

# Planning Committee

26<sup>th</sup> May 2016

## **Present:**

### **Members (15)**

Councillors Barnes, Chair (GB); Fisher, Vice-Chair (BF); Baker (PB); Colin Hay (CH); Hobley (KH); Lillywhite (AL); McCloskey (HM); Oliver (TO); Savage (LS); Seacome (DS); Sudbury (KS); Thornton (PT); Wheeler (SW).

**Substitutes:** Councillor Chris Mason (CM)  
Councillor Paul McCloskey (PM)

Present as observers: Councillors Babbage and Coleman.

### **Officers**

Tracey Crews, Director of Planning (TC)  
Martin Chandler, Team Leader, Development Management (MC)  
Lucy White, Senior Planning Officer (LW)  
Emma Pickernell, Senior Planning Officer (EP)  
Claire Donnelly, Planning Officer (CD)  
Gary Dickens, Planning Officer (GD)  
Chris Chavasse, Senior Trees Officer (CC)  
Michael Doust, Trees Officer (MD)  
Nick Jonathan, Legal Officer (NJ)

### **1. Apologies**

Councillors Nelson and Collins.

### **2. Declarations of interest**

There were none.

### **3. Declarations of independent site visits**

Councillor Mason – visited all sites  
Councillor Fisher – visited (i) Avenoke, Kidnappers Lane, and (ii) 66 Bouncers Lane  
Councillor Savage – visited Ryeworth Inn, Ryeworth Road

### **4. Public Questions**

There were none.

### **5. Minutes of last meeting**

Resolved, that the minutes of the meeting held on 21<sup>st</sup> April 2016 be approved and signed as a correct record without corrections.

Before the start of the meeting, the Chair thanked Jacky Fletcher for her many years of hard work on Planning Committee and her valuable contribution, including acting as Vice-Chair. He welcomed the new Vice-Chair, Councillor Fisher.

He also welcomed the new Planning Committee Members – Councillors Collins, Hobley, Oliver, McCloskey and Wilkinson – and two new planning officers, Claire Donnelly and Gary Dickens.

The legal officer, Nick Jonathan, explained the voting procedure for the benefit of new members: the first thing to remember is that the officer recommendation is taken as the motion (as set out in Rule 8 of the Constitution), unless there is a procedural motion, such as a move to defer, which takes priority. CBC does not require seconders for motions, either procedural or substantial. When it comes to the vote, abstentions can be taken, but Members are requested to raise their hands high to make their voting preference very clear.

## 6. Planning applications

Application Number:	<b>16/00166/FUL</b>		
Location:	<b>Ryeworth Inn, Ryeworth Road</b>		
Proposal:	<b>Alterations and conversion of existing public house (part) to form a single dwelling and erection of two new dwellings</b>		
View:	<b>Yes</b>		
Officer Recommendation:	<b>Permit</b>		
Committee Decision:	<b>Refuse</b>		
Letters of Rep:	<b>12</b>	Update Report:	<b>Additional representations</b>

**LW** introduced the application as above, explaining that the Ryeworth Inn is registered as a community asset, and in accordance with requirements, CAMRA and local interest groups were notified of the application, to allow any potential bidders to come forward. No interest was expressed within the statutory six weeks, and the application has proceeded accordingly. Officers consider the scheme acceptable, there are no highway or amenity issues, and the recommendation is therefore to permit.

### **Public Speaking:**

#### **Mr David Jones, of Evans Jones agent, in support**

Is speaking as planning consultant representing the applicant. This is an application for full planning permission for the alteration and conversion of the former pub, plus two additional dwellings in the car park. Officers want balance, and have recommended that the application be permitted. Of the 16 public comments, only ten were in objection, primarily concerned with increased traffic and parking issues, with only six referring to the loss of the public house. The proposal has had a number of revisions, with careful consideration of neighbours' comments being taken into account, and as a result officers are supportive of the scheme. Regarding the loss of the public house, this had been registered as an asset of community value, which places certain obligations on the property owners; in compliance with this, the owners have notified the parish council and local interest groups, allowing them the opportunity to bid for the pub. No interest has been shown. To compare this proposal with the recent application at The Maple Leaf in Hewlett Road is wrong, as there were 70 letters of rep and major local objection to the loss of that community asset. It is a fact that not all public houses can survive, and this scheme to use the former pub site will provide much needed housing. Urges Members to support the officer recommendation.

**Member debate:**

**LS:** this is a challenging application, and it is with a sense of sadness that we contemplate another proposal to turn a pub into housing; is aware of several other pubs across town that are threatened with closure or conversion, and CAMRA has estimated that across the country, 27 pubs a week are closing. The government acknowledges the formative role of pubs in the community, in Paragraph 69 of the NPPF, stating that planning policies and decisions should bring together those who work, live and play in an area. The Ryeworth Inn has always been an asset to the people of Ham, Ryeworth Road and the surrounding areas, providing a focal point and giving a sense of community. The officer report refers to the recent decision at The Maple Leaf/Fiery Angel in Hewlett Road, which the community had rightly created as an asset of value, but differentiates between this and the Ryeworth Inn – this is a challenge. It refers to a number of licensed premises within 1km of the site, but there are a lot more in the Fairview area than in the vicinity of the Ryeworth Inn. The Ryeworth Inn serves a large area, and members of the community will have to walk a lot further than 1km to the nearest pub. In addition, other pubs in the vicinity may well come under equal threat of closure in the near future.

Paragraphs 6.18 and 6.19 of the officer report dismissively refers to the fact that the Ryeworth Inn does not have a function room as such, but is simply a pub with an indoor and outdoor seating area, but a pub doesn't need a function room to be a meeting place of value to the community. It is desirable to have a function room, but is its absence sufficient reason to deprive the people of their local pub? This seems illogical and unfair.

