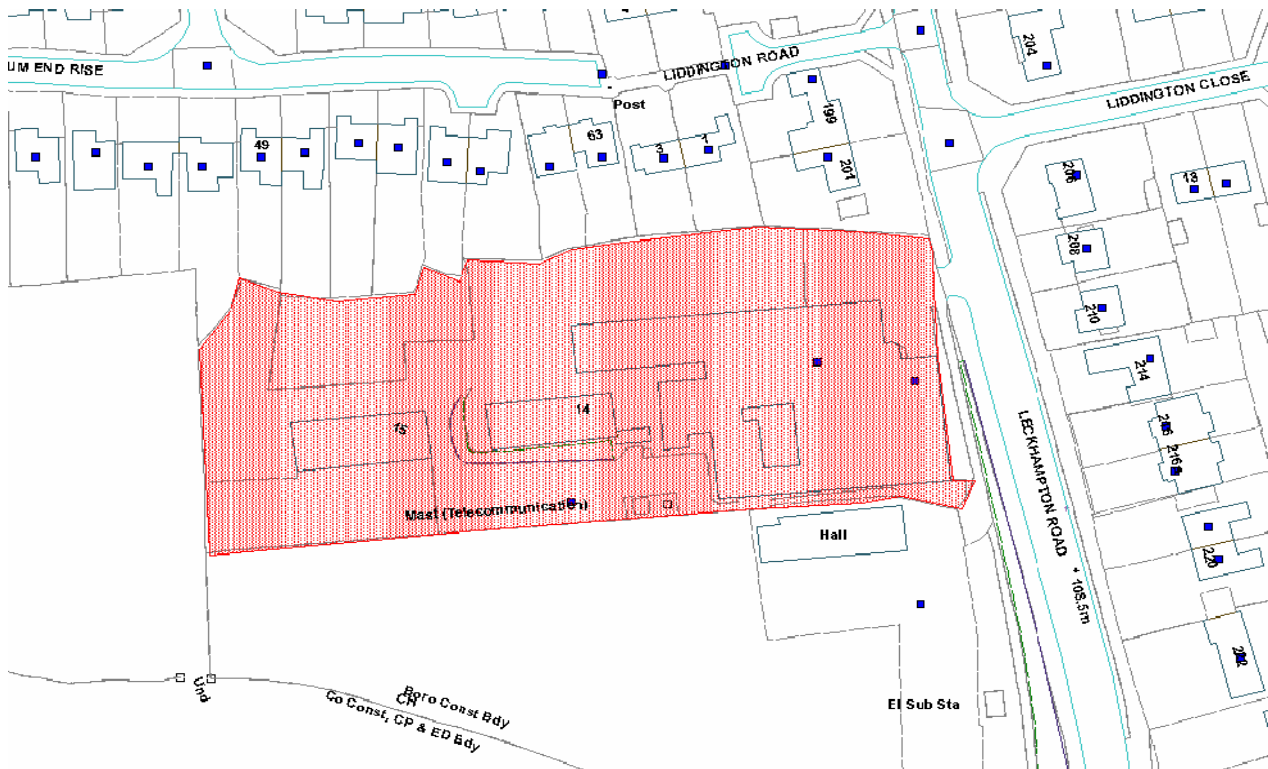


APPLICATION NO: 13/00756/FUL	OFFICER: Mrs Wendy Hopkins
DATE REGISTERED: 10th May 2013	DATE OF EXPIRY: 9th August 2013
WARD: Leckhampton	PARISH: Leckhampton With Warden Hill
APPLICANT:	Martin Scott Homes
AGENT:	David Keyte
LOCATION:	Leckhampton Industrial Estate, Leckhampton Road, Cheltenham
PROPOSAL:	Demolition of existing buildings and residential development comprising the construction of 28 dwellings

RECOMMENDATION: Recommendation at Committee



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site area is locally known as the 'Leckhampton Industrial Estate' which extends 0.93 hectares and comprises a variety of late C19 and C20 light industrial buildings. Although allocated and termed an employment site wherein the B use class is normally associated the site accommodates a variety of other uses including retail and leisure.
- 1.2 The site is located within the predominantly residential suburb of Leckhampton and forms part of the Southern fringe area of Cheltenham.
- 1.3 Full planning permission is sought for the redevelopment of the site with 28 dwellings and associated works that include the construction of an internal estate road, implementation of a soft landscaping scheme, the erection of bat roost and installation of a surface water attenuation system following the demolition of the existing buildings. Vehicular access would remain as per existing access arrangements, albeit upgraded, via the main Leckhampton Road.
- 1.4 In addition, to the proposed demolition and construction works the proposal details engineering works to reduce existing land levels across the site from between 0.09 metres and 2.546 metres. This is to suitably accommodate residential development on the site.
- 1.5 The proposal details a mix of 2-storey detached and semi detached dwellings some of which have a third floor with further accommodation in the roof space. In terms of unit size the proposal details 10 x 3 bed units, 14 x 4 bed units and 4 x 5 bed units.
- 1.6 A viability assessment has been submitted to accompany this application.
- 1.7 The units would be built to Code of Sustainable Homes Level 3 which is the equivalent of current building regulations.
- 1.8 This application is brought to Committee for determination at the request of the local Ward Member.

2. RELEVANT PLANNING HISTORY

Relevant Planning History:

12/01640/PREAPP

CLO

Change from commercial premises to residential development

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 1 Sustainable development

CP 3 Sustainable environment

CP 4 Safe and sustainable living

CP 5 Sustainable transport

CP 7 Design

CP 8 Provision of necessary infrastructure and facilities

GE 5 Protection and replacement of trees

GE 6 Trees and development

CO 14 Development abutting the countryside

NE 1 Habitats of legally protected species

NE 3 Biodiversity and geodiversity of local importance

NE 4 Contaminated land

EM 2 Safeguarding of employment land
HS 1 Housing development
HS 4 Affordable Housing
HS 5 Mixed Communities
RC 6 Play space in residential development
RC 7 Amenity space in housing developments
UI 2 Development and flooding
UI 3 Sustainable Drainage Systems
TP 1 Development and highway safety
TP 2 Highway Standards
TP 6 Parking provision in development

Supplementary Planning Guidance/Documents

Affordable housing (2004)
Amenity space (2003)
Flooding and sustainable drainage systems (2003)
Landscaping in new development (2004)
Planning obligations (2003)
Planning obligations: transport (2004)
Play space in residential development (2003)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Strategic Land Use Team

18th September 2013

The relevant policy documents for consideration in regard to this application are the National Planning Policy Framework, The Cheltenham Borough Local Plan Second Review 2006 and the emerging Tewkesbury, Cheltenham and Gloucester Joint Core Strategy (GCT JCS), particularly the Draft Joint Core Strategy October 2013 which has now been considered by the three JCS Councils and agreed for public consultation.

The following policies are felt by the Policy team to be relevant to the principle of redeveloping the site for residential use:

NPPF Policies

The NPPF states that the presumption in favour of sustainable development should be a golden thread running through both plan making and decision taking (paragraph 14). This presumption in favour of sustainable development places the development plan as the starting point for decision making. (paragraph 12)

The NPPF aims to ensure that significant weight is placed on the need to "support economic growth through the planning system" (paragraph 19).

Paragraph 22 of the NPPF advises that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

Paragraph 51 of the NPPF advises that decision takers should normally approve planning applications for change to residential use and any associated development from

commercial (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.

Policy in the Cheltenham Borough Local Plan:

With reference to paragraph 215 of the NPPF, Planning Authorities should give due weight to relevant policies of the development plan according to their degree of consistency with the NPPF.

The Council considers that policy EM2 is in general conformity with NPPF policy on 'Building a strong, competitive economy'.

Policy EM2 of the Local Plan seeks to retain land that is currently or was last in use for employment purposes unless one of the listed exception tests are met.

Policy EM2 of the Local Plan states, in part, that:-

"A change of use of land and buildings in existing employment use, or if unoccupied to a use outside Use Classes B1, B2 or B8 inclusive will not be permitted, except where:

- a) buildings on the land were constructed and first occupied for residential use; or...
- b) the retention of the site for employment purposes has been fully explored without success (note1)

Note 1 Evidence will be required to demonstrate demand; this may include details of past advertising vacancy rates and rent levels. This list is not exhaustive and other information may be requested.

NPPF paragraph 7 identifies three dimensions to sustainable development: economic, social and environmental.

The economic role is defined as "contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation."

In view of the limited opportunities for development of new employment sites in the urban area, Policy EM2 is intended to guard against the loss of existing employment land and premises to alternative uses unless the retention of the site in question has been fully explored without success. This is in the light of historic losses of employment land to other uses, approximately 11ha since 1991.

Emerging policy in the October 2013 Draft JCS is in keeping with this need to protect employment sites in Policy E1, which requires applicants to demonstrate 12 months active marketing for employment uses.

Comment on the application

The application site is in existing employment use with a range of firms occupying units mostly in use class B2, although some units are vacant. There is also an element of retail/leisure. It is located outside of the Core Commercial Area but within the Principal Urban Area in a predominantly residential location.

The applicants have submitted information on subsequent request to demonstrate that there has been an ongoing and relevant effort since at least 2000 to market the vacant units on site.

Whilst there are existing units still in occupation and the Cheltenham's Employment Land Review 2007 identifies the site as 'average' quality, reasonable marketing has not demonstrated that the site is economically viable as a whole.

This being the case, it is the view of the Planning Policy team that the requirements of EM2 (b) have been met.

Therefore the re use of the site for housing is acceptable in principle, given that the development would not harm the setting of Cheltenham or landscape character and that it would utilise previously developed land in a largely residential setting.

Developers of the site should ensure that the proposal assists as much as possible in helping the remaining businesses on site to relocate within Cheltenham, and such would be favourable to the sustainability of the proposals in line with paragraphs 11 and 21 of the NPPF.

Social Housing

13th June 2013

The site falls below that of the policy compliant level which requires a minimum of 40% affordable housing. In addition, the proposed affordable housing split of 56:44 rent to intermediate housing is outside our local plan affordable housing split of 70:30.

Recommendations

Due to the high aspiration for this site, this department has analysed the Application careful to take into account of the site as a whole and makes the following recommendation.

An additional dwelling for affordable housing would increase the affordable housing obligation to a level which is policy compliant. We recommend that this additional dwelling be a 4-bed set at a social rent, to take account of affordability issues likely to be brought about as a result of the introduction of the Benefit Cap.

Although the proposed mix still falls short of the 70:30 split of rent to intermediate housing it is a more acceptable offer than the original proposal.

<u>Size</u>	<u>Total Site</u>	<u>Total affordable</u>	<u>% affordable</u>	<u>Social Rent</u>	<u>Affordable Rent</u>	<u>Shared Ownership</u>
3-bed	12	9	75%	-	5	4
4-bed	10	3	30%	3	-	0
5-bed	7	0	0%	0	-	0
Total	29	12	41%	3	5	4
				67%		33%

Note: It is very important to this department that all future documents that make reference the affordable dwellings acknowledge the council's requirements for the tenures as stated above - social rented housing, affordable rented housing and shared ownership.

Further information required

This department would like to understand the level of engagement with registered providers who can advise further on the affordable split and levels of affordability.

Gloucestershire County Council Strategic Planning Officer

16th October 2013

Thank you for giving us the opportunity to comment on the above planning application. I have prepared a formal assessment detailing the planning obligations required by Gloucestershire County Council (GCC) from this proposed development of 28 dwellings at 205 Leckhampton Road, Cheltenham.

