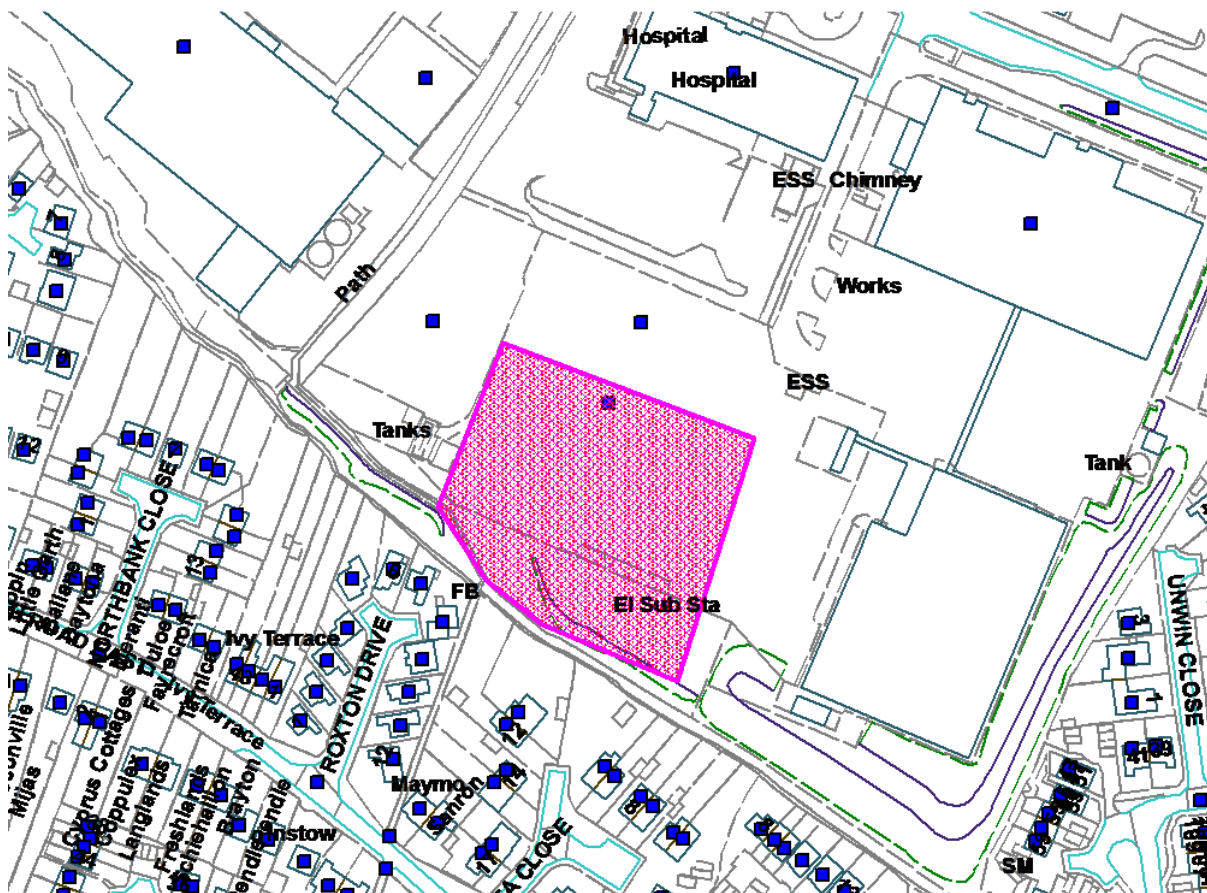


<b>APPLICATION NO:</b> 15/01048/OUT	<b>OFFICER:</b> Mr Martin Chandler
<b>DATE REGISTERED:</b> 16th June 2015	<b>DATE OF EXPIRY:</b> 15th September 2015
<b>WARD:</b> Benhall/The Reddings	<b>PARISH:</b>
<b>APPLICANT:</b>	
<b>AGENT:</b>	DK Planning & Development Ltd
<b>LOCATION:</b>	Land to rear of Nuffield Hospital, Hatherley Lane, Cheltenham
<b>PROPOSAL:</b>	Residential development of up to 27 dwellings

