

# Cheltenham Borough Council Planning Committee

**Meeting date:** 13 June 2024

**Meeting time:** 6.00 pm

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

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## **Membership:**

Councillor Frank Allen, Councillor Glenn Andrews, Councillor Paul Baker (Vice-Chair), Councillor Adrian Bamford, Councillor Garth Barnes (Chair), Councillor Barbara Clark, Councillor Jan Foster, Councillor Andy Mutton, Councillor Tony Oliver, Councillor Simon Wheeler and Councillor Suzanne Williams

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## **Speaking at Planning Committee**

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**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**

The minutes of the meeting held on 30 May will be approved at the next meeting.

## **5 Public Questions**

There were none.

## **6 Planning Applications**

### **6a 24/00814/TREEPO Opposite 22 St Margaret's Road (Pages 5 - 10)**

### **6b 24/00471/FUL Little Duncroft, Evesham Road (Pages 11 - 26)**

[Planning application documents](#)

### **6c 24/00519/FUL Leckhampton Reservoir, Leckhampton Hill (Pages 27 - 50)**

[Planning application documents](#)

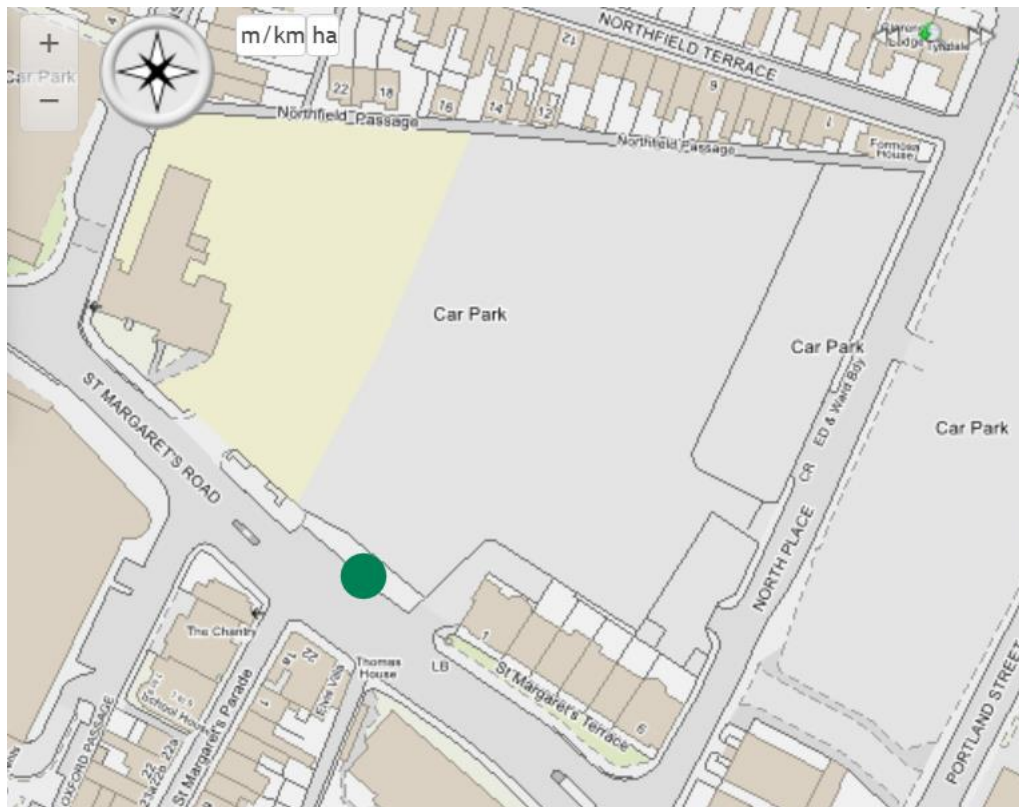
## **7 Appeal Update (Pages 51 - 70)**

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

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<b>APPLICATION NO: 24/00814/TREEPO</b>		<b>OFFICER: Sam Reader</b>
<b>DATE REGISTERED: 14/3/24</b>		<b>DATE OF EXPIRY: 14/9/24</b>
<b>WARD: St Paul's</b>		<b>PARISH: -</b>
<b>LOCATION:</b>	<b>Opposite 22 St Margaret's Road</b>	
<b>PROPOSAL:</b>	TPO to protect one plane tree	

**RECOMMENDATION:** Confirm without modification



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Plane tree is growing in pavement to south of North Place Car Park. Pavement is very wide at point where tree is growing (roughly 5m wide) with an extended area of paving beyond the stem of the tree (roughly 3m wide).
- 1.2 The tree is growing adjacent to a lamp post and bollards. There is some upwards movement of cobbles around the base of the tree and of paving to the south of the tree. Paving to the north of the tree remains largely undisturbed.
- 1.3 The tree has a bias to the north both in terms of crown spread and the angle of the stem. It does not impede use of the pavement or road (or of the adjacent car park).
- 1.4 The tree is visible from many angles and from some distance. The adjacent A4019 (St Margaret's Road) has few trees and the plane is of considerable significance in the street scene.
- 1.5 A TPO was made on this tree to protect it from removal as part of a proposed development of North Place Car Park.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Relevant Planning History

**24/00236/FUL - Development of car park for 153 dwellings (etc)**

**23/01119/PREAPP - Follow up pre-application to 22/01421/PREAPP north place redevelopment (meeting only)**

## 3. POLICIES AND GUIDANCE

### National Planning Policy Framework 2021 (NPPF)

Chapter 12, sub-article 131

### Town and Country Planning Act 1990

Part 8, Chapter 1 – Trees

### Cheltenham Plan

Policy GI2 and GI3

## 4. CONSULTATION RESPONSES

4.1. Two site notices were put up nearby on St Margaret's Road. The provisional TPO received one objection (from a representative of Wavensmere Homes).

The objection to the TPO is:

- The tree is leaning and asymmetrical
- Uplift of the footpath causing an obstruction to the safe use of the pavement (especially by users of the pavement with mobility issues)
- Potential for damage to the highway caused by roots
- Potential for encroachment / damage to proposed development site

## **5. OFFICER COMMENTS**

- 5.1 The tree is in good physiological condition (historically it has been managed by CBC). Despite the lean and the asymmetric crown, the tree has high amenity value
- 5.2 It is growing at an angle and there is a bias to the north in the crown spread. The ground at the base of tree (to the south) has swollen and paving further away has become disturbed leaving the ground undulating. However, the pavement is undisturbed to the north of the tree and pavement access is good on that side. Given the distance to the road, significant disturbance to that surface is unlikely.
- 5.3 The tree has high amenity value. It is mature though not fully grown and is visible from many angles and a fair distance. There is a lack of significant (or small) street trees along this stretch of St Margaret's Road making this tree a significant feature of the street scene.
- 5.4 A threat to the tree has been established - 24/00236/FUL would seek to remove the tree.

## **6. CONCLUSION AND RECOMMENDATION**

- 6.1 A threat to a high value tree has been established. Therefore, a TPO is expedient and appropriate for this tree.
- 6.2 Development at this site is possible while retaining the tree.
- 6.3 On this basis the recommendation is to confirm the TPO without modification.

**Addenda:**

**Objection:**

Good morning,

Further to the receipt of the attached TPO order to be applied to the category A London Plane, we are writing to formally object to the TPO being applied to the tree.

The tree itself has been categorised as a category A tree, however when reviewed on site, you will note that the tree is leaning significantly towards the development site (current car park). We believe this is likely caused by limb removals on the carriageway side of the tree causing the tree to be asymmetrical. Whilst we understand the works to remove limbs would have been required historically in order to remove obstructions to the Highway, this will have been a significant contributing factor to how the tree presents today. You will also note that the root system to the tree on the footpath side (St Margaret's Road), appear to be causing significant uplift to the footpath causing the surface finishes to be lifted hence leading to issues with trip hazards and risk of accidents or difficult for disabled users.

Given that the London Plane tree will likely continue to cause issues with the adopted footpath, potential root damage to the Highway itself and not to mention future concerns with potential encroachment/damage to the proposed development apartment block; we object to the application of the TPO on this London Plane tree.

Kind regards,





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<b>APPLICATION NO:</b> 24/00471/FUL	<b>OFFICER:</b> Mrs Victoria Harris
<b>DATE REGISTERED:</b> 1st April 2024	<b>DATE OF EXPIRY:</b> 27th May 2024 (ET 17/06/24)
<b>DATE VALIDATED:</b> 1st April 2024	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Prestbury	<b>PARISH:</b> Prestbury
<b>APPLICANT:</b>	Mr And Mrs Lawrence
<b>AGENT:</b>	SF Planning Limited
<b>LOCATION:</b>	Little Duncroft Evesham Road Cheltenham
<b>PROPOSAL:</b>	Change of use of garage building as a standalone residential property. Retention of external cladding, easterly facing window, roof lights and boundary fencing (part retrospective), (Resubmission of planning application 23/01739/FUL).

