	Dismissed	16.06.2023			
22/02201/FUL	23/00017/PP1	Phylnor, 53 Alstone Lane	Written	17.05.2023	24.05.2023	21.06.2023	05.07.2023	Dismissed	14.09.2023			
22/02190/PRIOR	23/00018/PP1	5G Mast, Glenfall Way	written	18.05.2023	25.05.2023	22.06.2023	06.07.2023	Dismissed	08.08.2023			
22/02075/FUL	23/00019/PP1	4 Dymock Walk, Cheltenham	HAS	26.06.2023	03.07.2023	n/a	n/a	Dismissed	09.08.2023			
22/00112/OUT	23/00020/PP1	Land adj to Oakhurst Rise	Written	24.07.2023	31.07.2023	28.08.2023	11.09.2023	Dismissed	21.11.2023	n/a		
23/00361/FUL	23/00021/PP1	4 Red Rower Close, Cheltenham	HAS	31.07.2023	07.08.2023	n/a	n/a	Dismissed	12.09.2023	n/a		
22/01964/FUL	23/00022/PP1	201 Gloucester Road, Cheltenham	HAS	04.08.2023	11.08.2023	n/a	n/a	Allowed	06.11.2023	n/a		
23/01236/CLEUD	23/00023/PP1	1 Michaelmas Lodge	Written	06.09.2023	20.09.2023	18.10.2023	08.11.2023	Allowed	16.02.2023	n/a		
	23/00024	System Error	System Error									
23/00001/DCUA	23/00025/ENFAPP	12 Pilford Road	Written	05.09.2023	19.09.2023	17.10.2023	07.11.2023					
22/01937/PRIOR	23/00026/PP1	5G Princess Elizabeth Way	Written	12.09.2023	19.09.2023	17.10.2023	31.10.2023	Dismissed	01.12.2023			
22/01864/COU	23/00027/PP1	6 Marsh Lane, Cheltenham	written	13.09.2023	20.09.2023	18.10.2023	01.11.2023	Allowed	01.12.2023	Allowed		
23/00452/COU	23/00028/PP1	218 High Street, Cheltenham	written	06.10.2023	13.10.2023	10.11.2023	24.11.2023	Allowed	13.02.2024			
23/00431/PRIOR	23/00029/PP1	Area grass verge Barley Row	written	01.11.2023	08.11.2023	06.12.2023	20.12.2023	Dismissed	12.01.2024			
22/01441/FUL	23/00030/PP1	10 Selkirk Street	written	09.11.2023	16.11.2023	14.12.2023	28.12.2023					
23/01347/CLPUD	23/00031/PP1	Eagle Star Tower, Montpel	written	20.12.2023	10.01.2024	07.02.2024	28.02.2024					

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Application No.	Appeal Ref	Site Address	Appeal Type	Start Date	Questionnaire	Statement	Final Comments	Decision	Date of Decision	Costs Deci	Hearing Date	Costs awarded
23/01678/CLEUD	24/00001/PP1	The Forge Branch Road	Written	03.01.2024	17.01.2024	06.02.2024						
22/01681/FUL	24/00002/PP1	Rotunda Tavern 3 Montpellie	Written	05.02.2024	12.02.2024	11.03.2024	25.03.2024					
	24/00003/ENFAPP	System Error	System Error									
	24/00004/ENFAPP	System Error	System Error									
23/00230/DCUA	24/00005/ENFAPP	125 - 133 Promenade	Written	22.02.2024	07.03.2024	04.04.2024	25.04.2024					
23/00596/FUL	24/00006/PP1	Land Adj to 1 Coltham Fields	Written	05.03.2024	12.03.2024	09.04.2024	23.04.2024					

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## Appeal Decision

Site visit made on 18 January 2024

by **G Powys Jones MSc FRTPI**

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

Decision date: 13.02.2024

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### Appeal Ref: **APP/B1605/W/23/3325026** **218 High Street, Cheltenham, GL50 3HF**

- 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 Ian Miller for Luxury Leisure against the decision of Cheltenham Borough Council.
  - The application Ref 23/00452/COU, dated 14 March 2023, was refused by notice dated 3 May 2023.
  - The development proposed is change of use of the ground floor from a retail unit (Class E) to an Adult Gaming Centre (Sui Generis) and first floor to associated storage and staff area with external alterations and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of the ground floor from a retail unit (Class E) to an Adult Gaming Centre (Sui Generis) and first floor to associated storage and staff area with external alterations and associated works at 218 High Street, Cheltenham, GL50 3HF in accordance with the terms of the application Ref 23/00452/COU, dated 14 March 2023, subject to the conditions set out in the attached Schedule.

### Preliminary matters

2. The appeal property is in Cheltenham Town Centre (CTC) and within the Town's designated Central Conservation Area (CA).
3. The appellant submitted amended plans with his appeal documentation, and the Council has had the opportunity to comment on them. I have considered the appellant's proposed amendments under the principles established by the Courts in *Wheatcroft*<sup>1</sup>. The plans show modest changes from the originally submitted plans, and I am satisfied that no-one's interests would be prejudiced if I were to consider them as part of the appeal.

### Main issues

4. The main issues are: (a) the effect of the proposal on the retail character and vitality of the CTC; (b) whether the proposal would preserve or enhance the character or appearance of the CA, and (c) the effect on neighbouring residential living conditions with specific reference to noise and disturbance.

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<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

## Reasons

### *The Town Centre*

5. The appeal property is a vacant shop. The Council does not object to the principle of Adult Gaming Centres (ACG) being established within its town centres. Indeed, the officer report says that '*ACGs are accepted as a main town centre use*' and I have not been made aware of any policies, local or national, which distinguishes them specifically as inappropriate or unacceptable uses within the CTC.
6. The Council's concern is directed to a loss of a retail unit and what it regards as a proliferation of similar uses related to gaming and/or gambling in the CTC. It says that there are 9 such establishments in the CTC, of which 3 are sited in the High Street close to the appeal property. The Council considers this to be an overconcentration of such uses, and an additional unit would diminish the essential retail character and vitality of this part of the CTC.
7. The Council has not disputed the appellant's submitted data showing that the vacancy rate of ground floor units in the CTC is markedly less than for the UK as a whole, or that the CTC is comprised of almost 500 commercial units, and that ACGs and similar uses amount to a relatively small proportion<sup>2</sup> of the total. I saw that the existing level of sui generis uses blended reasonably well with the other uses in this part of the High Street, including many non-retail class E uses and those contained within the Brewery Quarter, and that they contributed to forming a healthy mix of uses within what appeared to me, judging from the footfall and the low number of vacant premises, to be a relatively vibrant centre.
8. The Council says that, although vacant for a lengthy period, the unit was not marketed for a sufficient period of time to appropriately test its attractiveness for a retail use. The evidence from an independent agent shows that it was marketed for about 4/5 months without any realistic retail interest, which in my mind is not an unreasonable length of time for retailers to show at least some interest, if it existed. Irrespective of the Council's view on this aspect, I have not been pointed to any policy requirement for the need for marketing. Moreover, vacant units contribute negatively to the perception of a centre's vitality, as in this case.
9. I conclude that the use is not an inappropriate one within the CTC and it would not materially impinge upon the centre's retail character, its attractiveness or vitality. Accordingly, I find no conflict with the provisions and objectives of policies RT1 & RT2 (a) of the Cheltenham Plan (CP) or policy SD2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) directed to ensuring the continued vitality and character of the CTC.

### *Heritage considerations*

10. The appellant's proposals do not materially alter the appearance of the existing shopfront, which is that of a fairly modern retail unit, albeit not reflective of the pleasant design and appearance of the upper parts of the building. The Council says that the existing shopfront does not benefit from a formal planning permission and that, accordingly, it '*has never approved the current*

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<sup>2</sup> At 1.9%



*appearance*'. It strikes me however that the shopfront has been in situ for some time, and there is no evidence before me to suggest that the Council has found it objectionable in the past or attempted to secure its removal using its enforcement powers. The shop front has therefore become an established, and unremarkable feature of the High Street being little different in terms of its appearance to many others in this part of the CTC, including more recent additions.

11. As suggested in the officer report and in the response to consultation from '*Heritage and Conservation*', an enhancement may well be the ideal solution. Nevertheless, I am mindful that the statutory test quoted in the officer report<sup>3</sup> places preservation on an equal footing with enhancement. I do not therefore consider the appellant's approach to be unacceptable in heritage terms, and the elevational design amendments made to the original submission appear to me to successfully address at least some of the Council's earlier detailed concerns.
12. Having regard to the comments in the officer report as to proposed advertisements, I should clarify that these are not a matter for me but of a separate requirement for consent under the appropriate Regulations.
13. Taking account of the existing shopfront and others in the vicinity of the appeal property, I conclude that the proposed development would, at worse, have a neutral impact on its surroundings. The character and appearance of the CA would thus be preserved. Accordingly, I find no material conflict with those provisions of JCS policy SD8 and CP policy HE3 directed to protecting the Borough's heritage assets from inappropriate development.

#### *Living conditions*

14. The appellant does not dispute the presence of residential accommodation in relatively close proximity to the appeal property. The Council's concern is based on the venture's possible effects on those nearby residents' living conditions with particular reference to noise and disturbance. I note however that the Council's Environmental Protection Team (EPT) based its objection on the appellant's initially proposed 24 hr operation. The EPT also commented that it would be willing to review alternative opening hours if put forward by the appellant.
15. In response the appellant has suggested the imposition of conditions. The first, in effect, amounts to a requirement for a noise assessment prior to the operation commencing, whilst the second suggests revised opening hours, which include proposed closing times of 2.00am on 3 days of the week, 4.00am on 3 other weekdays and 10.00 pm on Sundays.
16. To my mind, the main possible sources of disturbance are those emanating from within the premises as a consequence of the operation of the machines and background music. The other concerns the arrival and departure of customers late at night. I acknowledge, however, that this is a use normally acceptable in town centres along with other uses such as bars and nightclubs which may be open late into the night. Residents in town centres could therefore reasonably anticipate a level of activity and noise at night normally associated with town centre uses. By the same token, nearby residents in this

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<sup>3</sup> Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

case could also reasonably expect controls to be imposed on a use such as this so that their amenities are not unacceptably harmed at unsocial hours.

17. The appellant has referred to two other appeals within town centres at Ipswich and Golders Green respectively in support of his case<sup>4</sup>. I take a similar view to the Inspectors in those cases that, with appropriate controls and mitigation, the use could be carried out without materially harming the living conditions of nearby residents. Accordingly, on this basis, I conclude that the proposed use would not conflict with the objectives of JCS policy SD14 or CP policy SL1 directed to protecting residential amenity from unacceptable harm.

### **Conditions**

18. The Council's has not provided suggested conditions but has submitted possible subject headings.
19. A condition is imposed to ensure that the development shall be carried out in accordance with the approved plans in the interests of visual amenity and certainty. A condition on materials is unnecessary since the detail is shown on the approved plans.
20. The noise assessment condition suggested by the appellant is imposed, albeit in a modified form, to protect neighbouring residents' amenities.
21. For the same reason, an opening hours condition is imposed. Those suggested by the applicant are unacceptable since they are unlikely to be effective in protecting residents' amenities in the early hours of the morning. Rather I shall impose a condition reflecting those imposed in the Ipswich and Golders Green appeal decisions referred to by the appellant. Such opening hours are likely to be more effective in achieving the required protection.

### **Other matters**

22. I have taken account of all other matters raised in the representations, including the representations made by the Member of Parliament, local councillors, residents, amenity bodies and those representing other interests. I have already addressed the main planning issues raised in the representations.
23. Concerns have been raised about the potential for anti-social behaviour attributed to the proposed use, but there is no firm evidence before me that this would prove to be the case in practice based on the operation of other such venues. I note the concerns relating to the social and other problems sometimes linked with gambling and gaming, and those made on moral grounds and that that this type of use is considered unacceptable in the CTC for these reasons.
24. Whilst some of these concerns are understandable and have legitimacy, planning is concerned with land use matters. As such, the concerns raised are not material to my considerations since national and local planning policies do not prevent adult gaming centres from operating. Also, such matters are regulated by other legislation including the licensing regime.

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<sup>4</sup> APP/R3515/W/23/3319465 & APP/N5090/W/21/3270129

25. No other matter is of such strength or significance as to outweigh the considerations that led me to my conclusions.

*G Powys Jones*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos: 3499(B)01; 3499(B)02; 3499(B)03; 3499(B)04; 3499(C)01 Rev A & 3499(C)02 Rev A.
3. Prior to the commencement of the use hereby permitted, an acoustic assessment of the anticipated operation of the use together with details of proposed mitigation shall be submitted to the local planning authority for its agreement and approval. The agreed scheme of mitigation shall be fully installed and operational prior to the commencement of the use and thereafter shall be permanently retained.
4. The premises shall not be open to customers other than between the following hours: 0900 – 0000 on weekdays and Saturdays and 1000-2200 on Sundays.

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## Appeal Decision

Site visit made on 23 January 2024

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date 16 February 2024

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**Appeal Ref: APP/B1605/X/23/3328676**

**1 Michaelmas Lodge, Lypiatt Terrace, Cheltenham GL50 2SX**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development.
  - The appeal is made by Mr Adam Teper against the decision of Cheltenham Borough Council.
  - The application ref 23/00262/CLEUD, dated 14 July 2023, was refused by notice dated 15 August 2023.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act).
  - The use for which a certificate of lawful use or development is sought is described as a change of use.
- 

### Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

### Preliminary Matters

2. The application form described the use for which a certificate of lawful use or development (LDC) was sought as "a change of use". The Council's decision notice describes the development as "use of area of land for vehicle parking on land adjacent to 1 Michaelmas Lodge". It is clear from the appellant's case that this is what they sought, and s191(4) of the 1990 Act allows the description to be modified accordingly.
3. An application under Section 191(1)(a) of the 1990 Act seeks to establish whether any existing use of buildings or other land is lawful at the time of the application, that is 14 July 2023. Section 191(2) sets out that uses and operations are lawful at any time if: a) no enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and b) they do not constitute a contravention of any enforcement notice then in force.
4. If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use..., they shall issue a certificate to that effect; and in any other case they shall refuse the application. An LDC is not an application for planning permission and the planning merits of the matter applied for do not fall to be considered. The decision is based strictly on the facts and on relevant planning law. The standard for the evidence is one of a balance of probabilities.

## **Main Issue**

5. The main issue is whether the Council's decision to refuse to issue an LDC was well-founded. As there is no enforcement notice in force, this turns on whether or not the use involves development or requires planning permission, and if it does require planning permission, whether the time for enforcement action has expired.

## **Reasons**

6. The appeal relates to an area of land at the northern end of Lypiatt Terrace adjacent to 1 Michaelmas Lodge. The site is grassed and is surrounded by mature vegetation being mostly hidden from the adjacent land. It is accessed from the driveway which runs along the front of the long terrace of Grade II\* listed properties. At the entrance to the appeal site, there is an area set aside for the storage of bins. The area is not formally laid out for parking and has the appearance of maintained amenity land.
7. The gist of the appellant's case is that the appeal site has been used to park vehicles for a period of more than 10 years leading up to the time of the LDC application. While the Council does not dispute that the land may have been used for parking, it considered that the evidence submitted was not sufficient to demonstrate that the land was used for the parking of vehicles for a continuous 10-year period. Rather, it described the use of the land for parking as ad hoc.
8. From the evidence presented, 1 Michaelmas Lodge is divided into apartments and in the ownership of the appellant. In these circumstances, each apartment is a single planning unit, and the building as a whole, has a primary residential use. While not provided as evidence for this appeal, information supplied previously to the Council included copies of ten assured shorthold tenancy agreements covering a 10-year period. These tenancy agreements included plans that highlighted the appeal land as a 'parking area' available for use by the tenants.
9. Four statutory declarations (SDs), one unsworn, have been provided by the appellant as evidence. They state that the appeal site has been used by people visiting Michaelmas Lodge for 20 years prior to the appellant's purchase of the land in 2009 and in the years since. The land is said to have been used by "tenants, housing officers, maintenance employees and contractors". Accompanying three of the SDs is the same aerial image which shows two vehicles parked on the appeal site. Cleaners are said to attend the property between 2 and 4 hours each week and the letting agent is said to visit about once a week or sometimes more.
10. The evidence strongly suggests that the area has been available for the purpose of parking by tenants and various individuals who visit the property for purposes such as maintenance, cleaning and letting. This indicates that the appeal land to the side, although physically divided from the apartments, retains a functional connection with each apartment and the residential use of the building as a whole.
11. Drawing together the evidence, it seems to me that, on the balance of probabilities, the appeal land has been used in an incidental manner in association with the primary residential use of 1 Michaelmas Lodge. The

evidence provides that those using the area for parking are, except for a few incidents of unauthorised parking by unknowns which is considered de minimis, involved with the residential use of the building, whether that is maintenance or cleaning, repair work or as a tenant.

12. Incidental uses may be changed, expanded or decreased without giving rise to a material change of use, so long as they remain subsidiary to the primary use as a whole. If an incidental use alters or expands to a point where it has ceased to be functionally related to the extant primary use and become a primary use on its own, either within a new planning unit or so as to put the original planning unit into a new mixed use, then it is likely that there will have been a material change of use.
13. In these circumstances I consider that there has not been a material change of use of the land because it did not involve "development" by reference to s55<sup>1</sup> of the 1990 Act. The appeal land is used in an incidental manner to the residential use of 1 Michaelmas Lodge and the individual planning units within it, as described by the appellant in their submissions. Therefore, planning permission would not be required for its use as such.
14. Consequently, I will exercise my powers under s191(4) of the Act to issue an LDC for the use that is shown to be lawful on the facts and evidence presented and amend the description of the use sought to "Use of the land for incidental vehicle parking in connection with the use and occupation of 1 Michaelmas Lodge".

### **Conclusion**

15. For the reasons given above and having regard to all other matters raised, I conclude that the Council's refusal to grant an LDC was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in s195(2) of the 1990 Act as amended.

*S A Hanson*

INSPECTOR

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<sup>1</sup> The carrying out of "development" includes the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of a material change in the use of land.



## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 14 July 2023 the development described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use of the land for vehicle parking in connection with the occupation of 1 Michaelmas Lodge would be incidental to the primary residential use of the site. As such, the use would not involve development by reference to s55 of the Town and Country Planning Act 1990 (as amended).

Signed

*S A Hanson*  
INSPECTOR

Date 16 February 2024  
Reference: APP/B1605/X/23/3328676

### **First Schedule**

Use of the land for incidental vehicle parking in connection with the use and occupation of 1 Michaelmas Lodge

### **Second Schedule**

Land at: 1 Michaelmas Lodge, Lypiatt Terrace, Cheltenham GL50 2SX



## NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



## Plan

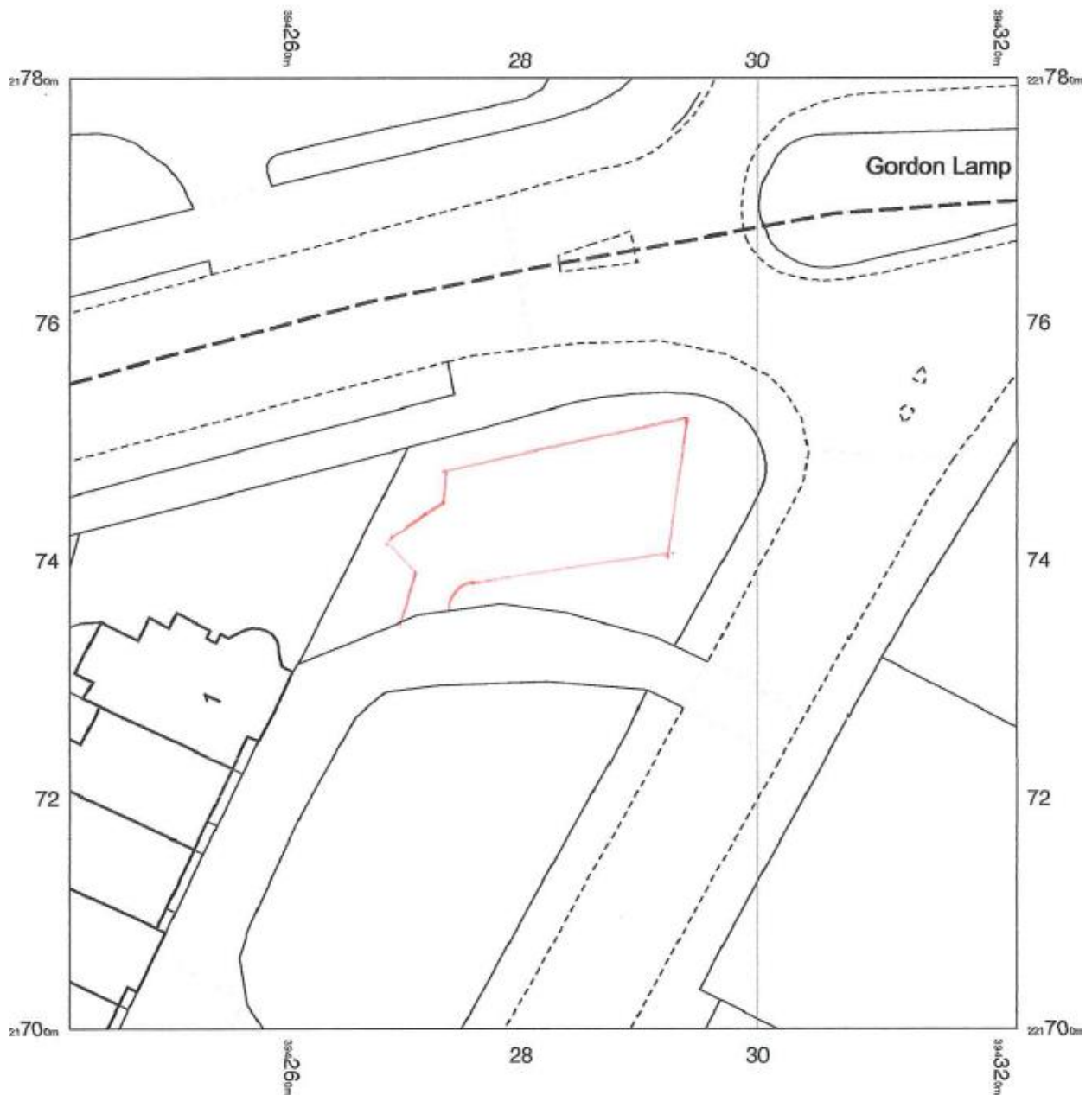
This is the plan referred to in the Lawful Development Certificate dated 16 February 2024

by **S A Hanson BA(Hons) BTP MRTPI**

**Land at: 1 Michaelmas Lodge, Lypiatt Terrace, Cheltenham GL50 2SX**

**Reference: APP/B1605/X/23/3328676**

Scale: Not to scale



## REPORT OF THE HEAD OF PLANNING ON PLANNING APPEALS

### OVERVIEW

The purpose of this report is to provide Members of the Planning Committee with an overview of all planning appeals that have been received by the Council since the previous meeting of the Planning Committee. It further provides information on appeals that are being processed with the Planning Inspectorate and decisions that have been received.

### RECOMMENDATION

To note the contents of the report.