GCC is the relevant authority for education, highways and various other community services. It is responsible for determining and negotiating contributions towards these services which include education, libraries, community care, fire and rescue, transportation strategy, sustainable transport issues, pedestrian and cycle routes. The Development Control group within Environment Directorate, will co-ordinate GCC's response on highway / transportation issues.

I have considered the impact of this development on local education and the community resources for which GCC is responsible and whether planning obligations are relevant. This follows requirements and standards that are used by GCC elsewhere in Gloucestershire and also meets national practice. I set out below the planning contributions that will be required from this development.

1. GENERAL

Assessments of GCC requirements centre on CIL Regulations 2010 (section 122 and 123) and National Planning Policy Framework March 2012 (paragraphs 203-206). Planning obligations will be sought where they are necessary to make the development acceptable in planning terms, directly related and are fair and reasonable in relation to scale and location of development proposed.

Contributions are ring-fenced for capital works specified by GCC, held in independent accounts and are not interchangeable.

GCC will account for unspent contributions, expenditure and accrued interest. Unless programmed or otherwise agreed, unused contributions are returnable, with interest, to the developer.

The s106 will be between GCC, the landowner and developer. The developer must meet GCC's legal and technical costs in preparing the agreement/s.

All contributions are bonded and indexed.

2. EDUCATION

a. GCC is a Children's Services Authority (CSA) whose aim is to improve the co- ordination of services that affect children and young people such as:-

- i. Education*
- ii. Social services – where they relate to children and young people*
- iii. Health services – where the CSA acts for organisations such as the NHS.*

b. New residential development gives rise to new pupils in relation to the type and numbers of new dwellings. There are direct linkages between the number of dwellings and number of pupils. GCC has to ensure sufficient accommodation for new pupils if existing schools do not have spare places or there are insufficient or no schools local to the development. There is justification at national, regional, county and local level for requiring contributions to local early years, primary and secondary facilities where evidence indicates and justification shows that that this would be reasonable.

c. Contributions will indexed to the Department for Education (DfE) annual cost multipliers or any replacement thereof deemed relevant by the Council to maintain the proportionate value of contributions and to ensure payment.

d. When assessing education contributions GCC's criteria for a 'Qualifying Dwelling' is a house without age or health occupancy restrictions and with 2 or more bedrooms i.e. family accommodation. Flats and one bed houses are therefore excluded as they are occupied by lower number of pupils compared to houses.

e. This proposal is for 28 dwellings which are all qualifying dwellings. I have provided a review clause to account for any change to this.

f. Affordable or social housing contributes to local education infrastructure requirements in the same proportion as open market housing.

g. The County has reviewed and analysed the number of pupils at different development / dwelling types across the county. This shows that 7 early years, 25 primary and 15 (11-18 year olds) secondary pupils arise per 100 dwellings.

h. Early Years requirements

In accordance with 2g above, minimal early years children will arise from this proposal. There should be adequate space at local nurseries to accommodate these children and therefore an **early years contribution will not be required from this proposal.**

i. Primary requirements

i The nearest primary school is Leckhampton C of E Primary School. This school is forecasted to be over capacity for the foreseeable future and as this proposal will increase the demand for places, a contribution will be required to extend, remodel, upgrade and improve the capacity and suitability of this school.

ii In accordance with 2g above, 28 qualifying dwellings will give rise to 7 primary pupils.

iii The DfE pupil capital cost multipliers are £11,434 per primary pupil which is a fair and reasonable estimate of the current cost of providing pupil places.

iv **This proposal will be required to pay a primary education contribution of $7 \times £11,434 = £80,038$** to be used towards capital works to extend, remodel, upgrade and improve the capacity and suitability of Leckhampton C of E Primary School. If the number of qualifying dwellings change from 28, this contribution will be increased or decreased by £2,858 per qualifying dwelling.

v This contribution will be payable in two instalments; 12 and 24 months after commencement of development.

j. Secondary requirements

i There are two secondary schools within equal distance of this site which are Cheltenham Bournside and Balcarras. Both of these schools are forecasted to be over capacity for the foreseeable future.

ii In accordance with 2g above, 28 qualifying dwellings will give rise to 4.2 secondary pupils.

iii The DfE pupil capital cost multipliers are £17,438 per secondary pupil which is a fair and reasonable estimate of the current cost of providing pupil places.

iv **This proposal will be required to pay a secondary education contribution of $4.2 \times £17,438 = £73,239$** to be used towards capital works to extend, remodel, upgrade and improve the capacity and suitability of Cheltenham Bournside School and/or Balcarras School. If the number of qualifying dwellings changes from 28, this contribution will be increased or decreased by £2,615 per qualifying dwelling.

v This contribution will be payable in two instalments; 12 and 24 months after commencement of development.

3. COMMUNITY SERVICES – LIBRARIES

a. *Delivery of a properly resourced and adequate library service to meet the needs of the population arising from the scheme is required.*

b. *Based on the scale of scheme and the numbers of new inhabitants, there is a requirement to provide an extension to the local service to meet the new demand and maintain the welfare of the new community.*

c. *The local library is at Charlton Kings.*

d. *Contributions for statutory libraries are assessed on the basis of the impact of the increased population in relation to stock, equipment and opening hours requirements and the immediate and long term costs arising over a 10 year period.*

e. *Operating costs are primarily staffing costs. Library standards require a) 216 items to be purchased annually per 1,000 population and b) publicly available personal computers (0.6 PCs per 1,000 population). The cost of provision includes annual running/maintenance costs.*

f. *To deliver a library service to the new community to appropriate standards, contributions will be required based on comparable costs of £196 per dwelling (this includes all flats and houses). **For 28 dwellings this will be a total contribution of £5,488 for Charlton Kings Library.** This will be used towards any of the following:- new computers, stock, furniture, opening hours or capital works. If dwelling numbers change this figure will be adjusted up or down by £196 per dwelling.*

g. *As a comparison, the ‘Community Infrastructure Levy: advice note for Culture Arts and Planning Professionals’ (Arts Council for England April 2012) sets out recommended CIL charges based on the expected space and building cost implications of population growth for arts and culture provision. The recommended standard charge for libraries is £252 per dwelling.*

h. *The contribution will be payable 12 months after commencement of development.*

4. SUMMARY

a. *Planning obligation contributions will not be required for early years education but **contributions will be required towards primary and secondary education and libraries.***

b. *This assessment may change if the residential mix is altered. It will also vary with time and should be considered valid for 3 months from the date of this letter. After this time we may review the assessment.*

c. *I have not considered the implications on other County Council functions e.g. highways, public transport and network improvements. The Environment Directorate will provide views on sustainability issues and the technical viability of access to the site for this change of use.*

d. *These comments are made without prejudice to any other functions for which GCC, the Highways Agency or the Borough Council have responsibility e.g. highways and transportation, or any stance GCC may take at inquiry, appeal, re-application etc and are made at officer level. GCC members’ opinions may differ from my comments. These views do not imply any comment about the merits or otherwise of any development at this site.*

e If the applicant lodges an appeal for any reason in respect of this application (or proposal), I would be grateful if you would notify me immediately of the appeal and

details of any public inquiry. Similarly if there is a call-in or other government action would you please advise me immediately. Without this information there is significant risk of the County Council not being able to meet the timescales and deadlines imposed for submission of statements of case and other representations.

County Ecologist

25th June 2013

Introduction and Application Content

My advice to you is based on the analysis of documents available on-line on the Cheltenham Borough Council website and information resources available to me at the County Council. I have not visited the application site.

The application comes with the following reports:

- *Extended Phase 1 Habitat Survey dated February 2013*
- *Inspection Survey for Bat Roost Potential dated November 2012*
- *Bat Hibernation Survey (Revision 2) dated April 2013, and Drawing*
- *Proposed Bat Roost 2004.1068 Rev. A dated Feb 2013*

The site, biodiversity resource and impacts

Aerial photography shows that the application site is on the edge of town with tree lines and hedgerow corridors leading out into the surrounding countryside. I have no reason not to agree with the description of the site as set out at 4.5 to 4.12 in the Extended Phase 1 Habitat Survey dated February 2013 and at 4.3 to 4.13 in the Inspection Survey for Bat Roost Potential dated November 2012. In both of these reports a series of photographs back up the site characteristics.

As you will be aware all bat species are European Protected Species (EPS) under the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations) as well as being additionally protected by the Wildlife and Countryside Act 1981 (as amended). Bats are the main biodiversity matter to consider with respect to the development proposal for Leckhampton Industrial Estate. Common Pipistrelle has been recorded in the general area and the Inspection Survey for Bat Roost Potential reports the presence of a Lesser Horseshoe and Natterer's bat.

The Lesser Horseshoe is a priority species on the English List (S41 of the NERC Act) and so in relation Cheltenham BC's statutory biodiversity duty (S40 of the NERC Act) the species is an important consideration. The many trees on site (mainly on the boundaries) are reported as not having suitable roosting features for bats however the tree lines and hedgerows present will be providing important commuting/foraging routes out into and back from the surrounding countryside.

I would agree with the ecological consultants that the presence of breeding birds at certain times of the year is also material consideration due to the variety of nesting habitats and features present (scrub, trees & buildings) on site.

Some trees will be lost due to the proposal but there are also proposals for new planting which includes native hedgerow planting and various trees. An arboriculturalist and landscape architect can advise you further on this topic but from my perspective given the mitigation and enhancement measures proposed (see below) this is not considered to be a significant or long-term impact of concern for biodiversity conservation as long as appropriate safeguards are put in place for long-term management.

The final biodiversity matter that needs addressing is the potential for mammals to become trapped in trenches and excavations on site during the construction period if this

development is permitted. Ensuring there is mitigation for impacts and some enhancement of biodiversity. A precautionary condition can be used to minimise the risk of mammals becoming trapped on during the construction phase.

Bird nesting opportunities should be taken up given that birds already utilise features (including buildings) on site. A small scale biodiversity scheme for nesting birds is therefore recommended which can be conditioned.

The Inspection Survey for Bat Roost Potential (dated November 2012) report concludes that a further (summer) survey of Building 1 and 2 is required to confirm presence or likely presence of bats. This report also recommended a further winter survey was needed of the identified underground bunker roost with confirmed bat occupation and presence of droppings. The scope of these further surveys is provided at 6.3 and 6.4 of the Inspection Survey for Bat Roost Potential.

At 6.1 of the report the main potential impacts on bats are summarised which include loss of roosting sites, foraging (commuting) habitat and disruption from changes in lighting. At 6.6 some predictions are made about potential mitigation measures but clearly the consultant is right to assume that if the development were to go ahead it would have to make alternative provision for both summer and winter roosting bats. A special bat house (see Drawing 2004.1068, Rev. A dated Feb 2013), bat boxes and more acceptable bat features built into the new dwellings are being predicted as potential measures that will need to be implemented. Roosting provisions should be made as safe as possible from predators (including cats as domestic properties adjoin the development site). The exact measures to be employed to make the development allowable and legal cannot be decided yet as the nature of the species present, population size and bat behaviour has not been properly established but further work is underway to remedy this.