**RECOMMENDATION:** Refuse



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to Little Duncroft; a large, detached property with associated detached outbuilding. The site is located within a residential area on Evesham Road and within Cheltenham's Principal Urban Area (PUA).
- 1.2 The applicant is seeking planning permission for the subdivision of the plot, conversion and authorisation of the existing outbuilding to enable use as a separate dwelling. The works also propose retrospective 1.8m high boundary fencing.
- 1.3 The outbuilding is currently being advertised on Air B&B as a separate studio apartment on the ground floor and a separate two-bedroom apartment on the first floor.
- 1.4 Councillor Ian Bassett-Smith, has requested this application is determined by Committee, for the following reason; *"Planning permission has been granted for a new dwelling nearby and we ask that the committee should reconsider the application as insufficient weight is being given to the recent change in planning context in the area"*.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Principal Urban Area

### Relevant Planning History:

**04/00911/FUL 2nd August 2004 REF**

Demolition of 2 existing bungalows and construction of 6 new dwellings

**07/01761/FUL 27th March 2008 WDN**

WITHDRAWN BY SUBMISSION OF NEW APPLICATION 08/00646/FUL 27.03.2008

Demolition of 4 dwellings and erection of a residential care home (Class C2) comprising 87 suites, associated communal facilities, construction of car parking and revised access

**08/00646/FUL 27th June 2008 REF**

Erection of a care home for frail older people (use class C2) comprising 83 care suites, associated communal facilities, construction of car parking and revised access (demolition of existing buildings) (Cleevemont Lodge, Three Poplars, Cherry Trees and Little Duncroft)

**20/00859/FUL 14th July 2020 PER**

First floor extension and new roof to create an additional storey, ground floor extension to rear and erection of new detached double garage

**20/01211/DISCON 13th August 2020 DISCHA**

Discharge of condition 3 on Planning permission 20/00859/FUL - External roofing material - Standing seam steel roof in Anthracite grey

**21/00911/FUL 16th July 2021 PER**

Erection of a detached garage with ancillary accommodation/storage

**21/02763/FUL 16th February 2022 PER**

Erection of a detached garage and 1.5 metre high timber boundary fence adjacent Evesham Road (part retrospective)

**23/01739/FUL 12th December 2023 WDN**

Full application for the use of garage building as a standalone residential property, retention of external cladding, easterly facing window, roof lights and boundary fencing (part retrospective)

## 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

**Adopted Joint Core Strategy Policies**

SD3 Sustainable Design and Construction  
SD4 Design Requirements  
SD10 Residential Development  
SD14 Health and Environmental Quality  
INF1 Transport Network

**Cheltenham Plan Policies**

D1 Design  
SL1 Safe and Sustainable Living  
GI2 Protection and replacement of trees  
GI3 Trees and Development  
BG1 Cotswold Beechwoods Special Area Of Conservation Recreation Pressure

**Supplementary Planning Guidance/Documents**

The Cheltenham Climate Change SPD (adopted June 2022)  
Development on garden land and infill sites in Cheltenham (2009)

**4. CONSULTATIONS**

See appendix at end of report

**5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>15</b>
Total comments received	<b>1</b>
Number of objections	<b>1</b>
Number of supporting	<b>0</b>
General comment	<b>0</b>

5.1 15 letters were sent to neighbouring properties. In response to this publicity, 1 objection has been received. The planning objection relates to; impact on amenity and change of use.

**6. OFFICER COMMENTS**

**6.1 Determining Issues**

6.2 The application proposes the erection of 1 new independent dwelling; the key considerations for this application are principle of development, design and layout, impact on neighbouring amenity, highways safety and climate change.

**6.3 Planning history and site context**

6.4 In 2020 planning permission (20/00859/FUL) was granted for the erection of a detached double garage with no accommodation above.

6.5 In 2021 planning permission (21/00911/FUL) was granted for the erection of a detached double garage with WC, gym and internal access to the roof space above. A condition of that permission restricted the use of the outbuilding to ancillary accommodation associated with the existing building.

- 6.6** In 2022 planning permission (21/02763/FUL) was granted for the erection of a detached double garage with WC, gym and internal access to the roof space above. A condition of that permission restricted the use of the outbuilding to ancillary accommodation associated with the existing building. A 1.5 metre high timber boundary fence with landscaping adjacent to Evesham Road was also granted.
- 6.7** The outbuilding was subsequently built in early 2023 but is bigger than the previously approved detached double garage. The footprint and height of the building is greater and now accommodates a first floor two-bedroom apartment. The windows within the west and east have changed and the building has been finished in white cladding instead of the originally approved rendered finish. Also, the first floor rooflights within the south elevation originally proposed obscure glazing but are now not obscurely glazed.
- 6.8** In late 2023 a planning application (23/01739/FUL) was submitted to authorise the built building and use. This application was withdrawn following officers' recommendation to refuse the application. The applicant withdrew the application before determination.
- 6.9** The application site is located on the western side of Evesham Road and comprises of a recently extended and remodelled, two-storey dwelling constructed of rendered facing walls under a metal, standing seam pitched roof. The plot is long and rectangular in shape and benefits from generous front and rear garden amenity space. The existing dwelling is set back considerably from the Evesham Road frontage and sits centrally within the plot, roughly in line with the neighbouring dwelling, Sunnyside. Pedestrian and vehicular access to the site from Evesham Road is via a shared driveway with 3 neighbouring properties; the property has no direct, separate access onto Evesham Road.

### **6.10 Principle of development**

- 6.11** Paragraph 11 of the NPPF goes on to set out that where housing policies are out-of-date (including situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites), the NPPF is clear that development proposals should 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. As it stands, currently Cheltenham cannot demonstrate a five year housing land supply.
- 6.12** The application site is sustainably located within the Principal Urban Area (PUA), where adopted JCS policy SD10 supports new housing development. 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."
- 6.13** With the above in mind, and as required by the NPPF, the principle of the development is considered to be acceptable and the development should therefore be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, subject to all other material considerations, which are:
- i. Design and layout,
  - ii. Impact on neighbouring amenity,
  - iii. Trees and landscaping,
  - iv. Highways safety,
  - v. Sustainable development and climate change, and

- vi. Offsetting the environmental impact of development.

### **6.14 Design and layout**

- 6.15** Paragraph 131 of the NPPF sets out that 'the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.' Paragraph 135 of the NPPF requires decisions should ensure developments 'add to the overall quality of the area...; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character...; create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users'.
- 6.16** Policy SD4 of the JCS and policy D1 of the Cheltenham Plan draw from the requirements of section 12 of the NPPF by requiring development to be of a high standard of architectural design that responds positively to and respects the character of the site and its surroundings.
- 6.17** The Development on Garden Land and Infill Sites in Cheltenham Supplementary Planning Document (SPD) sets out guidance for the erection of new dwellings. The document specifically sets out guidance on layout and development patterns stating that the layout of development plays an important role in defining the character of an area including the grain, building lines and type of building.
- 6.18** The application proposes the conversion and extension of the previously approved garage building, along with a subdivision of the plot to enable the use of the building as a separate residential dwelling.
- 6.19** As proposed, officers consider the subdivision of the plot to be out of character with the existing pattern of development. The new dwelling would have a significantly smaller plot than that of the surrounding development and would be out of character given its position, which sits forward of the existing dwelling. Whilst officers accept that the built form of a garage has been permitted in this location, this is in the form of an ancillary garage. The approved garage building has already been considered as acceptable and granted permission, but this was not considered in the context as a new residential dwelling which requires its own access and dedicated private amenity space.
- 6.20** Officers consider the proposed subdivision of the plot to be contrived and does not allow the new plot/dwelling to sit comfortably alongside the existing residential dwelling of Little Duncroft. This is particularly evident where the plans show the main private amenity space of this new dwelling to be located at the front of the site.
- 6.21** The planning statement has referred to an application (ref: 23/02063/FUL) for a detached dwelling in the side garden of 3 Cleavelands Drive that the Council has recently approved. The development is located a distance from the current scheme, is located to the side of the existing dwelling and is single-storey. Officers therefore do not find it to be particularly representative of the predominant layout and character of the adjoining neighbouring properties in which the proposal would sit. Therefore, its context is different to the proposed dwelling.
- 6.22** Officers raise further concerns with the 1.8m high boundary fencing adjacent to Evesham Road. The site originally had a green boundary hedge running along the front boundary. The proposal to subdivide this front section of garden and part enclose it with a fence would be out of character with the surrounding pattern of development. Whilst it is acknowledged that there are a few fences fronting onto Evesham Road and a small fence with landscaping has been approved, green boundary hedging largely remains and is a particular characteristic of the area. The fencing is of a poor standard of design, which has a harsh visual impact on the character of the street scene. It is visually prominent given



that there is no similar fencing on adjoining properties. As such, the new fence appears out of character and a harmful addition to the street scene.

**6.23** Having considered all of the above, officers do not consider the proposed subdivision of the plot or new fence to the site to be acceptable or appropriate in this context and therefore the development is considered to be contrary Cheltenham Plan policy D1, JCS policy SD14 and Cheltenham's SPD – Development on Garden Land and infill sites.

### **6.24 Impact on neighbouring property**

**6.25** 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.

**6.26** In the main, the built form of this ancillary building is already agreed and therefore has already been considered as acceptable in terms of impact on neighbouring amenity. Therefore, in this application officers have considered whether the increased size to the approved building and proposed alterations to the site would result in any unacceptable impact on neighbouring amenity. Due to the position of the building within the plot, its height and the relationship with neighbouring land users, the proposed development is not considered to result in any unacceptable loss of light, loss of outlook or overbearing impact. Furthermore, there would be no unacceptable loss of privacy resulting from this proposed development and the clear glazed roof lights are more than 1.7 metres above the floor level of the rooms that the windows serve.

