

## Planning Committee

6.00 pm, 21 May 2015

### Present at the meeting

Councillor Garth Barnes (Chair)	Councillor Adam Lillywhite
Councillor Jacky Fletcher (Vice-Chair)	Councillor Helena McCloskey
Councillor Paul Baker	Councillor Andrew McKinlay
Councillor Matt Babbage	Councillor Klara Sudbury
Councillor Diggory Seacome	Councillor Pat Thornton
Councillor Bernard Fisher	Councillor Chris Nelson (Reserve)
Councillor Colin Hay	

### Officers in attendance

Mike Redman, Director , Environmental & Regulatory Services (MR)  
 Tracey Crews, Head of Planning (TC)  
 Martin Chandler, Team Leader, Development Management (MC)  
 Craig Hemphill, Senior Planner (CH)  
 Chloe Smart, Planning Officer (CS)  
 Cheryl Lester, Legal Officer (CL)  
 Peter Lewis, Legal Officer (PL)

### 1. Apologies

Councillors Chard, Clucas, Savage\*\* and Stennett.

*[\*\*Councillor Savage is currently undergoing Planning Committee training and will be eligible to take his place as a voting member next month.]*

#### \*Councillor Nelson as substitute

**PL:** CN wants to sit as substitute this evening, but has not attended Planning Committee since November, and the substitution process requires one-in-three attendance; prior to that, he attended quite regularly. In order for him to be formally allowed to sit tonight, Members need to vote for the cessation of the relevant standing order under Rule 3.

**CH:** is not too fussed if CN is allowed to sit or not, but wants to make the point that if tonight's decision is challenged and our stated practice is that substitutes need to attend one in three meetings, we could be leaving ourselves open by letting someone participate in the meeting outside the usual rules. Is concerned that this angle could be used by an objector.

**GB:** Members are empowered to suspend standing orders under the Constitution.

#### PL, in response:

- confirmed that this is permitted in procedural rules, and Members have the power to suspend the rules should they wish.

**CH:** this was not his question. Would suspending the rules and allowing CN to sit provide additional leverage for someone challenging our position? Would it not be safer to keep the rules of Planning Committee attendance in place on this occasion and review them later?

#### PL, in response:

- suspension of the rules is an option available to members and it is unlikely to make a difference to anyone wanting to challenge the decisions made

#### CL, in response:

- MB is present to substitute for LS; had understood CM was present to substitute for AC, but CM has confirmed that he is to be replaced by CN to act as AC's substitute tonight if Members agree to that.

**HM:** also has reservations about suspending the rules, while having sympathy with CN and his reasons for wanting to be on Planning Committee tonight for this important meeting. Could the alternative be that he is allowed to speak before the item he is interested in but not participate in the meeting as a substitute?

**GB:** that is an option which can be considered. It is up to Members to decide.

**Vote taken on suspension of standing order for this meeting only, to allow CN to participate**

12 in support  
0 in objection

**2 abstentions**

**GB:** CN is therefore allowed to substitute for AC, instead of CM.

*[CM will remain at the meeting as an observer.]*

**CH:** if the standing order is suspended for this meeting only, it gives the impression that Members don't have to stick by the rules. We need to review this, as there may be other occasions when a similar situation arises. Maybe we should change the attendance requirement from one-in-three consecutive meetings to a certain number of meetings per year.

**PL, in response:**

- the constitution working group is currently looking at the substitution criteria, and has its next meeting at the start of June. It will report to Council regarding general constitutional changes in July. Some Members of Planning Committee have given their views to the constitution working group but if anyone has any further views, these should be put forward to Rosalind Reeves in Democratic Services to be picked up by the group going forward.

**2. Declarations of Interest**

**15/00525/FUL 2 Cowper Road**

- Councillor Babbage – knows a number of people living at the flats. Will leave the Chamber.