### Appeals Received

#### February 2024/ March 2024

Address	Proposal	Delegated or Committee Decision	Appeal Type	Anticipated Appeal Determination Date	Reference
Hilltop Stores Hilltop Road Cheltenham	Demolition of existing retail unit and erection of 2no. dwellings (revised scheme following withdrawal of application ref. 22/01728/FUL)	Delegated Decision	Written representations	n/a	23/01137/FUL
Harwood House 87 The Park Cheltenham Gloucestershire GL50 2RW	Proposed replacement of brick boundary wall with an overlap wooden feather-edge fence (retrospective)	Delegated Decision	Written representation (Householder)	n/a	23/00929/FUL

<p>44 Springfield Close The Reddings Cheltenham Gloucestershire GL51 6SF</p>	<p>A wooden 1 metre tall front fence with open slats around front garden with a post sheath on corner to prevent possible damage and reflectors put on posts to add awareness. (Retrospective) Resubmission of 23/01086/FUL</p>	<p>Delegated Decision</p>	<p>Written Representation (Householder ?)</p>	<p>n/a</p>	<p>23/01566/FUL</p>

### Appeals being processed

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
12 Pilford Road Cheltenham	Erection of a Garden Room	n/a	Written representation (Enforcement)	Not decided	Planning ref: 23/00001/DCUA Appeal ref: 23/00025/ENFAPP
10 Selkirk Street	Erection of 1no. three storey self-build dwelling on land adjacent to 10 Selkirk Street	Committee Decision	Written Representation	Not Decided	Planning Ref 22/01441/FUL Appeal Ref: 23/00030/PP1

<p>Eagle Star Tower Montpellier Drive Cheltenham Gloucestershire</p>	<p>Application seeks confirmation that works undertaken in accordance with a previously approved change of use under Class J, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 ref: 15/01237/P3JPA enables the rest of the conversion to lawfully continue at any stage</p>	<p>Delegated Decision</p>	<p>Written Representation</p>	<p>Not Decided</p>	<p>Planning ref: 23/01347CLPUD appeal ref: 23/00031/PP1</p>
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The Forge, Branch Road, The Reddings	Use of land as a caravan site without restriction as to layout or numbers of caravans. (Revised application to 23/00936/CLEUD)	Delegated Decision	Written Representation	Not Decided	Planning ref: 23/01678/CLEUD Appeal ref: 24/00001/PP1
3 Rotunda Tavern Montpellier Street	Retention of temporary canopy structure for two years	Delegated Decision	Written Representation	Not Decided	Planning Ref: 22/01681/FUL Appeal Ref: 24/00002/PP1
129 - 133 Promenade Cheltenham Gloucestershire	Marquees at 129 - 131 Promenade.	N/A	Written representation	Not Decided	Enforcement ref: 23/00230/DCUA Appeal Ref: 24/00005/ENFAPP
1 Coltham Fields Cheltenham Gloucestershire GL52 6SP	Erection of 1no. two storey dwelling on land adjacent 1 Coltham Fields	Delegated Decision	Written representation	Not Decided	Planning ref: 23/00596/FUL Appeal ref: 24/00006/PP1

## Appeals Decided

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
Adey Innovation Ltd Gloucester Road	Demolition of the existing office building and erection of a 66 bedroom care home for older people (Use Class C2) including associated access, parking and landscaping.	Delegated Decision	Appeal Hearing (25.01.23)	Appeal Allowed	Planning ref: 21/02700/FUL Appeal Ref: 22/00027/PP1
The Hayloft The Reddings	Conversion of the existing dwellinghouse into 9 self-contained apartments, and associated works	Committee Decision	Written Representation	Appeal Allowed	Planning ref: 22/00749/FUL Appeal Ref: 22/00028/PP1



159 High Street	Proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s) on Pavement Of Winchcombe Street Side Of Hays Travel 159 High Street	Delegated Decision	Written Representation	Appeal A and Appeal B Dismissed	Planning ref: 22/00322/ADV and FUL Appeal ref:22/00021/PP1 and 22/00022/ADV1
3 Apple Close, Prestbury	Replacement of existing conservatory with single storey rear extension. Increase in ridge height to facilitate loft conversion with rear dormer.	Delegated Decision	Written Representation	Appeal Allowed	Planning ref: 22/01145/FUL Appeal Ref: 23/00003/PP1

37 Market Street	Proposed side and rear extensions (revised scheme following refusal of application ref. 21/02361/FUL	Committee Decision	Written representations	Appeal Allowed Appeal Costs (Allowed)	Planning Ref: 22/00708/FUL Appeal Ref: 23/00004/PP1
Brecon House Charlton Hill Cheltenham Gloucestershire GL53 9NE	Construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements,	Committee Decision	Appeal Hearing (date 22/03/23)	Appeal Hearing Dismissed	Planning ref: 21/02755/FUL Appeal ref: 23/00001/PP1
30 St Georges Place	Conversion to form 7no. dwellings, together with extensions and construction of new mansard roof	Delegated Decision	Written representations	Appeal Allowed	Planning ref: 22/00839/FUL appeal ref: 23/00002/PP1

10 Suffolk Road	First floor extension at rear of 10 Suffolk Road on top of existing kitchen roof, comprising of 1 new bedroom and ensuite bathroom (revised scheme 22/00966/FUL)	Delegated Decision	Written Representations Householder Appeal	Appeal Dismissed	Planning ref: 22/01340/FUL Appeal ref: 23/00011/PP1
101 Ryeworth Road	Erection of two storey and single storey rear extensions and single storey front extension.	Non-Determination	Written Representation	Appeal Dismissed	Planning ref: 22/01162/FUL Appeal Ref: 23/00006/PP2

o/s 195 High Street Cheltenham	Proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s)	Delegated Decision	Written Representation	Appeal A Dismissed Appeal B Dismissed	Planning Ref: 22/00328/ADV and FUL Appeal Ref: 23/00013/PP1 23/00014/ADV1
o/s 23 and 23 A Pittville Street	Proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens,	Delegated Decision	Written representation	Appeal A Dismissed Appeal B Dismissed	Planning ref: 22/00326/ADV and FUL Appeal Ref: 23/00015/PP1 23/00016/ADV1
St Edmunds, Sandy Lane Road	Conversion and extension of an existing coach house/garage to a single dwelling with new access off Sandy	Delegated Decision	Written Representation	Appeal Decision Dismissed Cost Decision Dismissed	Planning ref: 22/02064/FUL Appeal Ref: 23/00008/PP1
Telecommunications Mast And Cabinet CLM26321 Glenfall Way	Proposed 5G telecoms installation: H3G 16m street pole and additional equipment cabinets	Delegated Decision	Written Representation	Appeal Dismissed	Planning ref: 22/02190/PRIOR Appeal Ref: 23/00018/PP1

4 Dymock Walk	Application for prior approval for the construction of one additional storey atop the existing dwelling (increase in height of 2.13 metres)	Delegated Decision	Written representation (Householder)	Appeal Dismissed	Planning ref: 22/01075/FUL Appeal ref: 23/00019/PP1
28 Westdown Gardens	Erection of detached garage (revised scheme to ref: 21/01789/FUL)	Delegated Decision	Written Representations Householder Appeal	Appeal Dismissed	Planning ref: 22/01679/FUL Appeal ref: 23/00012/PP1
129 – 133 Promenade	Retention of existing temporary marquees at 125, 127, 129, 131 further two year period and 133 Promenade,	Committee Decision	Written representation	Appeal Dismissed	Planning ref: 22/01373/FUL Appeal Ref: 23/00007/PP1
4 Red Rower Close	Two storey and single storey extension to the front and loft extension and dormer	Delegated Decision	Written representation	Appeal Dismissed	Planning Ref: 23/00361/FUL Appeal Ref: 23/00021/PP1

Land Adjoining Leckhampton Farm Court Farm Lane Leckhampton Cheltenham Gloucestershire	Residential development of 30 no. dwellings (Class C3); vehicular, pedestrian and cycle access from Church Road; pedestrian and cycle access from Farm Lane; highways improvement works; public open space,	Delegated Decision	Appeal Hearing (Date of hearing 18 <sup>th</sup> July 2023 <b>(rescheduled for 12<sup>th</sup> July 2023)</b> )	Appeal Allowed	Planning Ref: 21/02750/FUL Appeal Ref: 23/00010/PP1
53 Alstone Lane	Erection of a single storey dwelling on land to rear of the existing property	Delegated Decision	Written representation	Appeal Dismissed	Planning ref: 22/02201/FUL Appeal ref: 23/00017/PP1
201 Gloucester Road	Installation of raised, split level patio area with boundary treatments (Retrospective).	Delegated Decision	Written representation	Appeal allowed	Planning Ref: 22/00022/PP1 Appeal ref: 23/00022/PP1
8 Imperial Square	Proposed change of use from C3 (dwelling house) to mixed use of C1 (hotel) and E (bar and restaurant).	Delegated Decision	Written representation	Appeal allowed	Planning ref: 22/00334/COU Appeal ref: 23/00009/PP3

Land Adj Oakhurst Rise	Outline application for residential development of 25 dwellings - access, layout and scale not reserved for subsequent approval	Committee Decision	Written representation	Appeal Dismissed	Planning ref: 22/00112/OUT Appeal Ref 23/00020/PP1
Telecommunications Mast And Cabinet CLM24981 Princess Elizabeth Way	Proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets	Delegated Decision	Written representation	Appeal Dismissed	Planning ref: 22/01937/PRIOR Appeal ref: 23/00026/PP1
6 Marsh Lane	Change of use from a single dwelling (Class C3) to a four bed House in Multiple Occupation (HMO) (Class C4)	Delegated Decision	Written Representation	Appeal Allowed Costs Decision Allowed	Planning Ref: 22/01864/COU Appeal Ref: 23/00027/PP1
Telecommunications Mast And Cabinet Prestbury Road Cheltenham Gloucestershire	Proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets	Delegated Decision	Written representation	Appeal Dismissed	Planning Ref: 23/00431/PRIOR Appeal Ref: 23/00029/PP1

218 High Street	Change of use of the ground floor from a retail unit (Class E) to an Adult Gaming Centre (Sui Generis) and first floor to associated storage and staff area with external alterations and associated works	Delegated Decision	Written representation	Appeal Allowed	23/00452/COU Appeal Ref: 23/00028/PP1
1 Michaelmas Lodge Lypiatt Terrace Cheltenham	Use of area of land for vehicle parking	Delegated Decision	Written Representation	Appeal Allowed	Planning ref: 23/00262/Cleud Appeal Ref: 23/00023/PP1
Land at Shurdington Rd	Full planning application for residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other	Committee Decision	Written Representation ( <b>New procedure Change now a hearing date is 4<sup>th</sup> July 2023</b> )	Appeal Allowed	Planning ref: 20/01788/FUL Appeal ref: 23/00005/PP1



**REPORT OF THE HEAD OF DEVELOPMENT MANAGEMENT, ENFORCEMENT AND COMPLIANCE ON PLANNING APPEALS AND LEGAL CHALLENGES**

LEGAL CHALLENGES

Address	Description	Reference	Reason
Telecommunications Mast Site CLM26627 Lansdown Road Cheltenham Gloucestershire	Installation of 15m pole inc. antennas, ground based apparatus and ancillary development	23/00551/PRIOR	Alleged lack of consideration of health grounds in granting Prior Approval

Authorised By: Chris Gomm 12<sup>th</sup> March 2024

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Department for Levelling Up,  
Housing & Communities

Steven Drury  
RPS Consulting Ltd  
1 Newhall Street  
Birmingham

Our ref: APP/B1605/W/22/3309156  
Your ref: 20/01788/FULL

*Sent by email only:*  
steven.drury@rpsgroup.com

27 February 2024

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY MILLER HOMES, IN RESPECT OF LAND SOUTH OF A46  
SHURDINGTON ROAD, LECKHAMPTON, CHELTENHAM  
APPLICATION REF: 20/01788/FULL**

*This decision was made by Simon Hoare MP, Parliamentary Under Secretary of State for Local Government, on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Zoe Raygen DipURP MRTPI, who held a hearing on 4 July 2023 into your client's appeal against the decision of Cheltenham Borough Council to refuse your client's application for planning permission for a residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure, in accordance with application Ref. 20/01788/FULL, dated 9 October 2020.
2. On 3 March 2023, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal should be allowed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with her recommendation. He has decided to allow the appeal and grant planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

**Procedural matters**

5. The Secretary of State notes that, as explained at IR4 and IR5, prior to the appeal Hearing taking place the appellant amended the proposals so that all properties would have PV solar panels and air source heat pumps rather than gas boilers. The description

of the development did not change. The Council confirmed at the Hearing that these amendments addressed the reason for refusal, subject to the imposition of conditions securing provision of both. It did not therefore defend its reason for refusal and the matter was not discussed at the Hearing. As this minor change was made prior to the start of the Hearing and was therefore included in the Inspector's considerations, the Secretary of State does not consider the amendment of the proposals raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

### **Matters arising since the close of the inquiry**

6. On 22 November 2023, Areas of Outstanding Natural Beauty (AONBs) were renamed as National Landscapes. For convenience, in this decision letter the Secretary of State retains the terminology used by the Inspector. As there is no change to the statutory or policy framework covering these areas, he does not consider it is necessary to refer back to parties on this matter.
7. Biodiversity net gain has only been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permissions granted for applications made before this date are not subject to biodiversity net gain.
8. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and amended on 20 December 2023. The Secretary of State referred back to parties on 17 January 2024. The Secretary of State received a nil response from Cheltenham Borough Council and one further representation on behalf of the appellant, and this is set out at Annex A. The Secretary of State is satisfied the issues raised do not change the consideration of this appeal. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.
9. A list of other representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

### **Policy and statutory considerations**

10. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
11. In this case the development plan consists of the Cheltenham Plan (CP) (adopted 2020), the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) (adopted 2017), and saved policies of the Cheltenham Borough Local Plan second review (adopted 2006). The Secretary of State considers that relevant development plan policies include those set out at IR22-32.
12. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance ('the Guidance'), as well as one other document listed at IR33.

*Emerging plan*

13. The emerging plan comprises a Neighbourhood Plan for Leckhampton with Warden Hill. The Secretary of State considers that the emerging policies of most relevance to this case include LWH4 – Green Infrastructure.
14. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State notes that the main parties agree the emerging neighbourhood plan is yet to be examined and would be subject to change at this stage. He therefore agrees with the Inspector's conclusion that the plan carries no more than very limited weight (IR24).

**Main issues**

***Accordance with site allocation in the local plan***

15. The Secretary of State notes that Local Plan policy MD4 allocates the site for mixed-use development consisting of housing and a school, with the exception of an area comprising two fields that are allocated as part of a Local Green Space (LGS) under policy GI1 of the CP (IR25).
16. For the reasons given at IR109-115, the Secretary of State agrees that this area would be developed as the community orchard and allotments and would therefore still operate as LGS. He agrees with the Inspector that the proposal would not be in conflict with Policy GI1 of the CP.

***The effects of the proposal on the character, appearance and special qualities of the Cotswolds Area of Outstanding Natural Beauty***

17. The Secretary of State has carefully considered concerns raised locally regarding effects of the proposal upon the local landscape character, including that of the setting of the Cotswolds AONB. He notes that there is agreement among the main parties that the landscape and visual impacts of the development would be acceptable, including any landscape effects on the AONB, particularly on views from Leckhampton Hill (IR50). He also notes two fields, R2 and R3, have some local quality. However, he agrees with the Inspector that the degree of containment means they are not prominent in local views (IR116). For the reasons given by the Inspector at IR116-120, the Secretary of State agrees that the proposal would nestle into and be viewed as part of existing development from the AONB (IR118) and views from the AONB would not be harmed and its setting would be preserved thereby conserving its landscape and scenic beauty (IR119).
18. Overall, the Secretary of State agrees with the Inspector's conclusion at IR120 that the proposals would not be harmful to the landscape character and appearance including the setting of the AONB. Furthermore, he agrees that there would be no conflict with Policies SD6 and SD7 of the JCS, Policy L1 of the CP and the Framework.

### **Highways**

19. The Secretary of State has carefully considered concerns raised locally regarding effects of the proposal upon the highway network.
20. For the reasons given at IR97-108, the Secretary of State agrees with the Inspector that subject to the highway improvements proposed with the appeal any significant impacts from the proposed development are mitigated to an acceptable degree and the residual cumulative impacts on the highway network would not be severe (IR102). The proposal would not have a severe impact on the transport network in terms of congestion (IR108) and he further agrees that the proposal is not in conflict with JCS Policy INF1 and the Framework.

### **Accessibility**

21. For the reasons set out in IR121-126 the Secretary of State agrees with regards the site location there are currently reasonable alternatives available to the private car (IR125). As such he finds no conflict with the Framework, which promotes the active management of patterns of growth to focus on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. He agrees with the Inspector that the proposed development would be in an accessible location and there would be no conflict with JCS Policy INF1 (IR126).

### **Biodiversity Net Gain**

22. The Secretary of State notes the Biodiversity Net Gain (BNG) position for the scheme set out at IR128-136 and agrees the development complies with JCS Policy SD9, CP Policy G12 and the Framework (IR137). Like the Inspector, he considers that a BNG of 14.37% for broad habitats provides an appropriate level of BNG and that this can be secured by condition.

### **Other matters**

#### **Habitats Regulations Assessment**

23. The Secretary of State notes that the Appellant's Shadow Habitats Regulations Assessment identified a likelihood of increased recreational impact upon the Cotswold Beechwoods Special Area of Conservation as a result of the development (IR140-141). However, for the reasons given at IR142, he agrees that the green and open spaces to be provided on the appeal site would provide suitable alternative locations for informal outdoor recreation and would mitigate the potential reactional pressure on the SAC.
24. As the Secretary of State is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017, and for the reasons set out at IR140-142, he agrees with the Inspector that he is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of any affected European site in view of each site's conservation objectives. The site is the Cotswold Beechwoods Special Area of Conservation (SAC). The Secretary of State agrees with the assessment and findings in Annex 2 of the IR. He therefore adopts Annex 2 as the necessary Appropriate Assessment in his role as the Competent Authority on this matter, and agrees that there would be no adverse effect on the integrity of the designated sites.

Housing and affordable housing

25. The Inspector sets out at IR145 that the Council cannot demonstrate a five-year supply of housing land, as required by the Framework, with another Inspector concluding at an appeal in March 2023 that the Council could only demonstrate a 2.9 year supply. In the light of the provisions of paragraph 11(d) and footnote 8 of the Framework, the presumption in favour of sustainable development is therefore triggered. The Secretary of State notes that with regard to the revised Framework published December 2023, the transitional arrangements set out at footnote 79 specify that the Framework changes in respect of the requirement to demonstrate a five-year housing land supply apply only in relation to applications made on or after the date of publication of the amended Framework. The application was made in advance of that and there is no practical effect on this appeal. For the reasons given at IR146, the Secretary of State agrees with the Inspector that the provision of housing is a very significant benefit of the scheme. He considers that substantial weight should be attached to the benefits of housing delivery, including the 40% affordable rate.

Pollution

26. For the reasons set out in IR139 the Secretary of State agrees with the Inspector's conclusions that the proposed development would not be harmful in respect of air pollution.

Other benefits

27. For the reasons given at IR147, the Secretary of State agrees with the Inspector that there would be a range of economic benefits and affords these significant weight.

28. For the reasons given at IR151, the Secretary of State agrees with the Inspector that the provision of footpath and pedestrian links to the surrounding area would benefit future occupiers, and affords this modest weight.

29. The Secretary of State agrees with the Inspector that the development would provide environmental benefits through achieving a 66% reduction in carbon emissions, which would go beyond local and national requirements, and affords this limited weight.

**Planning conditions**

30. The Secretary of State had regard to the Inspector's analysis at IR91, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy tests set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision. Furthermore, for the reasons set out at IR167-168, the Secretary of State agrees with the Inspector's recommendation that Conditions 30A and 31A be applied.

**Planning obligations**

31. The Secretary of State has had regard to the Inspector's analysis at IR92-93, the planning obligation dated 13 March 2023, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. For the reasons given at IR169, he agrees with the Inspector's conclusion that the obligation

complies with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework.

### **Planning balance and overall conclusion**

32. For the reasons given above, the Secretary of State considers that there are no material conflicts with any relevant development plan policies, and that the appeal scheme is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
33. As the Council is unable to demonstrate a five-year supply of housing land, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
34. The proposal would deliver a substantial number of homes, including 40% affordable, which attracts substantial weight, given the poor housing land supply position. Also weighing in favour of the proposal is the creation of construction-based and indirect employment, which carries significant weight; the creation of footpath and pedestrian links to the surrounding area, which carries modest weight; and a 66% reduction in carbon emissions as a result of the development, which carries limited weight.
35. The Secretary of State considers that all other matters covered in this decision letter are neutral in the planning balance.
36. The Secretary of State considers that there are no protective policies which provide a clear reason for refusing the development proposed. He further considers that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development therefore applies.
37. The Secretary of State therefore concludes that planning permission should be granted.

### **Formal decision**

38. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for planning permission for a residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure, in accordance with application ref 20/01788/FULL, dated 9 October 2020.
39. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

### **Right to challenge the decision**

40. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.



41. A copy of this letter has been sent to Cheltenham Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Laura Webster*

Decision officer

*This decision was made by Simon Hoare MP, Parliamentary Under Secretary of State for Local Government, on behalf of the Secretary of State, and signed on his behalf*

**Annex A Schedule of representations****General representations**

<b>Party</b>	<b>Date</b>
Jacky and Gerry Potter	9 August 2023
Richard Graham MP	13 November 2023

**Representations received in response to the Secretary of State's reference back letter of 17 January 2024**

<b>Party</b>	<b>Date</b>
Cheltenham Borough Council	19 January 2024
RPS Consulting (on behalf of the appellant)	1 February 2024

**Annex B List of conditions**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Overall Layout

Site Location Plan	CB_70_064_000	G
Overall Planning Layout	CB_70_064_001	R
Land Use Plan	CB_70_064_002	J
Housing Mix Plan	CB_70_064_003	H
Affordable Housing Plan	CB_70_064_004	H
Building Heights Plan	CB_70_064_005	H
Parking Strategy Plan	CB_70_064_006	H
Bin and Cycle Storage	CB_70_064_007	H
External Finishes Plan	CB_70_064_008	H
External Enclosures Plan	CB_70_064_009	H
Hard Surfacing Plan	CB_70_064_010	H
House Type Plan	CB_70_064_012	H
Character Area Plan	CB_70_064_013	H
Street Scene Location Plan	CB_70_064_014	G
EV Charging Strategy Plan	CB_70_064_016	E

100 Application Pack (Eastern Parcel) - Layout Plans

Planning Layout	CB_70_064_101	V
Land Use Plan	CB_70_064_102	D
Housing Mix Plan	CB_70_064_103	H
Affordable Housing Plan	CB_70_064_104	J
Building Heights Plan	CB_70_064_105	H
Parking Strategy Plan	CB_70_064_106	J
Bin and Cycle Storage Plan	CB_70_064_107	H
External Finishes Plan	CB_70_064_108	H
External Enclosures Plan	CB_70_064_109	H
Hard Surfacing Plan	CB_70_064_110	H
House Type Plan	CB_70_064_112	H
Character Areas Plan	CB_70_064_113	H
EV Charging Strategy	CB_70_064_116	EV C

Street Scenes

Character Area: School Route		
01	CB_70_064_100_SHR_SS_01	A
Character Area: Principal Spine Road		
01	CB_70_064_100_SPR_SS_01	A
02	CB_70_064_100_SPR_SS_02	A
03	CB_70_064_100_SPR_SS_03	A
04	CB_70_064_100_SPR_SS_04	A
Character Area: Internal Streets		
01	CB_70_064_100_INS_SS_01	A
02	CB_70_064_100_INS_SS_02	A
03	CB_70_064_100_INS_SS_03	A

04	CB_70_064_100_INS_SS_04	A
05	CB_70_064_100_INS_SS_05	A
06	CB_70_064_100_INS_SS_06	A
07	CB_70_064_100_INS_SS_07	A
08	CB_70_064_100_INS_SS_08	A

100 Series House types

Character Area: School Route

Bridgeford Elevations	CB_70_064_100_SHR_BR_E01	-
Bridgeford Floor Plans	CB_70_064_100_SHR_BR_P01	-
Kingwood Elevations	CB_70_064_100_SHR_KI_E01	-
Kingwood Floor Plans	CB_70_064_100_SHR_KI_P01	-
Oakwood Elevations	CB_70_064_100_SHR_OA_E01	-
Oakwood Floor Plans	CB_70_064_100_SHR_OA_P01	-
Eaton Elevations	CB_70_064_100_SHR_EA_E01	-
Eaton Floor Plans	CB_70_064_100_SHR_EA_P01	-
Tiverton Elevations	CB_70_064_100_SHR_TV_E01	-
Tiverton Elevations	CB_70_064_100_SHR_TV_E02	-
Tiverton Floor Plans	CB_70_064_100_SHR_TV_P01	-

Character Area: Principal Spine Road

Kingwood Elevations	CB_70_064_100_SPR_KI_E01	-
Kingwood Floor Plans	CB_70_064_100_SPR_KI_P01	-
Oakwood Elevations	CB_70_064_100_SPR_OA_E01	-
Oakwood Floor Plans	CB_70_064_100_SPR_OA_P01	-
Pearwood Elevations	CB_70_064_100_SPR_PE_E01	-
Pearwood Elevations	CB_70_064_100_SPR_PE_E02	-
Pearwood Floor Plans	CB_70_064_100_SPR_PE_P01	-
Overton Elevations	CB_70_064_100_SPR_OV_E01	-
Overton Floor Plans	CB_70_064_100_SPR_OV_P01	-
Kingston Elevations	CB_70_064_100_SPR_KG_E01	-
Kingston Floor Plans	CB_70_064_100_SPR_KG_P01	-
Eaton Elevations	CB_70_064_100_SPR_EA_E01	-
Eaton Elevations	CB_70_064_100_SPR_EA_E02	-
Eaton Floor Plans	CB_70_064_100_SPR_EA_P01	-
Tiverton Elevations	CB_70_064_100_SPR_TV_E01	-
Tiverton Elevations	CB_70_064_100_SPR_TV_E02	-
Tiverton Floor Plans	CB_70_064_100_SPR_TV_P01	-
Rushwick Elevations	CB_70_064_100_SPR_RU_E01	-
Rushwick Floor Plans	CB_70_064_100_SPR_RU_P01	-
Marchmont Elevations	CB_70_064_100_SPR_MA_E01	-
Marchmont Floor Plans	CB_70_064_100_SPR_MA_P01	-
4b7p/2-M4(2) Elevations	CB_70_064_100_SPR_4B7P/2_E01	-
4b7p/2-M4(2) Floor Plans	CB_70_064_100_SPR_4B7P/2_P01	-
Ht.3bc Elevations	CB_70_064_100_SPR_HT.3BC_E01	A
Ht.3bc Elevations	CB_70_064_100_SPR_HT.3BC_E02	A
Ht.3bc Floor Plans	CB_70_064_100_SPR_HT.3BC_P01	A
2b4p Elevations	CB_70_064_100_SPR_2B4P_E01	-
2b4p Floor Plans	CB_70_064_100_SPR_2B4P_P01	-
2b4p Elevations	CB_70_064_100_SPR_2B4P_E02	-
2b4p Floor Plans	CB_70_064_100_SPR_2B4P_P02	-
2bcha Elevations	CB_70_064_100_SPR_2BCHA_E01	-
2bcha Floor Plans	CB_70_064_100_SPR_2BCHA_P01	-