Is mindful of the need for new houses but without a community these will be just houses, not homes. We must acknowledge the need to preserve our communities.

**HM:** is also sorry to see the pub go, but on Planning View was particularly concerned about parking in the area; the minibus struggled to manoeuvre, and various objectors have referred to the difficulty of parking in Ryeworth Road. If Members are minded to approve the proposal, can a condition be added requiring all demolition and construction vehicles be parked on site in the vicinity of the TPO'd tree?

**PB:** confirmed that LS will move to refuse, and also that the fact that no group came forward to protect or bid for this community asset when it was advertised will not negate NPPF Paragraph 70 and Local Plan policy RC1. Is also concerned about this application. One representation referred to a previous landlord, who ran a very successful, popular and vibrant local pub. It is no longer sustainable because the owners constrain the landlords and make the business unsustainable in order to realise the asset and sell the building/land for housing. They are making the whole process possible. It is important to recognise the importance and community value of this building as a public house. Will support LS's move to refuse.

**BF:** the report compared The Ryeworth Inn and The Fiery Angel, but many residents living close to The Fiery Angel came forward with reasons why it should remain as a community asset. As the agent has said, no-one came forward in support on The Ryeworth Inn. We have to realise that the pub scene is changing. The Ryeworth Inn was a nice pub; people are complaining about the potential traffic from three houses, but if this was a vibrant busy pub, the traffic would be much worse. It clearly wasn't vibrant; drinking habits have changed, and some pubs will go while other survive. Loss of the pub is not a reason to refuse this application.

**CH:** agrees with LS and PB. This pub was regarded as a community asset – there must have been good grounds and reasons for this designation to be validated. PB referred to the way in which owners of pubs see this as easy pickings for development, and we just wring our hands and watch them go. Once a pub is gone, it is gone in perpetuity. The pub was refurbished recently but there didn't seem to be any desire to make sure the refurbishment made the pub more of a community asset. We need to take this very seriously. Pubs are being quite deliberately run down, right across the country. There are differences between this case and The Greyhound – we hadn't started to move

on community assets at that time; and the Inspector stated that there was another pub within walking distance, but within six weeks of granting the appeal, that pub had closed too. When working properly, these are the sorts of pubs that are used by local people. The Kemble, for example, is a tiny pub, with no parking, but is very successful and much-valued by the people in the 20 streets nearby who have to walk 5-10 minutes to reach it. We do nothing to encourage publicans and owners to think how they can make these pubs work rather than thinking how they can make the most money out of the site, and the community suffers as a result.

A guiding principle of planning is that development should be sustainable, and this means the community too – we erode the community by taking away its community assets.

**KS:** is looking at this from a completely different viewpoint. Has no strong views about the loss of the pub – doesn't know the area, so is only looking at the plans presented. Considers the two houses on the car park to be an overdevelopment. It looks like the side of the existing pub will be the boundary of that property, with parking space right up against its wall. Has lived in a house with this arrangement, and it causes problems. It would be better if just one house with a garden was to be built on the car park. Also had concerns about access and parking when on Planning View. The right-hand plot looks as if it will be very awkward to get cars in and out, and won't be easy for the people living there. Thinks impact on amenity and over development are issues here; the conversion of the pub and one house on the carpark would be a more successful and sustainable scheme.

**LW, in response:**

- to HM, regarding parking for demolition and construction vehicles, has not suggested such a condition and wouldn't normally do so for this size of scheme; we would need to judge if it would be reasonable in this case. A condition requiring the submission of a construction management plan could be added ; there is some scope on site for construction vehicles, though not a huge space adjacent to the TPO'd tree. Officers would need to take seek the views of the trees officer on this; there is space at the front, but access to the back might be problematic. We could add a condition and see what the developers come back with;
- to PB's question whether the community asset procedure trumps both the NPPF advice and policy RC1, it sits alongside it rather than trumps. No local interest group has come forward and we have to accept that and the fact that the applicant is now free to dispose of the property. One then needs to consider the proposals having regard to development plan policy and advice set out in the NPPF. ;
- regarding tree protection, the tree officer has suggested a condition
- to KS, regarding the boundary, it is correct that the flank wall of the pub building will be the boundary to Plot 3, but there is a 3-metre gap for parking and no issue regarding amenity. The site could, of course, accommodate one dwelling but officers' view is that there is adequate amenity space to the front, rear and sides of the proposed dwellings. This arrangement is not uncommon and in keeping with the character of Ryeworth Road, and not an anomaly; as demonstrated the site can adequately accommodate three dwellings which reflect the size, character and urban grain of surrounding development;
- regarding car access and visibility from Plot 3, Highways officers have looked at this, and consider visibility to be good to the left, and restricted to the right, but not completely. The situation will not be dissimilar to when the building was used as a pub, but there will be less overall vehicular movement in and out of the site, and Highways officers have no concerns in relation to highway safety. Also the access to Plot 1 is in a similar position to the existing pub car park entrance.

**MJC, in response:**

- on the community asset issue, would just make Members aware of the work in progress for the Cheltenham Plan and the JCS – things will start moving soon on this, and Part 2 will involve work on community assets, mainly public houses, and CBC will have to form policies to protect them, but at the moment there are no policies in the Local Plan, as highlighted in the appeal decision on

The Greyhound. Officers will be working on the Local Plan, and this may be discussed through Planning and Liaison Member Working Group, through which Members will be able to feed in.

**CH:** would just point out that community assets weren't around at the time of the two appeals cited, and are now an additional argument to be used in refusing an application. It has been decided that this pub is a community asset, referred to in various planning documents; this must be something we can use to refuse.