**Agenda Item 9**

- Councillor Nelson – is a member of Leckhampton Parish Council. Spoke in opposition to the planning application at the committee meeting in July but did not participate in the debate. Has spoken at length with legal officers, and does not feel any conflict of interest in participating in the debate on Agenda Item 9 which he is approaching with an open mind;
- Councillor Sudbury – personal - lives in Leckhampton and used to be a member of Leglag.

**3. Declarations of independent site visits**

Councillor Fisher has visited Barrington Lodge Nursing Home and Oldfield Crescent.  
Councillor Baker has visited Barrington Lodge Nursing Home.

#### 4. Public Questions

There were none.

#### 5. Minutes of last meeting

Members resolved that the minutes of the meeting held on 23rd April 2015 be approved and signed as a correct record *without* corrections.

#### 6. Planning/Listed Building/Conservation Area Consent/Advertisement Applications, Applications for Lawful Development Certificate and Tree related applications – see Main Schedule

##### 6. 15/00326/CONDIT Barrington Lodge Nursing Home, 138 Cirencester Road

Application Number:	<b>15/00326/CONDIT</b>
Location:	<b>Barrington Lodge Nursing Home, 138 Cirencester Road, Charlton Kings</b>
Proposal:	<b>Variation of condition 2 on planning permission 14/02133/FUL alteration to design</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Delegated Permit</b>
Letters of Rep:	<b>3</b>
Update Report:	<b>Additional officer comments; conditions</b>

#### Officer introduction:

MJC introduced this application to make variations to the planning permission previously granted for four detached dwellings. The development is well underway, and this application seeks alterations to three of the properties to include basement and first floor accommodation. It is at committee at the request of Councillor Baker, for Members to consider the impact on amenity, especially at 46 Bafford Lane.

#### Public Speaking:

There was none.

#### Member debate:

**PB:** Members may wonder why he asked for this application to come to Committee, having seen it on site and thought it looked fine. However, two issues arise from this development. Firstly, the cavalier attitude of developers and builders, who get planning permission and crack on with their building, but build something different from the permission they have been granted. In this case, if it wasn't for the vigilance of neighbours, these builders would have just carried on not building to plan. Is not sure how vigilant we are as a planning authority; realises that there are manpower issues with CBC's enforcement team, but these are significant alterations, and wants Councillors to have the opportunity to say that are not happy with the attitude of these builders – they should be more respectful of the neighbours and of the planning authority. Secondly, officers have done a good job amending the amendments, but the developer has made an offer to reduce the height of Plot 2 which officers have not taken up. Considers such a reduction would be appropriate and the offer should be accepted.

**PT:** looking at the drawings on screen, feels the house at the top left is a bit close and could be quite intrusive to the neighbour's garden. Can we ask the builder to put in some sort of additional fencing or heighten what is there? This would feel more comfortable. Realises there are different levels to be taken into account here, but steps can be taken to ameliorate the situation.

**BF:** having looked at the drawings and noted the increase being requested today, would have thought that this application should have come to Planning Committee the first time round. It is a significant development and involves the demolition of an old Victorian house.

**MJC, in response:**

- to BF, the original application wasn't at Planning Committee because no-one requested it to be. It is a reasonable-sized development, but not a major scheme, and the demolition did not require consent;
- the increase in floor area is at first floor level, therefore not increasing the footprint of the building. PB has alluded to the fact that when this application first came in, officers were concerned about the increase and negotiated with the applicant, securing the reductions now before Members. They also refused to consider any further development at the site as this would be considered excessive on this site, so it is fair to say that the developers' proposals have been reined in;
- to PT, the means of enclosure can be a risky business, and she has rightly said there is a drop in levels between the proposal and the property next door. Increasing the height of the fence would make it disproportionately high on the neighbour's side. There have been no neighbour objections on the issue of privacy, so would advise caution on any changes in this regard;
- to PB, it's true that the applicant considered reducing the height of one of the dwellings, having discussed the matter on site. Although this was commendable, officers assessed that a reduction of 225mm on one block was not necessary. Planning Committee shouldn't tinker with applications on the night, and if Members are not happy with the heights, they should delegate the matter back to officers to pursue, in discussion with the Chair and Vice-Chair.

