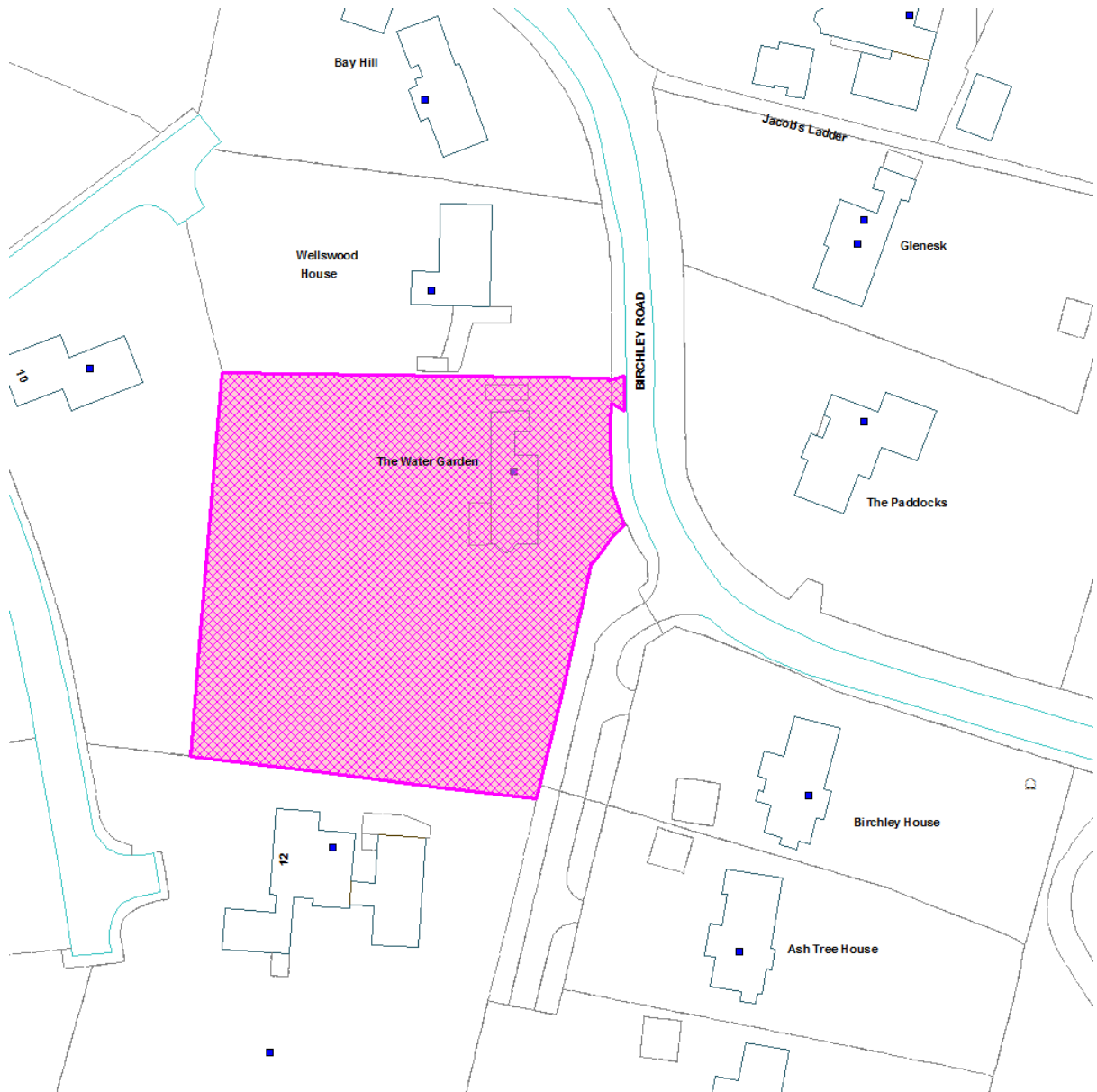


<b>APPLICATION NO:</b> 17/00365/FUL	<b>OFFICER:</b> Mr Ben Hawkes
<b>DATE REGISTERED:</b> 22nd February 2017	<b>DATE OF EXPIRY:</b> 19th April 2017
<b>WARD:</b> Battledown	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	Boo Homes Limited
<b>AGENT:</b>	Brodie Planning Associates Ltd
<b>LOCATION:</b>	The Water Garden, Birchley Road, Cheltenham
<b>PROPOSAL:</b>	Demolition of existing building and garage and replacement with two new detached dwellings