The first part of the recommended further work has however been completed and is submitted with the planning application namely a 'Bat Hibernation Survey' report (Revision 2 - dated April 2013). Two visits to the underground bunker in January and February produced records for a single Natterer's bat and Lesser Horseshoe bat. The bunker roost based on all the visits of November, January and February is given medium conservation significance and is an important matter to address if the development is to go ahead. The large numbers of droppings and anecdotal evidence of many bats using the bunker in the summer months indicates a dual use and potentially increased conservation significance. The need to establish this significance is critical and for the biodiversity value of the application site as a whole. This will become evident once the status of bat roosting in the bunker and the buildings has been confirmed using results from the final piece of bat activity survey work which is being completed this summer.

Although much work has already been carried out to assess the impact of the development on bats we are still lacking some important information concerning summer activity which will reveal species, populations and flight patterns. The summer use of the identified underground roost and potential over ground building roosts (particularly buildings 1 & 2) must be properly established and in the ecological consultant's own words 'in order to gather sufficient data to inform the planning application and a potential European Protected Species licence application'.

I understand that the final piece of survey work is already underway (was due to start May 2013) and without the results and assessment from this the planning application cannot be properly informed. The developer/applicant's ecological consultant now needs time to gather this final piece of information for the Local Planning Authority (LPA). If the LPA deems it unacceptable to defer the application until late summer or autumn then consideration may have to be made as to whether to refuse it. I would recommend deferral given that a genuine attempt has been made to collect the information required to support a planning application on a site where a complex picture of winter and summer bat usage is

emerging and still needs clarification. The extent of the information required to inform any development at the site that may be able to be consented could not have easily been predicted by most people.

Actual and as yet undetermined impacts are identified on the populations and habitat of more than one species of bat. All bat species are European Protected Species (EPS). If the impacts on bats can be acceptably addressed (benefited by the awaited further survey and assessment information to be submitted by the applicant) then a Mitigation Strategy/Method Statement will be required that meets the requirements of the Habitats Regulations. The implementation of the Mitigation Strategy/Method Statement will be subject to the granting of a Natural England licence if planning consent can be granted for the development. Natural England has produced guidance to developers on such licensing - 'EPS: Mitigation Licensing -How to Get a Licence - 2012' which worth looking at.

In the circumstances of this application the planning authority must consider the three tests in Regulation 53 of the Conservation of Habitats and Species Regulations 2010 before determination (ODPM Circular 06/2005, paragraphs 99, 112 & 116). Regulation 53(2) defines the circumstances where derogation is allowed for an affected EPS and a licence could be issued by Natural England. Firstly at 53(2)(e) there must be a justification of public health, public safety or an imperative reason of overriding public interest, which includes beneficial consequences of primary importance for the environment. The judgement here will ultimately be made by the planning officer under delegated powers or the planning committee but there must be a high degree of need for the development. The second test set out in 53(9)(a) deems that there should be 'no satisfactory alternative'. In this case the LPA will need to judge whether there are other viable options for the site (including doing nothing) or that the activity proposed can be done differently and/or at another more suitable location. The third test set out in 53(9)(b) deems that the development should have no detrimental effect on the favourable conservation status of an EPS, i.e. no net loss in the local population status of the species concerned, taking into account factors such as population size, viability and connectivity.

Currently it is not possible to consent the application in accordance with the planning authority's obligations of Regulation 53 of the Conservation of Habitats and Species Regulations 2010. However this development might be possible to allow dependent on the submission of the further bat survey information awaited and the ability to put appropriate measures and safeguards in place. In the recommendations section below I have given you an outline of what might be possible in this scenario.

This medium sized development proposal is near to countryside and with notable protected species presence it should offer some enhancement of biodiversity (NPPF paragraphs 109 & 118). Looking at the Soft Landscaping proposed (Drawing 03 Rev E dated 08.05.2013 and in the Habitat report at 5.5) this is being put forward. There is an appropriate planting schedule and locations for some new mixed and native hedgerow planting are identified. My view is that a small biodiversity enhancement may accrue but this is highly dependent on the outcomes of further assessment of the impact of the development on bats (see above).

The trees, hedgerows and built features for birds/bats will certainly need to be protected and managed sympathetically for biodiversity to make this development acceptable. There could be at risk from unsympathetic management or damage once the development is implemented (if granted). This is especially true of the garden boundaries and these green corridors should not be allowed to be replaced in the future by fencing. If this happens this would create significant breaks in the hedgerows/tree lines discouraging bats from using them and reducing the amount of bird nesting habitat available. We therefore must have a mechanism to protect and manage the boundaries of this development in the long-term to maintain the sites biodiversity interest.

Records

It is recommended that records from the ecological survey work commissioned from the applicant should be copied electronically to Gloucestershire Centre for Environmental Records (GCER). An advice note is recommended to cover this.

Recommendations

The following items need to be addressed to be able to consent this development:

Pre-determination:

A report on the further survey and assessment work being carried out this summer must be submitted along with a Bat Mitigation Strategy/Method Statement that satisfies the 3 tests in the Habitats Regulations and which will form the basis of a subsequent EPS licence application to Natural England. The strategy/method statement must be based on the Inspection Survey for Bat Roost Potential (dated November 2012) report, Bat Hibernation Survey (Revision 2 - dated April 2013) report and the outcome of the further survey work being carried out this summer.

Determination:

As part of a consent that may be able to be granted, because a satisfactory Bat Mitigation Strategy which accords with the 3 tests of the Habitats Regulations has been submitted, then items based on the following should be attached:

- 1. Condition - The approved Mitigation Strategy/Method Statement for bats (see above) shall be implemented.*
- 2. Condition - A Monitoring, Aftercare and Long-term Management Scheme for Biodiversity is submitted for approval and then implemented as approved to ensure protected species are conserved. You may wish to consider whether this measure is better safeguarded within a Section 106 Agreement.*
- 3. Condition - No demolition, hedgerow, tree or shrub removal shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period has been undertaken and a method of working to protect any nesting bird interest found is established and then implemented. Reason: To ensure that wild birds building or using their nests are protected as required by law and in accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.*
- 4. Condition - A small scale biodiversity enhancement scheme for nesting birds including features based on paragraph 5.12 of the Extended Phase 1 Habitat Survey dated February 2013 shall be submitted for approval by the Local Planning Authority prior to development commencing. Locations and descriptions of features will need to be specified plus any required maintenance regime to maintain biodiversity interest or use. The scheme shall be implemented as approved within three months of the occupation of the dwellings. Reason: This is in accordance with National Planning Policy Framework paragraphs 109 and 118 and also Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.*
- 5. Condition - During the construction phase all hazardous chemicals, if left on site overnight, are to be secured and any excavations covered or designed with one sloped side or ramp in place. Also all open pipes to be capped off overnight that are larger than 150mm outside diameter. Reason: As a precaution to ensure the site is made safe from environmental pollution and that animals including those legally protected are prevented from becoming trapped within excavations. In accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.*
- 6. Condition - The approved Soft Landscape Plan and Hard Landscaping Plan shall be implemented.*

7. Condition - A Lighting Scheme is submitted for approval and then implemented as approved. To avoid light pollution and impact on protected species (bats) and local amenity. You may wish to consider whether this measure is better safeguarded with a Section 106 Agreement.

8. Advice Note - To assist in the strategic conservation of countywide biodiversity, all species and habitat records from the ecological work commissioned by the applicant should be copied [preferably in electronic format] to the Gloucestershire Centre for Environmental Records (GCER).

9. Advice Note - If a protected species (such as any bat, badger, reptile, barn owl or any nesting bird) is discovered using a feature on site that would be affected by the development or construction work all activity which might affect the species at the locality should cease. If the discovery can be dealt with satisfactorily by the implementation of biodiversity mitigation measures already approved by the Local Planning Authority then these should be implemented. Otherwise a suitably qualified ecological consultant should be contacted and the situation assessed before operations can proceed. This action is necessary to avoid possible prosecution and ensure compliance with the Wildlife & Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and/or the Protection of Badgers Act 1992. This advice note should be passed on to any persons/contractors carrying out the development/works.

These recommendations are in accordance with the National Planning Policy Framework and ODPM Circular 06/2005 and in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006 which confers a general biodiversity duty upon Local Authorities whilst exercising their functions.

County Ecologist

15th July 2013

In my previous memo to you dated 14th June 2013 I recommended that before the above application could be determined that further bat survey and assessment work was required this summer. In addition a Bat Method Statement (Strategy) was needed to help determine if the 3 tests in the Habitats Regulations could be met and that a subsequent European Protected Species (EPS) licence application to Natural England would be likely to be granted.

We are now receipt of the following further information produced by the consultancy 'All Ecology' on behalf of the applicant as follows:

- Dusk Emergence and Pre-dawn Re-Entry Surveys for Bats, dated June 2013
- Document 1: Background and supporting information for the Bat Method Statement (created 24/06/2013)
- Document 2: Bat Method Statement/Strategy (created 24/06/2013)

On reading these documents in conjunction with all previous information submitted and my observations dated 14th June 2013 my updated advice to you is as follows.

The dusk and dawn surveys were required to investigate the summer use of the underground bunker by bats and also of the standing buildings on the estate particularly Buildings 1 and 2 (as shown on the photographic plan in Section 8 of the 'Inspection Survey for Bat Roost Potential', dated November 2012).

A significant maternity roost of lesser horseshoe bats has been confirmed in the underground bunker which is, as we already know, also a modest winter roost for

hibernating bats. Of limited significance is the discovery of a single common pipistrelle bat roosting under a tile of Building 1. Also of importance is the confirmation on how the bats move through the site and out into the surrounding countryside (see Plan 1 in Section 8 of the report). The results are presented in Section 4 of the 'Dusk Emergence and Pre-dawn Re-Entry Surveys for Bats' report. Clearly we now have a much better idea of how the development will be likely to impact on local bat populations and informed mitigation has been proposed by the developer's ecologist.

I would agree that the impact of the loss of the bunker on bat populations is high and so we must have confidence that this impact can be mitigated to give at least a comparable local population of bats in the medium to long-term. Although the development is a threat it does provide an opportunity of making sure the population is looked after by someone which is certainly not the case at present and the do nothing approach is not really a good option to take. Provision for pipistrelle bat roosting within some of the new buildings must not be forgotten either but since we are only talking about a single confirmed animal this is easy to achieve with appropriate measures. The development also provides an opportunity to secure some general biodiversity enhancement, i.e. new mixed and native hedgerow planting plus provisions for nesting birds (as well as bats) on the new buildings (see my previous memo).

A mitigation approach is outlined in the 'Dusk Emergence and Pre-dawn Re-Entry Surveys for Bats' report but expanded upon in 'Document 2: Bat Method Statement/Strategy'. The summary of this is bulleted in Section A of Document 2. Crucially the construction of the new dedicated bat house must be completed and be in use by bats BEFORE the underground bunker is disturbed. This should be spelt out in a planning obligation or condition.

Cheltenham Borough Council as the Local Planning Authority (LPA) will now need to consider the planning application against the 3 test of the Habitats Regulations to see if the development could be allowed legally. If the development (looking at all material considerations not just biodiversity) is deemed to be allowable then the developer will need to apply for a EPS licence from Natural England who will look at the planning consent, the mitigation proposals and compliance with the Habitats Regulations. The LPA must be reasonably satisfied if it grants consent to the development that Natural England will also grant the developer an EPS licence in due course. Any advice received from Natural England will obviously help in this judgement.

So the planning authority must consider the three tests in Regulation 53 of the Conservation of Habitats and Species Regulations 2010 before determination (ODPM Circular 06/2005, paragraphs 99, 112 & 116). Regulation 53(2) defines the circumstances where derogation is allowed for an affected EPS and a licence could be issued by Natural England.