**PB:** would like officers to do that, and puts this suggestion as a formal motion. It is not unreasonable, and the developers have offered, taking account of the objections from the Parish Council and the neighbours.

**Vote on PB's move to amend the officer recommendation to a delegated permit subject to the reduction in height of Plot 2 in consultation with the Chair and Vice-Chair**

13 in support  
0 in objection  
2 abstentions

**MOTION CARRIED**

**Vote on officer recommendation as amended (to a delegated permit subject to the reduction in height of Plot 2 in consultation with the Chair and Vice-Chair)**

13 in support  
1 in objection  
1 abstention

**PERMIT**

**6. 15/00483/FUL 11 Oldfield Crescent**

Application Number:	<b>15/00483/FUL</b>
Location:	<b>11 Oldfield Crescent, Cheltenham</b>
Proposal:	<b>Proposed bungalow, associated parking and landscaping</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Refuse</b>
Committee Decision:	<b>Refuse</b>

Letters of Rep: 2	Update Report: None
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**Officer introduction:**

CS introduced this application for a separate dwelling to the rear of the existing bungalow, saying an earlier proposal for a bungalow on the same site was refused under delegated powers. Officers consider the introduction of a bungalow here is harmful to the residential character of the area. It is very similar to the previously refused scheme, the only amendments relating to a slight reduction of plot size and in ridge height, and a hipped roof instead of a gable. It is at Committee at the request of Councillors Coleman and Holliday. The recommendation is to refuse.

**Public Speaking:****Mr Russell Ranford, agent for the applicant, in support**

This applicant has made this application on behalf of her elderly mother, to help her live independently with her family on hand. She has a degenerate bone condition which makes it difficult for her to climb stairs, but able to live in bungalow. This is not a garden-grabbing exercise; it is a caring daughter trying to make life easier for her mother and planning for her own elder years. The officer report confirms at 6.7 that the proposed structure is within the allowances of permitted development for an outbuilding, and the applicant is using this as a fall-back position, but her mother wants to live independently and she therefore felt it best to be upfront about her intentions. In addition, she hopes to move into the bungalow herself in the future and to sell the existing house. Martin Horwood, an opponent of garden-grabbing, supports the scheme, recognising that it fulfils a need. What is more, it will provide a manageable garden to suit an elderly person. Feels it remiss of officers to refer to previous appeals, one of which was for a larger, tandem dwelling in the Poets Conservation Area, and the other of which, after being dismissed in 2009, now has planning permission for five houses on the site. The proposed dwelling will have its own small garden. Considers planning officers to be showing a lack of consistency in their decisions, and urges Members to take a common sense approach and overturn the officer recommendation.

**Member debate:**

**KS:** is happy with the officer report, and thinks the recommendation to refuse is right. Would ask officers to expand on the issue of permitted development rights; if a planning application is refused, yet the same-sized building could be built under PD rights, how can a refusal be consistent with those rights?

**BF:** read the refusal reasons and then visited the site. Was surprised that the officer considered the proposal would 'diminish the existing sense of spaciousness' between the houses, as the main dwelling is linked corner premises, and there would be a large gap between it and the proposed dwelling. Was also surprised at the comment that the proposed bungalow would be at odds with the scale of immediately surrounding buildings as 50m away there are six bungalows in Oldfield Crescent. Considers these are not good refusal reasons – they are difficult to substantiate and an Inspector would find them so. There is only one letter of objection, and one of the reasons stated is that the neighbours may wish to build over their garage they would not be able to do so. This is not a planning reason. The proposal isn't a tandem development; it has its own separate entrance. Cannot see much wrong with it and would like to move to approve as the refusal reasons aren't justifiable.

**SW:** is open-minded about this but struggling to support the officer recommendation following BF's comments. We moan about garden-grabbing, but this proposal fits well in the plot. It is single-storey so cannot be over-bearing. Will listen to the debate, but cannot really see why it shouldn't be built and would generally be in favour.

