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Planning Committee

17th November 2016

Present:

Members (14)

Councillors Barnes, Chair (GB); Fisher, Vice-Chair (BF); Collins (MC); Lillywhite (AL); McCloskey (HM); Nelson (CN); Oliver (TO); Savage (LS); Seacome (DS); Sudbury (KS); Thornton (PT); Wheeler (SW).

Substitutes: Councillor Rowena Hay (RH)
Councillor Paul McCloskey (PM)

Officers

Tracey Crews, Director of Planning (TC)
Martin Chandler, Team Leader, Development Management (MC)
Ben Hawkes, Planning Officer (BH)
Nick Jonathan, Legal Officer (NJ)

1. Apologies

Baker (PB); Colin Hay (CH); Hobley (KH);

2. Declarations of interest

There were none.

3. Declarations of independent site visits

16/01337/FUL 1 College Gate: Councillors Paul McCloskey and Lillywhite both visited this site independently.

4. Public Questions

Two questions were submitted by Councillor Willingham re (i) S106 monies available in St Peter's Ward, and (ii) monitoring of S106 contributions. Officer responses were circulated with the agenda. Councillor Willingham was not present at the meeting. The responses were taken as read.

5. Minutes of last meeting

Resolved, that the minutes of the meeting held on 20th October 2016 be approved and signed as a correct record *with the following correction:*

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PT: there are ~~lively~~ likely to be more and more applications of this kind.

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6. Planning applications

Application Number:	16/01149/FUL		
Location:	15 Greenhills Road, Charlton Kings, Cheltenham		
Proposal:	Erection of a single dwelling to the rear of 15 Greenhills Road and associated access drive		
View:	Yes		
Officer Recommendation:	Refuse		
Committee Decision:	Refuse		
Letters of Rep:	8	Update Report:	(i) Comments from Councillor Baker
			(ii) Additional representation

MJC introduced the application as above, confirming that the recommendation is to refuse. Members will remember it was originally included on September's agenda, but was deferred to allow for a further consultation response from the County Council. Highways officers originally raised no objection on road safety issues, then changed their recommendation to refuse on the grounds of poor visibility. Following a police speed consultation on Greenhills Road, the recommendation was changed back to permit, but as a result of a further speed survey submitted by a third party, suggesting the 30mph speed limit is frequently broken, the County objected to the application for not providing safe and sustainable access with regard to visibility. The application is at Committee at the request of Councillor Baker and because the Parish Council has objected. The recommendation to refuse is on highways and visibility grounds, although officers consider the principle of a dwelling here to be acceptable if suitable access can be found.

Public Speaking:

Mr Borrie, neighbour, in objection, on behalf of neighbours at 14 Greenhills Road, and 6A and 7 The Avenue

The case officer, parish council and Highways officer all recommend refusal. Would like to re-emphasise three points of detailed objections already made. Firstly, safe access to the site: the highways authority has determined that the proposed access fails to meet the requirements to ensure the safety of other road users and pedestrians, and has recommended refusal based on the width of the road and the police speed survey of February 2016. Does not consider that the proposal should be rejected on these grounds only, however. In Paragraph 3.1 of the report update, the case officer states that the proposed dwelling is considered suitable in terms of scale, height, massing and footprint, and would not result in any significant harm to neighbouring amenity. Considers the proposed house to be unnecessarily tall at 7.265m, and together with the detached garage will harm all three neighbouring properties. A single-storey house or true dormer bungalow would substantially reduce this impact. Also, including the garage, the proposed dwelling's footprint is the same as those at Nos. 16 and 17 Greenhills Road, but their gardens are wider and longer, making this proposal out of scale with the plot and seriously oppressive to neighbouring properties. The Civic Society considers it a 'heavy and clumsy scheme'. Finally, the chosen position for the dwelling is just 6m from the rear boundary, for no compelling reason; the Council's SDP states that houses with clear glass windows should not be positioned within 10.5m of the boundary.