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to a detached property known as 'The Water Garden' located in a residential area on Birchley Road and located within the Battledown Estate.
- 1.2 The applicant is seeking planning permission for the demolition of the existing building and garage and its replacement with two new detached dwellings, garages and associated landscaping.
- 1.3 The application has been called to planning committee at the request of Councillor Babbage due to the level of local interest in the application.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Airport safeguarding over 15m  
Residents Associations

### Relevant Planning History:

**16/02185/PREAPP 9th January 2017 CLO**

Erection of two new dwellings following the demolition of Existing dwelling

**88/01353/PF 27th October 1988 PER**

Erection Of Extension

**91/00079/PF 21st February 1991 PER**

Erection Of House And Garage With Access Drive From Battledown Drive In Accordance With The Revised Plans Received On 25th January 1991 And The Additional Drawing

**08/01710/CLPUD 14th January 2009 WDN**

APPLICATION WITHDRAWN BY SUBMISSION OF 09/00031/FUL 14.01.2009  
Proposed ancillary buildings to enclose hydrotherapy pool

**09/00031/FUL 24th February 2009 PER**

Proposed ancillary buildings to enclose hydrotherapy pool

## 3. POLICIES AND GUIDANCE

### Adopted Local Plan Policies

CP 1 Sustainable development  
CP 3 Sustainable environment  
CP 4 Safe and sustainable living  
CP 7 Design  
GE 5 Protection and replacement of trees  
GE 6 Trees and development  
TP 1 Development and highway safety

### Supplementary Planning Guidance/Documents

Development on garden land and infill sites in Cheltenham (2009)

### National Guidance

National Planning Policy Framework

## 4. CONSULTATIONS

### **Parish Council**

*8th March 2017*

Objection: In our view the Battledown Estate is akin to our three Conservation Areas, in that it requires and benefits from special protection. One of our planning policies states that we 'seek to maintain the unique character and feel of Charlton Kings, particularly in the St Mary's, Bafford and Cudnall Street conservation areas' and we seek to do so for Battledown Estate.

Nationally, the status of the degree of protection afforded by deeds of covenant is uncertain and from time to time is tested in the courts. Locally, according to Appendix 3 (page 51) of Cheltenham Borough Council's own Local Development Framework, Supplementary Planning Document (SPD) of June 2009, the special nature of Battledown is recognised as follows: 'This area comprises large individual properties set into their own grounds climbing up the escarpment to the east away from town. There is much mature landscaping. The area benefits from a covenant which means that garden land is not subject to sub-division and intensification here'. The document is sub-titled 'Development of Garden Land and Infill Sites in Cheltenham'. This acceptance that the estate is 'special' and benefits from a covenant is clearly relevant to this application; in other words the Deed of Covenant of 1859 should be taken into account.

We believe that this proposal is equivalent to back garden development, in the sense that it looks to build two houses on a plot where there is currently only one. Another of our policies states that we resist back garden development when it is inappropriate and impacts adversely on the overall environment of Charlton Kings. In addition, Plot 60, which The Water Garden forms part of, is already 'full' according to the Deed of Covenant which permits only a certain number of houses per acreage. We understand that the Battledown Trustees have had this confirmed by an Estate Surveyor and a QC.

In conclusion, permitting this application would be detrimental to the unique ambience and character of Battledown Estate.

For the reasons stated above and given the strength of feeling in the community with over 45 letters of objection, we ask that the application goes before the Borough Council Planning Committee.

### **Parish Council**

*18th April 2017*

Objection: The revisions here do not affect our earlier decision to object to this application. Rather than repeat the words here, I refer you to our Objection submitted on 9th March 2017; these comments still stand in their entirety and we repeat our request that this application goes before the Borough Council Planning Committee.

### **Architects Panel**

*13th April 2017*

Design Concept:

The panel had no objection to the principle of this development. A similar scheme was reviewed by the panel at Pre-App stage.

Design Detail:

The design submitted is very similar to the Pre-App proposal. The main design change being the change to the roof where the earlier mansard roof profile has been replaced with a vertical clad recessed top floor, which the panel thought was a design improvement. Slight changes to the site layout also improved the scheme.

Some panel members were not convinced by some of the architectural detailing, particularly the rear elevation, and it was felt that the scheme could have been explained better with three dimensional views and drawings that showed the scheme in context. Concerns were raised about the chimney proportions and it was felt they could be more integrated with the roof.

The panel felt that the additional accommodation over the garage to Plot 2 should be omitted so the two buildings read more like villas with generous gaps between the properties.