**GB:** reminds Members that they will need to vote first on the recommendation to permit; if this is not carried, LS's move to refuse can be taken.

#### **Vote on officer recommendation to permit**

6 in support

9 in objection

**NOT CARRIED**

**LS:** defers to more experienced planning colleagues for specific framing of the refusal reasons, re. planning policy and legislation.

**PT:** is the loss of the community asset a strong enough reason to refuse the application?

**CH:** struggles to remember which policies should be used. KS has referred to overdevelopment of the site, but if this is included, it could be difficult – saying the site can be developed, whereas other Members would prefer it remains as a pub. Does the unacceptable loss of a community asset count as unsustainable development? Can a refusal be framed around this, in line with the work being done on the Local Plan? Members need advice from officers, who know what they are trying to articulate.

**GB:** we need good reasons to turn this application down. Sustainability is being discussed, but we have to be able to sustain the decision against possible arguments.

**LS:** he and CH are clear in their minds about the reasons to refuse, but need work to form these into a decision which sits in the legislative framework. MJC has mentioned the JCS and the Local Plan; would it be legitimate to defer a decision until these documents and their protection of public houses can be looked at, as the Committee has expressed a wish to do so?

**BF:** The Ryeworth Inn has been closed as a pub for a long time. If there is not a decision on this application soon, it will be out of time and straight to appeal.

#### **MJC, in response:**

- officers have a lot of sympathy with Members' view – no-one likes to see pubs close if they don't have to – but we must not let emotion slip in here. We must be ruled by our heads not our hearts, and make a decision based on policy;
- the report sets out all that has been done regarding the community asset; the applicant has followed the right process, registering the scheme. No-one has come forward with an alternative use for the building, or to keep it on as a pub. If we use the NPPF to substantiate the refusal reason, the community asset argument will be diluted. We cannot sterilise land for redevelopment because we hope that the pub will re-open at a later date, and must consider the case at appeal;
- officer view is that this will not stand up at appeal, particularly as the applicant has gone through the correct community asset process;
- we have had a chequered history when using the Local Plan policy, as for The Greyhound and The Fiery Angel. The NPPF give words to help articulate a refusal reason, and a lot of what has

been said makes a lot of sense, but this is not a strong enough reason on its own, and the Council will be accused of sterilising the land.

**LW, in response:**

- Whilst a condition could be drafted Officers do not consider the proposals an overdevelopment of the site. The gaps shown between the proposed dwellings are standard, as are properties butting on to each other, and this design allows for off-road parking which is a positive. It would not be right to refuse on the grounds of overdevelopment, on the basis that the site is only suitable for one dwelling, as officers consider the site can comfortably accommodate two additional buildings.

**CH:** the Committee has voted to refuse this application, Members and officers must now explore what the refusal reasons should be. Policies RC1 and CP1 have been suggested, relating to sustainable development. Any development has to be sustainable, and RC1 has been used previously. Members have heard that officers are sympathetic to their view but looking for appropriate policies at the moment. Things have changed since the previous appeal decisions on similar schemes to this, and we should push for this to be refused. The Maple Leaf/Fiery Angel applicant is now talking to the local community to see if there is any possibility of a scheme to incorporate flats and a small public house; this may not happen, but at least it opens up the opportunity. Agrees with KS that a single dwelling would create a better balance on this site, although housing is a lot more dense opposite the site. Communities with dense housing need somewhere to go. This isn't the town centre with lots of places within walking distance.

**AL:** the highways assessment could be considered as a reason for refusal. The original application formed a pedestrian/vehicle access, but no new or altered vehicle access is now proposed from the public highway. On Planning View, a comment was made about cars reversing on to the road; told they couldn't and would have to reverse into the drive. The traffic assessment clearly shows cars reversing onto the road; maybe this is something that could be included in the refusal?

**KS:** regarding the point she is trying to make about overdevelopment, does not consider the scheme to be overdevelopment *per se* – the plot could take two houses – but the side of the converted pub will be the boundary wall, and this could cause potential conflict with neighbours. The officer comment on existing access to Plot 3 is not correct – there is currently vegetation at the place where it states there is a drop kerb; the car park exit is in fact in the middle of the car park plot. So not overdevelopment as such, but the form won't provide satisfactory living conditions for the residents. There are two access points; it would be more comfortable and straightforward if there was just one.

Feels that the loss of the pub argument may be clutching at straws, but is angry that we have not yet got to grips with this – how many more pubs will be lost before we get the relevant policy to prevent it? Realises that this isn't a strong enough reason to refuse the application unless we use the NPPF, which is a risk, but believes Planning Committee should be asking for a more successful scheme of development.

**CM:** supports CH's comments: this was and could be a community space. There is a similar parking situation in Eldorado Road in his ward and it is a nightmare for residents; the occupiers of these houses are unlikely to reverse into their driveways, and all cars driven in will inevitably be reversed out on to road.

**AL:** cannot see any Highways comments in the report, but the responses on the form are 'no' to all the questions, suggesting no impact on the access to the highway.

**GB:** we are going round in circles here; officers have an idea of how Members feel and can put a refusal reason together.

**BF:** Members should remember that The Greyhound was demolished without permission, and the same could happen here. The pub has been closed a long time. The Fairview community came forward to save The Fiery Angel, but the same has not happened here.