1bh Elevations  
1bh Floor Plans

CB\_70\_064\_100\_SPR\_1BH\_E01-  
CB\_70\_064\_100\_SPR\_1BH\_P01-

Character Area: Internal Streets

Oxford Elevations	CB_70_064_100_INS_OX_E01	-
Oxford Floor Plans	CB_70_064_100_INS_OX_P01	-
Bridgeford Elevations	CB_70_064_100_INS_BR_E01	-
Bridgeford Floor Plans	CB_70_064_100_INS_BR_P01	-
Kingwood Elevations	CB_70_064_100_INS_KI_E01	-
Kingwood Elevations	CB_70_064_100_INS_KI_E02	-
Kingwood Floor Plans	CB_70_064_100_INS_KI_P01	-
Oakwood Elevations	CB_70_064_100_INS_OA_E01	-
Oakwood Floor Plans	CB_70_064_100_INS_OA_P01	-
Overton Elevations	CB_70_064_100_INS_OV_E01	-
Overton Floor Plans	CB_70_064_100_INS_OV_P01	-
Overton Elevations	CB_70_064_100_INS_OV_E02	-
Overton Floor Plans	CB_70_064_100_INS_OV_P02	-
Kingston Elevations	CB_70_064_100_INS_KG_E01	-
Kingston Floor Plans	CB_70_064_100_INS_KG_P01	-
Kingston Elevations	CB_70_064_100_INS_KG_E02	-
Kingston Elevations	CB_70_064_100_INS_KG_E03	-
Kingston Floor Plans	CB_70_064_100_INS_KG_P02	-
Eaton Elevations	CB_70_064_100_INS_EA_E01	-
Eaton Floor Plans	CB_70_064_100_INS_EA_P01	-
Rushwick Elevations	CB_70_064_100_INS_RU_E01	-
Rushwick Floor Plans	CB_70_064_100_INS_RU_P01	-
Marchmont Elevations	CB_70_064_100_INS_MA_E01	-
Marchmont Floor Plans	CB_70_064_100_INS_MA_P01	-
Marchmont Elevations	CB_70_064_100_INS_MA_E02	-
Marchmont Floor Plans	CB_70_064_100_INS_MA_P02	-
Marchmont Elevations	CB_70_064_100_INS_MA_E03	-
Marchmont Floor Plans	CB_70_064_100_INS_MA_P03	-
Fairmont Elevations	CB_70_064_100_INS_FA_E01	-
Fairmont Elevations	CB_70_064_100_INS_FA_E02	-
Fairmont Floor Plans	CB_70_064_100_INS_FA_P01	-
5b8p Elevations	CB_70_064_100_INS_5B8P_E01	-
5b8p Floor Plans	CB_70_064_100_INS_5B8P_P01	-
4b7p Elevations	CB_70_064_100_INS_4B7P_E01	-
4b7p Floor Plans	CB_70_064_100_INS_4B7P_P01	-
4b7p Elevations	CB_70_064_100_INS_4B7P_E02	-
4b7p Floor Plans	CB_70_064_100_INS_4B7P_P02	-
3b6p Elevations	CB_70_064_100_INS_3B6P_E01	-
3b6p Floor Plans	CB_70_064_100_INS_3B6P_P01	-
3b6p Elevations	CB_70_064_100_INS_3B6P_E02	-
3b6p Floor Plans	CB_70_064_100_INS_3B6P_P02	-
3b6p Elevations	CB_70_064_100_INS_3B6P_E03	-
3b6p Floor Plans	CB_70_064_100_INS_3B6P_P03	-
A300 - Gibson M4(2) Elevations	CB_70_064_100_INS_A300_GIB_M4(2)_E01-	
A300 - Gibson M4(2) Floor Plans	CB_70_064_100_INS_A300_GIB_M4(2)_P01-	
3b5p Elevations	CB_70_064_100_INS_3B5P_E01	-
3b5p Floor Plans	CB_70_064_100_INS_3B5P_P01	-
3b5p Elevations	CB_70_064_100_INS_3B5P_E02	-

3b5p Floor Plans	CB_70_064_100_INS_3B5P_P02	-
3b5p Elevations	CB_70_064_100_INS_3B5P_E03	-
3b5p Floor Plans	CB_70_064_100_INS_3B5P_P03	-
A201/2 Elevations	CB_70_064_100_INS_A201_2_E01	-
A201/2 Floor Plans	CB_70_064_100_INS_A201_2_P01	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E01	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P01	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E02	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P02	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E03	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P03	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E04	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P04	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E05	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P05	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E06	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P06	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P07	-
1bb/2 Elevations	CB_70_064_100_INS_1BB/2_E01	-
1bb/2 Floor Plans	CB_70_064_100_INS_1BB/2_P01	-
1bb Elevations	CB_70_064_100_INS_1BB_E01	-
1bb Floor Plans	CB_70_064_100_INS_1BB_P01	-
1bf Elevations	CB_70_064_100_INS_1BF_E01	-
1bf Elevations	CB_70_064_100_INS_1BF_E02	-
1bf Elevations	CB_70_064_100_INS_1BF_E03	-
1bf Elevations	CB_70_064_100_INS_1BF_E04	-
1bf Floor Plans	CB_70_064_100_INS_1BF_P01	-
1bf Floor Plans	CB_70_064_100_INS_1BF_P02	-
1bf Floor Plans	CB_70_064_100_INS_1BF_P03	-
Garages Elevations & Floor Plan	CB_70_064_100_GAR_E01	-
Garages Elevations & Floor Plan	CB_70_064_100_GAR_E02	-
Garages Elevations & Floor Plan	CB_70_064_100_GAR_E03	-
Garages Elevations & Floor Plan	CB_70_064_100_GAR_E04	-
Sub-Station Elevations & Floor Plan	CB_70_064_100_SUB_E01	-

300 Series (Western Parcel)

300 Series Layouts

Planning Layout	CB_70_064_301	L
Land Use Plan	CB_70_064_302	C
Housing Mix Plan	CB_70_064_303	E
Affordable Housing Plan	CB_70_064_304	F
Building Heights Plan	CB_70_064_305	E
Parking Strategy Plan	CB_70_064_306	E
Bin and Cycle Storage	CB_70_064_307	E
External Finishes Plan	CB_70_064_308	E
External Enclosures Plan	CB_70_064_309	E
Hard Surfacing Plan	CB_70_064_310	E
House Type Plan	CB_70_064_312	E
Character Areas Plan	CB_70_064_313	E
EV Charging Strategy Plan	CB_70_064_316	B

Street Scenes

Character Area: Kidnappers Lane

01 CB\_70\_064\_300\_KDL\_SS\_01 A

Character Area: Principal Spine Road

01 CB\_70\_064\_300\_SPR\_SS\_01 B

02 CB\_70\_064\_300\_SPR\_SS\_02 B

03 CB\_70\_064\_300\_SPR\_SS\_03 B

Character Area: Internal Streets

01 CB\_70\_064\_300\_INS\_SS\_01 B

02 CB\_70\_064\_300\_INS\_SS\_02 B

03 CB\_70\_064\_300\_INS\_SS\_03 B

04 CB\_70\_064\_300\_INS\_SS\_04 B

05 CB\_70\_064\_300\_INS\_SS\_05 B

06 CB\_70\_064\_300\_INS\_SS\_06 B

07 CB\_70\_064\_300\_INS\_SS\_07 B

300 House types

Character Area: Kidnappers Lane

Ht.A Elevations CB\_70\_064\_300\_KDL\_HT.A\_E01 -

Ht.A Elevations CB\_70\_064\_300\_KDL\_HT.A\_E02 -

Ht.A Elevations CB\_70\_064\_300\_KDL\_HT.A\_E03 -

Ht.A Floor Plans CB\_70\_064\_300\_KDL\_HT.A\_P01 -

Ht.G Elevations CB\_70\_064\_300\_KDL\_HT.G\_E01 -

Ht.G Floor Plans CB\_70\_064\_300\_KDL\_HT.G\_P01 -

Ht.C Elevations CB\_70\_064\_300\_KDL\_HT.C\_E01 -

Ht.C Floor Plans CB\_70\_064\_300\_KDL\_HT.C\_P01 -

Character Area: Principal Spine Road

Ht.A Elevations CB\_70\_064\_300\_SPR\_HT.A\_E01 -

Ht.A Floor Plans CB\_70\_064\_300\_SPR\_HT.A\_P01 -

Ht.C Elevations CB\_70\_064\_300\_SPR\_HT.C\_E01 -

Ht.C Floor Plans CB\_70\_064\_300\_SPR\_HT.C\_P01 -

Ht.C Elevations CB\_70\_064\_300\_SPR\_HT.C\_E02 -

Ht.C Floor Plans CB\_70\_064\_300\_SPR\_HT.C\_P02 -

Ht.H Elevations CB\_70\_064\_300\_SPR\_HT.H\_E01 -

Ht.H Floor Plans CB\_70\_064\_300\_SPR\_HT.H\_P01 -

Ht.D Elevations CB\_70\_064\_300\_SPR\_HT.D\_E01 A

Ht.D Floor Plans CB\_70\_064\_300\_SPR\_HT.D\_P01 A

Ht.D Elevations CB\_70\_064\_300\_SPR\_HT.D\_E02 A

Ht.D Floor Plans CB\_70\_064\_300\_SPR\_HT.D\_P02 A

Ht.E Elevations CB\_70\_064\_300\_SPR\_HT.E\_E01 -

Ht.E Floor Plans CB\_70\_064\_300\_SPR\_HT.E\_P01 -

Ht.E Elevations CB\_70\_064\_300\_SPR\_HT.E\_E02 -

Ht.E Floor Plans CB\_70\_064\_300\_SPR\_HT.E\_P02 -

Ht.E Elevations CB\_70\_064\_300\_SPR\_HT.E\_E03 -

Ht.E Floor Plans CB\_70\_064\_300\_SPR\_HT.E\_P03 -

Ht.E Elevations CB\_70\_064\_300\_SPR\_HT.E\_E04 -

Ht.E Floor Plans CB\_70\_064\_300\_SPR\_HT.E\_P04 -

2bch Elevations CB\_70\_064\_300\_SPR\_2BCH\_E01 -

2bch Floor Plans CB\_70\_064\_300\_SPR\_2BCH\_P01 -

4b7p Elevations CB\_70\_064\_300\_SPR\_4B7P\_E01 -

4b7p Floor Plans CB\_70\_064\_300\_SPR\_4B7P\_P01 -

Ht.3bc Elevations CB\_70\_064\_300\_SPR\_HT.3BC\_E01 A

Ht.3bc Elevations CB\_70\_064\_300\_SPR\_HT.3BC\_E02 A

Ht.3bc Floor Plans	CB_70_064_300_SPR_HT.3BC_P01	A
Ht.3b Elevations	CB_70_064_300_SPR_HT.3B_E01	A
Ht.3b Floor Plans	CB_70_064_300_SPR_HT.3B_P01	A
Ht.3b Elevations	CB_70_064_300_SPR_HT.3B_E02	A
Ht.3b Floor Plans	CB_70_064_300_SPR_HT.3B_P02	A
2b4p Elevations	CB_70_064_300_SPR_2B4P_E01	-
2b4p Floor Plans	CB_70_064_300_SPR_2B4P_P01	-
2bcha Elevations	CB_70_064_300_SPR_2BCHA_E01	A
2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P01	A
2bcha Elevations	CB_70_064_300_SPR_2BCHA_E02	A
2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P02	A
2bcha Elevations	CB_70_064_300_SPR_2BCHA_E03	-
2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P03	-
2bcha Elevations	CB_70_064_300_SPR_2BCHA_E04	-
2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P04	-
1bf Elevations	CB_70_064_300_SPR_1BF_E01	-
1bf Elevations	CB_70_064_300_SPR_1BF_E02	-
1bf Floor Plans	CB_70_064_300_SPR_1BF_P01	-
1bf Floor Plans	CB_70_064_300_SPR_1BF_P02	-
1bf Elevations	CB_70_064_300_SPR_1BF_E03	A
1bf Elevations	CB_70_064_300_SPR_1BF_E04	A
1bf Elevations	CB_70_064_300_SPR_1BF_E05	A
1bf Floor Plans	CB_70_064_300_SPR_1BF_P03	A
1bf Floor Plans	CB_70_064_300_SPR_1BF_P04	A
Character Area: Internal Streets		
Ht.A Elevations	CB_70_064_300_INS_HT.A_E01	A
Ht.A Elevations	CB_70_064_300_INS_HT.A_E02	-
Ht.A Elevations	CB_70_064_300_INS_HT.A_E03	-
Ht.A Floor Plans	CB_70_064_300_INS_HT.A_P01	A
Ht.G Elevations	CB_70_064_300_INS_HT.G_E01	-
Ht.G Floor Plans	CB_70_064_300_INS_HT.G_P01	-
Ht.C Elevations	CB_70_064_300_INS_HT.C_E01	-
Ht.C Elevations	CB_70_064_300_INS_HT.C_E02	-
Ht.C Floor Plans	CB_70_064_300_INS_HT.C_P01	-
Ht.C Elevations	CB_70_064_300_INS_HT.C_E03	-
Ht.C Floor Plans	CB_70_064_300_INS_HT.C_P02	-
Ht.H Elevations	CB_70_064_300_INS_HT.H_E01	-
Ht.H Floor Plans	CB_70_064_300_INS_HT.H_P01	-
Ht.D Elevations	CB_70_064_300_INS_HT.D_E01	A
Ht.D Floor Plans	CB_70_064_300_INS_HT.D_P01	A
Ht.D Elevations	CB_70_064_300_INS_HT.D_E02	A
Ht.D Floor Plans	CB_70_064_300_INS_HT.D_P02	A
Ht.E Elevations	CB_70_064_300_INS_HT.E_E01	A
Ht.E Floor Plans	CB_70_064_300_INS_HT.E_P01	A
Ht.E Elevations	CB_70_064_300_INS_HT.E_E02	-
Ht.E Floor Plans	CB_70_064_300_INS_HT.E_P02	-
Ht.E Elevations	CB_70_064_300_INS_HT.E_E03	-
Ht.E Floor Plans	CB_70_064_300_INS_HT.E_P03	-
5b8p Elevations	CB_70_064_300_INS_5B8P_E01	-
5b8p Floor Plans	CB_70_064_300_INS_5B8P_P01	-
4b7p Elevations	CB_70_064_300_INS_4B7P_E01	-
4b7p Floor Plans	CB_70_064_300_INS_4B7P_P01	-



3bha Elevations	CB_70_064_300_INS_3BHA_E01	A
3bha Floor Plans	CB_70_064_300_INS_3BHA_P01	A
3bha Elevations	CB_70_064_300_INS_3BHA_E02	A
3bha Floor Plans	CB_70_064_300_INS_3BHA_P02	A
3b6p Elevations	CB_70_064_300_INS_3B6P_E01	-
3b6p Floor Plans	CB_70_064_300_INS_3B6P_P01	-
3b6p Elevations	CB_70_064_300_INS_3B6P_E02	-
3b6p Floor Plans	CB_70_064_300_INS_3B6P_P02	-
A300 - Gibson M4(2) Elevations	CB_70_064_300_INS_A300_GIB_M4(2)_E01	-
A300 - Gibson M4(2) Floor Plans	CB_70_064_300_INS_A300_GIB_M4(2)_P01	-
Ht.3b Elevations	CB_70_064_300_INS_HT.3B_E01	A
Ht.3b Floor Plans	CB_70_064_300_INS_HT.3B_P01	A
A203 (Edmond) M4(2) Elevations	CB_70_064_300_INS_A203_E01	-
A203 (Edmond) M4(2) Floor Plan	CB_70_064_300_INS_A203_P01	-
A203 (Edmond) M4(2) Elevations	CB_70_064_300_INS_A203_E02	-
A203 (Edmond) M4(2) Floor Plans	CB_70_064_300_INS_A203_P02	-
A203 (Edmond) M4(2) Elevations	CB_70_064_300_INS_A203_E03	-
A203 (Edmond) M4(2) Floor Plans	CB_70_064_300_INS_A203_P03	-
A201(S) ELEVATIONS	CB_70_064_300_INS_A201(s)_E01	-
A201(S) FLOOR PLANS	CB_70_064_300_INS_A201(s)_P01	-
2b4p Elevations	CB_70_064_300_INS_2B4P_E01	-
2b4p Floor Plans	CB_70_064_300_INS_2B4P_P01	-
2b4p Elevations	CB_70_064_300_INS_2B4P_E02	-
2b4p Floor Plans	CB_70_064_300_INS_2B4P_P02	-
2bcha Elevations	CB_70_064_300_INS_2BCHA_E01	-
2bcha Floor Plans	CB_70_064_300_INS_2BCHA_P01	-
1bb/2 Elevations	CB_70_064_300_INS_1BB_2_E01	-
1bb/2 Floor Plans	CB_70_064_300_INS_1BB_2_P01	-
1bh Elevations	CB_70_064_300_INS_1BH_E01	-
1bh Floor Plans	CB_70_064_300_INS_1BH_P01	-
1bb Elevations	CB_70_064_300_INS_1BB_E01	-
1bb Floor Plans	CB_70_064_300_INS_1BB_P01	-
Garage Floor Plan & Elevations	CB_70_064_300_GAR_01	A
Garage Floor Plan & Elevations	CB_70_064_300_GAR_02	A
Garage Floor Plan & Elevations	CB_70_064_300_GAR_03	-
Sub-Station Floor Plan & Elevations	CB_70_064_300_SUB_01	-

## Access Plans

A46 Kidnappers Lane Access General Arrangement	04649-PA-001	P08
A46 Priority Access Junction General Arrangement	04649-PA-002	P06
Junction improvement at Leckhampton Lane	04649-PA-003 Rev	P04
Proposed controlled crossing across Kidnappers Lane	ITB12049-GA-056	C

3. Prior to the commencement of development, a phasing plan which indicates the phases through which the development hereby permitted shall be delivered on site shall be submitted to and approved in writing by the Local Planning Authority.
4. Prior to the commencement of development within each phase, 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 (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
  - 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 demolition and construction;
  - v) Method of preventing mud and dust being carried onto the highway;
  - vi) Arrangements for turning vehicles;
  - vii) Arrangements to receive abnormal loads or unusually large vehicles;
  - viii) Joint highway condition survey; and
  - ix) Methods of communicating the Construction Management Plan or Construction Method Statement to staff, visitors, and neighbouring residents and businesses.
  - x) Details of construction traffic routing to and from the site.
5. Prior to the commencement of development within each phase, drainage plans for the disposal of foul and surface water for that phase shall be submitted to and approved by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved plans before the phase is first brought into use.
6. Prior to the commencement of development within each phase, a Construction Phase Surface Water Management Plan for that phase shall be submitted to and approved in writing by the Local Planning Authority. The plan shall outline what measures will be used throughout the construction period of the development to ensure that surface water does not leave the site in an uncontrolled manner and put properties elsewhere at increased risk of flooding. The construction phase shall be implemented in strict accordance with the approved plans until the agreed Sustainable Drainage System Strategy is fully operational.
7. Prior to the commencement of development within each phase, a site investigation and risk assessment shall be carried out for that phase to assess the potential nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11 and shall include:
- a) a survey of the extent, scale and nature of contamination
  - b) an assessment of the potential risks to:
    - human health
    - property (including buildings, crops, livestock, pets, woodland and service lines and pipes)
    - adjoining land
    - ecological systems
    - groundwaters and surface water
    - archaeological sites and ancient monuments
  - c) an appraisal of remedial options to mitigate against any potentially significant risks identified from the risk assessment.

Where remediation is required, a detailed remediation scheme shall be produced. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2a of the Environmental Protection Act (1990) in relation to the intended use of the land after remediation.

The site investigation, risk assessment report, and proposed remediation scheme for each phase shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development within that phase.

8. Prior to the commencement of development within each phase, other than that necessary for that phase to comply with the requirements of this condition, the approved remediation scheme necessary to bring the phase to a condition suitable for the intended use shall be implemented in full. Following the completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.
9. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority and development shall be halted on that part of the site affected by the unexpected contamination. An investigation and risk assessment must then be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination', CLR11 and a remediation scheme, where necessary, also submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report shall be submitted to and approved in writing by the Local Planning Authority before development can recommence on the part of the site identified as having unexpected contamination.
10. The development shall be carried out in accordance with the recommendations of the Façade Schedule provided as Appendix C to the Acoustic Design Statement dated 14 April 2020.
11. Prior to the commencement of development within each phase, full details of all proposed street tree planting, root protection systems, future management plan, and the proposed times of planting for that phase, shall be submitted to and approved in writing by the Local Planning Authority. All street tree planting shall thereafter be carried out in accordance with the approved details.
12. Prior to the commencement of development within each phase, the following information for that phase shall be submitted to and approved in writing by the Local Planning Authority:
  - a) a full site survey showing:
    - i) the datum used to calibrate the site levels;
    - ii) levels along all site boundaries at regular intervals;
    - iii) levels across the site at regular intervals;
    - iv) finished floor levels or other datum of adjacent buildings; and
    - v) cross section drawings clearly showing existing ground levels in relationship with the finished floor and eaves levels of adjacent buildings

- b) full details showing:
  - i) the proposed finished floor level of all buildings and ground levels including hard surfaces; and
  - ii) cross section drawings showing the proposed finished floor and eaves levels of all buildings and ground levels including hard surfaces.

The development shall thereafter be implemented strictly in accordance with the approved details.

13. Prior to the commencement of development within each phase, a Landscape and Ecological Management Plan (LEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include, but not be limited to, the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management, including mitigation and enhancement for species identified on site
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period);
- g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
- h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

The approved plan shall be carried out in accordance with the approved LEMP.

14. Prior to the commencement of development within each phase, including preparatory works, a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- a) a risk assessment of potentially damaging construction activities;
- b) identification of biodiversity protection zones (e.g. buffers to areas of retained habitat);
- c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within any areas of retained habitat);
- d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
- e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);
- f) responsible persons and lines of communication; and
- g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

15. Prior to the commencement of development within each phase, full details of a hard and/or soft landscaping scheme for that phase 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 that phase 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.

16. The programme of archaeological works shall be carried out in accordance with the approved Written Scheme of Investigation dated 22nd March 2022.

17. The development shall be carried out in accordance with the proposals set out in the Energy and Sustainability Statement dated 4 July 2023.

18. Prior to first occupation of the development within each phase, a SuDS Management and Maintenance Plan for that phase, for the lifetime of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime, The approved plan shall thereafter be implemented in full in accordance with the agreed terms and conditions.

19. No external facing or roofing materials shall be used 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.

20. No dwelling shall be occupied until the access, parking and turning facilities from that individual building to the nearest public highway have been provided in accordance with Drawing No. CB\_70\_064\_001 Rev R.

21. The part of the development served from the proposed southern (roundabout) access shall not be occupied until the following highway improvements works have been constructed and completed:

- a) Roundabout, realignment of Kidnappers Lane, crossings and active travel infrastructure as shown on Drawing No. 04649-PA-001 Rev P08; and
- b) Closure of the junction of Kidnappers Lane and A46 Shurdington Road.

22. The part of the development served from the proposed northern (priority junction) access shall not be occupied until the following highway improvements have been constructed and completed:

a) Priority Junction, crossings and footway improvements as shown on Drawing No. 04649-PA-002 Rev P06.

23. The 50th dwelling hereby approved shall not be occupied until the following highway improvements works have been constructed and completed:

a) Junction improvement at Leckhampton Lane as shown on Drawing No. 04649-PA-003 Rev P04.

24. The development shall not be occupied until the following highway improvements works have been constructed and completed:

a) Controlled Crossing as shown on Drawing No. ITB2049-GA-056 Rev C

25. No dwelling shall be occupied until sheltered, secure and accessible bicycle parking has been provided for that dwelling in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority. The approved bicycle parking shall thereafter be kept available for the parking of bicycles only.

26. Notwithstanding the submitted details, no dwelling shall be occupied until at least 1 parking space for that dwelling, or 1 per 10 spaces for communal parking areas, has been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and Manual for Gloucestershire Streets. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging points shall be of the same specification or a higher specification in terms of charging performance.

27. The approved Residential Travel Plan (i-Transport Ref: MG/AI/ITB12049-102A R, dated 9th October 2020) shall be implemented and monitored in accordance with the regime contained within the plan. In the event of failing to meet the targets within the plan, a revised plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of access to and from the site. The plan shall thereafter be implemented and updated in agreement with the Local Planning Authority.

28. Prior to first occupation of the development, details of a Homeowner Information Pack (HIP) providing information on recreation resources in the locality shall be submitted to and approved in writing by the Local Planning Authority. The pack should present information describing informal recreation opportunities in the following sequence:

- In the immediate area
- A short drive by car or bus
- Further afield – e.g. The Cotswolds, the Severn Estuary, the Forest of Dean.

Each dwelling shall be provided with an approved HIP on occupation.

29. No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority which provides details of how a minimum of 10%

measurable biodiversity net gain in broad (area) habitat types and a net gain in linear hedgerow (including treeline) and river features can be achieved. The details provided shall follow those set out in the Technical Note to accompany the Biodiversity Impact Assessment Calculation submitted 27 June 2023. The scheme shall be supported by appropriate planning obligations under section 106 of the Town and Country Planning Act 1990 or agreement with the local planning authority under other statutory powers as are necessary to secure the delivery of the ongoing habitat management requirements included in the scheme, with such legal documents to be completed prior to the written approval of the scheme by the local planning authority. The scheme shall be carried out in accordance with the approved scheme.

30. All dwellings and apartments hereby permitted shall have solar PV panels in accordance with the requirements of the Energy and Sustainability Statement version R6 dated 4th July 2023. No dwelling or apartment building hereby approved shall be occupied until the proposed solar PV panels serving that dwelling or apartment building have been fully installed in accordance with a specification which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling.
31. All dwellings and apartments hereby permitted shall be fitted with air source heat pumps in accordance with the requirements of the Energy and Sustainability Statement, dated 4th July 2023, the specification of which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling. The approved ASHP(s) shall be installed prior to first occupation of each dwelling or apartment building hereby approved in accordance with the details approved.