Recommendation:

Support subject to omission of Plot 2 apartment over garage and elevation refinements.

### **Land Drainage Officer**

*29th March 2017*

I have quickly reviewed the information submitted with this planning application, and can see no reference at all to the management of surface water generated by the existing or proposed developments. As such I am unable to comment further.

I would expect the application to present a drainage strategy that included reference to the existing drainage arrangement, the proposed arrangement demonstrating betterment and the application of SuDS where appropriate.

### **Tree Officer - 16th March 2017**

The Tree section has reservations about this proposal as it currently stands.

There are concerns regarding trees which appear to be under neighbouring ownership but which will have a big influence on the overall living experience of any new occupants of the more southerly plot.

Trees 24, 25, 26, 30, 32, 34 are all large evergreen, coniferous trees which will cast year-round shade on the adjacent property (as demonstrated by the Shade Analysis drawing WGDNSH-Feb 17). Any new occupier has no right to demand the reduction of height of these 3rd party trees and as such, given the extent of shade anticipated, should the tree owner not agree to significant height reduction, a formal High Hedge complaint to this council would be more than likely. This is a relatively handsome line of trees and the removal of their tops following negotiation with the owner or as a consequence of a High Hedge complaint will reduce their amenity.

One solution to this may be to move the dwelling northward and attach the garage to the south of the dwelling. This would:

- 1) reduce shade onto the dwelling,
- 2) Move the dwelling away from the Root protection Area of the trees (it is currently placed on the very edge of this RPA),
- 3) Make the development as a whole more symmetrical.

However, unless T34 is reduced in height, a significant proportion of the proposed rear garden will be in shade for much of the day-again leading to pressure to prune.

Whilst this is a delightful garden with a sense of faded grandeur, the trees within are not of exceptional quality individually. The off site pine (T3) is a magnificent tree but is not considered to be under threat as a result of this application. However, it is important that underground service runs are submitted and agreed prior to determination. No service runs should run within the RPA of this tree or any other on or off site tree.

Please could a pre-commencement site meeting be conditioned in any planning permission.

Whilst the trees marked for removal are not of high quality, a development such as this is an opportunity to plant new trees with a view to the future. Currently only one tree (no species details available) is marked to be planted on the Proposed Site Layout drawing no 5516/P/11. This is insufficient in terms of maintaining the rich arboreal nature of this part of Battledown. Please could an upgraded plan showing the location of all trees to be planted as well as their size, species, planting pit etc be submitted and agreed prior to determination.

Given comments in para 5.7 of the Arb report, please ensure all foundations are of appropriate size/depth/design to take account of potential subsidence/heave as a result of tree root activity.

**Battledown Trustees**

*16th March 2017*

*27th March 2017*

*10th April 2017*

*24th April 2017*

*28th April 2017*

See Appendix 1.

**GCC Highways Planning Liaison Officer**

*20th March 2017*

I refer to the above planning application received on 17th March 2017.

With regards to the above site; under our Highway's Standing advice criteria we do not need to be consulted on this application and this can be dealt with by yourselves with the aid of our guidance.

If you have any queries please do not hesitate to contact me.

**GCC Highways Planning Liaison Officer**

*27th March 2017*

I will require that the applicant undertakes a speed survey in accordance with DMRB TA22/81 and then demonstrates on plan the required visibility splays commensurate with the recorded 85th percentile wet weather speeds from a point 2.4m back from the carriageway edge along the centre line of the access. Gradient should be considered when calculated the required visibility splays.

**GCC Highways Planning Liaison Officer**

*7th April 2017*

I refer to the above planning application received on the 14th March 2017 with submitted plans:

The Water Garden Access Appraisal Note Issue 01  
5516/P/13 - Proposed Site Layout - Existing/Proposed Analysis,  
5516/P/01 Rev A - Site Location Plan,  
5516/P/10 Rev B - Existing Site Layout,  
Planning Statement,  
Application Form,

## Design and Access Statement.

Birchley Road is an un-adopted privately maintainable highway in the Battledown area of Cheltenham. Although Birchley Road is privately maintained, it is un-gated and therefore access can be gained by all people and will therefore be regarded as highway. The Highway Authority will therefore provide comments to the Local Planning Authority in order to fulfil its duty as a statutory consultee and to be a competent Highway Authority.

### Access:

The site currently benefits from an existing access off of Birchley Road suitable for a single working.

The access is to be widened to allow two-way working in accordance with the Local Design Guidance.

### Visibility:

The proposed development would result in an increase in vehicular movements entering and egressing the site access. The access would therefore be required to provide adequate levels of visibility onto Birchley Road.