Firstly at 53(2)(e) there must be a justification of public health, public safety or an imperative reason of overriding public interest, which includes beneficial consequences of primary importance for the environment. Natural England gives some illustrative examples of considering this test in the Annex of 'European Protected Species and the Planning Process - WML-G24'.

The second test set out in 53(9)(a) deems that there should be 'no satisfactory alternative'. In this case the LPA has to judge whether there are other viable options for the site (including doing nothing) or that the activity proposed can be done differently and/or at another more suitable location. In this particular case the approach being offered is a suitable one for the location and a 'do nothing' approach would leave an uncertain future for the recently discovered bat roosts with no secure mechanism in place to protect and manage features for bats in the longer term.

The third test set out in 53(9)(b) deems that the development should have no detrimental effect on the favourable conservation status of a European Protected Species. In the short-term there is some potential for some impact on the local bat population but with the recommended mitigation measures being implemented this should not be great or even largely avoided. Overall in the medium to long-term the strategy presented should help to conserve a local bat population and improve its viability as roosting opportunities will be greater and commuting features of hedgerow, shrubs and trees, which are linked to the wider countryside, will be better.

My view as an ecologist must be limited to offering advice on the second and third tests which can probably be met in this instance (see above). The judgement on the first test at regulation 53(2)(e) must be wholly made by the planning officer under delegated powers or the planning committee. To pass this test there must be a high degree of need for the development which will result in beneficial results to the local area that are likely to be in accordance with local planning policy requirement(s). If yourself/the planning committee agree that the first test can be met then I believe a licence application for a European Protected Species licence would probably be successful and so consenting the planning application is possible.

It is recommended that in relation to the County Council's Service Level Agreement with the Local Biological Records Centre (and to assist in the strategic conservation of countywide biodiversity) records from the ecological survey work commissioned from the applicant should be copied electronically to Gloucestershire Centre for Environmental Records (GCER). An advice note is recommended to cover this.

Recommendations

Subject to the views of Natural England it is my advice that as part of a consent that may be able to be granted the following items should be attached:

1. Condition - The provision of bats measures shall be implemented in accordance with 'Document 2: Bat Method Statement/Strategy' created 24/06/2013 which include: A new dedicated bat house is to be in constructed at the commencement of the development and be based on Figures 1 and 2. The underground bunker which is a lesser horseshoe bat roost shown in Section 8 of the 'Inspection Survey for Bat Roost Potential', dated November 2012 is to be retained and appropriately fenced off with a suitable margin to protect it from construction activities. The bunker should not be disturbed or destroyed until a new dedicated bat house is in place and has been checked by an ecologist to confirm it is in use by lesser horseshoe bats. No works or demolition to occur on the underground bunker or Building 1 as shown in Section 8 of the 'Inspection Survey for Bat Roost Potential', dated November 2012 unless carried out under direction of an ecologist and in accordance with a Natural England European Protected Species licence held for the development. There should be installed permanent roosting sites on the new houses in the form of bat access panels and as boxes on boundary trees as shown on Figure 2. Appropriate long-term management of the site's lighting, bat house, bat roost features and the boundary hedgerows, shrubs and trees is secured through a Section 106 Agreement with the Local Planning Authority. Post development monitoring of the new dedicated bat house is to be for a minimum period of 2 years.

Reason - To ensure that biodiversity is conserved and in accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.

2. Condition - No demolition, hedgerow, tree or shrub removal shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period has been undertaken and a method of working to protect any nesting bird interest found is established and then implemented. Reason: To ensure that wild birds building or using their nests are protected as required by law and in accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.

3. Condition - A small scale biodiversity enhancement scheme for nesting birds including features based on paragraph 5.12 of the Extended Phase 1 Habitat Survey dated February 2013 shall be submitted for approval by the Local Planning Authority prior to development commencing. Locations and descriptions of features will need to be specified plus any required maintenance regime to maintain biodiversity interest or use. The scheme shall be implemented as approved within three months of the occupation of the dwellings.

Reason: This is in accordance with National Planning Policy Framework paragraphs 109 and 118 and also Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.

4. Condition - During the construction phase all hazardous chemicals, if left on site overnight, are to be secured and any excavations covered or designed with one sloped side or ramp in place. Also all open pipes to be capped off overnight that are larger than 150mm outside diameter. Reason: As a precaution to ensure the site is made safe from environmental pollution and that animals including those legally protected are prevented from becoming trapped within excavations. In accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.

5. Condition - The approved Soft Landscape Plan and Hard Landscaping Plan shall be implemented.

6. Condition - A Lighting Scheme comprising of low-level bollards and sensitively placed columns with luminaries that limit light spillage and avoid illumination of the new dedicated bat house, bat boxes, bat panels and the boundary hedgerows, shrubs and trees shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The scheme shall be implemented as approved. Reason - To avoid light pollution and impact on protected species (bats) and local amenity and in accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118. (NOTE: You may wish to consider whether this measure is additionally safeguarded with the Section 106 Agreement - see below).

7. Section 106 Agreement - This is probably needed for other matters too but for biodiversity it needs to cover: Ownership and maintenance of the new dedicated bat house, bat boxes, bat panels and bird nesting features Maintenance of the boundary hedgerow, shrubs and trees Operation and maintenance of lighting (see also condition above which just covers the type and installation of lighting).

8. Advice Note - To assist in the strategic conservation of countywide biodiversity, all species and habitat records from the ecological work commissioned by the applicant should be copied [preferably in electronic format] to the Gloucestershire Centre for Environmental Records (GCER).

9. Advice Note - If a protected species (such as any bat, badger, reptile, barn owl or any nesting bird) is discovered using a feature on site that would be affected by the development or construction work all activity which might affect the species at the locality should cease. If the discovery can be dealt with satisfactorily by the implementation of biodiversity mitigation measures already approved by the Local Planning Authority then these should be implemented. Otherwise a suitably qualified ecological consultant should be contacted and the situation assessed before operations can proceed. This action is necessary to avoid possible prosecution and ensure compliance with the Wildlife & Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and/or the Protection of Badgers Act 1992. This advice note should be passed on to any persons/contractors carrying out the development/works.

These recommendations are in accordance with the National Planning Policy Framework and ODPM Circular 06/2005 and in accordance with Section 40 of the Natural Environment

and Rural Communities Act 2006 which confers a general biodiversity duty upon Local Authorities whilst exercising their functions.

Natural England

30th October 2013

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 17 July 2013.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application relate largely to design and layout, and are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

GCC Highways Planning Liaison Officer

29th October 2013

I refer to amended drawing numbers 2004.2000 Rev P19 and Dwg-03 in relation to the above planning application received here on 14th August 2013.

The Highway Authority initially raised a number of concerns by email to the Local Planning Authority (LPA) dated 3rd September 2013, mainly relating to the site access, the proposed road layout widths and the levels of car parking within the development, following ongoing discussions the applicant/developer has now addressed those original concerns.

'Fallback position' and impact upon the surrounding highway network

When assessing proposals such as this it is important to establish the 'fallback position' (the worst case scenario likely to be created by the existing planning use) of the site. The gross floor area (GFA) of buildings on the site totals 2,800sqm, there are use classes within these buildings ranging from A1 (shops), B2 (general industrial) and D2 (assembly and leisure) uses. As the Transport Note dated October 2013 quite rightly points out, given the diversity of planning uses involved and their sizes the TRICS database (a nationally recognised tool used for assessing the number of trips generated by different land uses) wouldn't be particularly useful. The impact upon the highway during the busiest road periods needs to be established therefore the traffic consultant has undertaken a traffic count at the site access during the morning and evening peak hours, guidance suggests this is the correct way of assessing the traffic impact of such uses. The count was carried out in September 2013 (exact date unknown), however the results show that there were a total of 40 two way trips in the AM peak (7:45 to 8:45), 11 of which were Heavy Goods Vehicles (HGV's), and 35 during the PM peak (16:30 to 17:30), 9 of which were HGV's. It also needs to be taken into consideration that the units are also only currently 60% occupied, the 'fallback position'

is that all of the units could be fully occupied without the need for any further planning permissions and this represents the worst case scenario. Were all units to be occupied then the site could be likely to generate in the region of approximately 60 two way peak hour trips.

The TRICS database has been used to assess the number of trips likely to be associated with a residential development of 28 units in the morning and evening peak hours. In summary the proposed development of 28 houses would be likely to generate approximately 17 two way vehicular movements in the AM peak, and 18 in the PM peak, there would also be a significant reduction in total daily trips from approximately 360 to between 140-160. The National Planning Policy Framework (NPPF) says that although safe and suitable access should be provided, 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe'. Given the significant reduction in number of vehicular trips, including HGV's in both the AM and PM peaks, and total daily trips, the Highway Authority do not believe that the proposed development can be refused on highway safety grounds or the impact upon the surrounding highway network.

Site Access

The site access currently serves the existing industrial estate, there haven't been any collisions/accidents associated with site access within the last 5 years. Although slight amendments are being proposed to the site access onto Leckhampton Road, visibility isn't being compromised and the arrangement of a 5.5m wide carriageway meets the Highway Authority's deemed to satisfy standard for an access road serving such a scale of development, again given the significant reduction in the number of vehicular movements from the recognised fallback position it would not be reasonable to recommend refusal on the suitability of the site access and its impact upon highway safety.

Internal Layout/Tracking

Given that the proposed estate road is to be a shared environment the Highway Authority originally raised concerns over the widths of the proposed road/environment, especially near plots 1-4 and 9-12. The plans have now been amended to include a minimum of 6m wide shared surface area which given the fairly small size of development (28 houses) is considered suitable to cater for pedestrians and vehicles likely to be associated with the use. The car parking has also been well located to ensure all vehicles have sufficient room so as they can manoeuvre in and out of the spaces, on street parking has also been designed into the layout so no pinch points should be created by parked vehicles that may hamper pedestrian movement or safety. Notwithstanding this the agent/developer has provided vehicle tracking to include parked vehicles on the access road into the site adjacent to plots 1 to 5, the tracking shows that the road is also wide enough to accommodate a 3 axle refuse vehicle should a car park at this point. It is for these reasons that the internal layout of the highway is considered appropriate to serve the level of development.

Car Parking

Car parking was a concern raised by the Highway Authority on the previous layout, especially given the lack of designated visitor and on street car parking. Census data for the Leckhampton Ward suggests that car ownership levels would be 1.764 per dwelling in 2026, the majority of dwellings benefit from 2 dedicated car parking spaces and have an internal garage; such provision is above the recommended standard and is accepted. I appreciate that plots 6 to 10 only have a single dedicated car parking space, however they also have an internal garage with the minimum internal dimensions of 2.85m by 6.2m which is appropriate to allow for storage and a parked vehicle, and given this size can be counted as part of the car parking provision, the use of the garages for car parking can also be covered by an appropriately worded condition. Notwithstanding this, there are 9 dedicated visitor parking spaces very close to these dwellings, plus a small area adjacent to plot 20 that can accommodate some on street parking without having an impact on Leckhampton

Road. The Highway Authority are of the opinion that appropriate levels of car parking have been provided within the proposed development to accommodate the likely demand, and it could not be considered to have a severe or significant impact upon highway safety.