# **Report to the Secretary of State for Levelling Up, Communities and Local Government**

**by Zoe Raygen DipURP MRTPI**

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

**Date**

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**TOWN AND COUNTRY PLANNING ACT**

**CHELTENHAM BOROUGH COUNCIL**

**APPEAL BY**

**MILLER HOMES**

Hearing held on 4 July 2023

Land south of A46 Shurdington Road, Leckhampton, Cheltenham GL53 0JN

File Ref: APP/B1605/W/22/3309156



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**List of Abbreviations used in the Report**

AONB	Cotswolds Area of Outstanding Natural Beauty
CIL	Community Infrastructure Levy
CP	Cheltenham Plan 2020
EA	Environment Agency
EIA	Environmental Impact Assessment
Framework	The National Planning Policy Framework 2021
GCC	Gloucestershire County Council Highways Authority
GIS	Green Infrastructure Strategy
JCS	The Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 adopted 2017
LAP	Local Area of Play
LGS	Local Green Space
LLFA	Lead Local Flood Authority
NE	Natural England
NP	The emerging Leckhampton and Warden Hill Neighbourhood Plan
PPG	Planning Practice Guidance
POS	Public open space
PRoW	Public Right of Way
PUA	Principal Urban Area
S106 Agreement	The legal agreements containing planning obligations pursuant to Section 106 of the Act
SAC	Cotswold Beeches Special Area of Conservation
SHMA	Strategic Housing Market Assessment
SoS	Secretary of State
SPD	Cheltenham Climate Change Supplementary Planning Document 2022
SuDS	Sustainable Drainage Scheme
TA	The appellant's Transport Assessment

**File Ref: APP/B1605/W/22/3309156****Land south of A46 Shurdington Road, Leckhampton, Cheltenham GL53 0JN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990, against a refusal to grant full planning permission.
- The application is made by Miller Homes against the decision of Cheltenham Borough Council.
- The application Ref 20/01788/FULL dated 9 October 2020 was refused by notice dated 21 April 2022.
- The development proposed is residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure.

**Summary of Recommendation:**

I recommend that the appeal should be allowed.

**Preliminary Matters**

1. The original planning application was initially reported to the Council's Planning Committee on 24 March 2022 when it was deferred to ensure that the scheme made the fullest contribution possible to the mitigation of climate change, with reference to Strategic Objective 6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Adopted 2017) (JCS); to allow for the lack of a contribution towards off-site communality facilities and services to be revisited, with reference to JCS policy INF4; and to secure a condition in relation to the Moored Park Road junction improvements.
2. The appellant responded to these concerns and the application was reported to the Planning Committee on 21 April 2022. Members resolved to refuse full planning permission for the following reason:
  - 1) *Cheltenham Borough Council has declared a 'Climate Emergency' and is committed to becoming a net zero carbon council and borough by 2030.*  
*Strategic Objective 6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Adopted 2017) ('JCS') sets out the requirement to ensure that new developments "Make the fullest contribution possible to the mitigation of, and adaptation to, climate change and the transition to a low-carbon economy" through a number of measures including, the production and consumption of renewable energy and the decentralisation of energy generation, and by encouraging and facilitating low and zero carbon development.*  
*Additionally, the need to achieve sustainable development is highlighted throughout the National Planning Policy Framework 2021 ('NPPF') which at paragraph 8c) sets out that, from an environmental objective, opportunities should be taken to "mitigating and adapting to climate change, including moving to a low carbon economy".*  
*The proposed development, as a result of the installation of gas boilers throughout, would fail to take full account of the opportunities available to move towards low carbon technologies such as heat pumps, and would be at odds with both local and national plans to achieve net zero targets.*  
*In addition, the proposed development, by virtue of the orientation of some of the dwellings, would fail to maximise the potential to incorporate solar*

*pv panels and further reduce reliance on less sustainable forms of technology therefore not being adaptable to climate change contrary to the requirements of Policy SD3 of the JCS.*

*As such, the proposed development would be contrary to Strategic Objective 6 and Policy SD3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Adopted 2017), and paragraph 8c) and sections 2, 12 and 14 of the National Planning Policy Framework 2021.*

3. On 3 March 2023 the Secretary of State (SoS) directed that he would recover the appeal for his own determination. The reason for this direction is that the appeal involves a proposal for a residential development of over 150 units which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. This is one of the grounds set out in the guidelines for recovering appeals in the Ministerial Statement of 30 June 2008.
4. Prior to the Hearing, the appellant amended the proposals so that all properties would have PV solar panels and air source heat pumps rather than gas boilers and. On that basis, the Council confirmed at the Hearing that this addressed the reason for refusal subject to the imposition of conditions securing the provision of both. It did not therefore defend its reason for refusal and the matter was not discussed at the Hearing as no other objections had been received specifically on this matter.
5. With those changes I am of the view that the proposal would make the fullest contribution possible to the mitigation of, and adaption to, climate change and the transition to a low-carbon economy in accordance with Strategic Objective 6. Furthermore, the proposal would meet and exceed national standards regarding energy efficiency as demonstrated in the appellants Energy and Sustainability Statement R6<sup>1</sup> as required by Policy SD3 of the JCS. Consequently, subject to the imposition of appropriate conditions I consider that the proposal would meet the requirements of Policy SD3 and Strategic Objective 6 of the JCS.
6. Subsequently the SoS confirmed he still wished to recover the appeal for his own determination.
7. I carried out an unaccompanied pre-Hearing visit on 3 July 2023. I carried out further unaccompanied visits on 4 July 2023.
8. The Planning Inspectorate's Environmental Services Team determined that the development is not Environmental Impact Assessment (EIA) development in a screening direction dated 24 March 2023. While the proposed development falls within the definition of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 due to its size, it would not give rise to significant environmental effects having regard to the relevant criteria in Schedule 3 of the same regulations. Accordingly, no Environmental Statement is required.
9. Subsequent to the Hearing the appellant submitted a recent appeal decision regarding the erection of 30 dwellings at land north of Church Road Leckhampton

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<sup>1</sup> Document 2

which was allowed. The Council and Interested Parties were allowed time to comment.

### **The Site and Surroundings<sup>2</sup>**

10. The appeal site is located on the southern side of Shurdington Road (A46) at the southwestern edge of the borough and comprises some 18.075 hectares of land.
11. To the east, the site is bounded by the Moorend Stream with residential properties on Merlin Way beyond. Kidnappers Lane runs along the western and south-western boundary of the site with residential properties adjacent at its northern end. The north-eastern boundary is formed by fields in pasture and small holdings. Hatherley Brook crosses the site centrally from south to north. Residential properties are located on Shurdington Road to the north, and opposite the site. The new Leckhampton High School has recently been constructed on Kidnappers Lane.
12. The site is relatively level, sloping gently from south to north. There are also a number of mature trees and hedges within the site and along field boundaries. Public rights of way run along the southern boundary of the site running west from Kidnappers Lane to a path adjacent to Merlin Way to the north.
13. Some of the site extends into the northern part of the Leckhampton area of Local Green Space (LGS) located southeast of the site.
14. The site is located outside both the Cotswolds Area of Outstanding Natural Beauty (AONB) and Green Belt which are located to the south of the site.
15. There are bus stops located within close proximity of the appeal site entrances with a bus service along Shurdington Road running between Cheltenham and Gloucester town centres every ten minutes during the day. The nearest railway station is Cheltenham Spa station which is located approximately 2.7km from the site.
16. Community facilities close to the appeal site include Leckhampton C of E Primary School, a pre-school centre adjacent to the Burrows Playing Fields and a children's day nursery on Kidnappers Lane. There are sports facilities including football and cricket pitches and a children's play area on the Burrows Playing Field and play facilities including a pitch and netball court on Brizen Farm Playing Field off Shurdington Road to the north-west. The Warden Hill Primary School Site is located less than 200 metres from the edge of the site to the west, across the Shurdington Road. The Bournside Secondary School Site is located 400 metres to the north-west of the edge of the appeal Site and is accessible via a direct footpath link opposite the original alignment of Kidnappers Lane.

### **Planning Policy**

17. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development. It also identifies that achieving sustainable development means that the planning system has three overarching objectives – economic, social and environmental.
18. Paragraph 11 of the Framework sets out how this presumption is to be applied.

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<sup>2</sup> Largely taken from section 2 of the Statement of Common Ground (E26)

It indicates that development proposals that accord with an up-to-date development plan should be approved without delay. It goes on to say that where no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, including Areas of Outstanding Natural Beauty, provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

19. The Framework indicates that, for applications which involve the provision of housing, such as this, where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, as is the case in this instance, the policies which are most important for determining the application are out-of-date in the terms of paragraph 11.
20. Although I have considered the Framework in its entirety, the following sections are particularly relevant to this case:
  - 2 – Achieving sustainable development
  - 4 – Decision-making
  - 5 – Delivering a sufficient supply of housing
  - 9 – Promoting sustainable transport
  - 11 – Making effective use of land
  - 12 – Achieving well-designed places
  - 15 – Conserving and enhancing the natural environment
21. Although a weighty material consideration, the Framework does not change the statutory status of the development plan. The development plan for the area includes the saved policies of the Cheltenham Borough Local Plan Second Review 2006, the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (the JCS) and the Cheltenham Plan 2020 (the CP). The parties agree that there are a number of relevant policies in the JCS and the CP<sup>3</sup>.
22. Policy SD3 of the JCS is the only development plan policy referenced in the reason for refusal. The policy concerns Sustainable Design and Construction. The relevant parts to be considered are: (1) Development proposals will 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 (including changes to existing buildings) will be expected to achieve national standards; (2) All development will be expected to be adaptable to climate change in respect of the design, layout, siting, orientation and function of both buildings and associated external spaces. Proposals must demonstrate that development is designed to use water efficiently, will not adversely affect water quality, and will not hinder the ability of a water body to meet the requirements of the Water Framework Directive; and (5) Major planning applications must be submitted with an Energy Statement that clearly indicates the methods used to calculate predicted annual energy demand and associated annual Carbon Dioxide (CO<sub>2</sub>) emissions.

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<sup>3</sup> See paragraphs 4.2 and 4.3 of the SOCG (E26)

23. The policy states that it contributes towards achieving Objectives 5, 6 and 9 of the JCS. Objective 6 – Meeting the challenges of climate change is also referenced in the Council’s reason for refusal. This requires making the fullest contribution possible to the mitigation of, and adaption to, climate change and the transition to a low carbon economy, by amongst other things; in partnership with others the production and consumption of renewable energy and the decentralisation of energy generation, and by encouraging and facilitating low and zero carbon development.
24. Although not part of the development plan there is an emerging development plan document, the emerging Leckhampton with Warden Hill Neighbourhood Plan (NP) which has completed Regulation 14 but has not undertaken Regulation 16 submission. The main parties agree that given its stage of progress it may be subject to change such that it carries no more than very limited weight. I agree. In the absence of any examination, I cannot be sure that policies would be retained in their existing form. The Ward and Parish Councillors refer to Policy LWH4 which seeks to protect and enhance existing green infrastructure including on existing housing allocation site MD4 (the appeal site).
25. The site is outside of, but immediately adjacent to, Cheltenham’s Principal Urban Area (PUA) and forms part of the Leckhampton mixed-use allocation in the CP (Policy MD4). Part of the site is also within the allocated Leckhampton Local Green Space (LGS) subject to Policy GI1 of the CP.
26. Policy MD4 of the CP describes the site as “Originally a JCS site, development at this location will need to take into account landscape impacts, highways issues and green space. Site boundaries are based on the JCS Inspector’s comments in her Note of Recommendations from 21 July 2016. Development at this location will need to ensure that the JCS examination’s consideration and findings related to this site are fully taken into account. Along with this, the site has an extensive planning history related to the earlier, larger proposal (13/01605/OUT); the Inspector’s and Secretary of State’s findings in this appeal should also be reflected in any future scheme.”
27. The constraints relating to the allocation are described as Local Green Space, Impact on AONB, Flood Risk Mitigation, Highways and Heritage assets. The site specific requirements are: Approximately 350 dwellings on land north of Kidnappers Lane; Provision of a secondary of school with six forms of entry on land to the south of Kidnappers Lane; Safe, easy and convenient pedestrian and cycle links within the site and to key centres; A layout and form that respects the existing urban and rural characteristics of the vicinity; A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development; A layout and form of development that respects the visual sensitivity and landscape; character of the site as part of the setting for the AONB.
28. Policy GI1 of the CP concerning LGS states that development will not be permitted within a LGS, designated either within the Cheltenham Plan or an approved Neighbourhood Plan, unless there are very special circumstances which outweigh the harm to the LGS. Particular attention will be paid to the views of the local community in assessing any development proposals that affect a designated LGS.
29. Other relevant policies concerning issues raised by interested parties are Policy



INF1 of the JCS which requires that all proposals should ensure safe and efficient access to the highway network for all transport modes. Planning permission will be granted only where the impact of development is not considered to be severe. Where severe impacts that are attributable to the development are considered likely, including as a consequence of cumulative impacts, they must be mitigated to the satisfaction of the Local Planning Authority in consultation with the Highway Authorities and in line with the Local Transport Plan. The Policy also seeks to ensure that development is in accessible locations with good access to travel choices.

30. Policies SD6 and SD7 of the JCS and Policy L1 of the CP seek to protect landscape character, views into and out of Cheltenham and to preserve and where appropriate enhance the landscape, scenic beauty, wildlife, cultural heritage and special qualities of the AONB.
31. Policy SD9 of the JCS seeks to protect the biodiversity and geological resource of the JCS area. Harm to biodiversity should be avoided, or mitigated by integrating enhancements into the scheme that are appropriate to the location, if not on site, then offsite enhancements may be acceptable. The Policy also safeguards European Protected Species.
32. Policy SD14 of the JCS protects air quality.
33. The Cheltenham Climate Change Supplementary Planning Document 2022 (the SPD) is also relevant.

### **Planning History**

34. There is a lengthy history to the appeal site and its place within the development plan. The site is part of a wider area that was allocated as an urban extension at Leckhampton as part of the JCS process for 1124 dwellings with some 764 within the Council's area, the remainder over the boundary in Tewkesbury. However, the Inspector examining the JCS considered that to avoid areas of high landscape and visual sensitivity and due to the impact of traffic generation from the proposed allocation the number of houses should be significantly reduced and the area coloured red on the landscape and visual sensitivity plan should remain as green infrastructure<sup>4</sup>. The appeal site is mainly included within the area of low landscape sensitivity with just a small area designated as medium landscape sensitivity on the area referred to as fields R2 and R3 by interested parties and within the NP. None though is in the red area which the Inspector considered should be protected from development.
35. The Inspector stated in their interim report<sup>5</sup> that a limited amount of development could be supported towards the north of the site where public transport is more accessible subject to the avoidance of land of high landscape sensitivity in the order of 200 dwellings for reasons of landscape/visual amenity and highway impacts.
36. Within the Inspectors Note of Recommendations made at the Hearing Session on 21 July 2016<sup>6</sup> the Inspector states that they accept the JCS highway modelling

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<sup>4</sup> Paragraph 117 of the Inspectors Interim Report into the JCS (I4)

<sup>5</sup> I4

<sup>6</sup> I5



- that indicates that a mitigation package could be produced which could reduce traffic impacts to a satisfactory level. Therefore, modifications were not proposed on highway grounds. The document also confirmed that built development should be confirmed within the less sensitive areas of the Landscape and Visual Sensitivity Plan towards the north. The area acceptable for development corresponds generally with fields NE, NW1, NW2, NW3 and NN, excluding fields R2 and R3 and the area HB around Hatherley Brook<sup>7</sup>.
37. However, within their final report<sup>8</sup> the Inspector states that “whilst I previously commented that an allocation in the order of 200 dwellings at Leckhampton might be reasonable, this was only an approximation and intended to indicate a scale below the strategic threshold for the JCS. The final figures should be based on a full assessment of the area to provide the evidence base to underpin an appropriate allocation”.
38. At a similar time to the JCS process an appeal against the refusal of planning permission for 650 houses and a mixed use centre was recovered by the SoS for consideration on a site which included the appeal site<sup>9</sup>. The SoS considered that the residual cumulative effects of development proposed would increase demand for use of sections of the highway network which were already operating at over-capacity levels, contributing to a severe impact on a wider area of Cheltenham as traffic is displaced, contrary to both adopted and emerging policies and the Framework (in place at that time). In addition, he considered that development on this site at that time would harm the character and appearance of the local area through the loss of a valued landscape. Although development of the site would not harm more structural elements of the wider contextual landscape character, such as the nearby AONB or the setting of Cheltenham as a whole, its development would cause a local loss and would conflict with development plan policies.
39. At the time of the consideration of the CP, the appeal site was included in an area proposed as an allocation under the broad heading of Policy H2 regarding Mixed Use Areas. This area included fields R2 and R3. The proposed allocation under Policy MD4 was for 350 dwellings and a secondary school. The CP Inspector commented that “The level of housing as now proposed is less than 50% of the site for 764 dwellings considered by the Inspector at the JCS examination. The impact on the landscape and natural environment has been the subject of considerable evidence from both the developers of the housing site and from Gloucestershire County Council. I accept that there would be a significant change in the character of the area in the vicinity of the proposals. However, residential development would be primarily concentrated in the area which both I and the JCS Inspector consider to be most able to accommodate it, and careful siting of the school buildings and playing fields south of Kidnappers Lane would ensure that its impact is mitigated through careful design and landscape treatment”.<sup>10</sup> The allocation was therefore taken forward as part of the adopted CP. The majority of the remaining area to the south was designated as LGS.
40. Planning permission has been granted for 12 dwellings on a small parcel of land

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<sup>7</sup> F24 & F19p2

<sup>8</sup> I6

<sup>9</sup> Planning application 13/01605/OUT, appeal ref: APP/B1605/W/14/3001717 (The Bovis Homes appeal)

<sup>10</sup> I7

within the Policy MD4 allocation but outside of the appeal site<sup>11</sup>.

### The Proposals<sup>12</sup>

41. This is an application for full planning permission. It is for the construction of 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure. The proposed homes would be a mix of 2, 3, 4 and 5 bedroom houses. They would include affordable homes at a rate of 40%, with 41 for social rent, 57 for affordable rent and 42 for shared ownership.
42. The majority of the built form would be 2-storeys, although there would be some at 3 storeys as well as single storey ancillary buildings, including garages. A range of terraced, semi-detached and detached forms are proposed.
43. There would be two vehicle access points into the appeal site; a priority junction and a new roundabout. The roundabout proposal also realigns Kidnappers Lane and the existing junction with Shurdington Road would be closed and replaced with a cycleway. A new Toucan crossing point is proposed to the east of the site on the Shurdington Road. New recreational footpaths are proposed to link to existing public rights of way (PROW) providing routes into the surrounding area.
44. In broad terms the developed site would have two distinct areas of housing separated by green space incorporating landscaping, a LAP, drainage features, cycleways and footpaths. There is further green space proposed within the eastern and southeastern parts of the appeal site also incorporating landscaping, drainage features, cycleways, footpaths, a LAP, community orchard and allotments.
45. Several drainage features and ponds would be created within the central green, the green corridor and the edge of the Ancient Woodland buffer, capturing surface water run-off and providing a new habitat.

### Areas of Agreement

46. Principal of development: Even though planning permission has already been granted for 12 houses on the MD4 allocation, the main parties<sup>13</sup> agree that the principal of a further 350 dwellings is acceptable on the appeal site given that the wording of the policy looks to the provision of **approximately** 350.
47. Transport: The main parties agree that the proposal would not be materially harmful to highway safety and the appeal site would be an accessible location with the scheme proposing suitable mitigation through off-site improvements, enhanced walking and cycling connections and planning obligations. Gloucestershire County Council Highway Authority (GCC) has undertaken an assessment of the appellant's transport information<sup>14</sup> and concluded that there would not be an unacceptable impact on highway safety or severe impact on congestion.
48. Drainage: The main parties agree that the Drainage Strategy and Flood Risk Assessment submitted by the appellant would ensure that the appeal site would

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<sup>11</sup> 19/02303/OUT, 21/00045/REM & APP/B1605/W/21/3281321

<sup>12</sup> The proposal drawings are listed in Condition 2 in the Annex attached thereto

<sup>13</sup> Reference to the main parties in this report means the appellant and the Council

<sup>14</sup> D1 and D2

- be adequately drained and not cause harm elsewhere. There has been no objection from the Lead Local Flood Authority (LLFA), the Environment Agency (the EA) and Severn Trent.
49. Ecology: The main parties agree that the ecological impacts of the proposed development would be acceptable subject to the imposition of conditions. No objections were received from Natural England (NE) or Wild Service (the Council's specialist ecology advisor).
  50. Landscape and visual impact: The main parties are agreed that the landscape and visual impacts of the development would be acceptable, including any landscape effects on the AONB, particularly on views from Leckhampton Hill. Furthermore, the majority of quality trees and hedgerows would be retained, and the scheme would make the most of the two brooks crossing the site.
  51. Design and layout: The main parties are in agreement that the layout of the proposed development is acceptable with appropriate green space, landscaping and play facilities. Affordable housing is of a similar design to market housing and would be effectively integrated into the development. They also agree that the design of the houses would be appropriate for the context, using an acceptable simple but varied palette of materials.
  52. Air Quality: The main parties agree that the proposal would not materially harm air quality.
  53. Living Conditions: The parties agree that there would be no harm to resident's living conditions.
  54. Planning obligations: The main parties agree there is a requirement for a S106 agreement in order to make the development acceptable.
  55. Effect on Special Area of Conservation: The main parties agree, supported by a Habitats Regulation Assessment, that the proposed development has the potential to affect the integrity of the Cotswolds Beechwoods Special Area of Conservation (SAC) through increased recreational pressure, however this could be mitigated by an appropriate condition requiring the provision of a Homeowners Information Pack and 6.5ha of on-site green and open space. NE support that approach and the necessary measures can be secured via a S106 agreement and conditions.
  56. Five year housing land supply: The main parties agree that the Council cannot currently demonstrate a five year housing land supply. A recent appeal decision found that at that time (2 March 2023) the housing land supply stood at 2.9 years<sup>15</sup>.
  57. The summaries of cases of the parties set out in the following sections are based on the written and oral evidence, with references given to relevant sources, up to the point at which I closed the Hearing.

### **The Case for the Appellant**

58. The appellant's case is supported by an Air Quality Assessment, Arboricultural Impact Assessment, Design and Access Statement, Ecological Assessment, Flood

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<sup>15</sup> APP/B1605/W/22/3310455

Risk Assessment, Green Infrastructure Strategy, Heritage Assessment, Landscape and Visual Assessment, Noise Assessment, Renewable Energy and Sustainable Construction Statement and Transport Assessment<sup>16</sup>, demonstrating that the proposal accords with an up to date development plan. There are no objections from the Council. The applicant respectfully asks that the Inspector recommend that the appeal be allowed and planning permission granted.

59. If any harm is found leading to conflict with the development plan, then the adverse impacts would not significantly and demonstrably outweigh the substantial benefits when assessed against the policies of the Framework as a whole.
60. The economic benefits would be as follows: Creation of direct construction-based (378) and indirect employment (528.5); Support for services and facilities delivering a new population with a combined spending power of £2,411,649 per annum; Homes Bonus and Council Tax and Community Infrastructure Levy (CIL) The proposal would generate additional revenue for the local authority through Council tax generation of around £536,200pa as well as the potential New Homes Bonus funding of around £244,817 from central government in order to incentivise housing growth in local areas. The development would additionally contribute approximately £6.7 million through CiL. The proposal would make a number of financial contributions towards local infrastructure. Whilst these contributions would be to mitigate the impact of the development, of particular relevance is the financial contribution being made for education purposes, which would make a contribution of £796,300.50 towards primary education. As paragraph 95 of the Framework advises, great weight should be given to school expansion.
61. The social benefits would comprise the delivery of a mix and range of housing compliant with the Strategic Housing Market Assessment (SHMA) as well as affordable housing to meet a considerable shortfall. In addition there would be improved walking distances to new Leckhampton Secondary School and a contribution to the footpath network.
62. The environmental benefits would include a total of 6.73ha of open space, including 4.09ha of open space, 1.8ha of community space comprising a community orchard and allotments, 0.19ha of children's play space located at 4 locations across the site and a 0.64ha SuDS features. The Public Open Space (POS) and landscaping have been informed by a Green Infrastructure Strategy which sets out how the areas of green space will be provided across the Site and how landscaping will be designed to protect the surrounding area and AONB. The proposals would also incorporate 0.64 ha of SuDS features, and sustainable urban drainage techniques to ensure surface water drainage outflows would be reduced compared with the existing situation. The ponds would offer management of water quality and the opportunity for providing amenity and biodiversity benefits. The development would meet the requirements of the JCS in terms of renewable and low carbon energy and climate change. As well the development would deliver significant biodiversity net gain.