Birchley Road is subject to a 30mph speed limit and would require visibility splays of 2.4m back from the carriageway edge along the centre line of the access to a point 54m to the nearside carriageway edge in either direction.

The required visibility of 54m is not achievable to the left from the site access to the nearside carriageway edge.

The achievable visibility to the left is approximately 27m to the nearside carriageway edge.

The Water Garden Access Appraisal Note Issue 01 received on the 7th April details the site access and achievable visibility.

The Highway Authority does not agree with the Transport Consultants notion, stated within the Access Appraisal

Note Issue 01, that a precedent has been set in the use of table 7.1 and figure 7.16 for obtaining visibility for a new access as a result of a proposed access in Nailsworth. The use of table 7.1/fig7.16 was to be used as a cross reference with a 12 hour manual count to overcome a site specific scenario which restricted the safe installation of a 7 day ATC count and to overcome the low number of readings that could be recorded. Table 7.1/fig7.16 was not to be used in isolation as is the case here; moreover Birchley Road is different in context and does not have the same constraints when laying ATC tubes. Furthermore, each individual application is assessed on their own merits and therefore a precedent is unable to be set in planning, and using a means that was tailored specifically to address the constraints of one site that is in no way connected or relatable to Birchley Road is not accepted by the Highway Authority.

The Highway Authority have previously said that the use of Table 7.1 and Figure 7.16 will not be supportive for this application as the nature of the highway is different and not conducive of the urban streets in which the evidence was gathered and documented in TRL Report 661. Birchley Road may be contained within the defined boundary of Cheltenham, but the street is very different in appearance to an urban street given its lack of footways and presence of grass verges and hedgerows.

The reason stated in Appendix A of the Access Appraisal Note Issue 01 that as a result of the level of objections to the application, the trustees may not allow the applicant to lay an ATC is an assumption and is therefore anecdotal. The Highway Authority will therefore still

require that an ATC speed survey is undertaken in accordance with DMRB TA22/81 in order to obtain the 85th percentile speed of traffic on Birchley Road.

Trip Generation:

The single existing dwelling would generate approximately 5 daily two-way vehicle trips with 1 trip occurring per peak hour.

The proposed development will increase the number of dwellings to two, which would generate approximately 10 two-way daily trips with 2 occurring per peak hour. The development would therefore result in the intensification of use of a substandard access as a result of insufficient visibility to the left.

I recommend that this application be refused on highway grounds for the following reason(s):-

Insufficient information has been submitted to demonstrate that suitable visibility splays can be provided commensurate with the speeds of traffic on Birchley Road.

Therefore, the proposed development fails to provide safe and suitable access and minimise conflict between pedestrians, cyclists and vehicles contrary to Section 4 of the National Planning Policy Framework.

More favourable consideration may be given if: -

Visibility splays are provided on plan commensurate with the 85th percentile wet weather speeds of traffic on Birchley Road as determined by a speed survey undertaken in accordance with DMRB TA22/81.

Statement of Due Regard

Consideration has been given as to whether any inequality and community impact will be created by the transport and highway impacts of the proposed development. It is considered that no inequality is caused to those people who had previously utilised those sections of the existing transport network that are likely to be impacted on by the proposed development.

It is considered that the following protected groups will not be affected by the transport impacts of the proposed development: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, other groups (such as long term unemployed), social-economically deprived groups, community cohesion, and human rights.

Yours

**GCC Highways Planning Liaison Officer**

*7th June 2017*

I refer to the above planning application for which additional information was submitted to the Highway Authority in order to overcome a Highway's recommendation of refusal submitted to the Local Planning Authority on the 7th April 2017.

The additional submitted information was in the form a Technical Note (TN02 + TN03) and provides speed survey information and access appraisal.

The Highway Objection dated 7th April 2017 centred on the access not being able to provide adequate visibility splays based upon the deemed to satisfy standards of 54m for a 30mph speed limit in the absence of a speed survey.

#### Visibility:

The applicant has since undertaken a speed survey in the form of a Manual Radar survey. This is the best available means of obtaining speed survey data in this location currently. The survey was undertaken on Tuesday 25<sup>th</sup> April 2017. Tuesday is regarded as a neutral day and is acceptable for such survey. The survey recorded speeds over a 12 hour period, however to accord with best practice the speeds recorded in free flow conditions (10am-12pm & 2pm-4pm) are considered appropriate establishing the 85th percentile wet weather speeds of traffic on Birchley Road.