**RECOMMENDATION:** Permit subject to S106 agreement



## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application seeks outline planning permission for the erection of up to 27 dwellings on a parcel of land to rear of the Nuffield Hospital on Hatherley Lane.
- 1.2 As well as seeking approval for the principle of residential development on an employment site, the application also seeks approval for the means of access to the site, the layout of the development and the scale of development. Matters relating to appearance and landscaping are reserved for future consideration.
- 1.3 The application was submitted to the Local Planning Authority in June 2015 without the benefit of pre-application advice. Upon receipt, officers had a number of concerns with the proposal but rather than determine the scheme that was before them, adopted a more positive approach and offered the opportunity to the applicant to reconsider their proposal and resubmit at a later date. The relevant determination period was re-negotiated to allow for this prolonged application cycle.
- 1.4 Revised information was submitted to the Authority towards the end of October and it is this scheme that is before members for consideration.
- 1.5 The key change from that which was originally submitted relates to the layout of the proposed development. The applicant was encouraged to adopt a landscape led approach to soften the commercial surroundings in which the site is located and this has resulted in the loss of three dwellings (the original submission was for up to 30 dwellings).
- 1.6 The application is supported by a site layout, a detailed planning statement, design and access statement and marketing particulars. There is also a commitment within the application to provide a policy compliant level of affordable housing (40%).
- 1.7 The application is before the planning committee at the request of Cllr Fletcher to enable a discussion on the principle of development given its status as employment land.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Relevant Planning History:

**08/01684/OUT 21st July 2009 PER**

Outline application for the erection of 24465m<sup>2</sup> of employment floorspace (Use Class B1) including the provision for small ancillary services including a Creche (Use class D1), Shop (Use class A1), two cafes/restaurants (Use class A3) and gymnasium (Use class D2)

**10/00252/FUL 7th July 2010 PER**

Proposed mixed use development comprising 7,608 sq m of class B1 office space and 6,919 sq m of class A1 food store, petrol filling station, ancillary uses and associated works

**10/01708/CONDIT 17th December 2010 PER**

Variation of condition 20 (relating to cycle storage) on planning permission 10/00252/FUL to enable a phased implementation of the approved development

**12/01488/FUL 20th September 2013 PER**

Erection of 3,384sq.m of office headquarters floorspace (use class B1) (Proposal is an amendment to unit 9 of planning permission 10/00252/FUL)

### 3. POLICIES AND GUIDANCE

#### Adopted Local Plan Policies

CP 1 Sustainable development  
CP 4 Safe and sustainable living  
CP 6 Mixed use development  
CP 7 Design  
GE 5 Protection and replacement of trees  
GE 6 Trees and development  
EM 2 Safeguarding of employment land  
HS 1 Housing development  
HS 4 Affordable Housing  
RC 6 Play space in residential development  
UI 3 Sustainable Drainage Systems  
TP 1 Development and highway safety  
TP 6 Parking provision in development

#### Supplementary Planning Guidance/Documents

Affordable housing (2004)  
Development on garden land and infill sites in Cheltenham (2009)  
Flooding and sustainable drainage systems (2003)  
Planning obligations (2003)  
Play space in residential development (2003)

#### National Guidance

National Planning Policy Framework

### 4. CONSULTATIONS

#### **Severn Trent Water Ltd**

*15th July 2015*

With reference to the above planning application the company's observations regarding sewerage are as follows.

I confirm that Severn Trent Water Limited has NO OBJECTION to the proposal subject to the inclusion of the following condition:

#### Condition

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

#### Reason

To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

#### **Crime Prevention Design Advisor**

*6th July 2015*

In my capacity as Crime Prevention Design Advisor for Gloucestershire Constabulary I would like to comment on the material considerations of the planning application at Nuffield Hospital, Hatherley Lane with reference number 15/01048/OUT.

The following points should be considered in order to improve security and reduce the fear of crime

The apartment block and each town house should offer a defensible space or front garden to offer area of ownership outside of their home.

Access into the rear garden should offer security and opportunities to see pedestrian movement along the boundary treatment.

The landscaping design should reflect the need for lines of sight through the development, it also needs to be maintained so the street lighting isn't affected.

The existing footpath leading into the site should be designed to offer a safe route for pedestrians and a secure boundary for the neighbouring homeowners and their parked vehicles.