**PT:** officers say if someone wants to build a granny annexe, certain criteria need to apply. What is the difference here? Has concerns however – read the report and could see no

reason why this shouldn't be built, but on visiting the site, felt differently about it. The drawings make it look very spacious, but in fact it is much more cramped in reality.

**PB:** is pleased this is at Committee. This could be a marginal case, where officers could have gone either way, but this is where the human side of planning should come in. There is a compelling reason why this bungalow should be built. It is single-storey, will provide for the needs of the owner, and is not a garden-grabbing exercise. Would support BF's move to permit.

**CS, in response:**

- to KS, regarding PD rights, there are clear arguments in the two appeal decisions mentioned in the report which are relevant here. Just because a structure falls under Permitted Development, this doesn't necessarily make it not harmful. The Hillview Road case is relevant in considering the likelihood of permitted development for ancillary use later coming forward as a separate dwelling. The Inspector questioned whether the applicants would build a structure of this size and type purely for ancillary use, and didn't therefore accept PD rights are never harmful;
- officers have assessed this and feel that division of the site would be harmful; that is why the Inspector refused the appeal at Hillview Road.
- to BF, the spaciousness referred to is between No. 11 and No. 15 Oldfield Crescent, to the rear of the site. No. 11 has a large garden and there is a perceived sense of space that would be diminished by the proposed dwelling. The separation of the site and introduction of hardstanding would result in the established character of the area being diminished;
- to PT, the criteria officers look at as to whether a unit is ancillary or not, if this proposal was to come in as PD application for a structure of this size, officers would have to be convinced that it could not be occupied independently, by looking at the facilities provided such as bathroom and kitchen.

**JP:** agrees with PB. Looking at the drawings, this is very much about form and function. This dwelling is proposed for a specific purpose. Agrees that the style doesn't blend in all that well with the surrounding houses but it is a small bungalow, not overpowering in this environment. It will be used for supporting the applicant's family, in keeping with care in the community objectives. Will support the application.

**KS:** feels we are on precarious ground here, if we allow it because the applicant says it is for her mother. Recalls an application in Mitre Street where a dwelling was created for an elderly mother but soon sold on. It may be true in this case but is not necessarily how it will be occupied; it could be being built for profit. We should ask ourselves whether this is the right development in this location; officers say it isn't. If we allow it be built and other similar applications come forward, we won't have a leg to stand on to turn them down. We have to be clear about how we make decisions. The proposal should only be permitted if it isn't harmful to the area.

**BF:** it's clear that the reasons for accepting this proposal aren't just based on immediate occupancy – planning permissions last for a hundred years. Does not agree with the refusal reasons as given. The gardens are not visible from the street and has a big hedge; the sense of spaciousness will be retained; the main dwelling is linked; there are other bungalows nearby so the proposal fits in with the street scene, and in any case, variety is the spice of life. This proposal will do no harm.

**JF:** is getting worried. Members are here to consider arguments for and against applications on planning grounds. Would like to be able to say this proposal is OK, bearing in mind the circumstances of the applicant, but we must stick to planning reasons when considering applications. We need to stick to our guns – otherwise there will be consequences and we are straying onto dangerous ground.

**GB:** agrees with JF.

**PB:** notes that the applicant lives in the big house and effectively wants to build a bungalow in its garden – it could not be built without the big house. Could a condition be added to prevent the bungalow from being sold separately – would that be appropriate?

**GB:** from what the public speaker said, thinks the reverse situation is more likely to arise in the future – the applicant intends to sell the house and live in the bungalow herself at some stage.

**CS, in response:**

- the SPD on garden land was agreed by Members to assess this form of application. Officers feel there is a real distinct character in the area – semi-detached houses with a lot of space around them. To allow any building to interrupt this would be contrary to that document. Has noted the variety of house-styles in Oldfield Crescent, but these are not in the immediate environment of the application site. This proposal will erode the character;
- to PB, it would not be reasonable to attach such a condition; in effect, that would be refusing the application for an independent dwelling.