Member debate:

SW: apologised for not having been on Planning View, but has visited this site before on a previous occasion. Has grave concerns about the information on the blue paper. Appreciates the case that visibility may not be good enough when cars are travelling along Greenhills Road at 50mph as

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demonstrated by the police survey, but this means that for the single reason that people are *breaking the law*, the applicant can't be permitted to go ahead with this development. If people are breaking the law, the police should deal with it. The exit is identical to that at No. 16. Has concerns about this refusal reason.

BF: agrees with SW; spoke to the officer about it today. The speed survey was requested by Councillor Baker, but pre-dates this application. It therefore shouldn't be related to it. It is critical, and a representative of Gloucestershire Highways should be present at the meeting to explain the logic. If speeding on this road is a problem, it is an enforcement issue; it is not part of planning guidance to slow traffic, but a police and highways matter, to ensure cars don't exceed 30mph on this stretch of road. The average speed appears to be slightly over that, but we have given planning permission for developments which access roads with a 40mph speed limit. It isn't possible to do a speed survey for all applications. Is considering moving to approve this proposal; checking speed is not a planning issue.

PT: is inclined to agree with this. This recommendation calls into question the approval for the developments in adjacent gardens, accessing the same highway with cars travelling at the same speed. It is not in our remit to turn this down because of the speed of passing traffic. The police or county council should be doing something about it – such as putting in a chicane or speed bumps – if the speed limit is being broken to the danger of those exiting onto Greenhills Road.

KS: it's a shame PB is not here as he requested a Committee decision. Is county councillor for this site, and the traffic survey referred to is not the only one that has been done. Charlton Kings Parish Council owns mobile VAS signs, which were in place for six weeks this year. These collect data on traffic volume over a long period of time, and recorded one vehicle travelling at 82mph. This is a very busy, very fast road. As county councillor, this problem comes up all the time, and residents are concerned. Due to budget cuts there are no resources for police to keep a check on it, and as a result we need to design planning permissions for real world behaviour. The problem here has arisen from individual applications for back garden development, resulting in no S106 contribution to improve road safety. We need to get the mobile VAS unit back to Greenhills Road – it is the most worrying road in Charlton Kings. Traffic is not the only issue here. Is concerned about another back garden development, and urges Members to refuse, or at very least defer while the County Council gives further consideration to the speed issue. If this scheme is permitted, we will be passing a development where there is evidence that it will be dangerous. It is the job of councillors not to do so, and is personally satisfied that this proposal represents enough of a danger for Members to vote against it.

BF: if there is an increase in traffic volume, this will usually slows traffic down, by increasing the number of journeys. It should be remembered that if one person drives along the road at 80 mph, this will put the average speed of travel up significantly - and we can't legislate for idiots. Many developments open onto 40mph roads in Cheltenham – onto the A40 in Charlton Kings, Shurdington Road, Tewkesbury Road – and if the average speed along Greenhills Road is 30-something, a lot of drivers will be doing under 30mph, with the occasional person going at 60. If the application is refused on highways grounds and the applicant makes a successful appeal, any costs will be against CBC, not Gloucestershire Highways. Highways officers are not justified to say what they are now saying; their original recommendation in September was acceptable. They have had a change of heart and are skating on thin ice.

GB: if this application does go to appeal, costs will not necessarily be made against CBC; the County could be liable as its recommendation is the refusal reason. Sight lines are part and parcel of that objection; it is not just the speed element, but also the position of the hedging.

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TO: shouldn't the highways speed test be based on the legal speed limit, not the actual speed at which drivers travel? What will the effect of this decision be on future applications?

MJC, in response:

- concerns about this road led to the speed survey being done, which showed that the average speeds are 37-38mph, higher than the legal speed limit, and TO is asking if this should influence the decision. Members have to determine the application on the evidence before them. The evidence shows that cars travel an average speed of 37-38mph; the visibility splay that the County requires must be shown to comply with those figures. Essentially this is the nub of the County recommendation. If there was a further speed survey or change of circumstance, visibility could change too. The underlying principle is that the speed at which motorists travel dictates visibility requirements to make the junction safe. Highways officers say that at average speeds of 37-38mph, the visibility splays have to be X, and the site doesn't allow that;
- to BF, regarding junctions to 40mph roads around Cheltenham, if the County is asked to assess a new junction onto such a road, it will want to be assured that access is safe and appropriate. Detailed work has been done for this application to assess whether a safe junction is possible – it would be, but the land necessary to achieve it is third party land and not forthcoming;
- to BF, the speed survey *is* a planning consideration; it dictates if the access is safe and in this case, it is not;
- to PT, regarding the inconsistency between similar decisions, other accesses were allowed at a point in time and advice given in a certain way accordingly. There were no accident records, and highways officers felt that additional cars would not make the situation any worse. The question they always have to ask themselves is whether developments could have a severe cumulative impact, and with the other proposals along Greenhills Road, they have not felt that they would;
- this application has brought about a change in stance, and highways officers now appear to be interpreting the NPPF in a different way, asking whether the proposal will ensure that the road is safe for all users; in this case, they say it will not be. There is some inconsistency here, but it all comes down to interpretation of the NPPF;
- to KS, comprehensive development of this parcel of land and a brief to avoid this current situation would indeed have been a better way to plan;
- to her suggestion of a deferral, what would this achieve? The application has already been deferred once, there has been much to-ing and fro-ing, and three different recommendations from the County. The same will happen again if the decision is deferred – we will be no further along. This application deserves a decision, and whether it is to approve or refuse is up to Members. If they go with the officer recommendation to refuse, we will see what the Inspector thinks, and his/her decision will be a helpful interpretation of this situation for future reference.

PT: has been on Planning Committee for a number of years, and has heard all sorts of things from officers during that time. At one time, would have been laughed out of the Chamber for bringing up speed as a reason to refuse, and told that it is not part of our remit to discuss. The County Council has the perfect right to cut back the hedge if it is an obstruction; this has been done over the years and has worked well. There do not appear to have been any accidents on this stretch of road, which would be expected if the road was as dangerous as is being suggested. Is concerned at the prospect of CBC having to pay costs if an appeal is lost, even though the application was refused at the behest of the County – will the Inspector take that into account?

CN: this is an interesting issue, and has three comments to make. Firstly, knows this stretch of road well; is aware of the speed at which traffic travels it and is surprised that there have been no accidents. Safety issues have come up before when considering buildings in back gardens along this road, but visibility and access to the main road were not considered to be substantive issues at the

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time. Secondly, is uncomfortable about building in gardens for a range of reasons. Natural rules support building and development but policies and guidance, particularly with reference to impact neighbours are important too. CBC missed the chance to develop a policy on this and is suffering the consequences now. Thirdly, from a lateral thinking point of view, there have been proposals in the past whereby police say a development could create a situation which makes people more vulnerable to crime – for example, dark areas, lack of light. If we want to be consistent, the same could be said of this situation; information from the police raises the issue of road safety, and although motorists shouldn't be speeding along this road, it is a fact of life that they do and will. Thinking laterally along these lines, can officers come up with anything to make Members happier about the recommendation to refuse?

PM: PT mentioned the problem with the hedge reducing visibility and asking the Highways Authority to cut it back. Another challenge for this application is the position of the gatepost at Number 16, which also contributes to the poor visibility. Assumes that that backland development came to Committee and was approved, making that access more dangerous. There is something not right in this process.

MJC, in response:

- to PT, with reference to the speed survey and being told that the speed of traffic on the road was not in our remit, Members can be assured that it absolutely is our remit, and it is Highways officers' jobs to make sure the junction to the highway is safe;
- this application has brought a lot of science to light. A lot of factors govern the policy – speed, how far back from the road the access is, how far people are likely to see etc. The County Council wants to ensure that all requirements are satisfied. With this application, they are not. The appropriate advice is that this is very much the remit of the planning authority;
- regarding the trimming of the hedge, PT is right that the County can ask for a hedge to be trimmed back if it is on highway land, but this particular visibility splay crosses the land of a third party, and that permission is therefore not in the County's gift;
- to PM, regarding the gatepost at No. 16. Cannot recall the specifics, but imagines it must have been approved by Members;
- to CN, regarding his lateral thinking concept, and whether the authority has approved or refused developments that make people more vulnerable to crime: with this scheme, the junction is the issue, but the junction isn't the crime, the motorists breaking the speed limit are committing the crime. The new junction might make that more of an issue and make people more vulnerable to accidents. The application itself doesn't encourage speeding but does have the potential to create an accident;
- Members are questioning County Council advice. If they are minded to overturn the officer recommendations, they will need strong reasons to do so. The decision notice will need good reasons for approval, to protect the decision from being challenged, and officers need to understand what these are. Currently understands that Members are concerned about the inconsistent approach and the speed issue;
- understands that Members feel they have been taken round the houses and are not happy, but they should still follow the professional advice of County Council officers, and if they don't, they will need strong reasons which cannot be challenged.