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<sup>16</sup> A4-A17

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**The Case for the Council**

63. The proposal accords with an up to date development plan and therefore planning permission should be granted.

**The Case for Other Parties Who Gave Evidence at the Hearing*****The Case for Cllr Martin Horwood as Ward Councillor and Parish Councillor, and Cllr Emma Nelson as Ward Councillor and Cllr Bernard Fisher as County Councillor also on behalf of residents<sup>17</sup>***

64. The Councillors raised four main issues regarding congestion, accessibility, landscape impact and biodiversity net gain.
65. With regards to accessibility, since the consideration of the JCS, 377 houses have been granted planning permission<sup>18</sup> to the southwest over the Borough boundary in Tewkesbury. This planning permission was determined in 2016 when the site formed part of the proposed strategic allocation in the JCS prior to its removal.
66. A further 25 have been granted at land off Kidnappers Lane<sup>19</sup> and 12 within the MD4 allocation creating a total of 414 dwellings. To include the 350 proposed within this appeal would take the total to 764, well above that considered by the Inspector to be unacceptable on highway grounds at the Bovis Homes appeal. Furthermore, the secondary school is nearly complete and due for full occupation by 2026 further adding to traffic in the area.
67. A condition was attached to the Redrow permission for 377 houses stating that junction improvements had to be in place by the time of the completion/occupation of the 200<sup>th</sup> dwelling. Redrow are now well past the provision of 200 dwellings and there seems to be no urgency for any scheme for the improvement to Moorend junction to come forward. Without that the addition of further traffic movements associated with the appeal scheme will lead to even more congestion and delay with residents queueing for lengthy periods of time along the A46. Also, there are very few routes into Cheltenham from this direction with the A46 being the primary one. The other, Church Road, is narrow and has cars parked on the road for much of its length. It also has a primary school which at drop off and pick up times adds to congestion and awkward manoeuvring. Furthermore, there have been a number of accidents and incidents on narrower roads and lanes as people divert to avoid the congestion on the A46. Adding more traffic would make it more likely such accidents would continue. The appellants have also not properly considered the impact of the Missing Link within their Transport Assessment (TA).
68. The Councillors consider that accessibility of the appeal site is poor. In particular, the bus service is subject to regular cancellations leading to lengthy waits for the bus. The walk to facilities is lengthy and residents would not walk to the nearest supermarket (1.5km) and do their shopping and carry heavy bags home. Although cycle and footpath links within the appeal site would be good, the linkages to the surrounding area are not and the shared cycle/pedestrian lanes

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<sup>17</sup> F10-F13, F16, F19, F20

<sup>18</sup> 14/00838/FUL (the Redrow permission)

<sup>19</sup> 19/00334/OUT, APP/B1605/W/19/3238462 & 21/00847/REM

recently installed along the A46 are dangerous. To this end as the site allocation is for mixed use then a local shop should be included in the proposal to serve the development and the wider local area.

69. The appeal site contains fields R2 and R3 which the JCS Inspector considered should not be built on within their various reports<sup>20</sup> due to the impact on the setting of the AONB. The Councillors consider therefore that while field R3 would become open space, the houses proposed within field R2 should be removed from the proposal. This would assist with reducing the number of traffic movements generated by the development and the consequent congestion on the A46. Furthermore, the proposal does not accord with the findings of the most up to date assessment of the landscape character carried out by Lepus Consulting as evidence for the NP.<sup>21</sup> This study finds that the area covered, including the appeal site, is a highly valuable landscape under the majority of the indicators of landscape value set out in the guidelines. This study has been undertaken after the development of the school and during the construction of the nearby Newlands site.
70. The Councillors also consider that more could be made of the biodiversity on site as per the hierarchy within paragraph 180(a) of the Framework. Policy LWH4 of the NP specifies that "the roles and functions of existing green infrastructure identified in Figure 12 and Appendix 2 should be positively considered in new proposals for development. Where feasible, new development should contribute through onsite provision to the maintenance and enhancement of local green infrastructure roles and functions." The Green infrastructure list includes the Hatherley Brook corridor and Fields R2 and R3 as having valuable green infrastructure which they consider is not clearly protected by the appellants' proposal.
71. A number of residents raised similar issues to the Councillors which I have recorded and incorporated above.

### ***Mr Humphries***

72. Mr Humphries raised concern regarding the provision of a toucan crossing outside his house. Within a previous scheme a layby and bus stop had been removed due to noise and pollution concerns. A toucan crossing would raise similar concerns including allowing a full view into adjacent properties. This is in addition to the obvious noise, pollution, breach of privacy and security risk, which would result, and it should be removed from the scheme, especially given the number of crossing points already existing and proposed along the A46.

### ***Mrs Matthews***

73. Mrs Matthews raised concerns regarding the levels of pollution generated by vehicles queuing along Shurdington Road, which leads to residents not being able to open their windows. Further houses, without adequate mitigation, would add to this problem.

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<sup>20</sup> I14, I15 and I17

<sup>21</sup> F22



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**Gloucestershire County Council Highways Authority**

74. Gloucestershire County Council (GCC), the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of the proposal. Based on the appraisal of the development proposals GCC has no objection subject to conditions and financial obligations.
75. The appeal site forms part of the allocation MD4 of the CP. The policy details site specific requirements. From a transport perspective the site should provide "safe, easy and convenient pedestrian and cycle links within the site and to key centres" and references the findings of 13/01605/OUT which was determined by the SoS to be reflected in any future scheme.
76. The proposal seeks to provide 350 dwellings which are served off 2 vehicle access points from the Shurdington Road. The accesses proposed would be a priority junction and a new roundabout. The roundabout proposal also realigns Kidnappers Lane. No other vehicle accesses are proposed external to the site. The proposal also includes a series of walking and cycling connections to the existing community and within the proposal itself.
77. The appellant's TA considers the impact of the proposal from a multimodal perspective, this includes modelling on the potential impact on the Shurdington Road which is recognised as a congested corridor. It also considers routes to key destinations and how access to those services could be improved.
78. Local and national policy for access focuses on prioritising walking and cycling trips. The vehicle impact, must be read against the Framework tests of "severe" or have "an unacceptable impact on highway safety". In principle the proposal is acceptable as it provides the anticipated number of dwellings in the CP, and consequently the traffic generation from the allocation was considered at the time of the adoption of the plan. It still remains necessary to consider the impact on local junctions and any mitigation that would be required.
79. The proposal is expected to generate approximately 127 departures and 51 arrival vehicle trips in the AM peak and 79 departures and 126 arrives in the PM peak, these are 08:00-09:00 and 17:00-18:00 respectively. This is split between the 2 access points and the transport modelling shows trips are dispersed around the network. This has potential implications at the junctions of Moorend Park Road and Leckhampton Lane.
80. With regards to Moorend Park Road there is already a consented scheme in place to improve this junction associated with the Redrow development, this improvement is being refined and provides the optimum solution for this junction recognising the competing demands of different road users, no further alteration is required beyond the consented proposals.
81. The Leckhampton Lane Junction is proposed to be amended to provide a degree of space for right turning traffic. There is a balance to be had between providing more capacity and maintaining pedestrian space. Considering the needs of pedestrians is a key priority as such the reduction of footway width is not acceptable. Furthermore, increasing capacity could result in an increase of rat running whereas the A46 is the more suitable route. Therefore, the proposal

- looks to provide an improvement within the current kerb lines. This approach is considered to be acceptable.
82. The Kidnappers Lane junction with Shurdington Road is proposed to be closed and replaced with a cycleway. An alternative roundabout junction is proposed, this is considered to be a more suitable solution recognising the additional turning movements the development would generate alongside the new secondary school trips. It also allows for improved walking and cycling infrastructure to be provided as more space becomes available.
  83. The proposal gives significant potential to reduce the walking distances from the existing residential communities to the new Leckhampton Secondary School. New and improved connections will be made from Merlin Way, Shurdington Road and Kidnappers Lane, the routes in the site would accommodate pedestrians and cyclists, and provide more attractive routes than otherwise would exist. The proposal also provides missing footway infrastructure on the A46. This is considered to be a benefit of the scheme and contributes to its sustainability credentials.
  84. The proposed streets create a low-speed environment which includes measures to prioritise walking and cycling movements. Car and bicycle parking provision is agreed including electric vehicle provisions, but some refinement of details on these points is required so conditions are proposed to address this.
  85. The proposal also includes a travel plan which would be secured by planning condition and ensured through a financial bond.
  86. The proposal does require a consultation for highway legislation beyond any planning consultation to enable the development, and the proposal is reliant on this occurring. It is therefore necessary to include conditions which limit the developments construction until those processes have been progressed and orders implemented. The applicant should submit details of the required traffic regulation order to prohibit driving along the length of Kidnappers Lane which is to be closed at their earliest opportunity given the timescale associated with the implementation of such an order.
  87. Overall, the proposal is considered to be acceptable and includes suitable mitigation through offsite improvements, enhanced walking and cycling connections and planning obligations.
  88. GCC has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted GCC concludes that there would not be an unacceptable impact on highway safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

## **Written Representations**

### ***Representations Made at the Recovery stage.***

89. There are individual written representations from 13 individuals including from local residents, Leckhampton with Warden Hill Parish Council and three local Councillors. These raise considerations and objections to the proposal on grounds relating to the adequacy of local services and infrastructure, the safety



and efficiency of the local transport network, access to sustainable transport solutions, flooding, loss of locally important green space and consequent impact on the AONB.

### **Representations Made at Application Stage**

90. The representations made in respect to the planning application up to the point that it was reported to the Council's Committee for determination are summarised in the Council officer's reports on the appeal development<sup>22</sup>. The report indicates that approximately 132 letters of objection were received and that some of these are from the same contributors. There were also 9 letters of support. The report provides analysis of the matters raised in the objections, which are generally on grounds repeated by interested parties at the recovery stage, including those made during the Hearing. The officer's reports also set out the majority of the responses from wider consultative bodies to the application.

### **Conditions**

91. The Council and the applicant agreed a list of 31 suggested conditions at the Hearing. The exact wording of two of those conditions remained in dispute at the Hearing.

### **Obligations**

92. In summary, the two S106 Agreements (one with Cheltenham Borough Council and one with Gloucestershire County Council) contain planning obligations in respect to:

- The provision of on-site affordable housing at a rate of not less than 40% of the total number of dwellings developed;
- On-site open space and children's play space and their maintenance;
- The provision of allotments;
- Provision of Approved Document M4(2) and M4(3)(2)(b) dwellings;
- Provision of a community orchard; and
- Payments to provide or support the provision / facilitation of:
  - Libraries at Up Hatherley Library;
  - Primary education in the Hatherley-Leckhampton Primary Planning Area;
  - PRow enhancement including a connection to Merlin Way;
  - Implementation and monitoring of the Travel Plan;
  - Junction improvement works at A46/Moorend Park Lane

93. Both Councils have provided a 'CIL Compliance Statement for contributions' (the Planning Obligations Statement) in support of all of the obligations<sup>23</sup>. They address the application of statutory requirements to the planning obligations within the S106 Agreement and sets out the relevant planning guidance and policy justification.

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<sup>22</sup> D1 and D2

<sup>23</sup> E23, E24 and E25

## Inspector's Conclusions

94. From the evidence before me at the Hearing, the written representations and my inspection of the appeal site and the surrounding area I have reached the following conclusions. The numbers in square brackets in this section are references to previous paragraphs in the Report which are particularly relied upon in reaching the conclusions.

### *Main Considerations*

95. Having regard to the letter of recovery the relevant policy context and the evidence to the Hearing, the main considerations that need to be addressed are:

- The effect of the proposal on highway congestion;
- Whether the proposal accords with the allocation in the CP;
- The effect of the proposal on landscape character and appearance having regard to the landscape and scenic beauty of the Cotswold Area of Outstanding Natural Beauty (AONB);
- Whether the appeal site is in an accessible location; and
- Whether the proposal delivers appropriate biodiversity net gain.

96. In broad terms, in the six following subsections, which are initially based on the main considerations above, together with some important background to the appeal site and its allocation, followed by a planning balance type subsection. I conclude against the relevant development policies in each topic based subsection and then in the final subsection deal with the weight to be attached to other material considerations and the benefits of the scheme.

### *Highway congestion*

97. Local residents are concerned about the impact of the proposal on the existing congestion caused by queuing traffic along the A46 Shurdington Road **[64, 65, 66]**. There is no doubt that this has been a significant problem for a lengthy period of time being referred to by the JCS Inspector and one of the main reasons for the SoS dismissing the Bovis Homes appeal for 650 houses with associated development **[38]**. Subsequently, the JCS Inspector placed weight on the GCC's confidence that there is an acceptable solution to the A46 capacity issues and confirmed that main modifications were not proposed on traffic grounds **[35]**.
98. Since that time 414 houses have been granted planning permission together with the adjacent secondary school. **[64,65]**. To include the 350 proposed within this appeal would take the total to 764, well above that considered to be unacceptable by the Inspector at the Bovis Homes appeal, albeit that also included other commercial development.
99. I heard from residents of the severe congestion of traffic queuing in the morning to access Cheltenham. Also there are very few routes into Cheltenham from this direction with the A46 being the primary one **[66]**. The other, Church Road, is narrow and has cars parked on the road for much of its length. It also has a primary school which at drop off and pick up times adds to congestion and awkward manoeuvring. I saw all this to be the case at my site visits.

100. The appellant's TA<sup>24</sup> has assessed the impact of the development using a Paramics micro simulation model of southwest Cheltenham, including Leckhampton and the A46 Shurdington Road corridor. In agreement with the HA, the development of the model has used output cordon matrices for the study area from the Central Severn Vale (CSV) SATURN strategic highway model. It considers three design year scenarios starting at 2022, an interim year of 2026 when the secondary school is forecast to be fully open and 2031 at the end of the Local Plan period. The model includes the Redrow homes scheme and full occupation of the secondary school. Other approved housing developments are accounted for in background growth in the model. The appellant also confirmed at the Hearing that the Missing Link road was accounted for in the model.
101. The A40 Arle Court Bus Priority Scheme, A40 Arle Court Roundabout upgrade and Park & Ride, A46/A417 Junction Improvement, Infrastructure associated with the proposed school development and associated infrastructure relating the committed Redrow development, including the A46/Moorend Park Road junction improvement scheme have also been included in the model.
102. The analysis demonstrates that with the highway improvements proposed with the appeal (the proposed Shurdington Road roundabout with realigned Kidnappers Lane junction and the A46 / Leckhampton Lane junction ghost-island improvement scheme) any significant impacts from the proposed development are mitigated to an acceptable degree and the residual cumulative impacts on the highway network would not be severe.
103. The residents provide no substantive evidence to dispute any of the findings of the TA and the TA addendum. Furthermore, GCC raise no objection to the proposals subject to the mitigation measures proposed **[73-88]**. I see no reason to disagree.
104. Shurdington Road is recognised as a congested corridor **[76]**. GCC confirmed at the Hearing that without the proposed key improvement at the Moorend Park junction, due to be delivered via the Redrow planning permission **[66]**, then the proposal would contribute to the ongoing highway congestion causing a severe impact.
105. Although GCC suggest that there is a consented scheme for the junction, nothing substantive was forthcoming at the Hearing. Instead, GCC advised at the Hearing that Redrow would be contributing money towards the junction improvements via a S106 agreement. However, GCC was not able to advise me of a timescale for that agreement.
106. Nevertheless, a condition was attached to the Redrow permission stating that the junction improvements had to be in place by the time of the completion/occupation of the 200th dwelling. While Redrow have now provided in excess of 200 dwellings and the scheme has not been delivered, I am satisfied from the evidence before me that the matter is in hand.
107. This includes the fact that one of the S106 agreements with the appeal proposal includes a contribution of £86,000 to improve the proposal for the Moorend Park Road junction **[92]**. The appellant confirmed that the contribution

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<sup>24</sup> A17

would be paid early on in the development process and they would be chasing GCC to ensure the scheme would be delivered in a timely manner. There is also a clause in the S106 to require the contribution to be repaid if it is not spent. Moreover, the Council has the powers to enforce the requirements of the Redrow planning permission.

108. To my mind, therefore, there is no substantive evidence before me to lead me to a different conclusion from the Council and GCC that the proposal would not have a severe impact on the transport network in terms of congestion. There would therefore be no conflict with Policy INF1 of the JCS and paragraphs 110d and 111 of the Framework.

*(2) Allocation*

109. I appreciate the Parish Council's reliance on the JCS Inspectors Note of Recommendations 21 July 2016 where the Inspector very specifically excluded fields R2 and R3 from the area they considered acceptable for development. Fields R2 & R3 are within an area of medium sensitivity, the development of which the Inspector considered would impact on the AONB<sup>25</sup> [35]. However, the situation has moved on since that time, both in respect of the development plan position and the position on the ground.

110. The CP Inspector was satisfied, based on the evidence before them at that time, that development on the allocation would be on less sensitive land [38]. I accept that the site description for Policy MD4 refers to taking account of the JCS examination's considerations and findings [25]. However, in my view if the CP Inspector had considered that part of the allocation could not be built upon then it would have been removed from the allocation at that time. The description also states that the site boundaries are based upon the JCS Inspector's comments in her Note of Recommendations from 21 July 2016.

111. The CP also designated much of the land to the south of the appeal site as Local Green Space ensuring that it is protected from development. While therefore the SoS found that the site formed a valued landscape at the time of the Bovis appeal, that predated the Local Plan [37]. The Local Green Space covers much of the land covered by the Bovis appeal and it is that I consider to be valued landscape at the current time.

112. Furthermore, planning permission has been granted for housing on a site even closer to the AONB<sup>26</sup> as well as the school [65]. I note that the Inspector at the 2019 appeal found no harm to the setting of the AONB and did so in the context of the emerging allocation (at that time) that forms the appeal site altering the landscape and visual character of the immediate area.

113. Part of the evidence for the NP is formed by a report by Lepus Consulting carried out using the LI TGN21 guidelines in September 2022<sup>27</sup> [68]. However, the report does not, in my view, undertake a detailed assessment of each of the areas of the wider study area rather finding the whole area has value. It was clear to me at my site visit that while much of the area displayed valued landscape characteristics, these were more apparent in some areas than others

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<sup>25</sup> I7

<sup>26</sup> APP/B1605/W/19/3238462 (the 2019 appeal)

<sup>27</sup> F22

creating variety in the quality of the landscape across the area as found during the JCS and CP process.

114. There was discussion at the Hearing as to whether the proposal could support a local shop both for the development and the surrounding area. However, while the allocation is a mixed use area, the site specific requirements refer to only houses and a school **[25]**. There are policies within the development plan which support the provision of local services and facilities, particularly in the interests of accessibility and to reduce dependence on the car. However, the appellants Retail Assessment by Bruton Knowles<sup>28</sup> concludes that it would not be viable to include a shop in the proposals. While interested parties may not agree with this conclusion there is no substantive evidence before me to enable me to reach any different conclusion.
115. Part of the appeal site extends into the neighbouring LGS beyond the allocation in Policy MD4. However, this area would be developed as the community orchard and allotments. The area would therefore still operate as LGS. Consequently, there would be no harm caused and no conflict with Policy GI1 of the CP.

### *(3) Landscape Impact*

116. In the context of the history of the appeal site I have outlined above **[33-38]**, I understand residents' concerns regarding the development of this area, which they consider to be an erosion of their local valued landscape, particularly of parcels of land R2 and R3. However, I have explained above that these are part of an allocation for housing<sup>29</sup>. Notwithstanding this I saw at my site visit that the two fields have some local quality. Both are strongly delineated by hedgerows and R3 in particular contains a number of trees as well as hardstanding and derelict greenhouses. However, the degree of containment means that they are not prominent in local views. The hedges form pleasant edges to Kidnappers Lane and the PRoW alongside the field boundaries.
117. The proposal would see the field at R3 form an area of open space with a well treed boundary to Kidnappers Lane retaining existing features. This would ensure that the landscape appearance of the area would be little changed. Field R2 would be developed with housing but with a greenspace and landscaping at its southern boundary retaining the existing hedge<sup>30</sup>. Outwardly therefore, although R2 would have housing on it, it would retain its green edge.
118. I observed the site from the adjacent AONB from various viewpoints at Leckhampton Hill. From here I saw that the areas identified as high sensitivity by the JCS Inspector form a clear setting for the housing in Cheltenham. They display the obvious characteristics of mixed arable and pastoral land use enclosed by a hedgerow network forming a strong characteristic landscape pattern. This is rightly protected within the CP as an Area of Green Space. Beyond that I saw the school and the new development resulting from the 2019 appeal, and beyond that would be the proposed housing. As a result, it would nestle into and be viewed as part of existing development from the AONB.

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<sup>28</sup> B9

<sup>29</sup> Policy MD4 of the CP

<sup>30</sup> Figure 6: Green Infrastructure Strategy Plan, Green Infrastructure Strategy

119. The appellant's Green Infrastructure Strategy (GIS)<sup>31</sup> means that the predominant green area viewed from the AONB, which forms the Hatherley Brook corridor, would be largely retained. This together with additional planting and the high quality architecture and design means that the housing would not be viewed as one large mass from the AONB but would integrate satisfactorily into the existing landscape. Consequently, views from the AONB would not be harmed and its setting would be preserved thereby conserving its landscape and scenic beauty. Therefore, I am satisfied that the proposal has taken onboard the JCS Inspector's findings as required by Policy MD4 as this was a key concern of that Inspector at that time.
120. For the reasons above, I conclude that the proposal would not be harmful to the landscape character and appearance including the setting of the AONB. There would therefore be no conflict with Policies SD6 and SD7 of the JCS, Policy L1 of the Local Plan and the Framework.

*(4) Accessibility*

121. One of the reasons for allocation MD4 in the Local Plan was due to its good accessibility as concluded by the JCS Inspector **[34]**. There is a regular bus service that operates along the A46 and there would be a good range of everyday facilities and services within a reasonable walking and cycling distance of the appeal site. The consented secondary school is located adjacent to the site. Warden Hill provides a convenience store, superstore, primary school and leisure facilities. Further facilities are provided in Leckhampton, with a wider range of services and employment opportunities accessible in Cheltenham town centre. There are also a number of primary schools within a reasonable walking distance of the site. The nearest supermarket is some 1.5km from the site.
122. I heard from residents that the bus services are unreliable and often cancelled with little notice meaning longer waiting times **[67]**. However, the operation of the service is not within the remit of the appellant. The fact that the appeal site is on a regular bus route into the town adds to its accessibility credentials. In addition, the internal layout of the site has been designed to give good pedestrian and cycle access within and towards the existing external linkages so that it integrates effectively into the surrounding movement network in accordance with paragraph 112 of the Framework, a matter agreed by local residents **[67]**. I also heard from residents though that the cycle/pedestrian lanes that had been installed along Shurdington Road are not effective or safe. However, again this issue is beyond the remit of the appellant.
123. Consequently, wider evidence does indicate that the site is reasonably well located in terms of its accessibility. I would particularly draw the SoS's attention to Sections 5 and 7 of the appellants TA<sup>32</sup> which provides a helpful summary of walking, cycling and public transport options, links within and external to the site, and local facilities relative to the site. The Council and GCC raise no dispute on these matters **[46]**.
124. Most local facilities are within some 2km of the centre of the site; the majority of which are within some 1.6km. Nonetheless, I recognise that factors such as

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<sup>31</sup> A10

<sup>32</sup> A17



topography, distance and traffic, including vehicle speeds, may discourage some people from walking and cycling, and that local public transport services have their limitations.

125. Notwithstanding such constraints and limitations and while they may not suit everybody at all times, there are currently reasonable alternatives available to the private car, including pedestrian, cycle and bus infrastructure and services, offering a genuine choice of transport modes as required by the Framework so that some people would walk, cycle or travel by bus. The location adjacent to the school would be conveniently accessed by means other than the car for those living in the local area. The proposed Travel Plan would support the use of these alternative modes of transport such that there is a good prospect of achieving the shift toward sustainable travel envisaged within Section 9 of the Framework.
126. Therefore, for the reasons above I conclude the proposed development would be in an accessible location and there would be no conflict with Policy INF1 of the JCS and the Framework which together require that development provides connections where appropriate, to existing walking, cycling and passenger transport networks to ensure that credible travel choices are provided by sustainable modes.

(5) *Biodiversity net gain*

127. The Framework seeks to promote the conservation, restoration and enhancement of priority habitats, ecological networks and for development to seek to identify and pursue opportunities for securing measurable net gains for biodiversity. It goes on to state that if significant harm to biodiversity cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
128. The proposal would lead to a biodiversity net gain of both linear features (hedgerows and trees) and river habitats. However, there would be a 37.64% loss of biodiversity units for broad habitats which mainly consists of the loss of the grassland habitats, to be expected as part of this proposal, particularly given its allocation for housing in the CP.
129. I am also mindful that the scheme would also deliver further enhancement of biodiversity through the delivery of measures set out in the appellants Ecological Assessment<sup>33</sup> report which do not feature in the Biodiversity Impact Assessment calculation<sup>34</sup>. These measures include the provision of features for birds and bats, use of pollen and nectar rich species in the formal planting scheme and the provision of log and brush piles around hedgerow and scrub edges to provide habitats for invertebrates, amphibians and reptiles.
130. The appellants propose to compensate for the loss by the creation of habitats at Naunton and Winchcombe resulting in a 14.37% gain for broad habitats. This is some way from the appeal site. However, given that the appeal site is allocated for development, and the principal area lost is grassland which would be expected, I am not convinced that is unacceptable or inappropriate in this instance.

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<sup>33</sup> A8

<sup>34</sup> E27

131. Residents consider that more could be made of the biodiversity on site as per the hierarchy with the Framework [69]. Furthermore, Policy LWH4 of the NP specifies that "the roles and functions of existing green infrastructure identified in Figure 12 and Appendix 2 should be positively considered in new proposals for development. Where feasible, new development should contribute through onsite provision to the maintenance and enhancement of local green infrastructure roles and functions." The Green infrastructure list includes the Hatherley Brook corridor and Fields R2 and R3 as having valuable green infrastructure which it considers is not clearly protected by the appellants' proposal.
132. The appellant's GIS starts from a position of retaining as much of the green features as possible. On field R2 the existing hedgerows to the east and southern boundaries would be retained as would much of the planting around Hatherley Brook. The comprehensive arboricultural assessment has been considered by the Council and its recommendations agreed given the limited value of the vegetation and trees on site which require removal. There is no substantive evidence before me to enable me to reach a different conclusion. A condition could be imposed to ensure a quality landscaping scheme that appropriately mitigates for those to be removed. I note that neither NE or Wild Service (acting as the Council's specialist Ecological Advisor) have objections to the proposal subject to appropriate conditions<sup>35</sup>.
133. Therefore, there would be a mix of enhancement both on site particularly relating to linear and water features and offsite. I therefore find no fundamental conflict with the requirements of the Framework in this respect.
134. The main parties have agreed that the offsite works can be secured through the imposition of a condition securing a subsequent legal agreement prior to work commencing on site.
135. The Planning Practice Guidance (PPG) states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency. However, in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes)<sup>36</sup>.
136. This scheme, while not particularly complex is an allocated site within an up to date development plan. Both parties have agreed that a condition would be an acceptable way forward and I do not doubt the appellants intention to deliver the biodiversity net gain. Consequently, in this instance, I consider that a condition would be an acceptable way forward.