**SW:** is looking at the site on Google Earth as was unable to attend Planning View, and feels that either a granny annexe or a separate dwelling would fit very nicely into this plot. If it was in his ward, developers would be wanting to build a block of flats on it! One modest building fits well, whether it's for a granny or not.

**GB:** will take vote on officer recommendation to refuse; if this is lost, can then be a move to approve.

**Vote on officer recommendation to refuse**

8 in support

6 in objection

1 abstention

**REFUSE**

**6. 15/00525/FUL 2 Cowper Road**

Application Number:	<b>15/00525/FUL</b>
Location:	<b>2 Cowper Road, Cheltenham</b>
Proposal:	<b>New external soil stacks for nos.2-24 (even) and 26-48 (even) Cowper Road, nos.74-96 (even) and 106-128 (even) Pitman Road, nos.2-24 (even) and 26-48 (even) Wasley Road, and nos.9, 11, 15-41 (incl), 43-54 (incl), 60-71 (incl), 77-88 (incl) and 90-121 (incl) Monkscroft</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>0</b>
Update Report:	<b>None</b>

**Councillor Babbage declared an interest in this application and left the Chamber for the duration of the debate**

**Officer introduction:**

MJC introduced this application for external soil pipes for flats on the corner of Princess Elizabeth Way and Gloucester Road, similar to other applications recently considered by Planning Committee. The application is needed because the internal pipes are failing and replacing them would mean installing new kitchens and bathrooms for all the flats, at a disproportionate cost. The application is at Planning Committee as CBH is the applicant, and the officer recommendation is to approve.

**Public Speaking:**

There was none.

**Member debate:**

**JP:** understands the reason for the application but is concerned at the lack of imagination by CBH, proposing dark pipes down the outside of the buildings and not disguised in any way. They will be an eyesore.

**AL:** this is a main gateway to the town, and adding heavy black vertical lines to these light-coloured buildings is not necessary. The existing pipes are the same colour as the buildings. Would like to propose that for the new pipes.

**MJC, in response:**

- the proposal is for black uPVC pipes, so it would not be a case of painting them but of providing pipes of a different colour. Would Members prefer white pipes? Officers consider the proposed black pipes to be acceptable and nothing unusual. It is up to Members to decide, but is wary of them micro-managing applications in this way.

**PT:** notes that there are already black rainwater pipes from the guttering and black tanks in situ.

**CN:** agrees. The black pipes may not stand out as much as some Members fear.

**AL:** half of those are hidden behind the parapets of the balconies. The smaller pipes from basins are painted the same colour as the exterior of the building. It would be better if the soil pipes were white.

**CH:** plastic pipes can be painted any colour, and should match the surface of the building. This would look less cluttered. Would be happy to see this amendment.

**GB:** can AL confirm what his amendment is?

**AL:** initially for the pipes to be white; ideally for them to be the same colour as the building.

**CL, in response:**

- officers may have a better way of wording this. Can add a condition that that colour of the pipes is to be white or matching as to be approved by the local planning authority

**MJC, in response:**

- officers do not want to agree the colour of the pipe – this would be another application. Suggests that the condition requires white or matching pipes, and that will be the end of our involvement in the proposal.

**DS:** suggests 'matching' is the best option, if AL is happy with that.

**SW:** suggests 'complementary' would be better.

**GB:** officers prefer 'matching'



**Vote on AL's move to add a condition that the pipes should be white or matching**

9 in support  
4 in objection  
1 abstention

**MOTION CARRIED**

**Vote on officer recommendation to permit with additional condition**

13 in support  
0 in objection  
1 abstention

**PERMIT**

**6. 15/00636/FUL 106 Devon Avenue**

Application Number:	<b>15/00636/FUL</b>
Location:	<b>106 Devon Avenue, Cheltenham</b>
Proposal:	<b>New external soil pipes at 106-116 (even) Devon Avenue</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Permit</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>0</b>
Update Report:	<b>None</b>

**Officer introduction:**

MJC told Members that this application is similar to the previous one, though smaller in scale, involving just one block of flats. It is an unrendered, red brick building. Again, the application is at Committee because CBH is the applicant, and the officer recommendation is to approve.