GB: if the scheme is approved and an accident occurs subsequently, will it reflect on CBC and its decision, against the advice of Highways officers?

MJC, in response:

- is not sure of the answer to this question, but imagines if the scheme is approved and an accident happens, CBC's decision could be revisited. Members need to bear this in mind, as it strengthens

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the need for good strong reasons to approve against officer advice. Members have to be happy with the decision they make.

BF: the speed survey is not relevant to this application; additional cars accessing Greenhills Road will not mean an increase in speeding, which is the main issue here. It is more likely to slow it down. There are many similar developments with junctions to roads with 40mph speed limits. If the applicants ask for a speed survey before the application is considered, it is relevant, but this speed survey is a separate issue and not part of the planning permission.

KS: has been on Planning Committee for many years and getting a Highways officer to recommend refusal on highways issues is very rare. These are professional officers giving their advice. If the applicant goes to appeal, CBC will have a solid case. The traffic won't slow down as a result of this application, and this creates a major highway safety issue. As an aside, if it isn't possible to have a highways officer present at Planning Committee meetings, would it be possible to ask them questions and get their answers in advance of meetings, without prejudicing the debate?

SW: understands that there are reasons to refuse this application – is very concerned about the speed, and those issues have to be addressed. Can we use the fact that the police and highways authorities are not addressing the problem as an argument in favour of ignoring the advice of Gloucestershire Highways?

MJC, in response:

- it could be used as a reason for approval. The application needs to be determined on the evidence, which shows that at speeds of X, visibility should be Y;
- to permit the application would be to say that this doesn't matter and officers cannot endorse that position. The enforcement of speed limits on certain roads is a lobbying issue.

GB: this application has had a good airing, and it is now up to Members to decide.

Vote on officer recommendation to refuse

9 in support

3 in objection

2 abstentions

REFUSE

Application Number:	16/01337/FUL
Location:	1 College Gate, Cheltenham
Proposal:	Erection of double garage (re-submission of 13/00127/FUL)
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	4
Update Report:	None

BH introduced the application as above, at Committee at the request of Councillor Baker, due to flooding issues in this area. A previous application was dismissed at appeal, because the proposed garage was not positioned a minimum of 2m from the boundary wall and 8m from the site entrance, to facilitate the efficient movement of overland storm water flow, in accordance with the engineer's advice. Since that time, there have been some significant redevelopment of flood alleviation measures at Cox's Meadow, lowering the access road for College Gate, and additional mitigation

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measures, which have resulted in officers concluding that this proposal will not add to the flood risk. This view is endorsed by CBC's engineer, and the recommendation is therefore to permit.

Public Speaking:

Ms Helen Woodward, on behalf of neighbours, in objection

College Gate is low-lying basin, vulnerable to surface water flooding of over 900mm - 3 foot – as shown on the flood risk map. This is water from the sky, not the river; College Gate acts as a catchment area, and CBC engineer's opinions regarding the River Chelt are therefore irrelevant. The report is illogical and unreasonable. Building a garage so close to the weakened flood defence wall makes no sense – it will obstruct the natural course of flood water. There has been no flow analysis and officer comments are simply based on opinion. The applicant has offered three absurd mitigation measures: a stepped kerb to facilitate surface water running down to the collection chamber rather than past the garage; installation of a drain to catch the small amount of water run-off; and upgrading of the boundary wall, though not its weak foundations. The gap for maintenance proposed between the garage and flood defence wall proposed is too narrow. Members should ask Officers exactly how the River Chelt flood alleviation scheme will reduce the risk of flooding, and ask the Environment Agency for further clarification. A letter from applicant's own engineer does not take into account some crucial material considerations, and would therefore urge the Committee to consult with the County Council on the potential effect on surface water of this proposal.