**6.27** The proposed use of the existing garage building as a residential dwelling and the associated shared access is not considered to result in any unacceptable impact on neighbouring amenity in terms of noise and disturbance.

**6.28** With the above in mind, the proposal would comply with the requirements of policy SD14 and SL1.

### **6.29 Access and highway issues**

**6.30** Policy INF1 of the JCS requires all development proposals to ensure a safe and efficient access to the highway is provided for all users; permission will only be refused on highway grounds where the impact of the development upon the local highway network would be severe. The policy draws from the requirements set out within Section 9 of the NPPF.

**6.31** The County Council's Highways Development Management Team have been consulted on the application; comments can be read in full below. The response requests that the application be deferred to address rights of access.

**6.32** The Highways Officer has not provided comments or concerns with regards to the safety of highways users. In addition, the Highways Officer provided no objection to the previous identical withdrawn application 23/01739/FUL and concluded that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion.

**6.33** Officers note the comments made by the Highways Officer, however given officers recommendation is to refuse, and that comments were received late in the application process, revised drawings to address the red line and ownership have not been sought in this instance.

**6.34** As such, with regards to highways safety, no concerns have been raised, and therefore the proposed new dwelling is acceptable in terms of access, and highway safety. Furthermore, the application proposes off-street parking for 2 vehicles.

**6.35 Climate change and sustainability**

**6.36** Policy SD3 of the JCS requires new development to demonstrate how they will contribute to the aims of sustainability and be expected to be adaptable to climate change in respect of design, layout, siting, orientation and function.

**6.37** The Cheltenham Climate Change SPD provides guidance as to how applicants can design new buildings to successfully integrate sustainable measures into new development, and therefore address climate change and enhance biodiversity.

**6.38** A sustainability statement has been submitted to accompany the application and address the above policy and guidance document. The document sets out the measures as part of the development which include location of windows to maximise solar gain, the building would be energy and thermal efficient, the installation of an air source heat pump, low water consumption devices, water butts and an EV charging point.

**6.39 Cotswold Beechwoods Special Area of Conservation (SAC)**

**6.40** 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).

**6.41** 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.

**6.42** The application is silent on this matter and at the time of this report no mitigation is proposed to address the impacts of the proposal on the Cotswolds Beechwoods SAC. The proposal is therefore in conflict with policy BG1 of the Cheltenham Plan.

**6.43** The applicant could opt to make a financial contribution via a Unilateral Undertaking, which would state that the applicant would pay the Council the relevant sum of £673.

**6.44** An additional refusal reason has therefore been added in this regard.

**6.45 Other considerations**

*Flooding and drainage*

**6.46** The application site is wholly located in flood zone 1 and is therefore not considered to be susceptible to any flood risk, nor is there any reason to suggest that the proposed development would result in any flooding implications, or unacceptable surface water issues for neighbouring development. The development is therefore considered to be acceptable and accords with JCS policy INF2.

*Environmental Impact*

**6.47** Whilst records show that important species or habitats have been sighted on or near the application site in the past, it is not considered that the proposed development will have any impact on these species.

*Public Sector Equality Duty (PSED)*

**6.48** As set out in the Equality 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.

**6.49** 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.

**6.50** 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, whilst the proposed dwelling can be considered as policy compliant in terms of the principle of a dwelling on the site, impact on neighbouring amenity, parking and highway safety and sustainability, the proposed subdivision of the plot and proposed alterations to the site, as well as the proposed fencing would fail to achieve an acceptable scheme that would comply with Cheltenham Plan policy D1, JCS policy SD4 or Cheltenham’s SPD – Development on Garden Land and infill sites.

**7.2** Furthermore, the application proposes no measures to mitigate the effects on the Cotswold Beechwoods SAC which due to the new dwelling would lead to increased pressure on the Cotswolds Beechwoods SAC. Without appropriate mitigation, the proposed development is likely to have a significant effect; however, no mitigation has been proposed.

**7.3** With the above in mind, the benefit of an additional dwelling to Cheltenham’s housing stock is not considered to outweigh the adverse impacts of the proposed development.

**7.4** The recommendation is to therefore refuse planning permission for the reasons set out below.

## **8. REFUSAL REASONS**

1 By virtue of the proposed subdivision of the plot, site layout, plot configuration and location of the development, the proposal would appear at odds and out of character with the existing pattern of development and surrounding context. In addition, the 1.8m high timber fence represents a poor standard of design that is visually unacceptable on the street scene. The proposal is therefore contrary to Policies D1 of the Cheltenham Plan (2020), Policies SD4 of the Joint Core Strategy (2017), and Section 12 of the National Planning Policy Framework and guidance set out in the Council's Supplementary Planning Document - Residential Development on Garden Land and Infill Sites in Cheltenham (2009).

2 The proposed development, by virtue of resulting in a net increase in dwellings, would result in an adverse effect on the integrity of the Cotswold Beechwoods SAC; however, no mitigation has been proposed to address the impacts of the proposal. Without appropriate mitigation, the proposed development is likely to have a significant effect on

the Cotswold Beechwoods SAC through increased recreational pressure. The proposed development is therefore contrary to adopted policy BG1 of the Cheltenham Plan (2020) and the aims of The Conservation of Habitats and Species Regulations 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 authority cannot provide a solution that will overcome the concerns raised by officers relating to principle and design.

As a consequence, the proposal cannot be considered to be sustainable development and therefore the authority had no option but to refuse planning permission.

## Consultations Appendix

### **Building Control**

*15th April 2024* - This application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

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

*8th May 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 recommends that this application be deferred.

The justification for this decision is provided below.

The access drive between the site and the public highway is not shown as being either within the red or the blue line and therefore cannot be conditioned or guaranteed to be available. If it is owned by the other properties served by it then i believe they should have Notice served on them and we would need to see confirmation that there are the necessary rights to access the proposed dwelling.

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

### **Tree Officer**

*17th April 2024* - The Trees Section has no objections to this proposal.

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

*9th April 2024* - Report available to view in documents tab.

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<b>APPLICATION NO:</b> 24/00471/FUL	<b>OFFICER:</b> Mrs Victoria Harris
<b>DATE REGISTERED:</b> 1st April 2024	<b>DATE OF EXPIRY :</b> 27th May 2024
<b>WARD:</b> Prestbury	<b>PARISH:</b> PREST
<b>APPLICANT:</b>	Mr And Mrs Lawrence
<b>LOCATION:</b>	Little Duncroft Evesham Road Cheltenham
<b>PROPOSAL:</b>	Change of use of garage building as a standalone residential property. Retention of external cladding, easterly facing window, roof lights and boundary fencing (part retrospective), (Resubmission of planning application 23/01739/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>

Daneway House  
Evesham Road  
Cheltenham  
Gloucestershire  
GL52 3JN


**Comments:** 25th April 2024

Letter attached.

Daneway House  
Evesham Road  
Cheltenham GL52 3JN

By Hand

25<sup>th</sup> April 2024



Ref: 24/00471/FUL: Change of use of garage building as a standalone residential property. Retention of external cladding, easterly facing window, roof lights and boundary fencing (part retrospective), (resubmission of planning application 23/01739/FUL) – at Little Duncroft Evesham Road Cheltenham.

We object to the resubmission as we did to application 23/01739/FUL.

Our objection relates to the change of use and to the harmful impact of the building itself.

We viewed the withdrawn application, and this resubmission, as a combination of issues previously refused, and identified as concerns, by Planning and the reversal of voluntary undertakings made to secure the existing approvals. Nothing of relevance has changed.

The suggestion that a recently approved application 23/02063/FUL establishes relevant precedent is in our opinion flawed. The building concerned is a single-storey flat roofed bungalow, estimated to be at least 2m lower than the existing Little Duncroft garage building, with no privacy intrusion on neighbouring properties.

Our objection is based on the realisation of the harmful impact concerns previously articulated by the Council's Planning team. Our house is significantly closer to the building than the other consulted neighbouring houses and is consequentially most significantly impacted.

The existing building, which is estimated at some 6m high, is less than an estimated 3.5m from our house and significantly less from our boundary. The close proximity of the proposed garden (to the east of the building) unfortunately affords clear sight lines into our bedrooms located on our front east-facing elevation and what appears to be the sole entrance at the southwest corner of the building is intrusive as a consequence of its proximate location and access step(s).



Claims that the withdrawn proposal was supported by the provisions of the Cheltenham Plan (CP) and the Joint Core Strategy (JCS) feel at odds with the apparently unambiguous reasoning provided by the Planning team that the current prohibition on self-contained use was made with regard to both the CP and JCS.

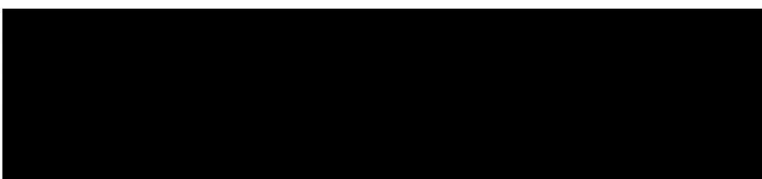
We respectfully request that the resubmitted application be refused with consequent enforcement of previous approvals and conditions. We understand that it is more than 24 months since certain unfilled planning conditions were imposed.