The speed survey recorded an 85th percentile speed of 22.7mph for southbound traffic and 23.25mph for northbound traffic. To determine the required visibility splays, Manual for Streets 1 visibility parameters would be used as the highway is not a bus route and does not feature 5% HGV traffic.

Visibility splays are determined on the 85th percentile wet weather speeds of traffic on the highway. The speed survey was undertaken in dry conditions during the free flow periods, therefore a wet weather reduction of approximately 2.5mph can be applied. This results in an 85th percentile wet weather speed of 20.2mph for southbound traffic. Using Manual for Streets parameters with a +10.5% gradient applied as vehicles are travelling uphill, the required visibility splays would be 2.4m x 21m emerging and 24m forward for vehicles travelling towards the access on Birchley Road.

The required visibility splays would involve a mature hedgerow to be cut back. To negate this and avoid any potential damage to the hedgerow, Dwg SK04 has demonstrated a 2.0m (x-distance) set back and measured the (y-distance) 300mm in from the carriageway edge. The reasons for the reduction in set back and off-set of 300mm are acceptable and are justifiable in accordance with Manual for Streets 7.7.7 and Manual for Streets 2 10.5.3 guidance.

The submitted speed survey and technical drawing SK04 has demonstrated that the required visibility splays commensurate with the recorded 85th percentile wet weather speeds are achievable.

I am aware that the survey vehicle was positioned in an incorrect driveway for a period of time. However as per national speed survey guidance within DMRB TA22/81, only the free flow conditions have been assessed.

Therefore the survey data has not been compromised by the incorrect positioning of the survey vehicle.

The speed radar method would involve the survey vehicle being parked in the access to The Watergarden. The National guidance paragraph 5.2.1 states that speed radar surveys can be set up on verges, unused entrances (as is the case here during this survey period) or at the beginning of a layby. The installation should be as inconspicuous as possible. I believe the survey vehicle was positioned as best it could have been and that the speeds recorded at the extent of the splay would not have been materially influenced by the presence of the speed radar.

The Speed survey has been undertaken in accordance with DMRB TA22/81 with no evidence submitted refuting the legitimacy of the speeds recorded or demonstrating that vehicle speeds are greater than what is surveyed.

There is no empirical evidence to suggest that the speeds recorded are not representable.

#### Access Design:

The proposed development is to increase the number of dwellings from 1 to 2, this would therefore require a shared access and driveway. Dwg 5516/P/13 Rev A has demonstrated



proposed widening to the access to accommodate two-way working, according with the local design guidance.

The access improvements would involve works to the verges; the verges are under the ownership of the Trustee's who have formally objected to any works occurring on the verges. From a Highways perspective and in planning terms, according to the DCLG's Material Consideration advice sheet, private issues between neighbours e.g. land/boundary disputes, damage to property, private rights of access, covenants, ancient or other rights to lights are non-material considerations. However, access is a material consideration and the means of providing a shared two-way working access would involve works to the verges, verges that are out of applicant control. Any forthcoming condition would therefore be deemed unreasonable and may potentially lead to implementable planning permission.

Therefore, the current access arrangement and likely harm of a single width access would need to be assessed.

The single width access may result in a vehicle waiting on Birchley Road for another vehicle to egress the site before they are able to turn right or left in. In order to negate harm to road users, sufficient forward visibility would be required for vehicles approaching the access to see another waiting to turn and safely slow or stop comfortably. The Forward visibility for vehicles travelling southbound are 24m whilst the forward visibility for northbound vehicles is 27m with a -10.5% gradients applied due to vehicles travelling downhill.

Drawing SK03 has demonstrated the achievable forward visibility for vehicles approaching the access.

Southbound traffic has in excess of the required forward visibility with 46m available. Northbound traffic has 38m forward visibility. The approaching vehicle has approximately 27.9m of forward visibility to a car positioned on Birchley Road waiting to right turn into the site. The achievable levels of forward visibility are in excess of what is required commensurate with the 85th percentile wet weather speeds of traffic. Therefore, there is no evidence to suggest a car waiting to turn into the site access while another egresses the site will cause any detrimental highway safety concern. It has been demonstrated that the current access would be sufficient to accommodate the associated movements of two residential dwellings.

I have been made aware by local residents that incidents have occurred previously on Birchley Road, with a photo submitted showing a vehicle in a ditch, although the cause of this incident is unknown. It appears that Birchley Road has been upgraded in recent years to include anti-skid surfacing, wooden bollards protecting properties installed and upgrades to signage and lining have occurred with a recommended speed limit of 20mph.