Parking Issues Involving the Community Hall

I note the public comments relating to car parking for the community hall which is located to the south of the proposed site. The objections reference that people using the site currently park within the industrial estate and this parking will be forced out onto Leckhampton Road as a result of the proposed development. It must be taken into consideration that the industrial estate is located on private land and is not dedicated parking for the community hall. As this is private land the owner could erect a gate to stop people parking at this location, or the site could shut down and the same thing could happen, therefore the car parking could be lost without the need for additional planning permissions, and this must be taken into consideration when assessing the proposal. Notwithstanding this, Leckhampton Road is wide enough to accommodate parked vehicles and allow for the free flow of traffic without causing a significant highway safety danger, this is backed up by the fact parking already occurs along this stretch, however there are no trends of collision/accidents occurring as a result and there has only been one collision/accident in the vicinity of the site access within the last 5 years, this is explored in greater detail below. It is for these reasons that it would not be reasonable to insist that the developer provide car parking for the community hall within their development.

Collisions/Accidents & need for a crossing point on Leckhampton Road

There have not been any accidents attributed to the current site access along Leckhampton Road within the last 5 years. I understand concerns have been raised from the local residents over the very unfortunate fatality involving a pedestrian and a vehicle near the junction with Liddington Road to the north of this application site. As already mentioned, when assessing applications such as this the 'fallback position' needs to be taken into consideration, the existing A1, B2 and D2 uses would already have a number of pedestrian movements associated with them, especially the D2 gym. I have carried out a multi modal assessment for both the number of pedestrian and cycle movements likely to be associated with the existing uses and the proposed 28 dwellings, and although you may be likely to have more vulnerable road users (children, the elderly etc) associated with the proposed residential development overall there would be a similar number of pedestrian and cycle movements associated with both uses. You then need to look at the facilities people would be travelling towards, food shop, primary school, bus stop etc. There is a food shop on the same side of the road with other crossing facilities along Leckhampton Road including a traffic light crossing to the north of the junction with Pilley Lane to aid pedestrians and other vulnerable road users to safely cross to the opposite side of Leckhampton Road to access facilities further afield. Therefore on balance, given the existing facilities and the similar number of pedestrian movements from the existing uses, there would be no grounds to reasonably request that a further crossing point is provided in association with the proposed development and notwithstanding this would not meet the tests in paragraph 204 or 206 of the NPPF.

Public Right Of Way (PROW)

There is a PROW that runs from the site access to the community hall to the south of the site, the original scheme proposed an access road adjacent to this PROW which was a cause for concern. This secondary access has now been omitted from the scheme and the PROW will operate in the same manner that it presently does. Notwithstanding this, there should also be very minimal conflict over vehicular use of public footpath CHL/18/1. It is an offence to drive a motor vehicle over a public footpath without the correct consents. There aren't currently any vehicle licenses for this PROW however I would imagine the community hall would have private vehicle rights over the said track, any further usage however would require consent of the landowner, and a license under Section 34 of The Road Traffic Act 1988.

SPG/Accessibility

Given the reduction in overall number of vehicular trips and the similar number of pedestrian movements, it is not considered reasonable or necessary to request that a contribution towards Cheltenham Borough Councils SPG, or provide further highways works outside the site.

Thus, it is for the reasons given above that I recommend no highway objection be raised subject to the following conditions being attached to any permission granted:

1) No dwelling on the development hereby permitted shall be occupied until the access roads, including surface water drainage/disposal, vehicular turning heads, street lighting, and footways where proposed providing access from the nearest public road to that dwelling have been completed to at least binder course level in accordance with the submitted plans (drawing no: 2004.2000 Rev P19), and those access roads, shall be retained and maintained in that form until and unless adopted as highway maintainable at public expense.

REASON: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

2) No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

REASON: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

Note: The applicant is advised that to discharge condition 2. that the local planning authority requires a copy of a completed dedication agreement between the applicant and the local highway authority or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

3) The car parking (including garages and car ports where proposed) and manoeuvring facilities serving each dwelling shall be completed in all respects in accordance with the submitted details (drawing number: 2004.2000 Rev P19) prior to the occupation of that dwelling and shall be similarly maintained thereafter for that purpose.

REASON: To ensure an acceptable level of car parking and appropriate manoeuvring facilities are provided and maintained, in the interests of highway safety.

4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel washing facilities

REASON: To minimize disruption, congestion and hazards on the public highway, in the interests of highway safety.

INFORMATIVE'S:

1) *The Local Highway Authority will require the developer to enter into legally binding agreement to secure the proper implementation of the proposed site access highway works, including an appropriate bond.*

2) *In the interests of highway safety, the public footpath must not be obstructed or encroached upon, the surface damaged or made dangerous during or after works. The applicant is advised to contact the Gloucestershire County Council Public Rights of Way Team on 01452 425577.*

NOTE:

If the applicant lodges an appeal for any reason, in respect of this application (or proposal), I would be grateful if you would notify me immediately of the appeal and details of any public inquiry. Similarly if there is a call-in or other government action would you please advise me immediately. Without this information there is a significant risk of the County Council not being able to meet the timescales and deadlines imposed for submission of statements of case and other representations.

Cheltenham Civic Society

20th June 2013

We are concerned that this proposal will result in the loss of an appropriate location for employment. There may be visibility issues concerning the access to the site because of the trees. The design of the dwellings is a bit dull, and we prefer the brick design

County Archaeology

23rd May 2013

I note that this planning application is supported by an archaeological desk-based assessment (compiled by CgMs Consulting, report dated December 2012) which reviews the evidence for the history of the site. Evidence from historic maps confirms that throughout much of the 19th century the application site contained the terminus and depot of a tram road associated with the nearby stone quarries at Leckhampton, and that a complex of structures - including a lime-kiln and stabling for horses - was present.

No trace of these 19th century structures is now visible above ground, and they appear to have been demolished and replaced by a factory building at some point before the 1950s. An historic map dating to the 1950s depicts a caravan factory, and to the west a quarried area containing a structure which CgMs Consulting interprets as a possible World War II bomb shelter. A structure currently visible in that area of the site may also have functioned as such.

In their report (para. 6.3) CgMs Consulting recommend that a condition should be attached to any planning permission granted for development in order to investigate the potential bomb shelter, and I agree with that recommendation. In addition, there may be some potential for archaeological remains relating to the 19th century tramway depot to be preserved below ground, and these may be revealed by ground works required for the proposed development.

I recommend that a programme of archaeological investigation of the potential bomb shelter, and monitoring of construction ground works, should be undertaken should development proceed, so as to make provision for the recording of any archaeological remains which may be revealed during the development.

In order to facilitate this I recommend that a condition based on model condition 55 from DoE Circular 11/95 is attached to any planning permission which may be given for this development, ie:

'No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority'.

Reason: to make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which will be lost, in accordance with paragraph 141 of the National Planning Policy Framework

I would be pleased to provide the applicant on request with a brief confirming the scope of the archaeological mitigation.

I have no further observations.

County Archaeology

21st October 2013

I advise that I have reviewed the revised plans, and for the reasons outlined to you in my letter of 23.5.2013 I recommend the attachment of an appropriate planning condition to secure the recording of any heritage assets which may be revealed during the development.

I recommend that a condition based on model condition 55 from Circular 11/95 is attached to any planning permission which may be given for this development, ie;

'No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority'.

Reason: to make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which will be lost, in accordance with paragraph 141 of the National Planning Policy Framework

I would be pleased to provide the applicant on request with a brief confirming the scope of the archaeological mitigation.

I have no further observations.

Environment Agency

17th May 2013

Thank you for referring the above numbered application, however the proposals do not feature in our checklist for consultation purposes.

The proposed development is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Maps. Whilst development may be appropriate in flood zone 1, Table 1 of the Technical Guidance to the National Planning Policy Framework (NPPF) states that a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above' where 'there is the potential to increase flood risk elsewhere through

the addition of hard surfaces and the effect of the new development on surface water run-off.

We note a FRA has been submitted in support of this application.

The West Area (Midlands) operates a risk based approach to planning consultations, and therefore we do not intend to make a bespoke response to the proposed development.

Please see the attached Flood Risk Standing Advice, which we trust will be of assistance in reviewing the flood risk matters of the proposed development, and in determining the planning application.

Whilst we are not providing comments on matters relating to land contamination as the proposed development does not feature in our checklist for this issue (i.e. the site area is less than 2 hectares on a Major or Minor Aquifer, given the previous use of the site there may be contamination present as a result of this use. As such you are advised to seek the comments of your Environmental Health or Contaminated Land Officer.

Land Drainage Officer

5th June 2013

Having reviewed the Drainage Strategy and Flood Risk Assessment and the associated drainage related drawings, I am satisfied that the proposed development will generally reduce the level of flood risk on and adjacent the site, from that which currently exists.

The strategy for the management of surface water is set out in the above mentioned document; however, the rationale linking the strategy to the actual drainage proposals is not clearly explained. The proposal is very "traditional" in its approach and does not appear to utilise any of the various infiltration methods.

The application acknowledges the issue of surface water entering the site from the higher ground to the south and measures have been proposed to mitigate its effect. However, it is not clear from the drawings how the captured/intercepted run-off will be discharged.

*The Drainage Strategy and Flood Risk Assessment refers to a "Highway" drain on the eastern side of Leckhampton Road, into which the existing surface water drainage from the site is **assumed** to connect. Notwithstanding that the ownership of such a drain lies with the County Council and connection to it will require its consent, I would suggest that a greater degree of certainty about the connection is required.*

Land Drainage Officer

8th November 2013

Subsequent to the submission of revised drainage details for this application, I confirm that they are an improvement upon those previously submitted (increased permeable area). Given that I had no major objections to the previous submission and that the particular issues raised in my earlier comment (see below) have been addressed, I am satisfied that the drainage strategy is appropriate.

Landscape Architect

25th June 2013

Entrance Square

Suggest moving proposed small blossom tree to the mixed border rather than planting it within paving, in order to avoid future problems with tree roots lifting paving blocks.

Entrance Pillars

Suggest locating south pillar at the corner of the square to match the north pillar. This might require removing a small section of the existing hedge, but would give symmetry to the entrance to the square.

Middle Square

Suggest that this is set within the main access road and does not extend into the side access road.

Boundary Wall

There is a proposed brick wall extending along the boundary between Plots 20 & 21 and the street, with a service strip alongside. Mixed planting is proposed for the service strip, with espalier apples trained against the walls. This is a lovely idea. However, I would caution against it unless maintenance can be guaranteed. This is because elsewhere in Cheltenham, where service strips such as that shown have been planted up, it has not been successful. The planting suffered from vehicle overrun and received little maintenance. As a more practical, though admittedly less attractive alternative, consider replacing the planting with a paving detail. The design of the wall then becomes very important in order to provide visual interest to the dwellings opposite.

Whatever option is chosen, design details for the boundary wall, including the proposed brick bond, coping, damp proof course, pillars, should be provided.

Railings/Fences

Details of the proposed railings and fences should be provided.

Please also clarify if estate railings are proposed along the edge between the native hedge, at the front of the site, and the road in front of Plots 1-4.

Landscape Architect

2nd September 2013

The comments I made in June still stand - please see previous comments.

In addition to my previous comments, I would like to add that the inclusion of SUDS (sustainable drainage system) in the drainage strategy should be investigated. The green space at the entrance could be a possible candidate for a rain garden or other form of bioretention.

The plant species proposed are acceptable for the scheme as currently presented, but may require revision should the planting form part of a SUDS.

Please could standard conditions for landscaping and SUDS be attached to planning permission, if granted.