### Notes

- A. Condition 8 to the approval of Application 21/02763/FUL stated that:- “The outbuilding hereby permitted shall not be occupied other than for purposes ancillary to the residential use of the dwelling known as Little Duncroft; as shown on the approved plans.”

The reason given is equally unambiguous:- “Use of the outbuilding as independent residential accommodation and the resultant sub-division of the plot are inappropriate due to the size and configuration of the plot and the potential harmful impact upon the amenities of occupiers of neighbouring properties; having regard to the provisions of the Cheltenham Plan (2020) and the Joint Core Strategy (2017).”

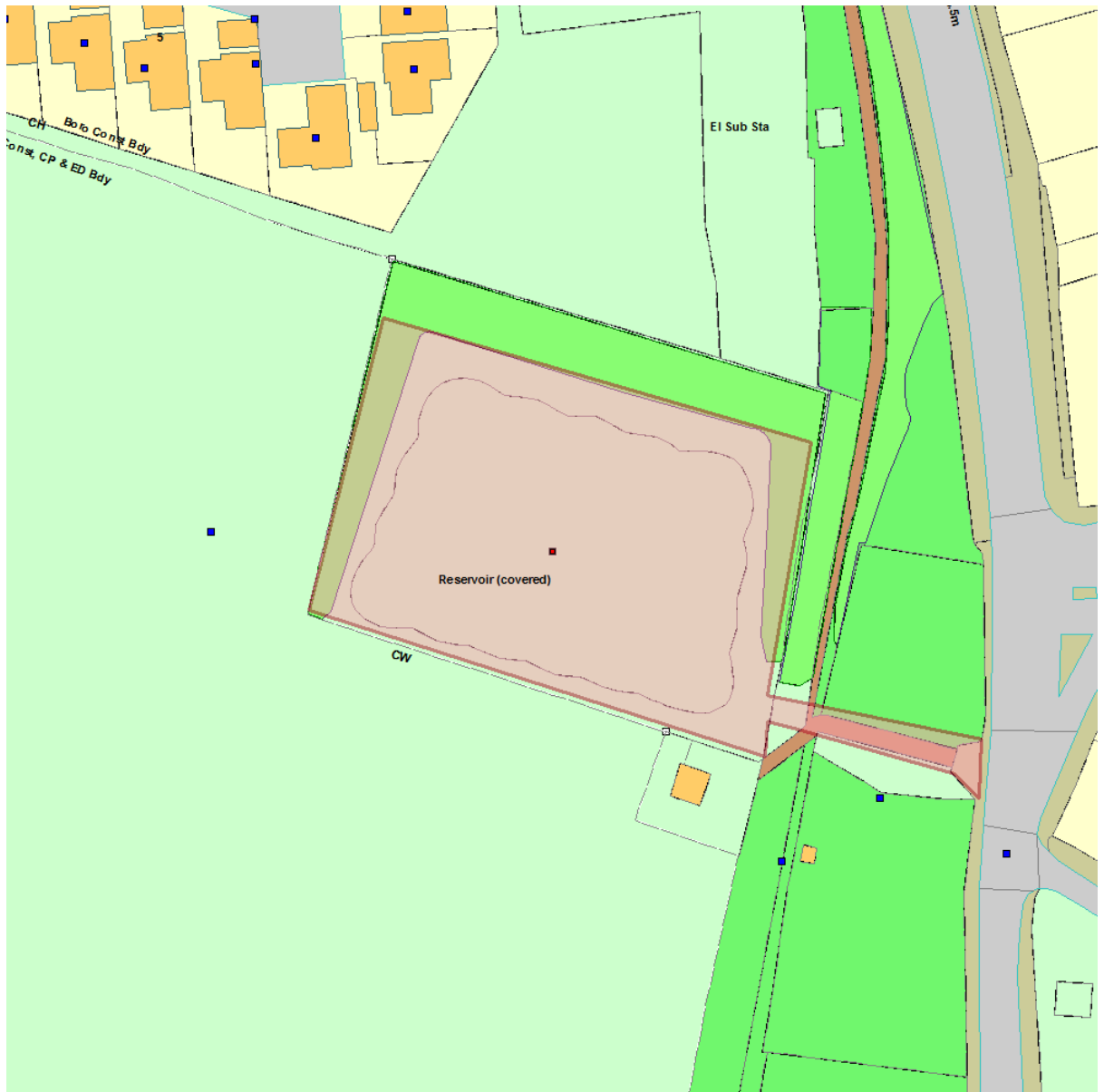
- B. Paragraph 6.8 of the Delegated Officer Report relating to Application 21/00911/FUL notes that “The above concerns (*presumably those outlined in paragraphs 6.6 & 6.7 of the report*) were discussed with the applicant who agreed to remove the first floor residential element, reduce the footprint and scale of the proposed outbuilding and re-position the building closer to the main house. The applicant has also confirmed that the use of the proposed outbuilding would remain ancillary to the residential use of the main dwelling and would not be occupied separately or independently from the main dwelling”.
- C. Paragraph 6.9 of the above referenced report further states: “Officers also maintain their reservations about the potential for converting this building into a self-contained residential unit at some point in the future (as originally proposed). As such a condition has been added to ensure that the use of the proposed outbuilding remains ancillary to the main building and is not occupied independently of the main dwelling”.
- D. The structure referred to as a garage building would appear to have already been configured for standalone residential use as observable from Airbnb advertisements describing it as ‘an entire guest house; 4 guests, 2 bedrooms, 1 bathroom’ along with relevant photographs.
- E. The resubmission, and previous application, appear to direct consideration to changes from the existing building rather than from that previously approved (21/02763/FUL). Even potentially inaccurate scaling off submitted plans would suggest that many of the key dimensions of the existing building may exceed those approved; materially so in some instances.



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<b>APPLICATION NO:</b> 24/00519/FUL	<b>OFFICER:</b> Mr Ben Warren
<b>DATE REGISTERED:</b> 22nd March 2024	<b>DATE OF EXPIRY:</b> EoT 3 <sup>rd</sup> June 2024
<b>DATE VALIDATED:</b> 22nd March 2024	<b>DATE OF SITE VISIT:</b> 23.04.24
<b>WARD:</b> Leckhampton	<b>PARISH:</b> Leckhampton With Warden Hill
<b>APPLICANT:</b>	Taller Developments Ltd
<b>AGENT:</b>	SF Planning Limited
<b>LOCATION:</b>	Leckhampton Reservoir Leckhampton Hill Cheltenham
<b>PROPOSAL:</b>	Change of use of existing reservoir to single dwelling with associated works, access and landscaping.

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



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to Leckhampton Reservoir, located to the west of Leckhampton Road. The site is located outside Cheltenham's Principle Urban Area (PUA) and is wholly located within the Cotswolds AONB and on designated Green Belt land. However, the land immediately around the reservoir site is not located within the Cotswolds AONB, nor is it in the Green Belt.
- 1.2 The applicant is seeking planning permission for the change of use of the existing reservoir to a single residential dwelling with associated works, access and landscaping.
- 1.3 The application is at planning committee at the request of Councillor Horwood, who raises concerns regarding impact on the AONB and Green Belt, Access and Highway Safety concerns and impact on the existing Public Right of Way (PROW), CHL18. These concerns are also raised in an objection from the Parish Council and a local resident.
- 1.4 An extension of time has been agreed with the applicant in order to allow for a committee decision.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Area of Outstanding Natural Beauty  
Airport safeguarding over 15m  
Greenbelt

### **Relevant Planning History:**

**23/01188/PREAPP 3rd August 2023 CLO**  
Erection of two dwellings  
**23/00557/CLEUD 15th June 2023 WDN**  
Storage and Distribution (Use Class B8)

## 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 11 Making effective use of land  
Section 12 Achieving well-designed places  
Section 13 Protecting Green Belt land  
Section 14 Meeting the challenge of climate change, flooding and coastal change  
Section 15 Conserving and enhancing the natural environment

### **Adopted Cheltenham Plan Policies**

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

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

SP1 The Need for New Development  
SD3 Sustainable Design and Construction  
SD4 Design Requirements

SD5 Green Belt  
SD6 Landscape  
SD7 The Cotswolds Area of Outstanding Natural Beauty  
SD9 Biodiversity and Geodiversity  
SD10 Residential Development  
SD11 Housing Mix and Standards  
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)  
Climate Change (2022)  
Cotswolds AONB Management Plan 2018 - 2023

## **4. CONSULTATIONS**

See appendix at end of report

## **5. PUBLICITY AND REPRESENTATIONS**

5.1 Letters were sent to 9 neighbouring land users, a site notice was also displayed near to the application site (at the junction with Old Bath Road). 3 letters of objection have been received in response to this neighbour notification process, the concerns have been summarised but are not limited to the following:

- Highway safety
- Impact on AONB and Green Belt
- Impact on PROW
- Loss of privacy
- Design – materials

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

6.2 The main considerations in relation to this application are the principle of development, design and layout, the impact of the proposal on neighbouring amenity, impact on the AONB, impact on the Green Belt, impact on the PROW, ecology, parking and highway safety, sustainability, impact on the Beechwoods Special Area of Conservation and Bio-Diversity Net Gain.

### **6.3 Planning history and site context**

6.4 In terms of surrounding context, to the east and south of the site is Leckhampton Hill, to the north is a reasonably new residential development (Leckhampton Views and Leckhampton Rise). Immediately to the east/south-east of the site is land that has recently been granted planning permission for the erection of two contemporary flat roof dwellings under planning reference 21/02148/FUL. Further to the north east, east and south-east is existing residential development, which consists of various forms and styles of building.