**GB:** the refusal reasons put forward so far are Local Plan policies RC1 and CP1, overdevelopment and the NPPF.

**MJC, in response:**

- officers have good understanding of Members' thoughts on this application. Can summarise these – though not endorse – as follows:
  - i. loss of the pub with reference to NPPF paras 69 and 70 – its social role and contribution towards sustainable community
  - ii. Local Plan policy RC1 – loss of community facilities – the criteria are not met for this to be a valid refusal reason
- these reasons have been fully debated and Members have heard officers' advice;
- is unsure about the overdevelopment case, and suggests that this is not formally added. Regarding the lay-out, it's true that the driveway is close to the rear of the public house but this is not uncommon in various roads around town. Ryeworth Road presents an interesting cluster of buildings and is a very desirable place to live. Struggles with the overdevelopment argument; there are two parking spaces for each house, the oak tree is retained, and local amenity is not compromised;
- regarding Highways comments, officers need to assess what is on the drawing, and they have endorsed the scheme based on this. Would warn against dismissing County Highways advice;
- the only remaining refusal reason is the loss of the pub, but this is a weak argument, and cannot guarantee it will win at appeal.

**GB:** this scattergun approach doesn't stand much chance of winning at appeal. Suggests Members move to the vote, if LS is happy; officers have a good idea of Members' concerns.

**KS:** has been trying to say that it is not overdevelopment she is concerned about, but more of an issue of CP7/design. Using buildings or trees to define a space does not seem a good form of development, though it is not actually over development. If the application is refused purely on the loss of the pub, the decision will be difficult to defend. Is there no policy requiring proposals to be nice places for people to live in? This scheme won't create that.

**MJC, in response:**

- CP7 is the correct policy re design and lay-out and would not be totally unacceptable in this case. KS is concerned that the proposal feels contrived and cramped, but if the layout is changed, it will harm the public house element of the scheme, could cause neighbour conflict, and would be difficult to endorse at appeal, particularly as Ryeworth Road features similar types of development. Would advise against this as a refusal reason.

**GB:** if Members are happy, officers can craft a refusal reason and agree this with the Chair and Vice-Chair. Regarding KS's concerns about the lay-out of the plot and MJC's comments, it is up to Members whether or not they want to include this element in the refusal reason or simply refuse on the loss of the pub.

**Vote on KS's move to include the design/over-development aspect as a refusal reason**

1 in support

7 in objection

7 abstentions

**NOT CARRIED**

**Vote on LS's move to refuse on loss of community asset, NPPF and RC1**

9 in support

3 in objection

3 abstentions

**MOTION CARRIED - REFUSE**

Application Number: **16/00317/FUL**  
Location: **33 Kingsmead Avenue Cheltenham Gloucestershire**

**DEFERRED**

Application Number: **16/00389/FUL**  
Location: **66 Bouncers Lane, Cheltenham**  
Proposal: **Erection of two detached dwellings**  
View: **Yes**  
Officer Recommendation: **Permit**  
Committee Decision: **Permit**  
Letters of Rep: **1** Update Report: **Officer comments**

**KH left the Council Chamber at the start of this debate**

**EP** introduced the scheme as above, with access to Bouncers Lane by way of a driveway to the left of the site, adjacent to Newland Court. The scheme has garages and parking to the front, and is at Committee at the request of the parish council. It complies with all relevant policies, and the recommendation is therefore to approve, subject to conditions.

**Public Speaking:**

**Mr Wilce, neighbour, in objection**

Is speaking on behalf of his daughter and son-in-law, in objection to the development of two dwellings in the rear garden of 66 Bouncers Lane, which will have a detrimental impact on areas of their garden. At 2.5 of the Design and Access Statement, the applicant states that a precedent for this type of development has been set at Newland Court, but this is not comparable, as an unsightly factory was demolished to make way for that. There is no precedent for rear garden development, and this scheme will cause harm to local amenity and fundamentally change the nature of this residential area. The planning officer has addressed and amended the issue his daughter had with overlooking from the side windows, but not the front windows which are looking towards her garden and home. With reference to points 3 and 15 of the application, which states that no preparatory work has been undertaken, in fact a 50-year-old oak tree has been felled, and other considerable tree surgery in the rear garden gives the impression that approval has already been given. Protocol 1 Article 1 of the Human Rights Act allows people the right to peaceful enjoyment of their possessions and home; here, the shared driveway will cause noise and disturbance in his daughter's garden. Urges Councillors to reject the scheme.

**Member debate:**

**CH:** the question has been raised about this proposal looking like back garden development. This is important, as it would set a precedent – the house next door mirrors this one, and so on along the



road. Has been on Committee when it has approved a scheme for garden development, a whole street has then gone the same way, and the Committee wrings its hands and says 'if only we hadn't allowed the first one...'. That consideration makes this a difficult scheme to judge. The shared drive is not good, and it is very likely that other houses in the road will follow suit and thus spoil the character of the area. Newlands Court was a very different proposal – a brownfield site, formerly a factory. Would like officers to explore the issue more than they have done so far.

**AL:** agrees with CH: Newlands was built on a former industrial site, this proposal is for back garden development – they cannot be compared. The SPD documents suggests that developments need to be two more more houses to create a unique identity for areas. Here Newlands Court is already established and has set up the identity of the area; two houses won't create their own unique identity.

**EP, in response:**

- the Garden Land and Infill Site SPD gives advice on how to assess schemes such as this, especially on garden land. It is clear that this is not automatically unacceptable but that potential issues need to be considered;
- officers have looked at all these issues – grain, type of housing, location of buildings on plot, plot width etc – and consider this proposal ticks all the boxes. It responds to the character of the area, similar to Newlands Court, follows the building line, is in keeping with the character and is therefore in keeping with the advice in the document;
- there is no other development in this backland position in the area but this development has responded to the requirements;
- regarding precedent, there are no obvious places for similar development, with similarly wide side access. This is not to say that someone might come along with a similar scheme, but this is hypothetical and cannot affect the decision today – that bridge would have to be crossed when we come to it;
- as far as officers are concerned, the proposal complies with all requirements

**CH:** if the vote goes against officer recommendation to permit, would like to propose refusal. This scheme presents a dilemma; if the site next door comes up with a similar application, Members will be told that there is not precedent, permission will be granted, and the outlook and nature of the original line of houses will be spoilt. Cannot accept that Newlands Court makes this a viable development; it was a brownfield site. Understands the guidelines and that each application must be decided on its own merits, but it seems that this is too much like what we are trying to avoid. Urges people to refuse the scheme.