Mrs Yapp, applicant, in support

The external design of the proposed garage is similar in style to that at No. 5 College Gate, and the building materials match the house and the rest of the College Gate development. The planning officer recommendation is to permit, based on a positive analysis of the proposal. His report summarises the flood mitigation measures which have taken place over the past ten years, since 1992 and 2007. Four neighbours have objected. Three are concerned about the increased flood risk to their properties, but the comments of the land drainage officer distributed to Members this week confirm that the proposed garage will not increase the flood risk to the area. One neighbour is concerned about the raised kerb and the effect of this on the flow of water, but the raised kerb is limited to the bins and recycling area only; the flow of water is over the front garden of No 1 College Gate, and into the collection chamber in the rear garden, as shown in a letter from Richard Strauss Associated submitted as part of the application. No water is diverted to any other property. Other issues raised were taken into account by the officer and summarised in his support. Has lived at No 1 College Gate for 24 years and has not suffered from any natural surface water flooding. In 2007, the drainage system of College Gate was coping until Cox's Meadow overflowed, and the problems which caused that have now been resolved.

Member debate:

SW: would like some advice from officers regarding the flood issue, as this is the nub of the discussion between the objector and the applicant. Doesn't quite understand where either is coming from. If flooding is already an issue there, will one additional garage cause such tremendous problems?

MJC, in response:

- the analysis in the report sets out the reasoning used by officers to reach their decision. The 1992 appeal decision stated that the positioning of the proposed garage did not meet the required distance of 2m from the boundary wall and 8m from the site entrance to allow water to flow past the garage and not back up beyond the site entrance:
- since the 1992 refusal of planning permission due to flood issues, a lot has changed – there has been a lot of development in the area, and the current decision must fall back to this;

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- officers required the applicants to demonstrate the change in circumstances, which they have done as follows:
 - the lowering of the road to encourage water to flow along College Gate;
 - flood mitigation measures at Cox's Meadow;
 - some mitigation measures to direct flows to College Gate to the collection chambers and then to the river;
 - there is a wall to protect properties in Keynsham Road;
- officers need to be sure that the proposed development won't make the situation worse, and the drainage engineer's comments are quite comprehensive about that, taking into account the fact that it is in Flood Zone 3, proximity to the River Chelt, Cox's Meadow, and the flood defence wall;
- the question must be whether the garage will significantly increase the flood risk to College Gate; officers cannot argue that it will. This is the judgement Members have to make.

BF: cannot see that building a garage will increase the risk of flooding, but wonders why this proposal has not been run past Gloucestershire County Council as the Lead Local Flood Authority.

KS: this is the sort of application for which she wishes she had some background knowledge in flooding issues. Was councillor for this area in 2007 when Cox's Meadow failed spectacularly, and three properties flooded – it was very fast and the force of the water was very frightening. Is not sure how this garage will affect the situation. The area is on a level with the natural bed of the river, the lowest point of the River Chelt, and is interested to know whether a lot of surface water in the town, coming down the road, would be pushed into someone else's property as a result of the garage at No. 1. Is confused, despite knowing the area well.

MJC, in response:

- to BF regarding comments from the LLFA, a proposal of this small scale is outside its remit – it only considered major developments, rather than householder ones, which are left to be dealt with at local level by CBC's land drainage engineer – as in this case. The last application considered by the LLFA was Pittville School – which indicates the scale of the schemes it comments on;
- to KS, CBC's land drainage engineer is well-qualified to give sound advice. If/when water is coming from London Road, the proposal is trying, through a reduction in the road levels, to encourage it to find a natural course. The 8m/2m gaps allow water to flow freely;
- this application won't affect that. It allows water to take its route and flow its natural course.