- 6.5 The application site consists of an existing reservoir structure with a grassed covering, there are no significant trees located on the application site, but there are a number of trees located in close proximity of the northern and eastern boundaries.
- 6.6 There is no formal planning history for the reservoir site, however, an application for a Certificate of Lawful Existing Use/Development was submitted in April 2023. This application sought to establish the existing use of the site as falling under class B8 (Storage and distribution). A decision was not issued and the application was withdrawn. Following this, the site has been the subject of a recent pre-application enquiry, where the Local Planning Authority (LPA) was asked to provide comments on a scheme for two new dwellings within the reservoir site. In summary, officers' response to this pre-application enquiry considered the principle of development to be acceptable and acknowledged the presumption in favour of sustainable development required by paragraph 11 of the NPPF. However, the response also concluded that the presumption in favour of development could only be engaged, so long as a clear reason for refusing development is not identified. In this instance, this relates to the impact on the AONB and Green Belt.
- 6.7 **Principle**
- 6.8 JCS policy SD10 relates to residential development and advises how housing development and conversions to dwellings will be permitted on previously developed land in the Principal Urban Area (PUA). The application site is located just outside of the PUA and therefore would be contrary to SD10. However, the site is located immediately adjacent to Cheltenham's PUA boundary, is in close proximity to existing residential housing to the north and to the east, with two new dwellings approved on land immediately to the east of the site under planning reference 21/02148/FUL.
- 6.9 The site is considered to be in a sustainable location with easy access to local amenities. Furthermore, the council consider the existing use of the site as a reservoir to fall within the B8 Use class (storage and distribution) and is therefore considered to be 'previously developed land' (PDL). Therefore, whilst the site is located outside of the PUA, in this particular instance, the site is considered to be in a sustainable location and officers do not consider the site to be an isolated site in the open countryside. As such, officers do not consider that the development needs to be considered as a paragraph 80 dwelling.
- 6.10 Notwithstanding the above, Paragraph 11 of the NPPF sets out a 'presumption in favour of sustainable development' and makes clear that development proposals that accord with an up-to-date development plan should be approved without delay.
- 6.11 Where housing policies are out-of-date (including situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites), the NPPF is quite clear that development proposals should 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. At the time of considering this application Cheltenham cannot currently demonstrate a 5 year housing land supply, and therefore this presumption in favour of sustainable development is triggered.

As the council cannot currently demonstrate a 5 year housing land supply, paragraph 11 d) is applicable to this application. Paragraph 11 d) states 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 the development; or
- ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework.

In this instance the protected areas referred to in 11 d)i) includes the Cotswolds AONB and the Green Belt.

6.12 Given the above, there is no fundamental reason to suggest that the principle of a dwelling on this site would be unacceptable, subject to all other material considerations, which are discussed below.

### 6.13 Design, layout and landscaping

6.14 Section 12 of the NPPF refers to achieving well designed spaces and states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

6.15 Adopted Cheltenham Plan Policy D1 requires new development to adequately reflect principles of urban and architectural design; and to complement and respect neighbouring development and the character of the locality. Furthermore, JCS policy SD4 relates to design, and identifies considerations to include context and character, legibility and identity, amenity and space.

6.16 Further detail can also be found in Cheltenham's Supplementary Planning Document – Development on Garden Land and Infill Sites. This document sets out various elements that are considered to create the character of an area and includes grain, type of building, location of buildings, plot widths and building lines.

6.17 In this particular instance, the site is unique in terms of its existing reservoir structure and in terms of its setting. Whilst the site is positioned adjacent to existing development, because of its unique qualities it is not possible or necessary for development to reflect the scale, form or pattern of development that surrounds it, and instead a well thought and bespoke approach to the redevelopment of the site is necessary. As such, the usual weight that officers would give to compliance with Cheltenham's SPD on Garden Land and Infill Sites is somewhat different for this particular application.

6.18 Access to the proposed dwelling is shown to be via an existing access road, leading from Leckhampton Hill. This access is also one that serves the two permitted dwellings under ref: 21/02148/FUL on land to the east of the application site. A sloping drive will provide private vehicular and pedestrian access down to the proposed accommodation, which is all on one level, is set within the existing reservoir structure and is therefore at a subterranean level.

6.19 The proposal appears to make good use of the space available. The proposed site layout and floor plans make provision for private outdoor amenity space, landscaped areas, bin and bike storage and parking for at least three cars within a garage.

6.20 As discussed above, the application site is unique and requires a bespoke approach to development. Officers are of the opinion that the scheme proposed is a well thought out development which responds to the site's unique characteristics and constraints. Comments raised by officers in the pre-application response highlighted that careful consideration needed to be given to any above ground structures and the impact this might have on the design and character of the area, as well as the impact on the AONB and Green Belt, which is discussed later in this report. This planning application has

responded to those comments and shows no accommodation or physical building above the top of the existing reservoir walls. The proposal is clearly contemporary, but views of it will be particularly limited due to its design and position within the existing reservoir walls. The proposal includes the addition of green roofs for the building, which officers consider to be fundamental to the schemes contemporary design and its successful integration into the site and its context, this is therefore welcomed.

- 6.21 The proposed palette of materials consists of timber cladding, Corten cladding, shuttered concrete, powder coated aluminium windows doors and rooflight, Cotswold dry stone walling, timber louvre and render. These materials are considered to be wholly appropriate for this modern design approach. In this instance, given the subterranean level of development, officers do not consider further material details to be necessary.
- 6.22 Officers are of the opinion that the scale, form and design of the development is acceptable and results in limited impact on neighbouring development in terms of design and character.
- 6.23 Furthermore, Section 12 of the NPPF relates to achieving well designed and beautiful places. Paragraph 131 states *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development....'* Officers consider this development to accord with section 12 of the NPPF, Cheltenham Plan policy D1 and JCS policy SD14 and represents good high quality and sustainable development.
- 6.24 **Impact on the Cotswolds AONB**
- 6.25 Policy SD6 of the Joint Core Strategy (JCS) seeks development to protect landscape character for its own intrinsic beauty and for its benefits to economic, environmental and social well-being.
- 6.26 Policy SD7 of the JCS states: 'All development proposals in or within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan.'
- 6.27 Furthermore, paragraph 182 of the NPPF states: 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding natural Beauty, which have the highest status of protection in relation to these issues.....The scale and extent of development within all of these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas'.
- 6.28 The Cotswolds Conservation Board have been consulted on this application, their response can be read in the appendix at the end of this report. In this instance the Cotswold Conservation Board have not provided specific comments on the merits of this particular application, but have identified which policies and documents should be given due regard when considering the development.
- 6.29 The application is supported by a Landscape and Visual Impact Assessment (LVIA), this independent assessment concludes *'The effect of the proposal on landscape and views, the AONB in particular, is not considered to result in significant harm. With the suggested mitigation measures the proposal could be accommodated with negligible harm. This is as a result of the small scale of the site in its wider context, the baseline*



*status of the site being considered developed in nature and the site being in visual and physical context of an existing residential area'.*

- 6.30 Officers duly acknowledge that there will be elevated views of the proposed development, in particular when viewed from higher land on Leckhampton Hill. However, officers consider that the provision of an appropriate landscaping scheme will provide suitable mitigation for the limited impact of the development on the landscape. Whilst a landscape proposal has been submitted, further, more specific details are required, as such, a condition has been suggested.
- 6.31 Officers also consider that any external lighting needs careful consideration in terms of its impact on the landscape, as such a condition has been suggested which requires the submission of any external lighting details prior to their installation.
- 6.32 Given officers comments on the scale, form, design and the siting of the proposed new dwelling, and the proposed landscaping proposals, all of which are discussed above, officers are content that the proposal complies with JCS policies SD6 and SD7, the Cotswolds AONB Management Plan, and relevant sections of the NPPF.
- 6.33 **Impact on the Green Belt**
- 6.34 Policy SD5 of the JCS relating to Green Belt states: 'To ensure the Green Belt continues to serve its key functions, it will be protected from harmful development. Within its boundaries, development will be restricted to those limited types of development which are deemed appropriate by the NPPF, unless special circumstances can be demonstrated. That is 'whether very special circumstances exist to outweigh the harm automatically caused to the Green Belt by virtue of the development being inappropriate and any other harm actually caused'. This is also reflected in paragraph 152 of the NPPF.
- 6.35 Paragraph 154 of the NPPF states that LPA's should regard the construction of new buildings as inappropriate in the Green Belt. However, some exceptions are listed, this includes; at sub-paragraph g) which states:
- 'Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
- not have a greater impact on the openness of the Green Belt than the existing development; or
  - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- In this instance, the development would be the redevelopment of previously developed land, as such, the consideration is whether the proposed development would have a greater impact on the openness of the Green Belt than the 'existing development'.
- 6.36 It is important to note the site context, whereby the land surrounding the application site is not designated Green Belt land, as such, any impact on the Green Belt is confined to with the site boundary. The designation of this reasonably small site as Green Belt land is somewhat of an anomaly.
- 6.37 Given the nature of the site and its use as a reservoir, there is little in the form of 'development' and no above ground structures. The proposal has been designed to create a dwelling that utilises the existing walls of the reservoir, with very little development above the top of the existing reservoir walls, as such, officers are not of

the view that the proposed development would have any greater impact on the Green Belt than existing, and therefore complies with JCS policy SD5 and the NPPF.