The Highway Authority does not regard damage only incidents in Personal Injury Collision reviews. This is because these incidents are not reported to the police and therefore no exact details of the incident are ascertained. The police reports determine the causation factor that attributed to the collision. As these are not recorded incidents there is no empirical evidence, which could be reasonably defended at appeal, to suggest that they were as a result of the Highway and its layout or caused by vehicles entering or egressing from private accesses.

In the absence of any empirical evidence refuting the findings of the speed survey and given that the access can provide in excess of the required emerging and forward visibility, the additional submitted information is sufficient to address the initial refusal reason recommended by The Highway Authority.

Therefore, I recommend that no Highway objection be raised.

### Statement of Due Regard

Consideration has been given as to whether any inequality and community impact will be created by the transport and highway impacts of the proposed development. It is considered that no inequality is caused to those people who had previously utilised those sections of the existing transport network that are likely to be impacted on by the proposed development.

It is considered that the following protected groups will not be affected by the transport impacts of the proposed development: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, other groups (such as long term unemployed), social-economically deprived groups, community cohesion, and human rights.

## **5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>8</b>
Total comments received	<b>94</b>
Number of objections	<b>94</b>
Number of supporting	<b>0</b>
General comment	<b>0</b>

- 5.1** 8 letters were sent to neighbouring properties, 94 letters of objection have been received.
- 5.2** Many of the objections raise similar points and whilst not limited to, these have been have been highlighted below:
- Breach of Battledown Covenant
  - Number, size and scale of dwellings
  - Design and character
  - Over development
  - Access and highway safety implications
  - Surface water drainage
  - Loss of privacy and overbearing impact
  - Visual impact

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

- 6.2** The main considerations of this application are the principle of the development, the design and layout, impact on neighbouring amenity, highway safety and impact on existing trees.

### **6.3 Principle of development**

- 6.4** Cheltenham Borough Council is currently unable to demonstrate a 5 year housing supply at present and are relying on the adoption of the JCS to resolve this matter. Paragraph 49 of the National Planning Policy Framework states that at its heart is a presumption in favour of sustainable development.
- 6.5** Where housing policies are not considered to be up-to-date, the NPPF is quite clear that development proposals should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole, or specific NPPF policies indicate that development should be restricted.
- 6.6** The application site is located within the built up area of Cheltenham in a highly sustainable location and therefore the principle of developing this site for housing is acceptable, subject to all other material considerations set out below.

#### **6.7 The site and its context**

- 6.8** The application site is approximately 0.36 hectares in size and is accessed via Birchley Road, which is an unadopted privately maintained road within the Battledown area of Cheltenham. The site consists of a two storey dwelling and an attached garage located within the north east of the site facing on to Birchley Road and is set within a generous sloping plot. The site shares its boundaries with other residential properties within the estate.
- 6.9** Generally the Battledown estate consists of a wide variety and style of properties but are generally detached buildings and set within large plots. The Battledown estate benefits from a mature landscape with mature trees forming boundaries between properties and giving the estate its identity.

#### **6.10 The Battledown estate covenant**

- 6.11** The Battledown estate is made up of approximately 180 properties and has been managed by the Battledown Trustees for over 150 years. Properties within this area are constrained by the 1859 Deed of Covenants. Within the deed there are a number of covenants that land owners are required to abide by. The covenant specifically referred to by interested parties as relevant for this application is:

'No person is to build on lots of land more houses than in proportion of one house to each half an acre of land'. (Note: ½ acre = 0.2ha).

- 6.12** Whilst officers acknowledge that this deed of covenant exists, it is not a material consideration for this application and is a legal matter to be dealt with between the land owner and the Battledown Trustees. It is therefore not a reason to withhold planning permission. That said, for permission to be granted, the proposal needs to respond successfully to its context. It is this matter that the report will now focus upon.

#### **6.13 Design and layout**

- 6.14** Local plan policy CP7 relating to design requires all new development to be of a high standard of architectural design and to complement and respect neighbouring development and the character of the locality.
- 6.15** As set out in paragraph 6.9, the Battledown estate is generally characterised by large detached properties set within generous plots providing an element of space between buildings, it is this context that the proposal should respond to. Whilst officers acknowledge the scale of the proposed new dwellings to be large, the size of the plot and the site layout allows the new dwellings to sit comfortably in their context and will respect the existing pattern of development in the Battledown Estate.