**Vote on officer recommendation to permit**

11 in support

3 in objection

1 abstention (KH – out of room)

**PERMIT**

Application Number: **16/00499/FUL & LBC**

Location: **Lypiatt Lodge, Lypiatt Road, Cheltenham**

Proposal: **16/00499/FUL: Part two storey, part single storey rear extension to form new dining room on the ground floor with extended kitchen over (revised scheme)**

**16/00499/LBC: Part two storey, part single storey rear extension to form new dining room on the ground floor with extended kitchen over together with internal refurbishment works and upgrading (revised scheme)**

View: **Yes**

Officer Recommendation: **Refuse**

Committee Decision: <b>Defer</b>
Letters of Rep: <b>2</b> Update Report: <b>None</b>

**MJC** introduced this application for planning permission and listed building consent as above. The recommendation is to refuse, essentially because officers feel the building has already seen enough development. It is listed, and any further extensions will be harmful. Obviously officers have had to weigh this against the benefits to the care home but on balance, feel that the harm outweighs the benefits, hence the recommendation to refuse.

### **Public Speaking:**

#### **Mr Jones, applicant, in support**

Is director of the company which bought the building in 2015, in a dilapidated state and with a bad reputation, and has since spent a lot of money bringing the building back to its former glory; it is still run as a nursing home, offering a much-needed service in the community but lacking the ability to maximise its potential. With the backing of GPs and specialists, hopes to offer accommodation for elderly individuals with complex needs. To do this, an enlarge sitting room on the lower ground floor and extended kitchen on the floor above are needed, adding no more than 3% to the total floor area, complementing the work being done in the garden and elsewhere in the building. It will change the way the building functions and vastly improve the lives of current and future residents, with larger, more accessible common areas and a landscaped garden accessed from the new sitting room. The small addition to the building replaces an unsightly corner supported by a corroded metal pillar, dating from the 1990s. There is precedent in Lypiatt Road for more development than is being proposed here, and the proposal is sympathetic to the rest of the building. It will not impact on neighbouring properties – not overlooking windows and a large boundary wall on the Tivoli side. There are no highways issues; environment health officers have raised the question of cooking emissions, which the architect can address with careful design; trees officers are concerned about the beech tree and a method of construction sympathetic to its roots will be used. There are been two letters of support from relatives of current residents. To conclude, the proposal is roughly 35 sq metres sympathetic to the building design, doesn't impact on neighbours, will enrich the lives of residents and enhance the enjoyment of the area and offer a vital service to the community.

### **Member debate:**

**SW:** officers have done a good job of balancing the considerations here, putting weight on both sides, and ultimately decided one way. Looking at the back of the building, its appearance is not good, with a number of extensions having been added one to another, but tends to fall to the view that the potential benefits of this application slightly outweigh the harm. Is marginally in favour of it, rather than taking the officer's view.

**KS:** on site visit, found this a very difficult building to read, and would have appreciated a 3D model or 3D drawings to compare. Supports the officer recommendation to refuse, but has sympathy with the owners and gives them credit for bringing the building up to standard again. Development should be done in a holistic way, and there could be benefits for the building and for the people using it if the architects go back to the drawing board. The extension is not overly offensive but drawing on the style of a modern extension and therefore not appropriate for a building of this age. Does not consider this proposal can be approved yet, but remains sympathetic with the applicant wanting to improve it.

**PB:** disagrees with officers. It is all about judgement and there will always be pros and cons. The report update states that officers consider the harm to the building to be less than substantial, but it will provide real value to the residents and the area. The applicant has invested a lot of work and time in this development; the building is a dog's dinner as it is and this additional work will cause less than

substantial harm. Agrees it is a marginal decision, but feels that the benefits outweigh the damage in this case.

**PM:** it was obvious from the locked side gate noted on site visit that this home caters for people with dementia – it is their world, and the building is similar to the Municipal Offices and houses in Royal Well. Once the scaffolding is off, the façade will look wonderful. Went to look at the side from the Tivoli side, and all that can be seen is a big wall and three tall trees – it was OK. Has concerns about the beech tree; could a few branches be removed to allow the development. Overall, feels that the benefit to the people of Cheltenham outweighs the negative aspects of the scheme.

**CM:** agrees with this, but can a condition be added to protect the tree?

**KS:** would like to comment on the issue of the big wall between the rear and the main road. Is worried that we might end up saying it's OK to do this work on the listed building because people won't see it behind the wall. This is dangerous; it is clear that officers have concerns about this. Is worried about the flat roof; ours is not the right climate to make it easy to maintain, and an additional flat roof on a building of this age could be harmful. PM has said it cannot be seen from the main road, but it is still a listed building and it is intrinsically important because of its age – buildings are not built like this any more.

**GB:** agrees with KS; work cannot be done to the inside of a listed building without permission, and that certainly cannot be seen from outside.

**CH:** regarding KS's concern about flat roofs, but these have been around for many years, and the materials used can cope with different weather conditions; it's not the bitumen type of roofing. Flat roofs per se are not a problem. It will be important to residents to have this communal area. The building is in desperate need of modernisation. Anything which can be done to improve the quality of life for people suffering from Alzheimer's is really important; there aren't enough places at the moment. With changes in legislation, it will be come more and more difficult, and with no really strong objections to the proposed changes to the buildings, would say the applicant should be allowed to go ahead.