### **6.38 Impact on neighbouring amenity**

6.39 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.

6.40 One neighbouring land user at number 8 Leckhampton Rise has raised concerns regarding a potential loss of privacy to their property, these concerns have been duly noted. However, given the location of the site, its relationship with neighbouring development and the lack of development above the existing reservoir walls, officers do not consider the proposed development to have any impact on neighbouring amenity in terms of a loss of light, loss of outlook, overbearing impact or loss of privacy. The proposed residential use of the site is also considered to be compatible with surrounding uses and will not result in any unacceptable noise and disturbance.

6.41 In terms of impact on neighbouring amenity, the proposal is considered to be compliant with adopted Cheltenham Plan (2020) policy SL1 and adopted JCS policy SD14.

### **6.42 Highway considerations**

6.43 As already mentioned, the proposed dwelling will utilise the existing access to the site, which is also the same access that will serve the approved dwellings under planning ref: 21/02148/FUL. Concerns have been raised by the local ward councillor, by a local resident and in the Parish Councils objection with regards to the access and highway safety.

6.44 The application has been reviewed by Gloucestershire County Council as the local Highways Authority, their detailed comments can be read in the appendix at the end of this report. No objection has been raised, subject to a number of conditions and suggested informatives.

6.45 The development is not considered to result in any unacceptable highway safety implications, is considered to achieve a suitable access, parking provision and appropriate provision of cycle storage facilities. The development therefore accords with JCS policy INF1. Officers consider the suggested highways conditions to be necessary and have therefore been attached.

6.46 At pre-application stage, officers raised a query regarding bin collection and access for bin collection lorries. The application provides a suitable bin collection point for this property which would be in close proximity to the already permitted dwellings on the adjacent site.

### **6.47 Impact on Public Right of Way (PROW)**

6.48 A PROW footpath (CHL18) runs along the eastern boundary of the application site, running generally in a north to south direction, and is positioned between the application site and the approved dwellings on the neighbouring site to the east. Concerns have been raised by the local ward councillor and a local resident with regards to the impact of the development on this existing PROW.

6.49 The PROW team at Gloucestershire County Council (GCC) were consulted on this application and provided detailed comments, which can be read in the appendix at the end of this report. The comments appear to suggest that the application does not

identify the PROW or discuss it in the submission, however, this is not the case, the PROW is discussed at various points throughout the design and access statement. The proposed development will not directly affect the PROW, and the applicant is aware that the PROW cannot be impacted by the construction of the development. The information provided by the PROW officer has been included as an informative.

### 6.50 Sustainability

6.51 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 shall be adaptable to climate change in respect of the design, siting, orientation and function of buildings and outside space.

6.52 Further supporting text which discusses JCS policy SD3 identifies how the design of development should first identify measures to reduce overall energy demand before the use of renewable energy technologies. It is noted that this can be achieved through the choice of building fabric and construction techniques, optimising solar gain, natural lighting and ventilation to reduce the need for heating, cooling and lighting. It also suggests that design measures should seek to use energy more efficiently, such as increasing levels of insulation and improved air-tightness.

6.53 It is also important to note that Cheltenham has adopted a 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.

6.54 The application is supported by a sustainability statement which discusses key measures such as energy efficiency, low carbon heat, renewable energy, water, transport and travel, prevention of flooding, ecology and bio-diversity, embodied carbon and waste. In terms of low carbon technologies and renewable energy, the development has been designed to utilise the existing reservoir walls and incorporates a combination of ground source heat pumps and solar panels. An EV Charging point is also proposed and required by building regulations.

6.55 Officers welcome the proposed sustainability measures in this application and consider the development to be compliant with JCS policy SD3 and the newly adopted Climate Change SPD.

### 6.56 Ecology

6.57 The application is supported by a Preliminary Ecological Appraisal, this concludes that *'The habitats on site are common, of low to moderate ecological value. Any impacts as a result of loss/changes to these habitats in terms of their vegetation are considered to be negligible'*, it also identifies that the site provides potential habitat for a range of fauna and that Bats, Badgers, Birds, Reptiles and Amphibians require further consideration/action. In section 4 of the report, recommendations are provided to ensure suitable protection of protected species, officers consider these to be necessary and as such, a condition has been suggested which requires the works to be carried out in accordance with this survey and recommendations.

6.58 With the condition in place, officers are satisfied that the development will not result in any unacceptable impact on protected species and therefore complies with adopted policy SD9 of the Joint Core Strategy (2017)

### 6.59 Flooding and drainage

6.60 The application site is wholly located in flood zone 1 and is therefore not considered to be susceptible to any flood risk, nor is there any reason to suggest that the proposed development would result in any flooding implications, or unacceptable surface water issues for neighbouring development. The development is therefore considered to be acceptable and accords with JCS policy INF2.

### 6.61 **Impacts on Beechwoods Special Area of Conservation (SAC)**

6.62 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).

6.63 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.

6.64 The Council has undertaken an Appropriate Assessment and considers the measures set out in the Mitigation Strategy necessary to provide adequate mitigation to address the impacts of the proposal. With regards to mitigation, the applicant can either enter in to a S106 agreement for a contribution to the measures in that strategy or the applicant can provide their own bespoke strategies to mitigate the impacts the proposed development will cause.

6.65 In this instance, the applicant has opted to enter in to a S106 agreement and make the contribution of £673 per additional dwelling. As such, the application is considered to be acceptable in terms of SAC mitigation.

### 6.66 **Bio-diversity Net Gain**

6.67 As of 2<sup>nd</sup> April 2024, all minor developments for new housing requires a mandatory 10% requirement for Bio-diversity Net Gain. Whilst this application is minor development for one new residential dwelling, the application was submitted well before the BNG requirement came into effect and is therefore exempt. Having said that, the application is supported with a general landscaping proposal and officers have suggested a condition which requires the submission of more specific details.

### 6.68 **Conditions**

6.69 Due to the site's sensitive location within the AONB and Green Belt, officers consider that further control is needed on any further development of the site, as such, a condition is suggested which removes permitted development rights for further additions and structures.

6.70 In addition, officers do not consider the use of the flat roof areas of the development or wider landscaped areas outside of the existing reservoir walls to be appropriate for use as residential amenity space due to the risk of associated residential paraphernalia, which could be harmful to the Green Belt and AONB. A further restrictive condition has therefore been suggested.

6.71 Furthermore, officers consider the green roof proposals to be an integral part of the design and its acceptable integration into the landscape in order to minimise its visual impact. As such a condition has been suggested which requires the installation of the green roof in accordance with submitted and approved details.

### 6.72 Other considerations

#### 6.73 Cheltenham Architects Panel

Cheltenham's Architects Panel (CAP) have reviewed the application and whilst the panel consider the concept to be interesting and exciting, further consideration is suggested with regards to the eastern elevation/boundary of the site and how this may impact on the Leckhampton Hill. Points were also raised regarding '*various changes in levels on the roof which would make the dwelling prominent*'.

Whilst the comments of the CAP have been duly noted, for the reasons discussed in the report above, officers consider the scheme to be acceptable in terms of its form, design and any impact on the wider setting, as such, officers do not consider revisions to be necessary in order to grant planning permission in this instance. The applicant has suggested the 3D models/CGI's will be produced and made available to members ahead of the committee in order to assist with their considerations of the scheme.

#### 6.74 Public Sector Equality 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, Officers duly acknowledge that the site's location would be contrary to JCS policy SD10, due to its position outside of the PUA. However, as already discussed above, as Cheltenham cannot currently demonstrate a 5-year housing land supply, paragraph 11 of the NPPF is applicable to the application. As such, there is a presumption in favour of development and permission should be granted, unless a clear reason for refusing the development has been identified with regards to impact on the protected area, which in this case is the AONB and Green Belt, or any adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits of the scheme. The benefits of the scheme in this instance being the redevelopment of the site and the addition of one further dwelling to Cheltenham's housing stock.
- 7.2 In this instance, with regards to the impact of the development on the AONB and Green Belt, the application is considered to be compliant with policy and therefore no clear reason for refusing the development has been identified. In addition, no adverse impacts that would significantly or demonstrably outweigh the benefits of the scheme have been identified. As such, the tilted balance in favour of sustainable development is engaged and therefore officer recommendation is to permit the application, subject to the conditions set

out in section 8 below. Agreement has been sought in relation to the pre-commencement conditions.

- 7.3 As the S.106 in respect of the Beechwoods SAC mitigation has not yet been completed, the recommendation is to permit the application, subject to the S.106. Members will be updated with the status of the agreement at the committee meeting.

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

All hard and/or soft landscaping works shall be carried out in accordance with the approved details prior to first occupation of 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. 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). Approval is required upfront because the landscaping is an integral part of the development and its acceptability.

- 4 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification), no extensions, garages, sheds, outbuildings, walls, fences or other built structures of any kind (other than those forming part of the development hereby permitted) shall be erected without express planning permission.

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

- 5 Only the shaded areas of the site, as depicted on drawing number: 23.20.016-PL014 shall be used as external amenity space. At no time should the flat roof areas of the development, or the areas not shaded be used as a balcony, roof garden or other external amenity space. Access to the flat roof areas and areas outside of the shaded area shall be for maintenance purposes only.