- 6.16** Guidance set out within paragraph 56 of the NPPF advises that *‘good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people’*. Paragraphs 59 and 60 emphasise that the use of design policies *‘should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height etc’* and *‘should not attempt to impose architectural styles or particular tastes and should not stifle innovation.’*
- 6.17** The architect’s panel raise no objection to the principle of the development and have acknowledged that design aspects and site layouts have been improved; these improvements are highlighted as the change to the roof form from a mansard roof profile to a vertically clad recessed top floor, as well as slight site layout changes. Further revisions were suggested relating to the detailing of the rear elevation and the chimney proportions. A further comment was that the accommodation over the garage of plot 2 should be omitted. Officers have sought further revisions to the scheme, including the omission of the accommodation above the garage of plot 2 which has now been removed from the proposal.
- 6.18** Concerns have been raised locally with regard to the visual impact of the proposal. It is accepted that the new dwellings will have a greater presence in the street scene than the existing building; however the site will remain heavily screened by the mature landscaping and trees in front of the application site, therefore reducing its impact. Although the presence of the new dwellings will be felt in the street scene it is not considered that there will be an unacceptable impact on its surroundings.
- 6.19** It is clear from the volume of comments received that local residents do not like the scheme in terms of its size, scale and design, however following the submission of the revised plans which have addressed some of the concerns raised by architects panel at pre-application and application stage officers consider the proposal to be of an acceptable scale, quality and design.
- 6.20** The proposed sub-division and site layout for the two proposed dwellings provides suitable access, parking and generous private amenity spaces. The proposed layout is considered to be acceptable and appropriate for its context and would represent an effective and efficient use of the land.
- 6.21** Officers consider the proposed development to be successful in responding to the local character and being compliant with Cheltenham’s adopted ‘Garden Land for a number of reasons. The key reasons include the position of the dwellings within the plot, the space around the properties and the allocation of land per dwelling. The proposed dwellings are positioned some 20 metres back from Birchley Road allowing a generous amount of space in front of the proposed dwellings. The submission of revised plans with the omission of the annexes above the garages allows for gaps between the buildings enabling a greater perception of space about the scheme. The generous size plots also accords with neighbouring developments allowing the proposal to sit comfortably with the existing pattern of development. The site layout has been carefully designed to make best use of the space available and by using the existing landscaping and trees as a natural screen.
- 6.22** The proposed development is considered to be compliant with local plan policy CP7, guidance set out within the NPPF and within the ‘Development on garden land and infill sites in Cheltenham’ Supplementary Planning Document.
- 6.23 Impact on neighbouring property**
- 6.24** Local plan policy CP4 relating to neighbouring amenity seeks for new development to protect the amenity of adjoining land users and the locality, with specific reference to loss of light, loss of outlook and loss of privacy.

- 6.25** In terms of loss of light and loss of privacy it is the immediate land user of 'Wellswood House' that will be most affected. In terms of loss of light to this neighbour, the building closest to the shared boundary will be the garage of plot 1, with the main bulk of the house approximately 11.5 metres away from the boundary. Whilst officers appreciate the garage position is located further into the site than that of the existing garage building it is not considered that there will be any unacceptable loss of light or overbearing impact to this or any other neighbouring land user due to its position within the plot and the distance away from any neighbouring properties.
- 6.26** In terms of a loss of privacy, the only likely property to be affected would again be 'Wellswood House'. Given the distance of the property to the side boundary and a condition having been suggested for the ground floor side elevation window to be obscurely glazed it is not considered that the proposal will result in any unacceptable loss of privacy.
- 6.27** It is acknowledged that this development will undoubtedly be visible from the surrounding residential properties and locality. It is not however considered that any such impact would warrant a refusal of planning permission; the relationships between the buildings are by no means cramped and are contextually appropriate.
- 6.28** The proposal is considered to be compliant with local plan policy CP4 and guidance set out within the NPPF.

#### **6.29 Access and highway issues**

- 6.30** Concerns have been raised in a number of objections received by local residents in regard to highway safety. Concerns relate to the increase in the number of cars that will use the access on to Birchley Road and the suitability of the access to accommodate two dwellings. Due to the level of concern and the close proximity of the site access to the bend, detailed comments have been sought from the highway authority.
- 6.31** Comments were received from the highway authority which requested further information and a speed survey. The speed survey has since been submitted and further comments have been received.
- 6.32** Through the consultation process it has been brought to the applicant's attention that in order to widen the existing access, permission would need to be obtained from the Battledown trustees as the land owners. It is clear that permission will not be given by the trustees to widen the access in order to facilitate use by two dwellings. With this in mind the proposal has been amended and the highway authority has considered this application based on the existing access and its acceptability to serve two new dwellings.
- 6.33** Following receipt of the speed survey and in light of the existing access being used, the highways authority raise no objection to the proposed access arrangements and are happy the required visibility splays can be suitably achieved.
- 6.34** The proposal is considered to be compliant with local plan policy TP1 in terms of highway safety.
- #### **6.35 Trees**
- 6.36** The tree officer has provided a detailed response to this application. Whilst no objection has been raised, conditions have been suggested for the protection of existing trees in and out of the site. These are considered to be necessary and reasonable.
- 6.37** A condition has also been suggested for the submission of a landscaping plan in order to achieve a suitable level of planting and soft landscaping to complement its setting within the Battledown estate.