**GB:** would just point out that this is a Planning Committee, and is not supposed to be considering any health issues.

**CH:** has been in meetings before when meeting the needs of different groups of people is given consideration.

**GB:** recognises the needs but the question is whether what is proposed is appropriate in these circumstances when dealing with a listed building.

**MJC, in response:**

- on the question of less than/substantial harm, this is not a remark made by officers, who have to differentiate and weigh the negative aspects against the public benefit. Has heard from Members and has sympathy with the applicant's desire to improve the building further, but believes it could be done better than this. Officers have pushed the applicant hard regarding the design of the listed building, which deserves something better and of more merit;
- will ask CC to speak on the tree issue – it is not just a question of protecting branches of the tree; the proposed building will be very close to it and additional information may be needed before officers could even consider approving the work.

**CC, in response:**

- there are British standards for trees which require information about their protection during the demolition and construction process to be submitted as part of the application. No details were submitted with the application in 2015, and have not been produced since;
- work should not be done within a 12m radius of the trunk; this development will require excavation to 5m of the trunk, giving rise to serious concerns, especially as this tree is on a higher level, giving rise to concerns about its future structural stability and long-term safety;
- it is lamentable that no such details came in after the previous application; these should be submitted with the planning permission, prior to determination.

**KS:** having heard concerns both from the officer and the trees officer, maybe Members should defer their decision. Doesn't want to refuse and is not unsympathetic to the applicant – this type of accommodation is important - but further information about the tree, the design, and how the finished building will read would all help with the decision making. Will more to defer.

**PT:** thinks this is a good idea. If officers feel they could have influence on the way the owners succeed in doing what they want to achieve – access for residents to get out into the garden – it would definitely be worth deferring. In relation to the tree, instructions could be added not to damage it – the applicant will have to take this into consideration and influence the way the extension is built to create the best possible home. Fully appreciates the listed buildings around the town but this one has been a care home for some considerable time and we owe it to the people living there to give them the best possible facilities. Their lives are not pleasant, and we should help make them as comfortable as possible.

**PB:** the applicant has suggested that he is keen to preserve the beech tree. Would be disappointed if this application is refused but would support a deferral for the tree issue and to sort out some of MJC's concerns.

**Vote on KS's move to defer**

14 in support

1 in objection

**MOTION CARRIED - DEFERRED**

Application Number:	<b>16/00537/FUL</b>
Location:	<b>Avenoke, Kidnappers Lane, Cheltenham</b>
Proposal:	<b>Proposed two storey extension to front and rear with roof alterations and front porch - revised scheme 16/00156/FUL</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Refuse</b>
Committee Decision:	<b>Permit</b>
Letters of Rep:	<b>4 + petition</b>
Update Report:	<b>None</b>

**GD** introduced the application as above, recommended for refusal in respect of its harmful impact on the visual amenity of the locality and character of the area. It is at Committee at the request of former Councillor Chard.

**Public Speaking:**

**Mr Day, applicant, in support**

Has applied to improve his home, which is situated in an area with no planning restrictions, and where all the properties have been developed in different ways. It is a family home for his own family and foster children, and the proposal has been designed in partnership with the community, from where

there have been no objections. Officers have two concerns: firstly that the profile will dominate the street scene, but the proposed dwelling will be exactly the same depth and width as the original. Houses along the road have higher rooflines, so how can this be said to dominate? Is passionate about this proposal and getting approval, and has agreed to a number of revisions which have resulted in lost roof space and an additional bedroom for his own children and foster children. The other concern is the roof tiles; would like to use grey slate, as the previously used red/brown tiles weather badly. This has full support from the parish council, local councillors, and 100% of residents who have the same frustrations with their roofing materials. The application complies with the planning regulations in policy CP7. With the approval of the parish council, former Councillor Chard, the current ward councillor, an unprecedented level of support from neighbours and no objections, asks that Members support the scheme, with the full confidence of the community.

### **Andrew Chard, in support**

Cannot say much more than this. The application has the full support of neighbours – Planning Committee is more used to hearing objections from neighbours – and will allow Mr and Mrs Day to develop their home without making any difference to the street scene. The Parish Council is happy with it, so asks Planning Committee to back Mr Day and allow him to develop his home for his wife, two children and foster children.

### **Member debate:**

**HM:** the refusal reason states that the development would result in harmful impact and dominate the street scene, not in keeping with local policies which say that the character and scale of the area should be respected. However, the NPPF says different, at Paragraph 63 encouraging outstanding and innovative design, and at Paragraph 65 that incompatibility with the existing townscape is OK if mitigated by good design. This design is innovative. The houses were all originally bungalows but have all had various works done to them over the years, with no particular standard apart from the height and width which has been maintained here. Is minded to support.

**BF:** agrees. It is a common thing nowadays that people buy an address. In this row of bungalows, no two are the same, and none of them are what you would call architectural gems. Looked recently at a house at Albemarle Gate, which has completely changed and was permitted under delegation, and at Naunton Park Road, an application was approved which changed the area. This is a good design, and the width and height are not changed. The street scene is varied, so this does no harm. Doesn't like uniformity, and this scheme will provide a good family home.

**KS:** could vote to approve on pain of death if the proposal had clay tiles. Has made a concerted effort to look around the neighbourhood and there are no houses with grey slate roof tiles. Clay tiles should be conditioned. There is a mix of tiles in the row, but none of them are grey; this is a distinctive feature of the area. We have to be consistent, and permit if necessary, but with a condition for clay tiles. Agrees with the officers that having the eaves end facing the road and also a balcony seems wrong – none of the other houses are like this. If all else is the same but with red roof tiles to ensure rhythm and continuity in the street. BF says he likes change but there is a distinct style here, and we should listen to officers. This proposal will look very, very distinctive if permitted as it is.