Vote on officer recommendation to permit

13 in support

1 abstention

PERMIT

Application Number:	16/01672/FUL
Location:	Rear Of 178 Prestbury Road, Cheltenham
Proposal:	Proposed new dwelling
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	4
Update Report:	Officer update re. conditions

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BH introduced the application as above, at Committee at the request of Councillors Parsons and Lillywhite, due to neighbours' concerns about parking and loss of light. The officer recommendation is to permit.

Public Speaking:

Mr Brooking, neighbour, in objection

Lives adjacent to 178 Prestbury Road, and is concerned about loss of daylight to his living space, and increased parking issues on Oakland Avenue, as set out in his letter dated 4th October. Regarding loss of daylight and sunlight, the tests used by the local authority are set out by the Building Research Establishment, and the 25° test uses scale drawings and relative distances to establish whether any new development is below 25° relative to an existing window. Calculations have been made based on the provided drawings, considering the relative positioning and distances between his kitchen window and the new structure, which offer a figure of 40°, a significant breach of the test, yet the planning officer has stated that the proposal will 'not result in unacceptable loss of light'. Fails to find this statement a realistic and reassuring conclusion, especially as a 6m wall will sit just 4m from his kitchen window. Regarding parking, Planning Portal Residential Parking Standards require a single 3-bedroomed detached house to have at least two off-road parking spaces. In fact this proposal has only one. In addition, the positioning of this space is such that a car cannot be easily manoeuvred into it, due to unrestricted parking along the development frontage, which means this space is only a notional one and unlikely to be of any practical use. As a result, all vehicles will be parked on the road, adding to the existing congestion. Finally, this development is a garden grabbing exercise, which takes away amenity space from three properties.

Mr Hill, applicant, in support

Members will be aware that Oakland Avenue is an attractive road with some impressive properties, and also his own, a storage yard with asbestos sheds strewn across it. Following pre-application discussion 18 months ago, approached the neighbour to the rear of Prestbury Road and agreed that if the outcome was successful, to procure a small parcel of her rear garden to provide the new development with ample amenity space. As well as the small number of objection letters, mostly relating to parking issues, has received quite a lot of positive feedback particularly from nearby residents who will welcome the replacement of the unsightly yard with a new dwelling, which is almost a carbon copy of the property directly opposite and acts as a complimentary book end. Regarding parking, would like to assure local residents that it has always been his intention to have off-road parking; this was expressed in the application but not shown on the original plans and may have caused concern. The plans have now been amended to show clearly the off-road parking arrangements. Has been open and honest with immediate neighbours throughout the process, explaining his intentions for the site, and if planning is approved, his life's ambition of building his own home can be realised. It is therefore important that he gets along with the neighbours.

Member debate:

HM: is concerned by comments from the first speaker, who does not feel that the light test has been satisfied. Would like more advice from officers about this.

SW: ditto.

BH, in response:

- the basic 25° light test assesses whether an existing window will be affected by new development, but only works with parallel development;

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- the lay-out of this site means that the proposed development is not parallel to the neighbour's property, so an advanced light test has been used which calculates the areas the light is being taken from with reference to position;
- that test concludes that the room in question will still be considered a well-lit room, based on orientation and outlook.

PT: is the officer confirming that the objector's figures are correct or not? Is still confused.

MJC, in response:

- the 25° light test is a crude assessment of whether or not light will be lost to a window. A line is projected, and if it is breached, more work is needed. A more detailed analysis looks at the amount of light reaching a window from around and over the adjacent building, and it doesn't ultimately matter what angle it takes to get over the building;
- officers have considered the amount of light the proposed gable will take from the neighbour's window. There is a lot of light between the building and the window, and the detailed assessment resulted in a clear pass;
- another consideration is that the window in question is already compromised by an existing car port, which has an impact on the amount of light reaching the window. The test was carried out as if the car port was not there, but officers were still satisfied that the proposal passes the test.

Vote on officer recommendation to permit

12 in support

2 in objection

0 abstentions

PERMIT

The meeting ended at 7.20pm.