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<sup>35</sup> D26, D27, D31-34

<sup>36</sup> Paragraph: 010 Reference ID: 21a-010-20190723



137. Therefore, for the reasons above I conclude that the proposal would appropriately provide for biodiversity net gain. Consequently, there would be no conflict with Policy SD9 of the JCS, Policy G12 of the CP, Policy LWH4 of the NP and the Framework.

#### *Other Issues and the Planning Balance*

138. Before dealing with the overall planning balance there are other matters that also need to be taken into consideration.

#### *Air quality*

139. Local residents raised concerns regarding the level of pollution that would be caused by the proposal particularly from the addition of cars using the A46 queueing at the Moorend Park junction and from the addition of a toucan crossing outside 104 Shurdington Road [71, 72]. However, the appellants Air Quality Assessment<sup>37</sup> concludes that the proposed development does not conflict with national or local policies, or the measures set out in the Council's Air Quality Action Plan. There is no substantive evidence before me to refute this report and therefore I find no conflict with Policy SD14 of the JCS which requires that development should not result in unacceptable levels of air or noise pollution.

#### *SAC*

140. The Cotswold Beechwoods Special Area of Conservation (the SAC) consists of ancient beech woodland, some secondary woodland and a small area of unimproved grassland. The qualifying features relate to both the woodland and grassland habitats. The Cotswold Way runs through the SAC and consequently there is recreational activity which causes damage to the protected areas from the passage of people, pets and vehicles.

141. The proximity of the appeal site to the SAC means that the introduction of 350 houses has the potential to add to that disturbance to the SAC due to increased visitor numbers and therefore the potential to have significant effects through increased recreational pressure. Consequently, based on the evidence before me it is likely that, in the absence of mitigation measures, the proposal would have a significant adverse effect on the integrity of the SAC.

142. The appellant proposes that 6.5 hectares of green and open space be provided on the appeal site and that a Homeowners Information Pack is distributed to all homeowners secured by an appropriately worded condition. Natural England and the Council are supportive of this approach. On that basis there would be no conflict with Policy SD9 of the JCS. If the SoS agrees with my recommendation and wishes to allow the appeal, he will need to carry out an appropriate assessment with the detail contained in annex 2 to this report.

#### *Toucan crossing*

143. At the Hearing GCC considered that the toucan crossing raised by Mr Humphries should be retained as it would provide convenient access to the new secondary school. I share that view, while I appreciate concerns raised by local residents, there are many properties that have pedestrian crossings outside of

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<sup>37</sup> B12

them and this would not be an unusual feature in the streetscape. It would though together with the other improvements proposed provide important connection to the surrounding area in accordance with Policy INF1 of the JCS.

### *Planning Benefits*

144. Although I have found that the proposal would accord with relevant policies and therefore with an up to date development plan, I have considered the planning benefits in case the SoS disagrees with any of my findings.
145. There is no dispute between the parties that the Council is unable to demonstrate a five year housing land supply with the Inspector concluding at a recent appeal that the Council could only demonstrate a 2.9 year supply<sup>38</sup> **[55]**. In such circumstances paragraph 11dii of the Framework states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
146. Within that context the provision of a suitable mix of 350 houses in an accessible location would contribute significantly to the housing land supply. Furthermore, the provision of 40% of those houses as affordable would very significantly contribute to the shortfall of 1503 affordable houses delivered in Cheltenham since the start of the plan period, providing homes for people in need now, attracting substantial weight **[60]**.
147. There would be economic benefits through creation of construction based and indirect employment as well as the benefit to the local economy from the increased spend by future occupiers of the scheme which would attract significant weight **[59]**.
148. Increased Council Tax receipts are mentioned as a benefit. However, since the development would result in a corresponding increase in demand on local services etc, that is not a consideration to which I attach positive weight **[59]**.
149. In addition, reference is made to income for the Council from the New Homes Bonus and the Community Infrastructure Levy as a benefit. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. The New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. However, the PPG makes it clear that it would not be appropriate to make a decision based on the potential for the proposal to raise money for a local authority<sup>39</sup>. Accordingly, while the Bonus and the CIL are material considerations, they are not ones to which I attach positive weight **[59]**.
150. Obligations within the S106 agreements secure contributions to local infrastructure, including education facilities. These would be to mitigate the impacts of the development and not benefits of it. They would therefore be neutral in the planning balance **[59]**.

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<sup>38</sup> APP/B1605/W/21/3273053

<sup>39</sup> ID 21b-011-20140612

151. The proposal would deliver 6.73ha of open space, comprising 4.09ha of open space, 1.8ha of community space comprising a community orchard and allotments, 0.19ha of children's play space located at 4 locations across the site and 0.64ha SuDS features **[61]**. However, this is a requirement both of policy and to mitigate the potential for the adverse impact on the SAC. Any benefit over and above those requirements would be minor. The proposal would though provide effective footpath and pedestrian links to the surrounding area which would benefit future occupiers access to local services to which I give modest weight **[60]**.
152. The proposed development would achieve a 66% reduction in carbon emissions which would go beyond local and national requirements and would be a modest benefit of the proposal.

### Conditions

153. Conditions to be imposed on a grant of permission were discussed at the Hearing and were mainly agreed between the Council and the appellant. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly. The suggested conditions are contained in the attached Annex 1. My conclusions are summarised below.
154. In order to provide certainty, a condition requiring that the development is carried out in accordance with the approved plans would be necessary (2), as would a condition to control the phasing of development (3).
155. The submission and approval of a Construction Statement/Construction Management Plan would also be necessary to safeguard the living conditions of local residents and in the interests of highway safety (4). Conditions to control foul and surface water drainage and management, together with a SuDS Management and Maintenance Plan, would be necessary in the interests of flood prevention and biodiversity, as well as to protect the environment and to secure acceptable living conditions for residents (5), (6) and (18).
156. Conditions to secure the investigation of contamination that might affect the site, along with any requisite remediation, would be necessary to protect the health and well-being of future occupiers and off-site receptors as well as in the interests of biodiversity (7), (8) and (9).
157. A condition requiring the development to be constructed in accordance with the recommendations of the acoustic design statement is necessary to protect occupiers living conditions (10).
158. Conditions to deliver and manage new planting and hard and soft landscaping, including street planting are necessary to ensure a good level of design and appearance of the proposed development (11) and (15). Details of levels are required to ensure a satisfactory relationship between the proposed development and adjacent buildings and land (12).
159. To ensure the protection and enhancement of the landscape and biodiversity value of the site a condition would be necessary to secure a Landscape and Ecological Management Plan (13). Also, to protect the biodiversity on the site

- during construction the submission of a Construction Environmental Management Plan would be required (14).
160. A condition requiring archaeological works to be carried out in accordance with the approved Written Scheme of Investigation is necessary to ensure that archaeological remains and features are preserved in situ or recorded as appropriate (16).
161. To ensure that the development makes the fullest contribution possible towards the mitigation of climate change a condition is necessary to ensure that the development is carried out in accordance with the Energy and Sustainability Statement dated July 4 2023 (17).
162. To ensure that the development harmonises with its context, a condition would be necessary to control materials used on the exterior of buildings and structures (19). In the interests of highway safety and to secure suitable access arrangements, conditions would be necessary to control the details of the site access and of on-site roads, footways, cycleways, parking areas and associated works and infrastructure, and to secure off-site highway works (20), (21), (22), (23), (24) and (25).
163. To promote sustainable modes of transport and reduce the need for travel and in the interests of highway safety, conditions to secure the implementation of a Travel Plan and to ensure the delivery of electric vehicle charging points are necessary (26) and (28).
164. A condition requiring details of a Homeowner Information Pack to be submitted including information regarding informal recreation opportunities is necessary to ensure that appropriate measures to mitigate adverse effects to the Cotswold Beeches SAC are delivered (28).
165. If the SoS disagrees with my recommendation regarding the appropriateness of imposing a condition regarding biodiversity, then condition (29) would need to be imposed to secure biodiversity net gain.
166. There was disagreement at the Hearing between the Council and the appellant regarding the wording of the conditions regarding the PV panels and the air source heat pumps with the Council wishing to retain full control over the operation, number, installed capacity, design, appearance and positioning of the panels and details of the pumps to ensure that they make the fullest contribution possible to climate change. The appellant considers that the condition should make reference to their Energy and Sustainability Statement which details a 66% reduction in carbon emissions using L12021 on average across the site.
167. In my view, the appellants approach would ensure that the proposal would meet the requirement of Policy SD3 of the JCS which requires that requires development to demonstrate how it contributes to the aims of sustainability by increasing energy efficiency. In doing so it states that proposals will be expected to achieve national standards. While the Councils objective to ensure that new developments make the fullest contribution possible to mitigate climate change is to be lauded, it is an objective, and the associated SPD is guidance. Furthermore,

the Council confirmed at the Hearing that it would not require the appeal to be dismissed if the condition it proposed was not imposed.

168. For those reasons therefore, my conclusions and recommendation that follow is that Conditions 30A and 31A should be applied to ensure that the proposal meets the requirements of the development plan policy. Should the SoS disagree, then Conditions 30B and 31B would be necessary to ensure that the proposal meets the requirements of objective 6 of the JCS and the SPD.

### **Obligations**

169. I have considered the S106 Agreements in light of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the policies set out in the Council's and Gloucestershire County Council's CIL Compliance Statements<sup>40</sup>. The obligations are directly related to the proposed development, are fairly and reasonably related to it and are necessary to make it acceptable in planning terms.

### **Overall Conclusion**

170. This scheme proposes 350 homes on an allocated site at a time when the Council is unable to demonstrate a five year housing land supply by some way. While residents raise valid concerns, I have found above that the proposal would accord with an up to date development plan as a whole. Therefore in accordance with paragraph 11c of the Framework the proposal should be approved.

### **Recommendation**

171. For the reasons set out above I recommend that the appeal is allowed.

172. The conditions listed in Annex 1 should be attached to any permission granted along with the obligations set out in the S106 agreements in E13 and E14. In these circumstances, I would recommend imposition of Conditions 30A and 31A rather than Conditions 30B and 31B for the reasons given above.

*Zoe Raygen*

INSPECTOR

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<sup>40</sup> E24 & E25

**Appearances**

## FOR THE APPELLANT

Christopher Young, Kings Counsel

Instructed by Paul Hill Senior Director RPS  
GroupSteve Drury  
Mark Gimmingham  
Adrian Meurer  
Brian Duckett  
Matthew Hurd  
Helen Dawkins  
Ben BaillieRPS Group  
Partner i-Transport  
Director HDA  
Landscape Director HDA  
Director Energy & Design  
Area Planning Director Miller Homes  
Architect Cooper Baillie

## FOR THE COUNCIL

Ryan Kohli, Counsel  
Nicole GilletInstructed by Cheltenham Borough Council  
Principal Planning Officer Cheltenham Borough  
CouncilAnna McKenzie  
Joseph SantosEtude  
Gloucestershire County Council Highways

## INTERESTED PERSONS:

Alan Bailey  
Samuel Coxon  
Christopher Braunholtz  
John Lambert  
Cllr Martin HorwoodLocal Resident  
Local Resident  
Local Resident  
Local Resident  
Leckhampton Ward Councillor &  
Leckhampton with Warden Hill Parish  
CouncillorCllr Emma Nelson  
Cllr Bernard Fisher  
Vivienne Matthews  
Michael Humphries  
Kenneth Pollock  
Irene Jones  
Michael VarkLeckhampton Ward Councillor  
County Councillor  
Local Resident  
Local Resident  
Local Resident  
Local Resident  
Local Resident

**Documents****Core Documents**

<b>A and B: Planning Application Documents</b>		
A1	Application Form	
A2	Affordable Housing Statement	
A3	Agricultural Resources Assessment	
A4	Air Quality Assessment	
A5	Arboricultural Impact Assessment	
A6	Completed CIL Liability Form	
A7.1	Design and Access Statement P1	
A7.2	Design and Access Statement P2	
A7.3	Design and Access Statement P3	
A7.4	Design and Access Statement P4	
A8	Ecological Assessment	
A9	Flood Risk Assessment	
A10	Green Infrastructure Strategy	
A11	Heritage Assessment	
A12	Landscape and Visual Assessment	
A13	Noise Assessment	
A14	Planning Statement	
A15	Renewable Energy and Sustainable Construction Statement	
A16	Sustainability Checklist	
A17	Transport Assessment	
A18	Travel Plan	
A19	Utilities Statement	
B1	Archaeological Evaluation Draft Rev B	
B2	Breeding bird Assessment	

B3	CB 70 064 Land at Shurdington Road Leckhampton DAS Addendum Rev B	
B4	Great Crested Newt eDNA – Pond 4	
B5	HIP	
B6	Shadow Habitats Regulation Assessment and Appropriate Assessment	
B7	Transport Assessment Addendum	
B8	Tree Report August 2021	
B9	Bruton Knowles Retail Assessment	
B10	Affordable Housing Statement	
B11	Archaeological WSI	
B12	Air Quality Assessment Rev 1	
B13	Energy and Sustainability Statement – Shurdington Road -Rev 3 11 11 2021	
B14	Energy Statement – Leckhampton March 2022	
B15	Energy Statement – Leckhampton April 2022	
B16	HAD response to Parish Council consultation response	
B17	HAD response to Ryder Landscape Consultation Comments 16.04.2021	
B18	Response to UD comments 23 April 2021	
B19	Letter to CBC – Carbon Energy Reduction	
	<b>Drawings which the Council made its decision on</b>	
A20	Site Location Plan CB_70_064_000	G
B21	Overall Planning Layout CB_70_064_001	R
B22	Land Use Plan CB_70_064_002	J
B23	Housing Mix Plan CB_70_064_003	H
B24	Affordable Housing Plan CB_70_064_004	H
B25	Building Heights Plan CB_70_064_005	H
B26	Parking Strategy Plan CB_70_064_006	H
B27	Bin and Cycle Storage CB_70_064_007	H



B28	External Finishes Plan CB_70_064_008	H
B29	External Enclosures Plan CB_70_064_009	H
B30	Hard Surfacing Plan CB_70_064_010	H
B31	House Type Plan CB_70_064_012	H
B32	Character Area Plan CB_70_064_013	H
B33	Street Scene Location Plan CB_70_064_014	G
B34	EV Charging Strategy Plan CB_70_064_016	E
B36	Planning Layout CB_70_064_101	V
B37	Land Use Plan CB_70_064_102	D
B38	Housing Mix Plan CB_70_064_103	H
B39	Affordable Housing Plan CB_70_064_104	J
B40	Building Heights Plan CB_70_064_105	H
B41	Parking Strategy Plan CB_70_064_106	J
B42	Bin and Cycle Storage Plan CB_70_064_107	H
B43	External Finishes Plan CB_70_064_108	H
B44	External Enclosures Plan CB_70_064_109	H
B45	Hard Surfacing Plan CB_70_064_110	H
B46	House Type Plan CB_70_064_112	H
B47	Character Areas Plan CB_70_064_113	H
B48	EV Charging Strategy CB_70_064_116 EV	C
B106	01 CB_70_064_100_SHR_SS_01	A
B107	01 CB_70_064_100_SPR_SS_01	A
B108	02 CB_70_064_100_SPR_SS_02	A
B109	03 CB_70_064_100_SPR_SS_03	A
B110	04 CB_70_064_100_SPR_SS_04	A
B111	01 CB_70_064_100_INS_SS_01	A
B112	02 CB_70_064_100_INS_SS_02	A

B113	03 CB_70_064_100_INS_SS_03	A
B114	04 CB_70_064_100_INS_SS_04	A
B115	05 CB_70_064_100_INS_SS_05	A
B116	06 CB_70_064_100_INS_SS_06	A
B117	07 CB_70_064_100_INS_SS_07	A
B118	08 CB_70_064_100_INS_SS_08	A
A47	CB_70_064_100_SHR_BR_E01	-
A48	CB_70_064_100_SHR_BR_P01	-
A49	CB_70_064_100_SHR_KI_E01	-
A50	CB_70_064_100_SHR_KI_P01	-
A51	CB_70_064_100_SHR_OA_E01	-
A52	CB_70_064_100_SHR_OA_P01	-
A53	CB_70_064_100_SHR_EA_E01	-
A54	CB_70_064_100_SHR_EA_P01	-
A55	CB_70_064_100_SHR_TV_E01	-
A56	CB_70_064_100_SHR_TV_E02	-
A57	CB_70_064_100_SHR_TV_P01	-
A58	CB_70_064_100_SPR_KI_E01	-
A59	CB_70_064_100_SPR_KI_P01	-
A60	CB_70_064_100_SPR_OA_E01	-
A61	CB_70_064_100_SPR_OA_P01	-
A62	CB_70_064_100_SPR_PE_E01	-
A63	CB_70_064_100_SPR_PE_E02	-
A64	CB_70_064_100_SPR_PE_P01	-
A65	CB_70_064_100_SPR_OV_E01	-

A66	CB_70_064_100_SPR_OV_P01	-
A67	CB_70_064_100_SPR_KG_E01	-
A68	CB_70_064_100_SPR_KG_P01	-
A69	CB_70_064_100_SPR_EA_E01	-
A70	CB_70_064_100_SPR_EA_E02	-
A71	CB_70_064_100_SPR_EA_P01	-
A72	CB_70_064_100_SPR_TV_E01	-
A73	CB_70_064_100_SPR_TV_E02	-
A74	CB_70_064_100_SPR_TV_P01	-
A75	CB_70_064_100_SPR_RU_E01	-
A76	CB_70_064_100_SPR_RU_P01	-
A77	CB_70_064_100_SPR_MA_E01	-
A78	CB_70_064_100_SPR_MA_P01	-
A79	CB_70_064_100_SPR_4B7P/2_E01	-
A80	CB_70_064_100_SPR_4B7P/2_P01	-
B49	CB_70_064_100_SPR_HT.3BC_E01	A
B50	CB_70_064_100_SPR_HT.3BC_E02	A
B51	CB_70_064_100_SPR_HT.3BC_P01	A
B52	CB_70_064_100_SPR_2B4P_E01	-
B53	CB_70_064_100_SPR_2B4P_P01	-
B54	CB_70_064_100_SPR_2B4P_E02	-
B55	CB_70_064_100_SPR_2B4P_P02	-
B56	CB_70_064_100_SPR_2BCHA_E01	-
B57	CB_70_064_100_SPR_2BCHA_P01	-
B58	CB_70_064_100_SPR_1BH_E01	-
B59	CB_70_064_100_SPR_1BH_P01	-

A9 1	CB_70_064_100_INS_OX_E01	-
A9 2	CB_70_064_100_INS_OX_P01	-
A93	CB_70_064_100_INS_BR_E01	-
A94	CB_70_064_100_INS_BR_P01	-
A95	CB_70_064_100_INS_KI_E01	-
A96	CB_70_064_100_INS_KI_E02	-
A97	CB_70_064_100_INS_KI_P01	-
A98	CB_70_064_100_INS_OA_E01	-
A99	CB_70_064_100_INS_OA_P01	-
A100	CB_70_064_100_INS_OV_E01	-
A101	CB_70_064_100_INS_OV_P01	-
A102	CB_70_064_100_INS_OV_E02	-
A103	CB_70_064_100_INS_OV_P02	-
A104	CB_70_064_100_INS_KG_E01	-
A105	CB_70_064_100_INS_KG_P01	-
A106	CB_70_064_100_INS_KG_E02	-
A107	CB_70_064_100_INS_KG_E03	-
A108	CB_70_064_100_INS_KG_P02	-
A109	CB_70_064_100_INS_EA_E01	-
A110	CB_70_064_100_INS_EA_P01	-
A111	CB_70_064_100_INS_RU_E01	-
A112	CB_70_064_100_INS_RU_P01	-
A113	CB_70_064_100_INS_MA_E01	-
A114	CB_70_064_100_INS_MA_P01	-

A115	CB_70_064_100_INS_MA_E02	-
A116	CB_70_064_100_INS_MA_P02	-
A117	CB_70_064_100_INS_MA_E03	-
A118	CB_70_064_100_INS_MA_P03	-
A119	CB_70_064_100_INS_FA_E01	-
A120	CB_70_064_100_INS_FA_E02	-
A121	CB_70_064_100_INS_FA_P01	-
B60	CB_70_064_100_INS_5B8P_E01	-
B61	CB_70_064_100_INS_5B8P_P01	-
B62	CB_70_064_100_INS_4B7P_E01	-
B63	CB_70_064_100_INS_4B7P_P01	-
B64	CB_70_064_100_INS_4B7P_E02	-
B65	CB_70_064_100_INS_4B7P_P02	-
B66	CB_70_064_100_INS_3B6P_E01	-
B67	CB_70_064_100_INS_3B6P_P01	-
B68	CB_70_064_100_INS_3B6P_E02	-
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B70	CB_70_064_100_INS_3B6P_E03	-
B71	CB_70_064_100_INS_3B6P_P03	-
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B78	CB_70_064_100_INS_3B5P_E03	-

B79	CB_70_064_100_INS_3B5P_P03	-
B80	CB_70_064_100_INS_A201_2_E01	-
B81	CB_70_064_100_INS_A201_2_P01	-
B82	CB_70_064_100_INS_2B4P_E01	-
B83	CB_70_064_100_INS_2B4P_P01	-
B84	CB_70_064_100_INS_2B4P_E02	-
B85	CB_70_064_100_INS_2B4P_P02	-
B86	CB_70_064_100_INS_2B4P_E03	-
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B88	CB_70_064_100_INS_2B4P_E04	-
B89	CB_70_064_100_INS_2B4P_P04	-
B90	CB_70_064_100_INS_2B4P_E05	-
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B92	CB_70_064_100_INS_2B4P_E06	-
B93	CB_70_064_100_INS_2B4P_P06	-
B94	CB_70_064_100_INS_2B4P_P07	-
B95	CB_70_064_100_INS_1BB/2_E01	-
B96	CB_70_064_100_INS_1BB/2_P01	-
B97	CB_70_064_100_INS_1BB_E01	-
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B100	CB_70_064_100_INS_1BF_E02	-
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B105	CB_70_064_100_INS_1BF_P03	-
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A146	CB_70_064_100_GAR_E02	-
A147	CB_70_064_100_GAR_E03	-
A148	CB_70_064_100_GAR_E04	-
A149	CB_70_064_100_SUB_E01	-
B119	CB_70_064_301	L
B120	CB_70_064_302	C
B121	CB_70_064_303	E
B122	CB_70_064_304	F
B123	CB_70_064_305	E
B124	CB_70_064_306	E
B125	CB_70_064_307	E
B126	CB_70_064_308	E
B127	CB_70_064_309	E
B128	CB_70_064_310	E
B129	CB_70_064_312	E
B130	CB_70_064_313	E
B131	CB_70_064_316	B
B179	CB_70_064_300_KDL_SS_01	A
B180	CB_70_064_300_SPR_SS_01	B
B181	CB_70_064_300_SPR_SS_02	B
B182	CB_70_064_300_SPR_SS_03	B
B183	CB_70_064_300_INS_SS_01	B
B184	CB_70_064_300_INS_SS_02	B
B185	CB_70_064_300_INS_SS_03	B

B186	CB_70_064_300_INS_SS_04	B
B187	CB_70_064_300_INS_SS_05	B
B188	CB_70_064_300_INS_SS_06	B
B189	CB_70_064_300_INS_SS_07	B
A175	CB_70_064_300_KDL_HT.A_E01	-
A176	CB_70_064_300_KDL_HT.A_E02	-
A177	CB_70_064_300_KDL_HT.A_E03	-
A178	CB_70_064_300_KDL_HT.A_P01	-
A179	CB_70_064_300_KDL_HT.G_E01	-
A180	CB_70_064_300_KDL_HT.G_P01	-
A181	CB_70_064_300_KDL_HT.C_E01	-
A182	CB_70_064_300_KDL_HT.C_P01	-
A183	CB_70_064_300_SPR_HT.A_E01	-
A184	CB_70_064_300_SPR_HT.A_P01	-
A185	CB_70_064_300_SPR_HT.C_E01	-
A186	CB_70_064_300_SPR_HT.C_P01	-
A187	CB_70_064_300_SPR_HT.C_E02	-
A188	CB_70_064_300_SPR_HT.C_P02	-
A189	CB_70_064_300_SPR_HT.H_E01	-
A190	CB_70_064_300_SPR_HT.H_P01	-
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A193	CB_70_064_300_SPR_HT.D_E02	A
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A195	CB_70_064_300_SPR_HT.E_E01	-
A196	CB_70_064_300_SPR_HT.E_P01	-