### **6.38 Other considerations**

- 6.39** Due to concerns raised locally with regard to surface water runoff and potential drainage issues as a result of the proposed development and given the gradient of the site, the land drainage engineer has been consulted and has provided a formal comment.
- 6.40** Further details have been requested requiring the submission of a drainage strategy. The strategy should provide details of the existing drainage management, the proposed arrangement demonstrating betterment and the application of a SuDS scheme where appropriate.
- 6.41** Officers are happy that a suitable solution can be achieved and therefore a condition has been added for these details to be submitted and approved in writing prior to the commencement of works.

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1** Overall, officers consider that following the submission of revised plans and additional information, the proposal of two new dwellings on the site is acceptable. The application is considered to be compliant with local plan policies and guidance set out within the NPPF and our 'Development on garden land and infill sites in Cheltenham' Supplementary Planning Document.
- 7.2** Officers are mindful of the advice contained within the NPPF relating to a presumption in favour of sustainable development and the implications of not being able to demonstrate a 5 year supply of housing. In light of this advice, members are advised that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal.
- 7.3** Having taken in to account all of the above, officer recommendation is that planning permission be granted, subject to the conditions set out below.

## **8. CONDITIONS / INFORMATIVES**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.  
  
Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 No development shall commence on site unless details of a surface water drainage scheme, which shall incorporate Sustainable Urban Drainage System (SUDS) principles, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme for implementation of the works; and proposals for maintenance and management. The development shall not be carried out unless in accordance with the approved surface water drainage scheme.

Reason: To ensure sustainable drainage of the development, having regard to Policy UI3 of the Cheltenham Borough Local Plan (2006). Approval is required upfront because the design of the drainage is an integral part of the development and its acceptability.

- 4 Prior to the implementation of any landscaping, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences, other boundary treatment and finished ground levels; details of the hard surface treatment of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to include [species, size, position and method of planting of all new trees and shrubs]; and a programme of implementation.

All hard and/or soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details [delete if not appropriate].

Reason: In the interests of the character and appearance of the area, having regard to Policies CP1 and CP7 of the Cheltenham Borough Local Plan (adopted 2006). Approval is required upfront because the landscaping is an integral part of the development and its acceptability.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and/or re-enacting that order), the ground floor side elevation window to serve the kitchen in plot 1; shall at all times be glazed with obscure glass to at least Pilkington Level 3 (or equivalent).

Reason: To safeguard the privacy of adjacent properties having regard to Policies CP4 of the Cheltenham Borough Local Plan (adopted 2006).

- 6 No demolition or construction shall commence on site until a demolition/construction management plans has been submitted to and approved in writing by the Local Planning Authority. The demolition/construction plan shall include measures to control noise, dust, vibration and other nuisance during the demolition/construction phase. No demolition or construction shall be carried out unless in accordance with the approved demolition/construction plan.

Reason: To safeguard the amenities of the area, having regard to Policy CP4 of the Cheltenham Borough Local Plan (adopted 2006). This information is necessary before work starts for the same reason.

- 7 All service runs shall fall outside the Root Protection Area(s) of any tree within the site or outside of the site, as shown on the approved drawings, unless otherwise first agreed in writing by the Local Planning Authority. Any such works shall be carried out in accordance with the National Joint Utilities Group; Volume 4 (2007) (or any standard that reproduces or replaces this standard).

Reason: To safeguard existing tree(s) in the interests of visual amenity, having regard to Policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006). Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 8 The works hereby approved shall not be carried out unless in accordance with the approved Tree Protection Plan. The measures set out in the Tree Protection Plan shall remain in place until the completion of the construction.

Reason: To safeguard existing tree(s) in the interests of visual amenity, having regard to Policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006).

## **INFORMATIVES**

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, the authority sought revisions to improve the design;

Following these negotiations, the application now constitutes sustainable development and has therefore been approved in a timely manner.