Cars located across the site are hidden from view due to the landscaping, layout and the inclusion of car ports which will increase the fear of crime and the risk of theft.

With 1.6 vehicles allocated to each household, the number of cars on this cramped site will dominate the street scene. To provide vehicle security each vehicle should be parked in curtilage.

#### Secured by Design

Secured by Design focuses on crime prevention of homes and commercial premises and can reduce crime by 60%. This can be achieved through the use of security standards for a wide range of applications and products; by removing the various elements that are exploited by potential offenders and ensure the long term management and maintenance of communal areas.

#### Conclusion

Gloucestershire Constabulary's Crime Prevention Design Advisors are more than happy to work with the Council and assist the developers with further advice to create a safe and secure development, and when required assist with the Secured By Design accreditation.

#### **Building Control**

*25th June 2015*

No comment

#### **Cheltenham Civic Society**

*9th July 2015*

Comments: We very much regret the loss of this site for employment use, and we oppose its use for housing. The town needs more employment land, and this is a suitable site to provide that.

#### **Joint Waste Team**

*26th June 2015*

With regard to this planning application, the only comments I would make is that the road network servicing the properties must be constructed of a material able to withstand the weight of a 26 tonne refuse vehicle. We have seen issues elsewhere with roads being constructed from block-paving and there being sinkage when vehicles begin to use them.

Plus there doesn't seem to be a bin storage area for the 11 apartments identified anywhere - this needs to be of a size and location able to be serviced by the collection crews as per the planning guidance document for waste and recycling.

### **Architects Panel**

*29th July 2015*

The panel was not convinced that this should be developed as a residential site given adjacent uses.

In addition the proposed layout seemed poor and overly dense, the relationship between some of the blocks being very cramped. If the site were to be accepted as a residential site by the LPA, then a more refined layout would be expected in due course.

## **5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>35</b>
Total comments received	<b>5</b>
Number of objections	<b>5</b>
Number of supporting	<b>0</b>
General comment	<b>0</b>

**5.1** Letters were sent to 35 neighbouring properties to publicise this application. In response, five letters of objection have been received. The concerns that have been raised can be summarised under the following matters:

- Flood risk caused by water draining into Hatherley Brook
- Impact on wildlife on the perimeter of the site
- Lack of tree planting and unfulfilled promises from the previous redevelopment of the site
- Loss of privacy to adjoining dwellings
- Impact on traffic
- Noise impact
- Loss of an employment site

**5.2** These matters will be discussed in the main body of the report.

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

**6.1.1** The fundamental consideration in relation to this application is the principle of developing this site for residential purposes given the context established by local plan policy EM2 as well as advice contained within the NPPF.

**6.1.2** Once the above is established, this report will go on to consider the proposed development in terms of its indicative design and layout, impact on neighbouring amenity and any highway considerations.

## 6.2 Principle of development

**6.2.1** Members will be entirely familiar of the requirements of local plan policy EM2. For ease of reference, the policy is provided below:

**6.2.2** *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); or*
- (c) the proposed use is sui generis but exhibits characteristics of B1, B2 or B8 employment uses and which should appropriately be located on employment land (note 2); or*
- (d) development of the site for appropriate uses other than B1, B2 or B8 and criteria (c) will facilitate the relocation of an existing firm to a more suitable site within the Borough (note 3); or*
- (e) employment use creates unacceptable environmental or traffic problems which cannot be satisfactorily resolved.*

*Mixed use development will be permitted on employment land provided:*

- (f) any loss of existing floorspace would be offset by a gain in the quality of provision through modernisation of the existing site. This should secure or create employment opportunities important to Cheltenham's local economy, and*
- (g) the loss of part of the site to other uses does not have a detrimental impact on the range of types and sizes of sites for business uses in the area nor the continuing operation of existing business sites; and*
- (h) the use is appropriate to the location and adds value to the local community and area.*

**6.2.3** The policy is derived from Cheltenham's persistent and recognised shortage of employment land; essentially, given the shortage of employment land within the borough, the policy adopts a restrictive approach to development with the aim to protect existing employment land so as to not make the shortage more acute.

**6.2.4** Notwithstanding the above, the policy also provides a series of criteria that, if satisfied, can allow for a change of use to one falling outside of the traditional 'B' classes of employment.