A197	CB_70_064_300_SPR_HT.E_E02	-
A198	CB_70_064_300_SPR_HT.E_P02	-
A199	CB_70_064_300_SPR_HT.E_E03	-
A200	CB_70_064_300_SPR_HT.E_P03	-
A201	CB_70_064_300_SPR_HT.E_E04	-
A202	CB_70_064_300_SPR_HT.E_P04	-
A203	CB_70_064_300_SPR_2BCH_E01	-
A204	CB_70_064_300_SPR_2BCH_P01	-
B132	CB_70_064_300_SPR_4B7P_E01	-
B133	CB_70_064_300_SPR_4B7P_P01	-
B134	CB_70_064_300_SPR_HT.3BC_E01	A
B135	CB_70_064_300_SPR_HT.3BC_E02	A
B136	CB_70_064_300_SPR_HT.3BC_P01	A
B137	CB_70_064_300_SPR_HT.3B_E01	A
B138	CB_70_064_300_SPR_HT.3B_P01	A
B139	CB_70_064_300_SPR_HT.3B_E02	A
B140	CB_70_064_300_SPR_HT.3B_P02	A
B141	CB_70_064_300_SPR_2B4P_E01	-
B142	CB_70_064_300_SPR_2B4P_P01	-
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A220	CB_70_064_300_SPR_2BCHA_P01	A
A221	CB_70_064_300_SPR_2BCHA_E02	A
A222	CB_70_064_300_SPR_2BCHA_P02	A
A223	CB_70_064_300_SPR_2BCHA_E03	-
A224	CB_70_064_300_SPR_2BCHA_P03	-
A225	CB_70_064_300_SPR_2BCHA_E04	-

A226	CB_70_064_300_SPR_2BCHA_P04	-
A227	CB_70_064_300_SPR_1BF_E01	-
A228	CB_70_064_300_SPR_1BF_E02	-
A229	CB_70_064_300_SPR_1BF_P01	-
A230	CB_70_064_300_SPR_1BF_P02	-
A231	CB_70_064_300_SPR_1BF_E03	A
A232	CB_70_064_300_SPR_1BF_E04	A
A233	CB_70_064_300_SPR_1BF_E05	A
A234	CB_70_064_300_SPR_1BF_P03	A
A235	CB_70_064_300_SPR_1BF_P04	A
A236	CB_70_064_300_INS_HT.A_E01	A
A237	CB_70_064_300_INS_HT.A_E02	-
A238	CB_70_064_300_INS_HT.A_E03	-
A239	CB_70_064_300_INS_HT.A_P01	A
A240	CB_70_064_300_INS_HT.G_E01	-
A241	CB_70_064_300_INS_HT.G_P01	-
A242	CB_70_064_300_INS_HT.C_E01	-
A243	CB_70_064_300_INS_HT.C_E02	-
A244	CB_70_064_300_INS_HT.C_P01	-
A245	CB_70_064_300_INS_HT.C_E03	-
A246	CB_70_064_300_INS_HT.C_P02	-
A247	CB_70_064_300_INS_HT.H_E01	-
A248	CB_70_064_300_INS_HT.H_P01	-
A249	CB_70_064_300_INS_HT.D_E01	A
A250	CB_70_064_300_INS_HT.D_P01	A
A251	CB_70_064_300_INS_HT.D_E02	A

A252	CB_70_064_300_INS_HT.D_P02	A
A253	CB_70_064_300_INS_HT.E_E01	A
A254	CB_70_064_300_INS_HT.E_P01	A
A255	CB_70_064_300_INS_HT.E_E02	-
A256	CB_70_064_300_INS_HT.E_P02	-
A257	CB_70_064_300_INS_HT.E_E03	-
A258	CB_70_064_300_INS_HT.E_P03	-
B143	CB_70_064_300_INS_5B8P_E01	-
B144	CB_70_064_300_INS_5B8P_P01	-
B145	CB_70_064_300_INS_4B7P_E01	-
B146	CB_70_064_300_INS_4B7P_P01	-
B147	CB_70_064_300_INS_3BHA_E01	A
B148	CB_70_064_300_INS_3BHA_P01	A
B149	CB_70_064_300_INS_3BHA_E02	A
B150	CB_70_064_300_INS_3BHA_P02	A
B151	CB_70_064_300_INS_3B6P_E01	-
B152	CB_70_064_300_INS_3B6P_P01	-
B153	CB_70_064_300_INS_3B6P_E02	-
B154	CB_70_064_300_INS_3B6P_P02	-
B155	CB_70_064_300_INS_A300_GIB_M4(2)_E01	-
B156	CB_70_064_300_INS_A300_GIB_M4(2)_P01	-
B157	CB_70_064_300_INS_HT.3B_E01	A
B158	CB_70_064_300_INS_HT.3B_P01	A
B159	CB_70_064_300_INS_A203_E01	-
B160	CB_70_064_300_INS_A203_P01	-
B161	CB_70_064_300_INS_A203_E02	-

B162	CB_70_064_300_INS_A203_P02	-
B163	CB_70_064_300_INS_A203_E03	-
B164	CB_70_064_300_INS_A203_P03	-
B165	CB_70_064_300_INS_A201(s)_E01	-
B166	CB_70_064_300_INS_A201(s)_P01	-
B167	CB_70_064_300_INS_2B4P_E01	-
B168	CB_70_064_300_INS_2B4P_P01	-
B169	CB_70_064_300_INS_2B4P_E02	-
B170	CB_70_064_300_INS_2B4P_P02	-
B171	CB_70_064_300_INS_2BCHA_E01	-
B172	CB_70_064_300_INS_2BCHA_P01	-
B173	CB_70_064_300_INS_1BB_2_E01	-
B174	CB_70_064_300_INS_1BB_2_P01	-
B175	CB_70_064_300_INS_1BH_E01	-
B176	CB_70_064_300_INS_1BH_P01	-
B177	CB_70_064_300_INS_1BB_E01	-
B178	CB_70_064_300_INS_1BB_P01	-
A279	CB_70_064_300_GAR_01	A
A280	CB_70_064_300_GAR_02	A
A281	CB_70_064_300_GAR_03	-
A282	CB_70_064_300_SUB_01	-
B190	04649-PA-001	P08
B191	04649-PA-002	P06
B192	ITB12049-GA-056	C
<b>C</b>	<b>PLANNING COMMITTEE</b>	
C1	Committee Report	

C2	Updated Committee Report	
C3	Printed minutes 21 April 2022 Planning Committee	
C4	Decision Notice dated 21 April 2022	

**D: Application Consultation Responses**

D1	GCC Highways Development Management 21 December 2020	
D2	GCC Highways Development Management 26 November 2021	
D3	Ryder Landscaping (Council's Specialist Landscape Advisor) 2 February 2021	
D4	Ryder Landscaping (Council's Specialist Landscape Advisor) 12 November 2021	
D5	Ryder Landscaping (Council's Specialist Landscape Advisor) 22 November 2021	
D6	Housing Enabling 2 February 2021	
D7	Housing Enabling 1 October 2021	
D8	Housing Enabling 22 November 2021	
D9	Architects Panel 8 December 2020	
D10	Cheltenham Civic Society 8 December 2020	
D11	Severn Trent Water 22 November 2020	
D12	Cheltenham Borough Council Tree Officer 15 December 2020	
D13	Cheltenham Borough Council Tree Officer 29 September 2021	
D14	Gloucestershire County Council Lead Local Flood Authority 25 November 2020	
D15	Gloucestershire County Council Lead Local Flood Authority 27 September 2021	
D16	Gloucestershire County Council Lead Local Flood Authority 7 December 2021	
D17	Environment Agency 26 November 2020	
D17	Environment Agency 29 September 2021	
D18	Gloucestershire County Council Archaeology 27 November 2020	
D19	Gloucestershire County Council Archaeology 22 June 2021	
D20	Gloucestershire County Council Archaeology 1 October 2021	
D21	Ramblers Association 22 November 2020	
D22	Parish Council 4 December 2020	

D23	Parish Council 18 October 2021	
D24	Historic England 20 November 2020	
D25	Historic England 16 September 2021	
D26	Natural England 25 March 2021	
D27	Natural England 11 October 2021	
D28	Vision 21 2 December 2020	
D29	Environmental Health 22 October 2021	
D30	Gloucestershire County Council Community Infrastructure Team 7 October 2021	
D31	Wild Service (Council's Specialist Ecological Advisor) 8 February 2021	
D32	Wild Service (Council's Specialist Ecological Advisor) 7 April 2021	
D33	Wild Service (Council's Specialist Ecological Advisor) 6 October 2021	
D34	Wild Service (Council's Specialist Ecological Advisor) 19 November 2021	

**E: Planning Appeal Documents**

E1	Planning Appeal Form	
E2	Appellant Statement of Case	
E3	Appellant rebuttal	
E4	Appellant rebuttal Appendix A Third Party Comments Summary Table	
E5	Appellant Rebuttal Appendix B Sustainability & Energy Technical Response Note	
E6	Appellant Rebuttal Appendix C Transport & Highways Rebuttal	
E7	Appellant Rebuttal Appendix D Landscape Rebuttal	
E8	Appellant Rebuttal Appendix E Ecology Rebuttal	
E9	Appellant Rebuttal Appendix F RPS Letter to NPCU 19 January 2022	
E10	Appellant Rebuttal Appendix G MH Letter to SoS 19 January 2022	
E11	Appellant Rebuttal Appendix H Representations to the Leckhampton with Warden Hill Neighbourhood Development Plan November 2021	
E12	Appellant Rebuttal Appendix I Representations to NP Second Reg 14 Consultation on behalf of Miller Homes 30 March 2023 (superseded by E29)	
E13	Appellant Rebuttal Appendix J Gloucestershire County Council S106 Agreement 13 March 2023	
E14	Appellant Rebuttal Appendix K Cheltenham Borough Council S106 Agreement 13 March 2023	

E15	Appellant Rebuttal Appendix L Updated Energy & Sustainability Statement April 23 2023	
E16	Council Statement of Case	
E17	Council SoC Appendix A Climate Emergency Action Plan	
E18	Council SoC Appendix B Cheltenham Climate Change SPD June 2022	
E19	Council SoC Appendix C Planning Committee Minutes 24 March 2022	
E20	Council SoC Appendix D Planning Committee Minutes 21 April 2022	
E21	Council SoC Appendix E Decision Notice 21/00847/REM	
E22	Council SoC Appendix F Technical Response to Energy and Sustainability Statement March 2023	
E23	Gloucestershire County Council CIL Compliance Statement Summary	
E24	Gloucestershire County Council CIL Compliance Statement	
E25	Cheltenham Borough Council CIL Compliance Statement	
E26	Agreed Statement of Common Ground	
E27	Biodiversity Impact Assessment Calculation Technical Note Rev A	
E28	Energy & Sustainability Statement R5 June 26 2023	
E29	Appellant Rebuttal Appendix I Representations to NP Second Reg 14 Consultation on behalf of Miller Homes 11 April 2023	

### F: Planning Appeal Representations

F1	Bailey A (recovery request)	F17	Humphries M
F2	Bailey A (Request to speak)	F18	Leckhampton with Warden Parish Council
F3	Bailey A (1)	F19	LWPC Appendix 1
F4	Bailey A (2)	F20	LWPC Appendix 2
F5	Bailey A (3)	F21	LWPC Appendix 3
F6	Bailey A (4)	F22	LWPC Appendix 4
F7	Bowden M	F23	LWPC Appendix 5
F8	Brook P	F24	LWPC Appendix 6
F9	Braunholtz C	F25	Percival N
F10	Horwood Cllr M 28 March	F26	Pollock K
F11	Horwood Cllr M 3 July	F27	Pollock K (attachment)
F12	Horwood Cllr M 22 June	F28	Potter G (1)

F13	Horwood Cllr M 14 March	F29	Potter G (2)
F14	Davis G		
F15	Dixon R		
F16	Nelson Cllr E		

**G: National Planning Policy and Guidance**

G1	National Planning Policy Framework	
G2	Planning Policy Guidance	

**H: Local Planning Policy, Guidance and Material Considerations**

H1	Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Adopted 2017)	
H2	Cheltenham Plan 2020	
H3	Emerging Leckhampton with Warden Hill Neighbourhood Plan	
H4	Cheltenham Climate Change SPD June 2022 (duplicate of ((	

**I: Other Documents**

I1	R2 and R3 Location Plan	
I2	HDA Land Use and Designations Plan	
I3	HRA letter	
I4	Inspector's Interim Report on the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy May 2016	
I5	Note of Recommendations made at the hearing session on 21 July 2016	
I6	Report on the Examination into the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy October 2017	
I7	Report on the examination of the Cheltenham Plan 2011-2031 March 2020	

**Hearing Documents**

Documents submitted during course of Hearing	
1.	Draft conditions list V4
2.	Energy & Sustainability Statement R6
3.	Draft conditions list V3
4.	Statement from K Pollock
5.	Email from Ecology Planning regarding Biodiversity Net Gain dating 3 July 2023



6.	Email from HAD regarding Biodiversity net gain 3 July 2023
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Document submitted after the Hearing

A	Appeal decision APP/B1605/W/23/3317851
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**Annex 1: Recommended Conditions****Conditions**

- (1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- (2) The development hereby permitted shall be carried out in accordance with the following approved plans:

## Overall Layout

▪ Site Location Plan	CB_70_064_000	G
▪ Overall Planning Layout	CB_70_064_001	R
▪ Land Use Plan	CB_70_064_002	J
▪ Housing Mix Plan	CB_70_064_003	H
▪ Affordable Housing Plan	CB_70_064_004	H
▪ Building Heights Plan	CB_70_064_005	H
▪ Parking Strategy Plan	CB_70_064_006	H
▪ Bin and Cycle Storage	CB_70_064_007	H
▪ External Finishes Plan	CB_70_064_008	H
▪ External Enclosures Plan	CB_70_064_009	H
▪ Hard Surfacing Plan	CB_70_064_010	H
▪ House Type Plan	CB_70_064_012	H
▪ Character Area Plan	CB_70_064_013	H
▪ Street Scene Location Plan	CB_70_064_014	G
▪ EV Charging Strategy Plan	CB_70_064_016	E

## 100 Application Pack (Eastern Parcel)

## Layout Plans

• Planning Layout	CB_70_064_101	V
• Land Use Plan	CB_70_064_102	D
• Housing Mix Plan	CB_70_064_103	H
• Affordable Housing Plan	CB_70_064_104	J
• Building Heights Plan	CB_70_064_105	H
• Parking Strategy Plan	CB_70_064_106	J
• Bin and Cycle Storage Plan	CB_70_064_107	H
• External Finishes Plan	CB_70_064_108	H
• External Enclosures Plan	CB_70_064_109	H
• Hard Surfacing Plan	CB_70_064_110	H
• House Type Plan	CB_70_064_112	H
• Character Areas Plan	CB_70_064_113	H

• EV Charging Strategy	CB_70_064_116 EV C	
Street Scenes		
Character Area: School Route		
• 01	CB_70_064_100_SHR_SS_01	A
Character Area: Principal Spine Road		
• 01	CB_70_064_100_SPR_SS_01	A
• 02	CB_70_064_100_SPR_SS_02	A
• 03	CB_70_064_100_SPR_SS_03	A
• 04	CB_70_064_100_SPR_SS_04	A
Character Area: Internal Streets		
• 01	CB_70_064_100_INS_SS_01	A
• 02	CB_70_064_100_INS_SS_02	A
• 03	CB_70_064_100_INS_SS_03	A
• 04	CB_70_064_100_INS_SS_04	A
• 05	CB_70_064_100_INS_SS_05	A
• 06	CB_70_064_100_INS_SS_06	A
• 07	CB_70_064_100_INS_SS_07	A
• 08	CB_70_064_100_INS_SS_08	A
100 Series House types		
Character Area: School Route		
• Bridgeford Elevations	CB_70_064_100_SHR_BR_E01	-
• Bridgeford Floor Plans	CB_70_064_100_SHR_BR_P01	-
• Kingwood Elevations	CB_70_064_100_SHR_KI_E01	-
• Kingwood Floor Plans	CB_70_064_100_SHR_KI_P01	-
• Oakwood Elevations	CB_70_064_100_SHR_OA_E01	-
• Oakwood Floor Plans	CB_70_064_100_SHR_OA_P01	-
• Eaton Elevations	CB_70_064_100_SHR_EA_E01	-
• Eaton Floor Plans	CB_70_064_100_SHR_EA_P01	-
• Tiverton Elevations	CB_70_064_100_SHR_TV_E01	-
• Tiverton Elevations	CB_70_064_100_SHR_TV_E02	-
• Tiverton Floor Plans	CB_70_064_100_SHR_TV_P01	-
Character Area: Principal Spine Road		
• Kingwood Elevations	CB_70_064_100_SPR_KI_E01	-
• Kingwood Floor Plans	CB_70_064_100_SPR_KI_P01	-

• Oakwood Elevations	CB_70_064_100_SPR_OA_E01	-
• Oakwood Floor Plans	CB_70_064_100_SPR_OA_P01	-
• Pearwood Elevations	CB_70_064_100_SPR_PE_E01	-
• Pearwood Elevations	CB_70_064_100_SPR_PE_E02	-
• Pearwood Floor Plans	CB_70_064_100_SPR_PE_P01	-
• Overton Elevations	CB_70_064_100_SPR_OV_E01	-
• Overton Floor Plans	CB_70_064_100_SPR_OV_P01	-
• Kingston Elevations	CB_70_064_100_SPR_KG_E01	-
• Kingston Floor Plans	CB_70_064_100_SPR_KG_P01	-
• Eaton Elevations	CB_70_064_100_SPR_EA_E01	-
• Eaton Elevations	CB_70_064_100_SPR_EA_E02	-
• Eaton Floor Plans	CB_70_064_100_SPR_EA_P01	-
• Tiverton Elevations	CB_70_064_100_SPR_TV_E01	-
• Tiverton Elevations	CB_70_064_100_SPR_TV_E02	-
• Tiverton Floor Plans	CB_70_064_100_SPR_TV_P01	-
• Rushwick Elevations	CB_70_064_100_SPR_RU_E01	-
• Rushwick Floor Plans	CB_70_064_100_SPR_RU_P01	-
• Marchmont Elevations	CB_70_064_100_SPR_MA_E01	-
• Marchmont Floor Plans	CB_70_064_100_SPR_MA_P01	-
• 4b7p/2-M4(2) Elevations	CB_70_064_100_SPR_4B7P/2_E01	-
• 4b7p/2-M4(2) Floor Plans	CB_70_064_100_SPR_4B7P/2_P01	-
• Ht.3bc Elevations	CB_70_064_100_SPR_HT.3BC_E01	A
• Ht.3bc Elevations	CB_70_064_100_SPR_HT.3BC_E02	A
• Ht.3bc Floor Plans	CB_70_064_100_SPR_HT.3BC_P01	A
• 2b4p Elevations	CB_70_064_100_SPR_2B4P_E01	-
• 2b4p Floor Plans	CB_70_064_100_SPR_2B4P_P01	-
• 2b4p Elevations	CB_70_064_100_SPR_2B4P_E02	-
• 2b4p Floor Plans	CB_70_064_100_SPR_2B4P_P02	-
• 2bcha Elevations	CB_70_064_100_SPR_2BCHA_E01	-
• 2bcha Floor Plans	CB_70_064_100_SPR_2BCHA_P01	-
• 1bh Elevations	CB_70_064_100_SPR_1BH_E01	-
• 1bh Floor Plans	CB_70_064_100_SPR_1BH_P01	-

Character Area: Internal Streets

• Oxford Elevations	CB_70_064_100_INS_OX_E01	-
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• Oxford Floor Plans	CB_70_064_100_INS_OX_P01	-
• Bridgeford Elevations	CB_70_064_100_INS_BR_E01	-
• Bridgeford Floor Plans	CB_70_064_100_INS_BR_P01	-
• Kingwood Elevations	CB_70_064_100_INS_KI_E01	-
• Kingwood Elevations	CB_70_064_100_INS_KI_E02	-
• Kingwood Floor Plans	CB_70_064_100_INS_KI_P01	-
• Oakwood Elevations	CB_70_064_100_INS_OA_E01	-
• Oakwood Floor Plans	CB_70_064_100_INS_OA_P01	-
• Overton Elevations	CB_70_064_100_INS_OV_E01	-
• Overton Floor Plans	CB_70_064_100_INS_OV_P01	-
• Overton Elevations	CB_70_064_100_INS_OV_E02	-
• Overton Floor Plans	CB_70_064_100_INS_OV_P02	-
• Kingston Elevations	CB_70_064_100_INS_KG_E01	-
• Kingston Floor Plans	CB_70_064_100_INS_KG_P01	-
• Kingston Elevations	CB_70_064_100_INS_KG_E02	-
• Kingston Elevations	CB_70_064_100_INS_KG_E03	-
• Kingston Floor Plans	CB_70_064_100_INS_KG_P02	-
• Eaton Elevations	CB_70_064_100_INS_EA_E01	-
• Eaton Floor Plans	CB_70_064_100_INS_EA_P01	-
• Rushwick Elevations	CB_70_064_100_INS_RU_E01	-
• Rushwick Floor Plans	CB_70_064_100_INS_RU_P01	-
• Marchmont Elevations	CB_70_064_100_INS_MA_E01	-
• Marchmont Floor Plans	CB_70_064_100_INS_MA_P01	-
• Marchmont Elevations	CB_70_064_100_INS_MA_E02	-
• Marchmont Floor Plans	CB_70_064_100_INS_MA_P02	-
• Marchmont Elevations	CB_70_064_100_INS_MA_E03	-
• Marchmont Floor Plans	CB_70_064_100_INS_MA_P03	-
• Fairmont Elevations	CB_70_064_100_INS_FA_E01	-
• Fairmont Elevations	CB_70_064_100_INS_FA_E02	-
• Fairmont Floor Plans	CB_70_064_100_INS_FA_P01	-
• 5b8p Elevations	CB_70_064_100_INS_5B8P_E01	-
• 5b8p Floor Plans	CB_70_064_100_INS_5B8P_P01	-
• 4b7p Elevations	CB_70_064_100_INS_4B7P_E01	-
• 4b7p Floor Plans	CB_70_064_100_INS_4B7P_P01	-

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• 4b7p Elevations	CB_70_064_100_INS_4B7P_E02	-
• 4b7p Floor Plans	CB_70_064_100_INS_4B7P_P02	-
• 3b6p Elevations	CB_70_064_100_INS_3B6P_E01	-
• 3b6p Floor Plans	CB_70_064_100_INS_3B6P_P01	-
• 3b6p Elevations	CB_70_064_100_INS_3B6P_E02	-
• 3b6p Floor Plans	CB_70_064_100_INS_3B6P_P02	-
• 3b6p Elevations	CB_70_064_100_INS_3B6P_E03	-
• 3b6p Floor Plans	CB_70_064_100_INS_3B6P_P03	-
• A300 - Gibson M4(2) Elevations CB_70_064_100_INS_A300_GIB_M4(2)_E01 -		
• A300 - Gibson M4(2) Floor Plans CB_70_064_100_INS_A300_GIB_M4(2)_P01 -		
• 3b5p Elevations	CB_70_064_100_INS_3B5P_E01	-
• 3b5p Floor Plans	CB_70_064_100_INS_3B5P_P01	-
• 3b5p Elevations	CB_70_064_100_INS_3B5P_E02	-
• 3b5p Floor Plans	CB_70_064_100_INS_3B5P_P02	-
• 3b5p Elevations	CB_70_064_100_INS_3B5P_E03	-
• 3b5p Floor Plans	CB_70_064_100_INS_3B5P_P03	-
• A201/2 Elevations	CB_70_064_100_INS_A201_2_E01	-
• A201/2 Floor Plans	CB_70_064_100_INS_A201_2_P01	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E01	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P01	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E02	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P02	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E03	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P03	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E04	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P04	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E05	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P05	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E06	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P06	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P07	-
• 1bb/2 Elevations	CB_70_064_100_INS_1BB/2_E01	-
• 1bb/2 Floor Plans	CB_70_064_100_INS_1BB/2_P01	-

- 1bb Elevations CB\_70\_064\_100\_INS\_1BB\_E01 -
- 1bb Floor Plans CB\_70\_064\_100\_INS\_1BB\_P01 -
- 1bf Elevations CB\_70\_064\_100\_INS\_1BF\_E01 -
- 1bf Elevations CB\_70\_064\_100\_INS\_1BF\_E02 -
- 1bf Elevations CB\_70\_064\_100\_INS\_1BF\_E03 -
- 1bf Elevations CB\_70\_064\_100\_INS\_1BF\_E04 -
- 1bf Floor Plans CB\_70\_064\_100\_INS\_1BF\_P01 -
- 1bf Floor Plans CB\_70\_064\_100\_INS\_1BF\_P02 -
- 1bf Floor Plans CB\_70\_064\_100\_INS\_1BF\_P03 -
- Garages Elevations & Floor Plan CB\_70\_064\_100\_GAR\_E01 -
- Garages Elevations & Floor Plan CB\_70\_064\_100\_GAR\_E02 -
- Garages Elevations & Floor Plan CB\_70\_064\_100\_GAR\_E03 -
- Garages Elevations & Floor Plan CB\_70\_064\_100\_GAR\_E04 -
- Sub-Station Elevations & Floor Plan CB\_70\_064\_100\_SUB\_E01 -

#### 300 Series (Western Parcel)

#### 300 Series Layouts

- Planning Layout CB\_70\_064\_301 L
- Land Use Plan CB\_70\_064\_302 C
- Housing Mix Plan CB\_70\_064\_303 E
- Affordable Housing Plan CB\_70\_064\_304 F
- Building Heights Plan CB\_70\_064\_305 E
- Parking Strategy Plan CB\_70\_064\_306 E
- Bin and Cycle Storage CB\_70\_064\_307 E
- External Finishes Plan CB\_70\_064\_308 E
- External Enclosures Plan CB\_70\_064\_309 E
- Hard Surfacing Plan CB\_70\_064\_310 E
- House Type Plan CB\_70\_064\_312 E
- Character Areas Plan CB\_70\_064\_313 E
- EV Charging Strategy Plan CB\_70\_064\_316 B