**PT:** has had a complete change of mind while listening to the discussion. When first looking at the report and drawings, understood what officers were saying and fully supported their conclusions but is now not so sure having listened to BF and the others. Remembers another application in a road of traditional houses with ordinary pitched roofs, where Members of Planning Committee were horrified that the roof totally and utterly at odds with every other house in the street, but officers thought it was innovative; it was permitted and built. Is prepared to vote for this proposal.

**SW:** feels that he and KS are lone voices here, fully in support of the officers. Looking at the street, there are no two houses the same but all are variations on a similar theme. Rooves slope sideways and from front to back and there are various dormers, but this proposal will create a totally different house. Is not happy and considers the front gable a step too far and cannot vote in support.

**CM:** looking at the street scene, no two rooves are identical, so what is proposed won't dominate the road. It is innovative and carefully designed; is more for it than against it. All the houses have been changed, and this will enhance the road.

**PB:** this is a great design. Was the Architects' Panel consulted? Does have concerns about the roof tiles however, and would support KS regarding this.

**MJC, in response:**

- does not have a great deal more to say than what is set out in the officer report, and KS has given a good description of why this is not a good design;
- officers have considered the uniformity of the street and the long views, and the gable coming forward will not fit in well. The design has some merit, but officers do not consider it innovative and it is contextually inappropriate;
- the rhythm of the street is the ridge of the chalet bungalows, and the Local Plan requires new development to complement the locality – this doesn't, though appreciates that some Members don't agree with this;
- if Members are minded to support the scheme, it is very important that the red roof tiles should be retained, and this should be added as a condition.

**Vote on officer recommendation to refuse**

4 in support  
10 in objection  
1 abstention

**NOT CARRIED**

**CM:** it shouldn't be forgotten that the whole community has signed up to say that the design is OK with the slate tiles.

**KS:** are there any other conditions we should include?

**MJC, in response:**

- no, though after the meeting, would like to check whether to remove PD for additional openings on side should be removed; this additional condition could be agreed with Chair and Vice-Chair if necessary.

**Vote on KS's move to condition red clay roof tiles**

9 in support  
5 in objection  
1 abstention

**CARRIED**

**Vote on officer move to agree with Chair and Vice-Chair whether any other condition regarding PD rights and openings is required**

15 in support – unanimous

**CARRIED**

Application Number: 16/00549/FUL
Location: 21 Sedgewick Gardens, Up Hatherley, Cheltenham

Proposal:	<b>Single storey and two storey extension to rear, first floor and gable roof extension to front and side</b>		
View:	<b>Yes</b>		
Officer Recommendation:	<b>Permit</b>		
Committee Decision:	<b>Permit</b>		
Letters of Rep:	<b>2</b>	Update Report:	<b>None</b>

**GD** introduced the application as above, a revised scheme on a previously approved one. This enlarges the first floor, adds two more Velux windows, changes the patio door on the rear elevation changes the first floor window on the rear elevation, increasing the height and eaves height by 20cm. It is at Committee as request on Councillor Whyborn.

**Public Speaking:**

**Mrs Fawke, neighbour, in objection**

Less than a year ago, a planning officer made a decision on the rear upstairs windows on the proposed extension, and cannot comprehend how a new planning officer has made a U-turn on that decision. Last year, instead of larger three-paned windows, the officer approved two double-paned windows. At a loss to understand how the owner can reapply within a year and again request larger three-paned windows previously denied. The owner is trying to push the boundaries; it is unfair and should not be allowed, and will impact even more on privacy and overlooking at her own property. Has a patio window and small window in her lounge but would be able to see much more – as the neighbours will do – if it was the same size as what next door is proposing. The house will be doubled in size, nearer to the boundary, with view into her teenage daughter’s bedroom, garden and lounge. Is requesting that the windows remain as previously approved, particularly as the owner already has so much window space approved, not in keeping with the surrounding houses. There seems to be conflicting decision making by the council – when Manor Farm was built a few years ago, the council required No. 10 Manor Farm Drive to block its back window, just under 21m from 21 Sedgewick Gardens and 11 The Hawthorns, yet her property is only 7m from No 21, and at a 90 degree angle so easily overlooked. Has lived at her property for 28 years, while the owner of No 21 has rented his home out for the majority of that time. Did not object to the extension, but if this current application is permitted, it will set a precedent. Is simply asking that the council stands by its original planning decision.

**Councillor McKinlay, in objection**

All the points made by Mrs Fawke are correct, and there are a number of key issues here. There is already an approved planning permission for this site, the result of considerable negotiation, and the similar application before us today is not acceptable. It gives very mixed messages that less than a year ago this proposal was not considered acceptable, yet today it is. Paragraph 1.4 of the report update lists the changes to the previous scheme – these are not individually significant, but clearly combine to result in significant overlooking of No 23. With only 7m from the back of the new extension to the neighbouring property, this will have a significant impact. Members on Planning View will have drawn their own conclusions about the appropriateness and proximity of this extension – it is up to There will undoubtedly be extra impact on the neighbours due to the proximity, and this case sets an unwelcome precedent for the future.

**Member debate:**

**HM:** the neighbour’s sole concern is that the two rear windows will be three-pane instead of double-pane. Looking at the previous report, it was considered that this would result in unacceptable overlooking. What has changed?

**BF:** officers would have made their decision in line with policy CP4, and granted double-pane windows accordingly. Is at a loss to know what has changed.