Landscape Architect

8th November 2013

I understand that the client wishes to submit as much detail as possible at this stage to avoid the need for a further stage requiring discharge of conditions. I've therefore tried to list as much of the information as I think will be required for the landscape aspects of the proposed scheme. I appreciate that it's for you to decide if conditioning the application would be more appropriate. If so, then the information requested would be required as part of the landscape conditions.

Hard Landscape

- *A detail drawing of the feature wall should be submitted.*
- *The type of proposed Charcon block pavior should be specified.*
- *The type, colour and aggregate size of the gravel finish to tarmacadam road should be specified.*

Planting Schedule

- *Trees*
In addition to girth and root supply form, the minimum height, age and number of the proposed trees should also be specified.
- *Hedges, Mixed Planting, Front Garden Mix*
In addition to the information already supplied, the total number of each type of plant should also be stated.

Planting Specification

In addition to the Plant Schedule a Planting Specification should also be submitted. Included in this should be:

- *Ground Preparation instructions*
- *Tree pit detail drawing*
- *Instructions for tree staking*
- *Details of root barriers around trees (if proposed)*
- *Instructions for planting, fertiliser application, watering immediately after planting and mulching*
- *References to the relevant British Standards and trade standards: e.g. Plants to conform to BS3936-1 1992 Nursery Stock and be in accordance with the National Plant Specification. Nurseries to be registered under HTA Nursery Certification Scheme.*

Tree works to be carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction.

Recommendations

Planting to be carried out in accordance with BS4428 1989 Code of practice for general landscape operations (excluding hard surfaces).

Landscape Maintenance Plan

The landscape maintenance plan should address the following issues:

- *Nesting Birds: Birds, their nests and eggs are protected by law. Avoid work on trees, shrubs and hedgerows during bird-nesting season (1st March to 31st July - though some sources extend the period to the end of August). More information can be found on the RSPB and Natural England websites.*
- *Rectification period, during which any dead, dying or diseased plants should be replaced by the landscape contractor at his own expense.*
- *Watering regime for trees, shrubs and other planting*
- *Checking trees - stakes and ties etc.*

- *Weed clearance*
- *Litter clearance*
- *Formative pruning*
- *Maintenance pruning*
- *Hedge trimming*
- *Mulching*
- *Grass cutting*
- *Frequency and timing for site visits for the above tasks.*

Management of common areas

I am not qualified to give an opinion of the management structure proposed.

Tree Officer

5th June 2013

The Tree Section has several reservations to this proposal but on the condition that these issues can be addressed and agreed with this council, in principal CBC Tree Section has no objection to this application:

- 1) *As the subsoil is considered to be clay, I suggest that the foundation design of buildings near to proposed vegetation takes account of the ultimate size and water demand/soil shrinkage from tree/other vegetation root activity.*
- 2) *The Drainage Strategy plan states that 'the proposed drainage system is to utilise existing damage outfall. It appears as if a drain is to be used which is to pass almost underneath the trunk of a large lime tree situated within the highway and under the management of Gloucestershire Highways. If such pipe work is to be utilised then a method statement must be submitted and agreed prior to the commencement of works which demonstrates that such utility installation can be achieved without damage to this important street tree. Alternatively it would be better if such utilities are located outside the Tree Protection Zone of any trees to be retained (in line with SPG).*
- 3) *Various trees are marked for felling which are located outside the site-T5, T20. Agreement with the tree owner must be agreed before any felling.*
- 4) *Ts 18+ 19 are growing just outside the site but their crown is within the site. These have been categorised by the arb consultant as 'U Quality' trees and have been described as in 'poor condition and unsuitable for retention'. They would likely overwhelm the rear garden of plots 16+17.*
- 5) *A Tree Protection Plan for all trees to be retained on and adjacent to the site must be submitted and agreed. This plan should be as per BS5837 (2012). Protection should also be afforded to the line of hedge/trees which front onto Leckhampton Road. If the 'small bushes' as marked on the Tree Survey are to be retained as a part of the landscaping in the rear garden of plots 26,27,28 then these too should be protected during development. All protection must be erected before the commencement of any demolition. Access to the Scout hut and the footpath must be retained at all stages during demolition and construction.*
- 6) *Trees T11+12 are 'C' category trees and are unlikely to be suitable for long term retention due their poor form. However they are needed to act as screening to properties in Column End Rise.*
- 7) *Plot 24 appears to be located only 2-3 metres from the boundary to the north and there no specific screening by plants proposed to block the view to/from 61 Column End Rise. It may be difficult to achieve maintainable effective screening to this side of proposed*

plot 24. It may be better to reconfigure the layout of the plots in this area to take account of this and point 6 above.

- 8) There are no tree pit details within the soft landscaping plans. The proposed *Prunus* and *Malus* can be demanding of good soil quality and as such I suggest imported topsoil (ideally using Amsterdam Soil which contains a high proportion of sand assisting drainage) is worked into the tree pit which will promote growth into the future. Similarly, particularly *Prunus* species are shallow rooted and combined with clay, subsoil, I anticipate that there could be significant disruption of hard landscaping by roots. As such root directors should be incorporated into the planting pit to encourage deep rooting.
- 9) The maintenance and aftercare of the proposed espalier crab apples adjacent to plots 20 + 21 needs to be addressed. Such espalier work is quite time consuming and difficult to successfully achieve. However if successful, apart from spring flowering, the retained apples on the bare trees in autumn and early winter would look very well indeed.
- 10) There appears to be insufficient landscaping to achieve privacy to properties 1+3 Liddington Road. Consideration should be given to the planting of suitable (possibly evergreen for year round screening) tree species.
- 11) I suggested that an adequate proportion of any commuted money is directed towards the adjacent footpath and hedgerow leading to the Scout hut and beyond. Frequency and intensification of use of this area is likely to increase and as such sufficient resource is needed to take account of this

Tree Officer

30th August 2013

Many of my previous comments (5/5/13) appear to have been addressed:

- 1) It is not clear whether the foundation design has taken account of the clay subsoil and the potential for tree related subsidence.
- 2) The revised Drainage Strategy of 31st July abandons the previous plan to utilise the existing Drainage outfall and as such this is welcomed.
- 3) Trees T5 + T20 outside the site are now been shown to be retained as per drawing proposed tree Plan -05 submitted July 31st.
- 4) Trees 18 + 19 are shown retained but could overwhelm the gardens of plots 16 + 17. A proposed intended pruning scheme for these trees would be welcome.
- 5) No Tree Protection Plan has yet been submitted. Such a plan should be submitted and agreed prior to any determination of permission.
- 6) Trees T11 + 12 are now shown to be retained. If there is a desire to have them removed, then a proposed replacement planting scheme should be submitted and agreed. Such planting should consider the screening/privacy that any tree species at this location would offer.
- 7) The Soft Landscaping Plan -04 still does not sufficiently address the likely view of the gable end of plot 24 from 61 Column End rise. The proposed Close boarded fence and trellis is insufficient and further detailed soft landscaping should be added to the plan. Such landscaping should involve the use of evergreen plants so as to provide year round screening.

- 8) *The original proposed use of Prunus species has been changed to Amelanchier. This is welcome. However it may be difficult to source the suggested Extra Heavy Standard size Amelanchier. A study should be undertaken as to whether such procurement is possible. If it is not then an alternative species should be detailed. There are still no tree pit details or details of aftercare, maintenance or guarantee descriptions of any of the proposed planting.*
- 9) *There are still no details of the maintenance of the proposed espalier crab apples adjacent to plot 20 + 21.*
- 10) *The proposed Betula nigra at the rear gardens of Plots 25-28 may not thrive on the assumed clay soil and could outgrow their position and cast shade onto the properties on Leckhampton rd and Liddington Rd adjacent. I suggest that the proposed species is changed to Crataegus (hawthorn). There are many species and varieties available and such trees should mature into a tree of more suitable proportion as well as provide better screening, of better ecological value and year round interest. It is desirable to have a variety of Crataegus in different gardens.*

Tree Officer

12th November 2013

The Tree Section has no objection to the proposed plan provided the following can be submitted and agreed prior to the commencement of any work on site:

- 1) *Whilst the proposed exotic Amelanchier and Malus (apple) will ultimately be of a suitable proportion for this site I suggest that a row of small (eg half standard size) Ilex altacolarensis (spineless holly) or Ilex aquafolium JC Von Tol (self pollinating spineless holly) or Laurus nobilis (evergreen bay tree) are planted in the rear gardens as a screen from plots 23 to 28 to the properties to the north. This will enable the removal of the proposed close-boarded fence as the trees mature and should provide an evergreen back drop as seen from the new plots for the proposed colourful apple and Amelanchier.*
- 2) *The proposed trees within the site are will require upgraded soil if they are to thrive. Details of the tree pits need to be submitted and agreed. Such tree pit details should include generous addition of topsoil or Amsterdam Soil within the pits.*
- 3) *The surface water attenuation tank at the north side of the entrance to the site is to be buried approx 1 metre deep. As such I suggest another (Selected standard size) Ilex aquafolium JC Van Tol to be planted here as well as the proposed hedging mix. This will improve the amenity of the site as seen from the Leckhampton Road. Similarly a further such holly could also be planted on the south side of the estate entrance. Such hollies are shade tolerant (of the large street trees adjacent) and are of a low water demand and so should establish and grow well at this location. The trees ultimate height of 5-8 metres is proportionate for this site.*
- 4) *A detailed Tree protection plan must be submitted and agreed. This should be based on measurements taken from the original Tree King Arb Survey. Such tree protection must be to BS 5837 (2012).*

Parish Council

25th June 2013

The Parish Council objects to the proposal on the following grounds

1. Unacceptable harm to the amenities of local properties and impact on the AONB.

The proposed development would do unacceptable harm to the amenities of neighbouring properties in Collum End Rise and Liddington Road. Most seriously, the site elevation is considerably above that of the neighbouring properties and, as proposed, the development would badly overlook the gardens of the neighbouring properties, with views into their windows, including upstairs windows.

Secondly, the proposed heights of the houses on the north side of the site would mean that they would overshadow the neighbouring properties and deprive them of their current outlook to the scarp of Leckhampton Hill. Whilst loss of view does not constitute strong grounds of objection, the proposed development errs too far towards maximising the profit to the developer and takes too little account of the deprivation to local residents.

The Council understands, from attending the meeting of residents with the planning officer, Mrs Wendy Hopkins, on Sunday 2 June, that the invasion of privacy is made worse because it is proposed to increase the ground height of the site by a metre or more over its existing level. This appears unnecessarily detrimental. The Council does not know the reason for the proposed increase in elevation, but if it is due to concerns about flood risk, it would be much better to install an adequate land drain on the south side of the site. As discussed below, the Council believes this is needed anyway to protect the development adequately from surface water flooding.

The Council's overall view is that the site is too small to take so many houses. Also, such high density housing is not appropriate for the area and adjacent to the AONB. The Council recommends that the number of houses should be reduced to not more than 18 and the layout of the houses should be changed so that they are further away from the north boundary of the site and so that they look better from the AONB. In particular, the view of the west end of the development from the AONB is ugly because the houses are so cramped together. The Council also recommends lowering rather than raising the ground level of the site.

At the very least the Council recommends the following package of measures: reduce rather than raise the ground level of the site, delete houses 16 and 17 and space houses 13, 14 and 15 so that they are less overbearing as viewed from AONB, remove the first floor balcony from house 15 to avoid it overlooking neighbouring gardens, make houses 18, and 19 into bungalows or into chalet bungalows provided they have no outlook north, delete house 24 and make house 23 into a bungalow or chalet bungalow with no outlook north, make houses 25, 26, 27, 28 and 29 into bungalows with shallow roofs.