**Public Speaking:**

There was none.

**Member debate:**

There was none.

**Vote on officer recommendation to permit**

15 in support – unanimous

**PERMIT**

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

There were none.

**8. Local Government Act 1972 - Exempt Business**

Members debated agenda item 8 as to whether agenda item 9 should take place in exempt session. A number of members raised concerns about transparency and felt that there was nothing new presented in the advice contained in the report and that the risk of costs had been identified by officers when the application had been debated on 31 July 2014.

It was noted that, as a general principle, having discussions in public was the best approach to take, but that in order to have a full and open debate on both the legal advice and financial advice, this should take place in exempt session.

**RESOLVED THAT “in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the following agenda item as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 3 and 5, Part (1) Schedule (12A) Local Government Act 1972, namely:**

**Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information).**

**Paragraph 5: Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings”**

The vote to enter into exempt session was carried with 14 in support and 1 abstention.

### **9. Consideration of Council's Case - Appeal by Bovis Homes Limited & Miller Homes Limited regarding Land at Leckhampton, Shurdington Road, Cheltenham (application ref 13/01605/OUT)**

Officers opened agenda item 9 explaining the purpose of bringing the report to Committee – which focused primarily on the refusal reasons, the council’s case at Inquiry, exposure to costs and legal advice received on these matters. Five options were set out in the officer report to Committee considering a range of approaches on how the 9 refusal reasons could be dealt with at the forthcoming Inquiry. The 9 refusal reasons (in summary) were:

1. Grant of permission premature to the finalisation of the Joint Core Strategy
2. Proposal of 650 new homes forms part of a larger allocation for 1,124. Unclear whether scheme would deliver comprehensive development
3. Premature in advance of council consideration to designate sites as local green space
4. Proposed development would significantly and adversely add to existing traffic congestion on the A46, wider roads and junctions
5. Proposed development would have a significant adverse impact on the character of the landscape and the adjoining AONB
6. Loss of areas of best and most versatile agricultural land
7. Inconclusive evidence on flood risk
8. Impact of retail proposed on district centres of Hatherley and Bath Road
9. No Section 106 agreement completed to secure payment of the commuted sums to deliver adequate infrastructure.

Members outlined their concerns in regards to the details of the scheme, the context of the application within the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the examination into this plan; and the relationship of the site with adjacent land being considered for development by Tewkesbury Borough Council.

Members discussed the 9 refusal reasons; particular focus was upon prematurity in advance of the Joint Core Strategy, comprehensive development, traffic and landscape implications and context of local green space. The Committee considered the legal advice in respect of these issues and discussed with officers the implications in the context of the council’s case at the Inquiry.

Members discussed the likely extent of costs; including the council’s own costs and those which may be awarded against the council. The budget available to defend the council’s

case was discussed; it was noted that if significant costs were awarded against the council then the budget currently available would be insufficient.

A member proposed a substantive motion to pursue option 4 in the report – to progress Refusal Reasons 4 (highways) and 5 (AONB), with Refusal Reason 9 (S106) added. Members debated the motion and a number of amendments were proposed which included the incorporation of refusal reasons 1, 2 and 3. The amendments were not carried.

Following the votes on amendments, the substantive motion was taken which was carried - 13 in support, 2 in objection.

Officers were tasked with contacting the appellants to set out the refusal reasons the council intended to pursue at the Inquiry.

**Resolved to direct officers that refusal reasons 1, 2, 3, 6, 7 and 8 of decision 13/01605/OUT should not be pursued in respect of the appeal lodged in respect of that decision, but should continue to pursue and submit evidence in respect of refusal reasons 4, 5 and 9 (noting that refusal reason 9 may be satisfactorily resolved via the provision of a planning obligation)**

*The Planning Committee meeting ended at 9.50pm following approximately 2.5 hours debate on agenda items 8 and 9.*

The meeting concluded at 9.50pm