**6.2.5** In submitting this application, the applicant is seeking to satisfy criterion B of the above policy: that the retention of the site for employment purposes has been fully explored without success. To do this, the applicant has set out the history of what they consider to be a comprehensive marketing strategy. Officers will comment on the marketing strategy, but perhaps the best place to start is to outline the recent history of the site.

## 6.3 Site history

**6.3.1** Members may recall that before this site was redeveloped for the Asda foodstore, it was occupied extensively by Woodward International. Planning permission was granted in 2010 (ref: 10/00252/FUL) for the following: *Proposed mixed use development comprising 7,608 sq m of class B1 office space and 6,919 sq m of class A1 food store, petrol filling station, ancillary uses and associated works.*

**6.3.2** Subsequent to that, two applications have been determined which sought to bring forward the consented B1 floorspace. The first, submitted by Pure Offices (ref: 00091/FUL) proposed the erection of 2,259 sq.m of B1 floorspace which has been built out. The second, submitted by Kier Construction (ref: 12/01488/FUL), proposed the erection of 3,384 sq.m of B1 floorspace. Members will be aware that this permission is yet to be implemented.

**6.3.3** The applicant, understandably, points to these two permissions as initial evidence of an active marketing campaign. Indeed, if the Kier site is built out then almost 75% of the originally consented 7,608 sq.m of B1 floorspace will have been delivered. Nevertheless, given the requirements of policy EM2 and the wider context of economic development in the town, this site still has an inherent value as a suitable site for commercial development.

#### **6.4** Marketing

**6.4.1** The applicant has confirmed that the site has been for sale and to let since 2003 and this has led to the redevelopment that is evident on site. Further to the 2010 permission, the site has been marketed on Robert Hitchins' website since January 2010 with a brochure also produced. Members may also have noticed advertising boards and hoardings on the site and on the access into the foodstore car park. In addition, KBW started marketing the site in 2014, with the site also on Zoopla, RightMove and EG property link. The applicant advises that this is the normal marketing process for a property of this nature.

**6.4.2** The applicant has confirmed their asking rates for this site and officers are satisfied that these are competitive; the fact that two thirds of the site has been disposed of also gives officers comfort in this regard.

**6.4.3** Through discussions with the applicant, it has been confirmed that there has been some interest in the site from potential occupants in the financial and telecommunication sectors, as well as from retail operators. The main reason why interested parties have not pursued the site would appear to be a lack of appetite for new build, instead pursuing existing buildings.

**6.4.4** It has also been confirmed that the applicant has worked with the Cheltenham Development Taskforce and has discussed the site with potential tenants that have approached the taskforce as a starting point.

**6.4.5** One area that has not been actively pursued is use of the site for B2 (General Industrial) or B8 (storage or distribution). Whilst the site was originally used for B2 purposes, the applicant contends that in its redeveloped form, the site is no longer suitable for such a potentially intrusive use. Officers do have some sympathy with this line of argument, and the applicant has confirmed that without confirmation that the site would not be used for these purposes, the Kier and Pure applications would not have come forward. Indeed, it has been subsequently confirmed that there is a covenant on the site preventing future use of the site for B2 or B8 purposes. Members will be aware that covenants are not material planning considerations, but an appropriate mix of uses on a site clearly is. Officers consider that this slight stifling of the market represents a shortcoming in the marketing of the site, but also recognise that bringing the site forward for these uses would represent a significant challenge.