2. Risk of flooding

The Council is concerned that the severity of the surface water flooding is not sufficiently appreciated in the proposal. As the Council told the drainage and flooding consultants at the public exhibition, the fields above the site are prone to extreme rainfall. Most recently, on 27 June 2007, 50 mm of rain fell in a little more than an hour. A similar extreme event occurred in September 1978. Very heavy rainfall, although not quite as intense, has occurred several times a decade since the 1960s. For example, on 20 July 2007, 130 mm of rain fell on the fields, mostly over a period of 8 hours, with a peak rainfall of 25 mm per hour. The contours of the hillside above the site tend to channel the runoff onto the site.

The proposal recognises the need to avoid any increase in the risk of flooding to houses. For this reason, the proposal rejects the idea of building a retaining wall on the north side of the site to divert water to Leckhampton Road. But it does not provide a sufficiently detailed or robust drainage plan to give confidence that the potential surface water run-off through the site can be adequately handled.

3. Parking on the development

All the properties have two parking spaces, and house types 2 and 3 also have single garages. However, the Council is concerned that there is insufficient parking space for visitors. There is room for on-road parking of about 9 cars to the south of properties 20 and 21 and possibly for a further 5 cars on the road outside properties 1, 2 and 3. The Council believes that there should be more communal parking within the proposed estate. At the very least, in order to keep enough parking for visitors, delivery vehicles and other traffic, residents must be strictly prohibited from parking their own vehicles on the roads. This prohibition might be achieved through the deeds of the properties and also by parking restriction signs on the road.

The Parish Council requests that the following points should also be taken into account:

It was discussed at the meeting on 2 June that this development will mean that more parents bringing children to the play school in the scout hut adjacent to the site will have to park on Leckhampton Road. The Council recommends that, if approval is given for this development, the 30 mph speed restriction should be moved 300 metres up Leckhampton Hill so that vehicles start to slow down as they descend the hill. At present drivers do not see the 30 mph sign until they turn the corner by the reservoir.

As was observed at the meeting on 2 June, it is important to keep enough industrial sites within Cheltenham. However, this site has been allowed to decay to a level where it would be hard to sustain it as an industrial site. The Council strongly favours building on brown field sites rather than on green field sites. However, the Council believes that in recognition of the agreement over the change of use, the developers should make an appropriate contribution to the benefit of the local community. Rebuilding the adjacent scout hut, which is in need of replacement because of its age and its asbestos roof, would be an appropriate contribution. Some way should be found to make this a binding condition of the approval, possibly by including the demolition and rebuilding within the plans and planning application. Demolishing and repositioning the scout hut might also make it easier to incorporate the necessary land drain to protect the site from flooding.

There is a lack of secondary school places for families in the area of this site. Currently, because of the lack of places at Bournside and Balcarras schools, some children have to travel through Cheltenham to Pittville School or travel to Chosen Hill School. The situation is expected to become worse as both of these schools become full in a few years time and, with a bulge of younger children of primary school age now beginning, the situation is set to become even worse. If no solution is found, the area will no longer be suitable for families. This would undermine much of the purpose of building more houses in this area.

Contaminated Land Officer

17th May 2013

Please include the full contaminated land condition for this development.

Contaminated Land Officer

20th August 2013

Please include the full contaminated land condition to this proposal as attached.

Contaminated Land Officer

7th October 2013

Please include the full contaminated land condition to this proposal as attached.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	
Total comments received	28
Number of objections	22
Number of supporting	1
General comment	5

5.1 In summary representations received relate to:

- The redevelopment would not support local businesses and will force the closure of existing businesses and put people out of work
- Redevelopment would result in the unacceptable loss of a fitness club
- The proposed density, height and layout would be detrimental to adjoining residential amenities
- Loss of privacy and overlooking of adjoining residential properties
- Reduced daylight to adjacent properties
- “Lack of amenity and infill of our vision” and “block out views for local houses”
- Poor design and layout
- Redevelopment is too dense
- Over development of site – too many houses
- Proposals do not reflect character of neighbourhood
- Loss of trees
- Drainage – risk of flooding.
- Exacerbate existing drainage problems from surface water run-off
- Inadequate parking and access
- Unacceptable increase to local traffic
- Compromise highway safety
- Adverse impact on local infrastructure
- Inaccurate drawings and not to stated scale
- “Redevelopment will be beneficial to the local community, it will remove the current unsightly industrial estate and will support local shops just down the road”
- Proposal will give a “positive impression of Cheltenham as visitor drive down the hill into town”
- “We do not object to the principle of this very run down site”

5.2 Comments Received

All representations received have been reproduced in full and are attached to the end of this report.

6. OFFICER COMMENTS

6.1 The main issues for consideration in the determination of this application are:

- The principle of development
- Housing supply
- Affordable housing
- Design and layout
- Safeguarding residential amenity
- Access arrangements, highway safety and parking provision
- Flood risk and drainage
- Ecology
- Archaeology

The Principle of Development

6.2 The site is an existing allocated employment site located within the 'Principal Urban Area' (PUA). The principle of development within the confines of the PUA is normally considered acceptable unless it conflicts with other development plan policies or material considerations indicate otherwise.

6.3 Policy EM2 of the Local Plan seeks to retain land currently or last in employment use for employment purposes unless one of the listed exceptions are met. EM2 states "*A change of use of land and buildings in existing employment use, or if unoccupied to a use outside Use Classes B1, B2 or B8 inclusive will not be permitted, except where:*

a) buildings on the land were constructed and first occupied for residential use; or...

b) the retention of the site for employment purposes has been fully explored without success" (note 1).

Note 1 – Evidence will be required to demonstrate demand; this may include details of past advertising vacancy rates and rent levels. This list is not exhaustive and other information may be requested.

6.4 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out a "*presumption in favour of sustainable development*". As identified in paragraph 7 of the NPPF sustainable development has three dimensions: economic, social and environmental.

6.5 Of particular relevance to this application is paragraph 22 of the NPPF which advises that "*Planning policies should avoid the long term protection of sites allocated for employment*

use where there is no reasonable prospect of a site being used for that purpose... Where there is no reasonable prospect of a site being used for the allocated employment use, applications of alternative uses of the land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”.

- 6.6** In addition to paragraph 22, paragraph 51 of the NPPF goes onto say that Local Planning Authorities should *“normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in B use class) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be appropriate”.*
- 6.7** Following Officers’ request, additional information to evidence existing vacancy rates, rent levels and to demonstrate marketing of the site for employment purposes has been submitted to accompany the application. This additional information has been reviewed and Officers’ are satisfied that a suitable level of marketing of the vacant units has been ongoing since 2000.
- 6.8** In light of the above, it is considered that the requirements of Local Plan Policy EM2 (b) have been met and the proposal would be fluent with the aims of the NPPF to *“support sustainable economic growth” (Para. 19, NPPF)* and *“to boost significantly the supply of housing” (Para.47, NPPF)*. For this reason, the principle of residential development in this location is considered policy compliant.

Housing Supply

- 6.9** It is established that the District cannot demonstrate a 5-year housing land supply as required by paragraph 49 of the NPPF. Currently we can only demonstrate 4.7 years. As such, local plan policies relating to housing land supply are out of date and accordingly, the development should be considered against paragraph 14 of the NPPF.
- 6.10** Notwithstanding the above, Local Plan Policy HS1 relating to residential development states that *“Housing development will be permitted on;*
- a) land allocated for residential development; and...*
 - b) previously development land, subject to policies BE2, BE9, GE2 and HS3*
- In all cases, development should make the most efficient and effective uses of the site”.*
- 6.11** Previously development land is defined in annex 2 of the NPPF as *“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure... “.*
- 6.12** Clearly, the application site can be categorised as previously developed land. As such (subject to other policies detailed in HS1 (b)) the proposal is compliant with the requirements of HS1; albeit currently considered out-of-date; and would thereby support this proposal for the residential re-development of the site.
- 6.13** Paragraph 14 of the NPPF sets out a presumption in favour of sustainable development and requires that, unless material consideration indicate otherwise *“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or...*
- *Specific policies in this Framework indicate development should be restricted”.*

6.14 In accordance with paragraph 14 of the NPPF the consideration and ultimate determination of this application should be a balanced exercise of benefits and any adverse impacts.

6.15 Of significant benefit would be the contribution of 28 residential units that are located within the defined PUA toward the 5-year housing land shortfall.

Affordable Housing and Planning Obligations

6.16 Local Plan Policy HS4 requires that *“in residential developments of 15 or more dwellings or residential sites of 0.5 hectare or greater a minimum of 40% of the total dwellings proposed (note 1) will be sought for the provision of affordable housing”*. Note 2 goes on to state *“this proportion may vary to take account of the exceptional circumstances relating to a site”*.

6.17 Paragraph 173 of the NPPF states that *“pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the cost of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be delivered”*.

6.18 In light of Policy HS4 and the advice set out within the NPPF, where proposals can demonstrate exceptional circumstances or the deliverability of the site is threatened through the level of contributions sought, it is accepted that these matters can outweigh, in whole or part, the requirement of planning obligations.

6.19 A confidential viability assessment has been submitted to accompany this application, in which the applicant contends that should a policy compliant level of obligation be sought on this application then the redevelopment would be unviable and therefore undeliverable.

6.20 For clarity, the contributions relevant to this proposal would be 40% affordable housing and education, library and play space contributions.

6.21 An independent review of the viability assessment submitted by the application has been undertaken by the District Valuation Service (DVS). The DVS is the property arm of the Valuation Office Agency (VOA) and provides professional property advice across the public sector.

6.22 At the time of writing this report the DVS assessment had not been received and therefore Officers’ are unable to provide Members with advice on this matter. To this end, an update on this matter will be provided when the assessment is received.

Design and layout

- 6.23** The application is accompanied by a Design and Access Statement and detailed drawings. Contained within the submission is an assessment of the character of the site and the wider locality. This assessment has been undertaken through site visits and a 'Nolli' plan which visually indicates the urban grain of the site and the surrounding area is submitted in section 5 of the Design and Access Statement. It is prudent to remind Members' at this point that a prescript approach to development density is not considered relevant following the revision of PPS3 and the subsequent publication of the NPPF. The density of any development should be considered on a site for site basis within its surrounding context. Officers concur with the site assessment contained within the Design and Access Statement that:
- The area is predominantly residential;
 - Residential buildings are typically 2 – 2.5 storeys in height;
 - Buildings within the immediate locality range from large detached villas to terraced/semi detached homes;
 - A variety of architectural styles exist within the locality;
 - General building line along the main Leckhampton Road is a strong feature and should be maintained;
 - Views south through the site are important to retain.
- 6.24** Lengthy pre-application and application negotiations have been undertaken between Officers and the applicant and their agent on the redevelopment of this site. Much of these discussions have focused on ensuring the redevelopment safeguards the amenities of the adjoining properties; is fluent with the immediate context; and sympathetic to the adjoining Cotswold Area of Outstanding Natural Beauty (AONB).
- 6.25** Dealing firstly with the site and its context. This site forms a transition between the urban form of the settlement and the countryside beyond. The western site boundary adjoins the Cotswold AONB. The southern boundary adjoins a local Scout site which although lies outside the AONB visually forms part of the open countryside beyond. It is therefore important that this 'town meets country' juncture is reflected in the design approach.
- 6.26** To this end, the application considers this juncture important to visually translate in the redevelopment of the site. The proposal seeks to retain views through the development to achieve this visual transition. The layout introduces a loose urban grain along the site frontage which reflects the built rhythm of large single houses with wide frontages along the western side of Leckhampton Road.
- 6.27** Although loss of a view is not a planning consideration the design approach of providing views through the development to retain and reinforce the edge of settlement works well in the opinion of Officers. Views will be available from within the site area and from public vantage points within the immediate locality via gaps in the built form and over single storey garage elements to the countryside beyond.
- 6.28** During negotiations Officers have raised concerns with the applicant in respect of the heights of the buildings proposed and the size of individual plots. Earlier schemes to this current revised proposal were considered to detail overly tall houses within small plots. In response to this concern the applicant at the same time as reducing site land levels reduced the overall height of each individual house by 300mm. The ridge heights of the buildings vary across the site which will provide an aesthetically pleasing variation.