#### Street Scenes

#### Character Area: Kidnappers Lane

- 01 CB\_70\_064\_300\_KDL\_SS\_01 A

#### Character Area: Principal Spine Road

- 01 CB\_70\_064\_300\_SPR\_SS\_01 B

- 02 CB\_70\_064\_300\_SPR\_SS\_02 B
- 03 CB\_70\_064\_300\_SPR\_SS\_03 B

## Character Area: Internal Streets

- 01 CB\_70\_064\_300\_INS\_SS\_01 B
- 02 CB\_70\_064\_300\_INS\_SS\_02 B
- 03 CB\_70\_064\_300\_INS\_SS\_03 B
- 04 CB\_70\_064\_300\_INS\_SS\_04 B
- 05 CB\_70\_064\_300\_INS\_SS\_05 B
- 06 CB\_70\_064\_300\_INS\_SS\_06 B
- 07 CB\_70\_064\_300\_INS\_SS\_07 B

## 300 House types

## Character Area: Kidnappers Lane

- Ht.A Elevations CB\_70\_064\_300\_KDL\_HT.A\_E01 -
- Ht.A Elevations CB\_70\_064\_300\_KDL\_HT.A\_E02 -
- Ht.A Elevations CB\_70\_064\_300\_KDL\_HT.A\_E03 -
- Ht.A Floor Plans CB\_70\_064\_300\_KDL\_HT.A\_P01 -
- Ht.G Elevations CB\_70\_064\_300\_KDL\_HT.G\_E01 -
- Ht.G Floor Plans CB\_70\_064\_300\_KDL\_HT.G\_P01 -
- Ht.C Elevations CB\_70\_064\_300\_KDL\_HT.C\_E01 -
- Ht.C Floor Plans CB\_70\_064\_300\_KDL\_HT.C\_P01 -

## Character Area: Principal Spine Road

- Ht.A Elevations CB\_70\_064\_300\_SPR\_HT.A\_E01 -
- Ht.A Floor Plans CB\_70\_064\_300\_SPR\_HT.A\_P01 -
- Ht.C Elevations CB\_70\_064\_300\_SPR\_HT.C\_E01 -
- Ht.C Floor Plans CB\_70\_064\_300\_SPR\_HT.C\_P01 -
- Ht.C Elevations CB\_70\_064\_300\_SPR\_HT.C\_E02 -
- Ht.C Floor Plans CB\_70\_064\_300\_SPR\_HT.C\_P02 -
- Ht.H Elevations CB\_70\_064\_300\_SPR\_HT.H\_E01 -
- Ht.H Floor Plans CB\_70\_064\_300\_SPR\_HT.H\_P01 -
- Ht.D Elevations CB\_70\_064\_300\_SPR\_HT.D\_E01 A
- Ht.D Floor Plans CB\_70\_064\_300\_SPR\_HT.D\_P01 A
- Ht.D Elevations CB\_70\_064\_300\_SPR\_HT.D\_E02 A
- Ht.D Floor Plans CB\_70\_064\_300\_SPR\_HT.D\_P02 A
- Ht.E Elevations CB\_70\_064\_300\_SPR\_HT.E\_E01 -



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• Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P01	-
• Ht.E Elevations	CB_70_064_300_SPR_HT.E_E02	-
• Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P02	-
• Ht.E Elevations	CB_70_064_300_SPR_HT.E_E03	-
• Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P03	-
• Ht.E Elevations	CB_70_064_300_SPR_HT.E_E04	-
• Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P04	-
• 2bch Elevations	CB_70_064_300_SPR_2BCH_E01	-
• 2bch Floor Plans	CB_70_064_300_SPR_2BCH_P01	-
• 4b7p Elevations	CB_70_064_300_SPR_4B7P_E01	-
• 4b7p Floor Plans	CB_70_064_300_SPR_4B7P_P01	-
• Ht.3bc Elevations	CB_70_064_300_SPR_HT.3BC_E01	A
• Ht.3bc Elevations	CB_70_064_300_SPR_HT.3BC_E02	A
• Ht.3bc Floor Plans	CB_70_064_300_SPR_HT.3BC_P01	A
• Ht.3b Elevations	CB_70_064_300_SPR_HT.3B_E01	A
• Ht.3b Floor Plans	CB_70_064_300_SPR_HT.3B_P01	A
• Ht.3b Elevations	CB_70_064_300_SPR_HT.3B_E02	A
• Ht.3b Floor Plans	CB_70_064_300_SPR_HT.3B_P02	A
• 2b4p Elevations	CB_70_064_300_SPR_2B4P_E01	-
• 2b4p Floor Plans	CB_70_064_300_SPR_2B4P_P01	-
• 2bcha Elevations	CB_70_064_300_SPR_2BCHA_E01	A
• 2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P01	A
• 2bcha Elevations	CB_70_064_300_SPR_2BCHA_E02	A
• 2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P02	A
• 2bcha Elevations	CB_70_064_300_SPR_2BCHA_E03	-
• 2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P03	-
• 2bcha Elevations	CB_70_064_300_SPR_2BCHA_E04	-
• 2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P04	-
• 1bf Elevations	CB_70_064_300_SPR_1BF_E01	-
• 1bf Elevations	CB_70_064_300_SPR_1BF_E02	-
• 1bf Floor Plans	CB_70_064_300_SPR_1BF_P01	-
• 1bf Floor Plans	CB_70_064_300_SPR_1BF_P02	-
• 1bf Elevations	CB_70_064_300_SPR_1BF_E03	A
• 1bf Elevations	CB_70_064_300_SPR_1BF_E04	A

- 1bf Elevations CB\_70\_064\_300\_SPR\_1BF\_E05 A
- 1bf Floor Plans CB\_70\_064\_300\_SPR\_1BF\_P03 A
- 1bf Floor Plans CB\_70\_064\_300\_SPR\_1BF\_P04 A

## Character Area: Internal Streets

- Ht.A Elevations CB\_70\_064\_300\_INS\_HT.A\_E01 A
- Ht.A Elevations CB\_70\_064\_300\_INS\_HT.A\_E02 -
- Ht.A Elevations CB\_70\_064\_300\_INS\_HT.A\_E03 -
- Ht.A Floor Plans CB\_70\_064\_300\_INS\_HT.A\_P01 A
- Ht.G Elevations CB\_70\_064\_300\_INS\_HT.G\_E01 -
- Ht.G Floor Plans CB\_70\_064\_300\_INS\_HT.G\_P01 -
- Ht.C Elevations CB\_70\_064\_300\_INS\_HT.C\_E01 -
- Ht.C Elevations CB\_70\_064\_300\_INS\_HT.C\_E02 -
- Ht.C Floor Plans CB\_70\_064\_300\_INS\_HT.C\_P01 -
- Ht.C Elevations CB\_70\_064\_300\_INS\_HT.C\_E03 -
- Ht.C Floor Plans CB\_70\_064\_300\_INS\_HT.C\_P02 -
- Ht.H Elevations CB\_70\_064\_300\_INS\_HT.H\_E01 -
- Ht.H Floor Plans CB\_70\_064\_300\_INS\_HT.H\_P01 -
- Ht.D Elevations CB\_70\_064\_300\_INS\_HT.D\_E01 A
- Ht.D Floor Plans CB\_70\_064\_300\_INS\_HT.D\_P01 A
- Ht.D Elevations CB\_70\_064\_300\_INS\_HT.D\_E02 A
- Ht.D Floor Plans CB\_70\_064\_300\_INS\_HT.D\_P02 A
- Ht.E Elevations CB\_70\_064\_300\_INS\_HT.E\_E01 A
- Ht.E Floor Plans CB\_70\_064\_300\_INS\_HT.E\_P01 A
- Ht.E Elevations CB\_70\_064\_300\_INS\_HT.E\_E02 -
- Ht.E Floor Plans CB\_70\_064\_300\_INS\_HT.E\_P02 -
- Ht.E Elevations CB\_70\_064\_300\_INS\_HT.E\_E03 -
- Ht.E Floor Plans CB\_70\_064\_300\_INS\_HT.E\_P03 -
- 5b8p Elevations CB\_70\_064\_300\_INS\_5B8P\_E01 -
- 5b8p Floor Plans CB\_70\_064\_300\_INS\_5B8P\_P01 -
- 4b7p Elevations CB\_70\_064\_300\_INS\_4B7P\_E01 -
- 4b7p Floor Plans CB\_70\_064\_300\_INS\_4B7P\_P01 -
- 3bha Elevations CB\_70\_064\_300\_INS\_3BHA\_E01 A
- 3bha Floor Plans CB\_70\_064\_300\_INS\_3BHA\_P01 A
- 3bha Elevations CB\_70\_064\_300\_INS\_3BHA\_E02 A

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• 3bha Floor Plans	CB_70_064_300_INS_3BHA_P02	A
• 3b6p Elevations	CB_70_064_300_INS_3B6P_E01	-
• 3b6p Floor Plans	CB_70_064_300_INS_3B6P_P01	-
• 3b6p Elevations	CB_70_064_300_INS_3B6P_E02	-
• 3b6p Floor Plans	CB_70_064_300_INS_3B6P_P02	-
• A300 - Gibson M4(2) Elevations CB_70_064_300_INS_A300_GIB_M4(2)_E01 -		
• A300 - Gibson M4(2) Floor Plans CB_70_064_300_INS_A300_GIB_M4(2)_P01 -		
• Ht.3b Elevations	CB_70_064_300_INS_HT.3B_E01	A
• Ht.3b Floor Plans	CB_70_064_300_INS_HT.3B_P01	A
• A203 (Edmond) M4(2) Elevations	CB_70_064_300_INS_A203_E01	-
• A203 (Edmond) M4(2) Floor Plan	CB_70_064_300_INS_A203_P01	
• A203 (Edmond) M4(2) Elevations	CB_70_064_300_INS_A203_E02	
• A203 (Edmond) M4(2) Floor Plans	CB_70_064_300_INS_A203_P02	
• A203 (Edmond) M4(2) Elevations	CB_70_064_300_INS_A203_E03	
• A203 (Edmond) M4(2) Floor Plans	CB_70_064_300_INS_A203_P03	
• A201(S) ELEVATIONS	CB_70_064_300_INS_A201(s)_E01	-
• A201(S) FLOOR PLANS	CB_70_064_300_INS_A201(s)_P01	-
• 2b4p Elevations	CB_70_064_300_INS_2B4P_E01	-
• 2b4p Floor Plans	CB_70_064_300_INS_2B4P_P01	-
• 2b4p Elevations	CB_70_064_300_INS_2B4P_E02	-
• 2b4p Floor Plans	CB_70_064_300_INS_2B4P_P02	-
• 2bcha Elevations	CB_70_064_300_INS_2BCHA_E01	-
• 2bcha Floor Plans	CB_70_064_300_INS_2BCHA_P01	-
• 1bb/2 Elevations	CB_70_064_300_INS_1BB_2_E01	-
• 1bb/2 Floor Plans	CB_70_064_300_INS_1BB_2_P01	-
• 1bh Elevations	CB_70_064_300_INS_1BH_E01 -	
• 1bh Floor Plans	CB_70_064_300_INS_1BH_P01 -	
• 1bb Elevations	CB_70_064_300_INS_1BB_E01 -	
• 1bb Floor Plans	CB_70_064_300_INS_1BB_P01 -	
• Garage Floor Plan & Elevations	CB_70_064_300_GAR_01A	

- Garage Floor Plan & Elevations CB\_70\_064\_300\_GAR\_02A
- Garage Floor Plan & Elevations CB\_70\_064\_300\_GAR\_03-
- Sub-Station Floor Plan & Elevations CB\_70\_064\_300\_SUB\_01-

#### Access Plans

- A46 Kidnappers Lane Access General Arrangement 04649-PA-001 P08
- A46 Priority Access Junction General Arrangement 04649-PA-002 P06
- Junction improvement at Leckhampton Lane 04649-PA-003 Rev P04
- Proposed controlled crossing across Kidnappers Lane ITB12049-GA-056 C

- (3) Prior to the commencement of development, a phasing plan which indicates the phases through which the development hereby permitted shall be delivered on site shall be submitted to and approved in writing by the Local Planning Authority.
- (4) Prior to the commencement of development within each phase, 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 (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
  - 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 demolition and construction;
  - v) Method of preventing mud and dust being carried onto the highway;
  - vi) Arrangements for turning vehicles;
  - vii) Arrangements to receive abnormal loads or unusually large vehicles;
  - viii) Joint highway condition survey; and
  - ix) Methods of communicating the Construction Management Plan or Construction Method Statement to staff, visitors, and neighbouring residents and businesses.
  - x) Details of construction traffic routing to and from the site.
- (5) Prior to the commencement of development within each phase, drainage plans for the disposal of foul and surface water for that phase shall be submitted to and approved by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved plans before the phase is first brought into use.

- (6) Prior to the commencement of development within each phase, a Construction Phase Surface Water Management Plan for that phase shall be submitted to and approved in writing by the Local Planning Authority. The plan shall outline what measures will be used throughout the construction period of the development to ensure that surface water does not leave the site in an uncontrolled manner and put properties elsewhere at increased risk of flooding. The construction phase shall be implemented in strict accordance with the approved plans until the agreed Sustainable Drainage System Strategy is fully operational.
- (7) Prior to the commencement of development within each phase, a site investigation and risk assessment shall be carried out for that phase to assess the potential nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11 and shall include:
- a) a survey of the extent, scale and nature of contamination
  - b) an assessment of the potential risks to:
    - human health
    - property (including buildings, crops, livestock, pets, woodland and service lines and pipes)
    - adjoining land
    - ecological systems
    - groundwaters and surface water
    - archaeological sites and ancient monuments
  - c) an appraisal of remedial options to mitigate against any potentially significant risks identified from the risk assessment.

Where remediation is required, a detailed remediation scheme shall be produced. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2a of the Environmental Protection Act (1990) in relation to the intended use of the land after remediation.

The site investigation, risk assessment report, and proposed remediation scheme for each phase shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development within that phase.

- (8) Prior to the commencement of development within each phase, other than that necessary for that phase to comply with the requirements of this condition, the approved remediation scheme necessary to bring the phase to a condition suitable for the intended use shall be implemented in full. Following the completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation

carried out shall be submitted to and approved in writing by the Local Planning Authority.

- (9) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority and development shall be halted on that part of the site affected by the unexpected contamination. An investigation and risk assessment must then be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination', CLR11 and a remediation scheme, where necessary, also submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report shall be submitted to and approved in writing by the Local Planning Authority before development can recommence on the part of the site identified as having unexpected contamination.
- (10) The development shall be carried out in accordance with the recommendations of the Façade Schedule provided as Appendix C to the Acoustic Design Statement dated 14 April 2020.
- (11) Prior to the commencement of development within each phase, full details of all proposed street tree planting, root protection systems, future management plan, and the proposed times of planting for that phase, shall be submitted to and approved in writing by the Local Planning Authority. All street tree planting shall thereafter be carried out in accordance with the approved details.
- (12) Prior to the commencement of development within each phase, the following information for that phase shall be submitted to and approved in writing by the Local Planning Authority:
- (a) a full site survey showing:
- i) the datum used to calibrate the site levels;
  - ii) levels along all site boundaries at regular intervals;
  - iii) levels across the site at regular intervals;
  - iv) finished floor levels or other datum of adjacent buildings; and
  - v) cross section drawings clearly showing existing ground levels in relationship with the finished floor and eaves levels of adjacent buildings
- (b) full details showing:
- i) the proposed finished floor level of all buildings and ground levels including hard surfaces; and
  - ii) cross section drawings showing the proposed finished floor and eaves levels of all buildings and ground levels including hard surfaces.

The development shall thereafter be implemented strictly in accordance with the approved details.

- (13) Prior to the commencement of development within each phase, a Landscape and Ecological Management Plan (LEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include, but not be limited to, the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management, including mitigation and enhancement for species identified on site
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period);
- g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
- h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

The approved plan shall be carried out in accordance with the approved LEMP.

- (14) Prior to the commencement of development within each phase, including preparatory works, a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- a) a risk assessment of potentially damaging construction activities;
- b) identification of biodiversity protection zones (e.g. buffers to areas of retained habitat);
- c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within any areas of retained habitat);
- d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
- e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);
- f) responsible persons and lines of communication; and
- g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

- (15) Prior to the commencement of development within each phase, full details of a hard and/or soft landscaping scheme for that phase 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 that phase 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.

- (16) The programme of archaeological works shall be carried out in accordance with the approved Written Scheme of Investigation dated 22nd March 2022.
- (17) The development shall be carried out in accordance with the proposals set out in the Energy and Sustainability Statement dated 4 July 2023.
- (18) Prior to first occupation of the development within each phase, a SuDS Management and Maintenance Plan for that phase, for the lifetime of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime, The approved plan shall thereafter be implemented in full in accordance with the agreed terms and conditions.
- (19) No external facing or roofing materials shall be used 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.
- (20) No dwelling shall be occupied until the access, parking and turning facilities from that individual building to the nearest public highway have been provided in accordance with Drawing No. CB\_70\_064\_001 Rev R.
- (21) The part of the development served from the proposed southern (roundabout) access shall not be occupied until the following highway improvements works have been constructed and completed:
  - a) Roundabout, realignment of Kidnappers Lane, crossings and active travel infrastructure as shown on Drawing No. 04649-PA-001 Rev P08; and
  - b) Closure of the junction of Kidnappers Lane and A46 Shurdington Road.
- (22) The part of the development served from the proposed northern (priority junction) access shall not be occupied until the following highway improvements have been constructed and completed:
  - a) Priority Junction, crossings and footway improvements as shown on Drawing No. 04649-PA-002 Rev P06.
- (23) The 50th dwelling hereby approved shall not be occupied until the following highway improvements works have been constructed and completed:
  - a) Junction improvement at Leckhampton Lane as shown on Drawing No. 04649-PA-003 Rev P04.



- (24) The development shall not be occupied until the following highway improvements works have been constructed and completed:
- a) Controlled Crossing as shown on Drawing No. ITB2049-GA-056 Rev C
- (25) No dwelling shall be occupied until sheltered, secure and accessible bicycle parking has been provided for that dwelling in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority. The approved bicycle parking shall thereafter be kept available for the parking of bicycles only.
- (26) Notwithstanding the submitted details, no dwelling shall be occupied until at least 1 parking space for that dwelling, or 1 per 10 spaces for communal parking areas, has been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and Manual for Gloucestershire Streets. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging points shall be of the same specification or a higher specification in terms of charging performance.
- (27) The approved Residential Travel Plan (i-Transport Ref: MG/AI/ITB12049-102A R, dated 9th October 2020) shall be implemented and monitored in accordance with the regime contained within the plan. In the event of failing to meet the targets within the plan, a revised plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of access to and from the site. The plan shall thereafter be implemented and updated in agreement with the Local Planning Authority.
- (28) Prior to first occupation of the development, details of a Homeowner Information Pack (HIP) providing information on recreation resources in the locality shall be submitted to and approved in writing by the Local Planning Authority. The pack should present information describing informal recreation opportunities in the following sequence:
- In the immediate area
  - A short drive by car or bus
  - Further afield – e.g. The Cotswolds, the Severn Estuary, the Forest of Dean.

Each dwelling shall be provided with an approved HIP on occupation.

- (29) No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority which provides details of how a minimum of 10% measurable biodiversity net gain in broad (area) habitat types and a net gain in linear hedgerow (including treeline) and river features can be achieved. The details provided shall follow those set out in the Technical Note to accompany the Biodiversity Impact Assessment Calculation submitted 27 June 2023. The scheme shall be supported by appropriate planning obligations under section 106 of the Town and Country Planning Act 1990 or agreement with the local planning authority under other statutory powers as are necessary to secure the delivery of the ongoing habitat management requirements included in the scheme, with such legal documents to be completed prior to the written approval of the scheme by the local

planning authority. The scheme shall be carried out in accordance with the approved scheme.

(30) **EITHER 30A:**

All dwellings and apartments hereby permitted shall have solar PV panels in accordance with the requirements of the Energy and Sustainability Statement version R6 dated 4th July 2023. No dwelling or apartment building hereby approved shall be occupied until the proposed solar PV panels serving that dwelling or apartment building have been fully installed in accordance with a specification which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling.

**OR 30B:**

All dwellings and apartments hereby permitted shall have solar PV panels. No dwelling or apartment building hereby approved shall be occupied until the proposed solar PV panels serving that dwelling or apartment building have been fully installed in accordance with details (to include their operation, number, installed capacity, design, appearance and positioning on each roof) which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling.

(31) **Either 31A:**

All dwellings and apartments hereby permitted shall be fitted with air source heat pumps in accordance with the requirements of the Energy and Sustainability Statement, dated 4th July 2023, the specification of which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling. The approved ASHP(s) shall be installed prior to first occupation of each dwelling or apartment building hereby approved in accordance with the details approved.

**OR 31B:**

All dwellings and apartments hereby permitted shall be fitted with air source heat pumps. Details of the type/model, location and predicted noise levels of the proposed air source heat pumps (ASHPs) shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling. The approved ASHP(s) shall be installed prior to first occupation of each dwelling or apartment building hereby approved and in accordance with the details approved.

**ANNEXE 2****INFORMATION TO INFORM THE SECRETARY OF STATE'S HABITATS****REGULATIONS ASSESSMENT****INTRODUCTION**

The proposed development is for the residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure.

The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (for plans and projects beyond UK territorial waters (12 nautical miles)) require that where a plan or project is likely to have a significant effect on a European site<sup>41</sup> or European marine site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (the Secretary of State in this instance) is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.

**PROJECT LOCATION**

173. The Cotswold Beechwoods Special Area of Conservation (the SAC) consists of ancient beech woodland, some secondary woodland and a small area of unimproved grassland. The qualifying features relate to both the woodland and grassland habitats. The Cotswold Way runs through the SAC and consequently there is recreational activity which causes damage to the protected areas from the passage of people, pets and vehicles.
174. The proximity of the appeal site to the SAC means that the introduction of 350 houses has the potential to add to that disturbance to the SAC due to increased visitor numbers and therefore the potential to have significant effects through increased recreational pressure. Consequently, based on the evidence before me it is likely that, in the absence of mitigation measures, the proposal would have a significant adverse effect on the integrity of the SPA.

The Proposed Development site is located on the edge of Cheltenham and is in proximity to a European site:

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<sup>41</sup> Regulation 8 of the Habitats Regulations 2017, as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (the '2019 Regulations'), defines European sites and European marine sites. European sites include: Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) already existing at 31 December 2020; any Site of Community Interest (SCI) placed on the EU Commission's list or any site proposed to the EU prior to 31 December 2020; and any SAC or SPA designated in the UK after 31 December 2020. European marine sites are defined as European sites consisting of marine areas. As a matter of policy, the Government also applies the Habitats Regulations procedures to possible SACs (pSACs), potential SPAs (pSPAs), Ramsar sites and proposed Ramsar sites, and sites identified, or required, as compensatory measures for adverse effects on any of the above sites.

European sites in the UK will no longer form part of the EU's 'Natura 2000' ecological network. The 2019 Regulations have however created a 'national site network'. The national site network includes existing SACs and SPAs, and new SACs and SPAs designated under the Habitats Regulations 2017 (as amended), as noted above. Ramsar sites do not form part of the national site network, but all Ramsar sites are treated in the same way as SACs/SPA as a matter of policy.

Cotswold Beechwoods Special Area of Conservation: Qualifying features are ancient beech woodland, some secondary woodland and a small area of unimproved grassland. The Cotswold Beechwoods represent the most westerly extensive blocks of ***Asperulo-Fagetum* beech forests** in the UK. The woods are floristically richer than the Chilterns, and rare plants include red helleborine *Cephalanthera rubra*, stinking hellebore *Helleborus foetidus*, narrow-lipped helleborine *Epipactis leptochila* and wood barley *Hordelymus europaeus*. There is a rich mollusc fauna. The woods are structurally varied, including blocks of high forest and some areas of remnant beech coppice.

The site also hosts a rich suite of orchid species, and/or an important population of at least one orchid species considered uncommon, or one or several orchid species considered to be rare, very rare or exceptional.

## **HRA IMPLICATIONS OF THE PROJECT**

The Proposed Development will generate recreational impacts as the Cotswold Way runs through the SAC with the potential to cause damage to the protected areas from the passage of people pets and vehicles.

### **PART 1 - ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS**

Such an increase in recreational activity from the provision of 350 households in proximity to the SAC is likely to have a significant adverse effect on the integrity of the SAC. This view is shared by Natural England.

## **CONSERVATION OBJECTIVES**

This section and the assessment of adverse effects on integrity are only necessary in relation to those site(s) and features for which likely significant effect have been identified (see section above). This section should include a description of the conservation objectives for European site(s) that are considered relevant.

### **PART 2 - FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY**

Surveys have already found that existing recreational pressure is causing harm to the integrity and biodiversity of the SAC through the impact on the protected habitat. It is suggested both the number and distribution of visitors has increased in recent years, with particular increases from mountain bikes and horse riders. Increased access has the potential to cause trampling and erosion, impact on ground flora. Dog walking has also increased, especially at Coopers Hill, and commercial dog walking has also increased. Poorly controlled dogs can disturb wildlife, as well as dog fouling causing eutrophication of soils. The potential for recreational pressures from people enjoying leisure time on foot or bicycles together with dog walking has the potential to further disturb the biodiversity of the SAC.

The appellant proposes that 6.5 hectares of onsite green and open space be provided on the appeal site to provide alternative recreational facility to encourage residents away from the SAC. In addition, a Homeowners Information Pack would be distributed to all homeowners secured by an appropriately worded condition. Natural England and the Council are supportive of this approach.

**HRA CONCLUSIONS**

I am of the view that with the mitigation in place the proposal would not cause a significant adverse effect on the integrity of the SAC.

These conclusions represent my assessment of the evidence presented to me but do not represent an appropriate assessment as this is a matter for the SoS to undertake as the competent authority.



# Department for Levelling Up, Housing & Communities

[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.