Reason: In the interests of the character and appearance of the area, in particular the AONB and Green Belt, having regard to adopted policies D1 and L1 of the Cheltenham Plan (2020) and adopted policies SD4, SD6 and SD7 of the Joint Core Strategy (2017).

- 6 Prior to the installation of any external lighting, details of the lighting shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area with regard to Cheltenham Plan policies D1, L1 and SL1, adopted JCS policies SD6, SD7, SD9 and SD14, and the Cotswold AONB Management Plan 2018-23.

- 7 The development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on drawing 23.20.016-PL005.

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).

- 8 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).

- 9 The vehicle access hereby approved shall be surfaced in bound materials for the first 6m from the edge of the adopted highway and not have any loose stone or gravel and must be drained.

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).

- 10 Prior to commencement of the development hereby permitted (including site clearance) 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:

- a) 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);
- b) Advisory routes for construction traffic;
- c) Any temporary access to the site;
- d) Locations for loading/unloading and storage of plant, waste and construction materials;
- e) Method of preventing mud and dust being carried onto the highway;
- f) Arrangements for turning vehicles;
- g) Arrangements to receive abnormal loads or unusually large vehicles;
- h) Highway Condition survey;

i) 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, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 11 The development shall be carried out in strict accordance with the recommendations and requirements of the ecological survey report produced by 'All Ecology', LPA ref: 00519.01, submitted with the planning application.

Reason: To safeguard important ecological species, having regard to adopted policy SD9 of the Joint Core Strategy (2017).

- 12 Prior to the first beneficial occupation of the development hereby permitted, the green roofs as shown on the approved plans shall be installed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

The details shall include the type, installation details, final established character, and maintenance details for the proposed green roof.

The green roof shall be installed and thereafter maintained in accordance with the approved details.

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, L1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4, SD5, SD6 and SD7 and INF3 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.

- 2 With regards to the existing nearby public right of way CHL18, the County Council have offered the following information that the applicant should be aware of:

1) No change to the surface of the public right of way can be approved without consultation with the County Council and there must be no interference with the public right of way, either during development or once it has been completed, unless: -



a) The development will temporarily affect the public right of way; then the developer must apply and pay for a temporary closure of the route to us in Public Rights of Way (preferably providing a suitable alternative route); if any utilities are going to cross or run along a PROW then a section 50 license needs be sought and granted - via GCC Streetworks department. Information regarding section 50 Licenses and an application form can be found at: <https://www.gloucestershire.gov.uk/highways/highways-licences-permits-and-permissions/>

b) if the development will permanently affect any public right of way, then the developer must apply for a diversion of the route through the Local Planning Authority, under the Town and Country Planning Act 1990, as part of the planning application process. Absolutely no development should take place affecting the route of the path prior to the confirmation of a TCPA path diversion order through the LPA. The area Public Right of Way Officer should be consulted as part of this process.

2) Additionally:-

a) There must be no encroachment on the width of the public right of way.

b) No building materials may be stored on the public right of way.

c) Vehicle movements during construction should not unreasonably interfere with the use of the public right of way by walkers, etc., and the developer or applicant is responsible for safeguarding the public use of the way at all times.

d) No additional temporary or permanent barriers (e.g. gates, stiles, wildlife fencing) may be placed across the public right of way and no additional gradients or structures (e.g. steps or bridges) are to be introduced on any existing or proposed public rights of way without the consent of the county council.

It is important to note the Definitive Map is a minimum record of public rights of way and does not preclude the possibility that public rights exist which have not been recorded or that higher rights exist on routes shown as public footpaths and bridleways.

- 3 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

- a) Informing, respecting and showing courtesy to those affected by the work;
- b) Minimising the impact of deliveries, parking and work on the public highway;
- c) Contributing to and supporting the local community and economy; and
- d) 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.

- 4 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.

### **Appendix – consultee responses**

#### **Architects Panel - 29th April 2024**

Design Concept;

The panel agreed the concept was interesting and exciting and overall there was positive response over the boldness of the scheme.

#### Design Detail:

Although the scheme was generally liked, the principal issue is the connection to the west between the private and public areas. Despite the retention of the drystone wall which forms a definitive boundary between the site and the field; there are concerns the proposals would still be visible, particularly due to the slope. Proposed 3d views and even a 3d model which can be rotated to show the different viewpoints along the path of the field would be beneficial to understand the treatment of this particular elevation fronting the field and the full impact on the AONB.

There was also some concern over the various changes in levels in the roof which would make the dwelling prominent within the setting when viewed from the south, further up the hill. Suggest simplifying this to mimic more closely a more natural grassed area. This could double as amenity space for the dwelling.

The retention of the curved sculpted form of the walls is utilised well and romances the scheme.

Thoughts were that this could perhaps be mimicked in parts of the new elevations and the roof to reflect the reservoir aesthetic.

#### Recommendation:

Design amendments are required prior to fully supporting the scheme. 3d visuals would allow the panel to fully appraise the visual impact of the scheme, particularly from the AONB.

### **Parish Council - 25th April 2024**

The Parish Council objects to this application and requests it be called in.

The development is on green belt/AONB and valued landscape. It is outside the principle urban area. The Council are also concerned about the safety of vehicular access and the protection of industrial archaeology of the site along the footpath.

### **John Mills Cotswold Conservation Board - 2nd April 2024**

In reaching its planning decision, the local planning authority (LPA) has a duty to seek to further the statutory purpose of conserving and enhancing the natural beauty of the National Landscape.<sup>3</sup> Further information on this new duty is provided in Appendix 1 below and the Board recommends that, in fulfilling this 'duty to seek to further the purpose', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the following Board publications<sup>4</sup>

:

- Cotswolds National Landscape Management Plan 2023-2025 (link) including policies CE1 Landscape, CE3 Local Distinctiveness and CE5 Dark Skies;
- Cotswolds AONB Landscape Character Assessment (link) in this instance, with regards to Landscape Character Type (LCT) 2 (Escarpment);
- Cotswolds AONB Landscape Strategy and Guidelines (link) particularly, in this instance, with regards to LCT 2 (link), including Section 2.2;
- Cotswolds AONB Local Distinctiveness and Landscape Change (link);
- Cotswolds National Landscape Board Position Statements (link) particularly, in this instance, with regards to the with regards to the Landscape-Led Development Position Statement (link), Tranquillity Position Statement (link) and the Dark Skies and Artificial Light Position Statement (link) and its appendices (link 1, link 2, link 3).

The Board will not be providing a more comprehensive response on this occasion. This does not imply support for, or objection to, the proposed development.

### **Building Control - 15th April 2024**

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

### **GCC Highways Planning Liaison Officer - 17th April 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.

The site already benefits from Permission in principle for the erection of up to 3no.dwellings which was approved by application 20/01620/PIP. Two dwellings have been approved by application 21/02148/FUL.

This development is for the redevelopment of the reservoir site itself, which then makes up the three dwellings to be served off the existing access point off Leckhampton Hill. On this basis, the Highway Authority would not wish to object to the proposal. The access into this development as been fully debated at the planning committee on the 17 February 2022 and does not therefore need to be revisited at this stage; in summary, I am content with the layout of the development and access details.

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

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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.  
Conditions

### Conformity with Submitted Details (Individual)

The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on drawing 23.20.016-PL005.

Reason: To ensure conformity with submitted details.

### 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 of vehicle access

The vehicle access hereby approved shall be surfaced in bound materials for the first 6m from the edge of the adopted highway and not have any loose stone or gravel and must be drained, details of which shall be submitted to and approved in writing by the LPA.

Reason: In the interests of safety for all users of the highway.

### 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

#### 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.

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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.

### 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.

### **Tree Officer - 12th April 2024**

The Trees Section has no objections to this proposal. However, it would be preferable for a suitably detailed landscape scheme to be submitted to show new tree species, size and locations. It would be acceptable for this to be submitted as a condition of any permission granted.

### **Public Rights Of Way Department - 28th March 2024**

The route of Public Right of Way CHL/18 is not shown, or acknowledged in any of the documents, yet runs between the current development and this proposed one, or mention of any mitigation upon it, even though it will be traversed by the intended access route.

This planning application has been forwarded for the attention of the Area Public Rights of Way Officer for further investigation.

They may respond in further detail; however, the following must be strictly observed in all circumstances: -

1) No change to the surface of the public right of way can be approved without consultation with the County Council and there must be no interference with the public right of way, either during development or once it has been completed, unless: -

a) The development will temporarily affect the public right of way; then the developer must apply and pay for a temporary closure of the route to us in Public Rights of Way (preferably providing a suitable alternative route); if any utilities are going to cross or run along a PROW then a section 50 license needs be sought and granted - via GCC Streetworks department. Information regarding section 50 Licences and an application form can be found at: <https://www.gloucestershire.gov.uk/highways/highways-licences-permits-and-permissions/>

b) Important: if the development will permanently affect any public right of way, then the developer must apply for a diversion of the route through the Local Planning Authority, under the Town and Country Planning Act 1990, as part of the planning application process. Absolutely no development should take place affecting the route of the path prior to the confirmation of a TCPA path diversion order through the LPA. The area Public Right of Way Officer should be consulted as part of this process.

2) Additionally:-

a) There must be no encroachment on the width of the public right of way.

b) No building materials may be stored on the public right of way.