## 6.5 Officer comments

- 6.5.1** It is accepted that Cheltenham's shortage of employment land remains a fundamental challenge for the borough. The Council's evidence base shows that there remains a quantitative and qualitative shortage of viable employment land within the borough and the Economic Development Strategy advises that all existing employment land should continue to be used for that purpose unless there is clear evidence that the land in question is no longer suitable for that use. Nevertheless, throughout protracted discussions with the applicant regarding this site, it has become apparent that there is sustained resistance from the market to deliver this particular parcel of land for employment use.
- 6.5.2** As noted in the attached response from the Council's policy team, the applicant has provided information in relation to the marketing of the site over a series emails and a subsequent meeting. The areas discussed over this period have now been helpfully summarised in a recently submitted report.
- 6.5.3** Throughout these discussions, a constant source of frustration from the applicant was the fact that policy EM2 is not prescriptive in what it requires in order to satisfy its restrictive approach. This is essentially because there cannot be a 'one-size fits all' approach when dealing with matters relating to demand but the policy response also provides some interesting thoughts on this matter:
- 6.5.4** *Policy EM2 does not prescribe what this data should be although in note 1 it states, "evidence will be required to demonstrate demand; this may include details of past advertising, vacancy levels, and rents levels. This list is not exhaustive and further information may be required." Advice was clear that evidence would need to provide a clear narrative as to why a spade ready brownfield site with good site access and close proximity to the M5 was struggling to find any potential suitors. Officers explained Council evidence showed there is an overwhelming need/demand for sites that can deliver 1,000sqm modern buildings across the town.*
- 6.5.5** The Council evidence referred to is the study titled 'Developing Cheltenham as a business location' published in January 2015.
- 6.5.6** Having worked with the applicant to understand the evidence that they have been presenting, officers consider that the applicant are unable to provide any further meaningful information, the conundrum being that it is difficult to prove that something doesn't exist.
- 6.5.7** One of the areas discussed by the applicant in their recent submission relates to market values with the conclusion that rent levels have not yet caught up with build costs and that until rent levels are over circa £20 sq.ft, speculative building is unlikely. These conclusions are consistent with the Council's own evidence base; on this point, officers would advise that this should not be interpreted as a lack of demand, but instead symptoms of a local market at a particular point in time.
- 6.5.8** Again, the following thoughts from the policy officers are relevant on the applicant's submitted report are helpful:
- 6.5.9** *This report represents a more detailed account of the market conditions and although it took some time for the applicant applicants to provide and release this information, it is clear the local market is currently finding it difficult to build speculative units. The market remains reactionary.*



## 6.6 Summary

- 6.6.1** If the market remains reactionary in relation to speculative new build then this presents limited opportunities for the application site to deliver the outstanding B1 floorspace originally consented in 2010. Whilst there is a clear and demonstrable need for high quality office space within the town, if the market is not advancing speculative proposals of this nature then, as identified by the policy response, this places the Council in a difficult situation. The attached response goes on to state that:
- 6.6.2** *National planning policy is clear that councils should be committed to build a strong and competitive economy; Cheltenham's response is to safeguard existing employment land uses. There is however a clause within the NPPF that requires Councils to avoid the long term protection of sites allocated for employment use where there is no prospect of the site being used for that purpose. Coupled with the limited ability of the council to persuade the market to build speculative buildings (e.g. build it and they will come approach), this has meant employment sites are increasingly being proposed for alternative uses, namely residential.*
- 6.6.3** It is this analysis that should weigh heavily when determining this application. The NPPF advises that authorities should deal with applications that seek alternative land uses '*on their merits having regard to market signals*'. On this specific site the market signals are quite clear and that whilst there remains a need for employment land, speculative development will not be delivered at this point in time.
- 6.6.4** In light of the ongoing shortage of employment land, the question should then turn to whether or not it is appropriate to release this parcel of land for alternative uses given the fact that market signals may change over time and speculative development may become more likely. Given the particular market conditions, an argument could be made to suggest that this application is premature and that the land should be protected for a longer period of time but the NPPF is quite clear on this approach. It is stated that policies should avoid the long term protection of sites "*where there is no reasonable prospect of a site being used for that purpose*".
- 6.6.5** It is the view of officers that there is no reasonable prospect of this site being advanced for speculative development and that second-guessing the market would not be construed as 'positive decision-making' if planning permission was refused on this ground. Another matter that carries significant weight in the assessment of this application is the fact that, at present, the Council cannot demonstrate a five year supply of housing as required by the NPPF.
- 6.6.6** In conclusion, officers consider that, on balance, the applicant has demonstrated compliance with the requirements of local plan policy EM2. Whilst there remains an undisputed need for additional employment land within the borough, the findings from both the applicant's marketing strategy and the Council's own evidence base, is that the market is not able to deliver speculative development. This, coupled with the borough's housing supply position, means that residential development should be considered favourably at this point in time, subject to the merits of any development proposals. It this aspect of the scheme that this report will now focus upon.

- 7. The rest of this report will follow by way of an update to members. This will include a full recommendation.**