Following a reduction in building heights the plot sizes relate much better in terms of size and are considered acceptable.

- 6.29** This site is not influenced by a strong local vernacular as a variety of architectural styles existing within the immediate locality. The appearance of the proposed buildings is relatively contemporary in design using a simple palette of materials and level of detailing. Officers are satisfied that the appearance of the proposed buildings would be fluent with the site and its surroundings.
- 6.30** Although discreetly located along the Leckhampton Road the redevelopment would offer potential benefit to the visual amenity of the site and wider locality. Moreover, the site forms part of a main entrance or gateway into Cheltenham which would provide a more attractive welcome to visitors and residents than the existing industrial estate.
- 6.31** In light of the above, Officers consider that the redevelopment of this site with 2 / 2.5 storey detached and semi detached houses, each set within a suitable level of private amenity space, is acceptable in terms of scale, form, design and appearance with the site and immediate locality and therefore accords with relevant development plan policy CP7 and the NPPF. A number of third party representations have suggested that the proposal is too dense but following a considered review of the surrounding urban grain and the reduction in houses from 29 to 28, the form and number of units proposed is considered acceptable.

Residential Amenity

- 6.32** The site is constrained in part due to its location part way up Leckhampton Hill and the historic 'cut and fill' of the land which has in places artificially increased site land levels. This situation results in the site lying at a higher level than the existing residential properties to the north along Collum End Rise and Liddington Road. Key therefore to the consideration of the redevelopment of this site is how this matter is addressed.
- 6.33** Again this matter has been the subject of lengthy negotiations and a number of revisions to the original application. The applicant has sought to address the impact of the redevelopment by 1) reducing existing land levels, 2) orientating development along the northern boundary gable end on to existing development thereby minimising the amount of built form along the boundary, 3) reducing building heights, 4) limiting fenestration along the northern boundary to prevent any overlooking and 5) providing suitable distances between the existing and proposed buildings to protect residential amenities of both existing properties and future occupants.
- 6.34** Revised drawings show a considerable reduction of land levels across the whole of the application site area that will vary between a 0.009 metre and 2.546 metre reduction. Existing site levels increase in height along the northern boundary. Following the reduction in land levels across the site the northern boundary will effectively form a ridge. Adjoining land levels, toward the existing development to the north along Collum End Rise and the site area to the south, will reduce in height. The southern part of the site has the highest land levels and is where the greatest reduction would be seen.
- 6.35** Detailed drawing number 2004.200 Rev P21 entitled 'Proposed Site Plan' shows the orientation of the proposed buildings along the northern boundary which are proposed to be gable end on to the existing development along Collum End Rise and Liddington Road. The orientation of gable ends onto existing development acts to minimise impact from the adjacent built form.
- 6.36** The aforementioned site drawing also annotates distances between existing and proposed buildings. The distances proposed all exceed the prescribed distances in Local Plan Policy CP4 (Note 3). The minimum distance of 21 metres between buildings with

clear glazed windows has been exceeded to take account of the land level difference between Collum End Rise and the application site.

- 6.37** The relationship between number 61 Collum End Rise and Plot 23 has throughout negotiations been a point of concern. So much so that a unit in this location was removed from the scheme to achieve a better relationship between existing and proposed. Officers are now satisfied that due to the reduction in unit numbers from 28 to 29, a reduction in land levels and an adequate distance of 22.3 metres between the rear elevation of the main dwelling house known as 61 Collum End Rise and the side elevation of Plot 23 (which does not constitute an elevation with clear glazed windows) this relationship is now considered acceptable.
- 6.38** In respect of assessing a reasonable level of daylight reaching the properties along Collum End Rise and Liddington Road; as required by Local Plan Policy CP4 (Note 2); this has been undertaken using the P J Littlefair 'Site Planning for Daylight and Sunlight'.
- 6.39** When assessing daylight and sunlight level of facing buildings a 25 degree calculation is used. This measurement is taken from 1.6 metres above finished floor level of, in this case, the existing building. This calculation has been applied to all buildings along Collum End Rise that adjoin the application site (number 49-63), numbers 1 and 3 Liddington Road and number 201 Leckhampton Road which all adjoin the site area along the northern boundary.
- 6.40** Without exception all of the new development falls below the 25 degree angle which demonstrates that a reasonable level of daylight shall be afforded to the rear windows of the properties assessed along Collum End Rise, Liddington Road and Leckhampton Road.
- 6.41** As part of the proposed landscaping scheme the existing soft landscaping along the northern site boundary is proposed to be thinned out and new planting in strategic locations to provide screening for existing and proposed properties. At present the vegetation along this boundary is dense and overshadows the gardens at Collum End Rise throughout the year.
- 6.42** A shadow analysis has been submitted to accompany the application which although does not take account of the trees (which is the correct approach) demonstrates that the proposed development would not cast significant shadow over the garden areas or homes on the adjoining existing development along Collum End Rise and Liddington Road. The analysis is undertaken at key points of the year which are Spring Equinox, Summer Solstice, Autumn Equinox and Winter Solstice. The analysis shows that a shadow would be cast over the garden areas of the adjoining development during the Winter Solstice but not at other times. Shadowing at this time of year is expected and typically occurs within most urban environments. Due to likely weather conditions this is not considered to be significant in terms of garden use.
- 6.43** For the above reasons, the development proposed shall not adversely impact the residential amenities of the adjoining properties by way of overlooking, overbearing presence or loss of daylight and thereby accord with the requirements of Local Plan Policy CP4.

Highway Safety and Parking Provision

- 6.44** A detailed Highway response has been provided in Section 4 of this report. In summary, the proposal could potentially offer a significant reduction in the number of vehicle movements to and from this site per day; proposes a suitable site access; would not result in any detrimental impact on highway safety or the surrounding highway network; the

internal layout complies with adoptable standards and the level and size of car parking provision meets relevant standards and addresses likely demand.

- 6.45** A number of representations received from the local community have raised the issue of the existing on-site parking provision for the Community Hall. This matter has also been addressed in the Highway comments and it is considered that this parking is currently at the goodwill of the land owner and does not form any sort of allocated parking associated with the Hall.
- 6.46** In light of Highway comments received the proposal accords with relevant local plan policies and the NPPF. Furthermore, the reduction in vehicle movements can be seen as a benefit to the proposal when balancing benefit and adverse impacts as per paragraph 6.14 of this report.

Flood Risk and Drainage

- 6.47** A Flood Risk Assessment has been submitted to accompany this application. As detailed in the response received from the Environment Agency (EA), which has reproduced in Section 4 of this report, the site lies within Flood Zone 1 (low probability). For clarity, the EA classification covers fluvial flooding (pertaining to rivers) and not surface water run off.
- 6.48** Originally the planning application submission detailed a traditional drainage strategy which discharged surface water into the mains highway drain found in the adjacent Leckhampton Road. The application site has a history of high surface water run-off rates which has resulted in localised flooding of the site area and adjacent land and buildings. This is due in part to its position, near the bottom of Leckhampton Hill, and the existing lack of suitable on-site drainage which is unable to deal with the rate of surface water run-off. For this reason and matters relating to increasing land levels Officers' requested the applicant investigate the opportunity to implement a Sustainable Urban Drainage System (SUDS).
- 6.49** The applicant has subsequently submitted a SUDS scheme to address surface water run-off. The drainage scheme details an underground water attenuation tank at the site entrance. The revised drainage scheme has been reviewed by the Council's Land Drainage Officer. These comments can be found in section 4 of this report and conclude that the drainage strategy is appropriate and compliant to the requirements of UI2, UI3 and the NPPF.

Ecology

- 6.50** A very comprehensive response has been provided by the County Council's Ecology Officer which can be found in section 4 of this report.
- 6.51** As detailed in these comments confirm that from an ecology perspective Bats are the main biodiversity matter. The application is accompanied by a number of reports on this matter the first of which is entitled 'The Inspection Survey for Bat Roost Potential' which was undertaken during the summer months and confirmed the presence or likely presence of bats. The report identifies an underground bunker roost (believed to be a World War II bunker) with confirmed bat occupation and presence of droppings. This report recommended a further winter survey to understand the significance of this roost.
- 6.52** Following the recommendations of the 'Inspection Survey' a further 'Bat Hibernation Survey' was undertaken during winter months and forms part of the application information. This report records a single Natterer's bat and Lesser Horseshoe bat and gives the roost medium conservation significance. This level of significance has potential to increase depending on a further piece of bat survey work which shall determine if the

bunker and buildings are being utilized during the winter and summer months. A final piece of bat survey and assessment work was undertaken in May this year (2013).

- 6.53** This information confirms a significant maternity roost of lesser horseshoe bats in the underground bunker which is also a modest winter roost for hibernating bats. In addition, a single common pipistrelle bat was discovered hibernating under a building roof tile.
- 6.54** In the interim, a revised site layout has been submitted in response to other planning matters which has involved the relocation of the proposed new bat roost. For this reason, further information and a conclusion will be provided in an update to this report following receipt of further comments from the County Ecologist.

Archaeology

- 6.55** An archaeological desk based assessment accompanies the planning submission. Historic map evidence shows that the site during the 19th century was the terminus and depot for a tramroad that served the nearby stone quarries. A number of structures are shown which include a lime-kiln and stabling for horses. None of these structures are evident above ground today but traces may since be evident below.
- 6.56** In addition, a possible World War II bomb shelter which is still visible is accommodated within the application site area.
- 6.57** A formal consultee response has been received from the Gloucestershire County Council Archaeologist. This response has been reproduced in Section 4 of this report.
- 6.58** Following review of the submitted desk based assessment the County Archaeologist concurs with recommendations made in the assessment which suggests that the bomb shelter and tramway have potential for archaeological remains. These locations should therefore be investigated and any archaeological interest recorded if revealed. To facilitate this and subject to the grant of permission a condition is suggested to secure a programme of archaeological work.
- 6.59** Subject to securing the above archaeological works via condition the proposal accords with paragraph 141 of the NPPF.

7. CONCLUSION AND RECOMMENDATION

- 7.1** For the reasons outlined in the above report, this redevelopment shall bring forward benefits, namely, a significant contribution to housing land supply; development of a brown-field site, reduction in vehicle movements to and from the site per day; installation of a SUDS drainage system which addresses not only the development proposed but will also improve existing deficiencies. Notwithstanding these benefits the redevelopment proposed does not provide any affordable housing, education, library or play space contributions. As detailed in the above report, Officers await an independent viability assessment from the DVS on the viability of this proposal and until such time that this is received; Officers are unable to make any recommendation to Members'.
- 7.2** For clarity, an Officer recommendation will form an update to this report when the DVS assessment is received.