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c) Vehicle movements during construction should not unreasonably interfere with the use of the public right of way by walkers, etc., and the developer or applicant is responsible for safeguarding the public use of the way at all times.

d) No additional temporary or permanent barriers (e.g. gates, stiles, wildlife fencing) may be placed across the public right of way and no additional gradients or structures (e.g. steps or bridges) are to be introduced on any existing or proposed public rights of way without the consent of the county council.

It is important to note the Definitive Map is a minimum record of public rights of way and does not preclude the possibility that public rights exist which have not been recorded or that higher rights exist on routes shown as public footpaths and bridleways.

<b>APPLICATION NO:</b> 24/00519/FUL	<b>OFFICER:</b> Mr Ben Warren
<b>DATE REGISTERED:</b> 22nd March 2024	<b>DATE OF EXPIRY :</b> 17th May 2024
<b>WARD:</b> Leckhampton	<b>PARISH:</b> LECKH
<b>APPLICANT:</b>	Taller Developments Ltd
<b>LOCATION:</b>	Leckhampton Reservoir Leckhampton Hill Cheltenham
<b>PROPOSAL:</b>	Change of use of existing reservoir to single dwelling with associated works, access and landscaping.

## REPRESENTATIONS

Number of contributors	<b>3</b>
Number of objections	<b>3</b>
Number of representations	<b>0</b>
Number of supporting	<b>0</b>

376 Old Bath Road  
Cheltenham  
Gloucestershire  
GL53 9AD

### Comments: 12th April 2024

Our objection regards road safety. This development would cause increased traffic problems. This particular stretch of road Leckhampton Hill/Road is extremely dangerous due to the speed of traffic, the complicated junction with the Old Bath Road, the slope and camber. At present when turning right from of our drive we have to negotiate fast traffic coming from both directions on Leckhampton Hill/Road, plus traffic attempting to exit Old Bath Road without stopping, and also our neighbours exiting/entering Undercliff Avenue. One of our Undercliff Avenue neighbours has had his car written off trying to negotiate a right turn from his road. Any increased traffic exiting/entering the reservoir site directly ahead of us is yet another hazard.

It is noted in the application that Severn Trent need and have access to their pumping station. It should also be recognised that this is with a banksman.

We also do not understand the statement of the developer that the PIP for 3 houses on the land adjacent to Leckhampton Hill and the subsequent planning application for 2 houses, should mean that this application on the reservoir site should be 'a given'. After all there was not room for a third property on that parcel of land.

The site sits within the AONB and the Green Belt. We agree with the Planning Officer's report that 'Whilst the proposed plans show the above ground level development to be limited in size, by virtue of there being new built form that doesn't currently exist, the development would have a greater impact on the openness of the greenbelt than the existing situation and therefore would fail to comply with para 149g) of the NPPF.'

Our further concern is the tramway public footpath that runs between the two proposed development sites and gives public access to the stile and access to the AONB. This is very well used by walkers. We see nothing in the plans that actively seeks to preserve the integrity and rural nature of the footpath.

It is worth noting that we are currently awaiting the decision by the Secretary of State's Inspector who will adjudicate on the position of the east to west footpath which again

connects this AONB and Leckhampton Hill's AONB. We would also like to make it clear that this application was made in June 2020 and predates the developer's planning applications.

8 Leckhampton Rise  
Cheltenham  
Gloucestershire  
GL53 0AP

**Comments:** 14th April 2024

I am writing to object to the planning application.

I live at 8 Leckhampton Rise, GL53 0AP, which is a three storey detached dwelling just to the North of the site. We feel the current proposals will impact our privacy, considering a large portion of our windows face the proposed dwelling. Since the reservoir sits at a higher level than our ground floor, we are concerned that the proposed windows in the north elevation will overlook our South facing garden, living room and bedrooms.

In particular, the first floor master bedroom and first floor living room, as well as the two South facing second floor bedrooms will look directly into the proposed 'Bedroom 2' window. We would be open to this window being obscured or if the plan could be altered to switch the Bedroom 2 window and the en suite window around. The bedroom window would therefore face at an angle slightly away from the properties on Leckhampton Rise.

I also object to the material proposed to the North wall of the new dwelling. The reservoir on this side is currently completely grassed over and so the existing views are all green including the garden of the scout hut, the reservoir itself and the hillside beyond. We feel that the proposed bare concrete walls will be in stark contrast to the existing green vista. These green open spaces contribute to the character of the historic town and which should be protected by the Green Belt policy.

2 Leckhampton Views  
Cheltenham  
Gloucestershire  
GL53 0AR

**Comments:** 3rd May 2024

I have read the comments from the other two local residents. I totally agree with their road safety concerns as some time ago when the development of the houses was first raised, I went along to assess the proposed access onto the busy main road, Leckhampton Road/Leckhampton Hill, which is adjacent to Old Bath Road.

I believe the location of the proposed access to and from the development would pose a serious potential hazard as cars speed down the hill, even though the limit is 30. In addition, cyclists race down this part of the hill without appearing to be able to stop quickly.



In summary in my view, the proposed access to and from the development onto the busy main road will be a serious road safety issue.

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Application No.	Appeal Ref	Site Address	Appeal Type	Start Date	Questionnaire	Statement	Final Comments	Decision	Date of Decision	Costs Dec	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					
23/01137/FUL	24/00007/PP1	Hilltop Stores, Hilltop Road	Written	13.03.2024	20.03.2024	17.04.2024	01.05.2024					
23/01566/FUL	24/00008/PP1	44 Springfield Close	Written	25.03.2024	01.04.2024			dismissed	13.05.2024			
23/02056/FUL	24/00009/PP1	278 Old Bath Road	Written	11.04.2024	18.04.2024							
23/00929/FUL	24/00010/PP1	Harwood House, 87 The Parl	Written	11.04.2024	18.04.2024			dismissed	08.05.2024	n/a		
23/02033/FUL	24/00011/PP1	21 Glebe Road, Cheltenham,	Written	12.04.2024	19.04.2024							
23/02152/CLPUD	24/00012/PP1	8 Imperial Square, Cheltenham	Written	07.05.2024	21.05.2024	18.06.2024	09.07.2024					

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## 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

#### April/May 2024

Address	Proposal	Delegated or Committee Decision	Appeal Type	Anticipated Appeal Determination Date	Reference
Stansby House The Reddings Cheltenham Gloucestershire GL51 6RS	Erection of 2no. detached dwellings following demolition of existing buildings	Delegated Decision	Written Representation	n/a	23/01538/FUL
3 Regent Street Cheltenham Gloucestershire GL50 1HE	Retain existing exterior facade paint colour. (Retrospective)	Delegated Decision	Written representation	n/a	24/00271/LBC

### Appeals being processed

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
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

<p>1 Coltham Fields Cheltenham Gloucestershire GL52 6SP</p>	<p>Erection of 1no. two storey dwelling on land adjacent 1 Coltham Fields</p>	<p>Delegated Decision</p>	<p>Written representation</p>	<p>Not Decided</p>	<p>Planning ref: 23/00596/FUL Appeal ref: 24/00006/PP1</p>
<p>Hilltop Stores Hilltop Road Cheltenham</p>	<p>Demolition of existing retail unit and erection of 2no. dwellings (revised scheme following withdrawal of application ref. 22/01728/FUL)</p>	<p>Delegated Decision</p>	<p>Written representation</p>	<p>Not decided</p>	<p>Planning ref: 23/01137/FUL Appeal ref: 24/00007/PP1</p>

278 Old Bath Road	Dropped kerb to provide access from Kenneth Close, and hard standing to facilitate off street parking (Resubmission of planning ref: 23/00481/FUL)	Delegated Decision	Written representations (Householder)	Not decided	Planning ref: 23/02056/FUL Appeal ref: 24/00009/PP1
21 Glebe Road Prestbury Cheltenham Gloucestershire GL52 3DG	First floor side extension to provide additional bedroom and bathroom accommodation, and alterations to existing dormer (revised scheme following refusal of application ref: 23/01186/FUL)	Delegated Decision	Written representations (Householder)	Not decided	Planning ref: 23/02033/FUL Appeal ref: 24/00011/PP1
8 Imperial Square Cheltenham	Installation of moveable planters.	Delegated Decision	Written representations	Not decided	23/02152/CLPUD Appeal ref: 24/00012/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
10 Selkirk Street	Erection of 1no. three storey self-build dwelling on land adjacent to 10 Selkirk Street	Committee Decision	Written representation	Appeal Dismissed	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>Appeal Dismissed</p>	<p>Planning Ref: 23/01347/CLPUD Appeal ref: 23/00031/PP1</p>
<p>12 Pilford Road Cheltenham</p>	<p>Erection of a Garden Room</p>	<p>n/a</p>	<p>Written Representation (Enforcement)</p>	<p>Appeal Dismissed</p>	<p>Planning ref: 23/00001/DCUA Appeal ref: 23/00025/ENFAPP</p>

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	Appeal Dismissed	Planning ref:23/00929/FUL Appeal ref: 24/00010/PP1
44 Springfield Close The Reddings Cheltenham Gloucestershire GL51 6SF	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	Delegated Decision	Written Representation	Appeal Dismissed	Planning ref: 23/01566/FUL Appeal Ref: 24/00008/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 4<sup>th</sup> June 2024

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