**MJC, in response:**

- essentially the application made 12 months ago was significantly amended through negotiations. As usual, some things were acceptable and some were not. The windows were reduced from three-pane to double-pane, and the question is whether we would have refused the planning permission for this along – the answer is no. The neighbour objected strongly to the three-pane windows and they were left out; this is what neighbour consultation process is about;
- planning permission is now in place, and the applicant is looking for some minor changes. The question officers have to ask themselves is whether the scheme is acceptable. Any overlooking will be oblique – the windows will not look directly into the garden. The speaker referred to the Rusty Shilling development where windows were blocked up, but these faced each other directly, albeit at greater distance;
- here the properties are at right angles to each other. What Members are being asked to consider is the difference between casements for two panes and three panes – struggles to see that this will make a vast difference;
- officers consider the proposal to be acceptable, and would be interested to hear Members articulate the additional harm they think this window will bring.

**KS:** with the original application, was the issue one of overlooking or the perception of overlooking? Is the perception of being overlooked an amenity issue? This hasn't changed since last year.

**MJC, in response:**

- perception of overlooking is an issue, though officers might not agree;
- there are a number of proposals before us, many of which are acceptable. If Members would find it helpful, officers can craft a decision to allow the other works to take place but not the windows;

**PT:** is struggling with this. Cannot see how overlooking from three panes of glass is greater than two panes. Are there only two opening panes?

**BF:** if the size of the window increases by one third, the field of vision is much wider. Policy CP4 would be a legitimate reason to refuse this application.

**SW:** notes a number of alterations to the plans. Has a view on Velux windows and patio doors, but understands that it is the upstairs windows that are giving the neighbour concerns. Can the application be permitted for everything apart from the upstairs windows, which have to remain as originally permitted?

**MJC, in response:**

- could attach condition to say all OK apart from the windows. Believes this to be just about OK, but will check with legal officer:

**NJ, in response:**

- agrees – on balance, this will just about meet the tests.

**GB:** suggests a vote to permit, with the exception of the first floor windows to the rear elevation.

**Vote on officer recommendation to permit, with restriction on size of first floor windows to rear limited to those previously permitted.**

14 in support

1 abstention

**PERMIT**



Application Number:	<b>16/00728/LBC</b>
Location:	<b>Cenotaph, Promenade, Cheltenham</b>
Proposal:	<b>Insertion of a narrow stainless steel flashing above inscription panels</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Grant - Ratify by National Casework Unit</b>
Committee Decision:	<b>Ratify by National Casework Unit</b>
Letters of Rep:	<b>0</b>
Update Report:	<b>None</b>

**MJC** introduced this application as above, which aims to protect the carved lettering, which is the reason why the memorial exists. It is a CBC application, and has been endorsed by Historic England. The recommendation is listed as 'Grant' but this should be 'Ratify by National Casework Unit'.

**Public Speaking:**

None.

**Member debate:**

None.

**Vote on officer recommendation to ratify by National Casework Unit**

**15 in support – unanimous**

**RATIFY BY NATIONAL CASEWORK UNIT**

Application Number:	<b>16/00854/CONF</b>
Location:	<b>Thornccliffe Flats, Lansdown Road, Cheltenham</b>
Proposal:	<b>Confirmation of Tree Preservation Order no 739 (pine tree)</b>
View:	<b>Yes</b>
Officer Recommendation:	<b>Order is Confirmed</b>
Committee Decision:	<b>Order is Confirmed</b>
Letters of Rep:	<b>2</b>
Update Report:	<b>None</b>

**CC** explained that this application has come out of an earlier application to fell the tree. As it is situated in a conservation area, officers tried to negotiate, ultimately putting a TPO on the tree. The flat owners objected and CC has brought it to Planning Committee for an airing and to allow Members to make the final decision.

**Public Speaking:**

**Mr Worsley, on behalf of residents of Thornccliffe, in objection**

Originally submitted an application to remove the tree which residents feel has become dangerous and unsuitable, and to replace it with two new more suitable trees. It was a democratic and unanimous decision by all the flat owners. Lansdown Road is a busy road and the flats have large frontage and attractive borders. The tree is taller than the five-storey building, it bends in the wind giving rise to health and safety concerns, and causes distress to elderly residents on the upper floors, who are worried that it could fall and cause damage or injury. In addition, birds roost in the overhanging branches, making a mess which, combined with the fallen pine needles on the sloping surface, cause a significant slip and trip hazard for residents. The TPO was issued based on a

TEMPO report which is very subjective; there is some discrepancy here and residents dispute the scoring. What exactly does high amenity value mean? Residents are not seeking to damage the area, but to enhance it, improve safety, and alleviate their worries and fears.

**Member debate:**

**BF:** the tree doesn't appear to be dangerous; can CC confirm if it is? This tree is a community asset, can be seen by many people from a distance as part of a long view of Lansdown Road, and is a beautiful tree, which predates the flats. As long as it is safe, it is making a positive contribution to the street scene.

**SW:** endorses this view. How often do tall trees grow bolt upright? Not very many. Has seen older trees than this which list even more but remain safe. As for bird fouling, knows the problem from his own garden, but that's life - we're not going to get rid of all trees and birds and live in a concrete only city. As long as the tree is safe, it should be retained.

**KS:** agrees with the residents. Wouldn't like to live in the shadow of this tree leaning towards her flat. Has tried to love it, but can't – it's just not that attractive – and cannot comment on its score for amenity value as she is no expert. Would not have a problem with the tree being removed and new ones planted. There are other trees in the area for people and birds to enjoy. Is happy to vote against this TPO, though if the tree was further away from the flats, it would probably be OK.

**Vote on officer recommendation to confirm the TPO**

13 in support

2 in objection

**TPO is confirmed**