

<b>APPLICATION NO: 17/00365/FUL</b>		<b>OFFICER: Mr Ben Hawkes</b>
<b>DATE REGISTERED:</b> 22nd February 2017		<b>DATE OF EXPIRY :</b> 19th April 2017
<b>WARD:</b> Battledown		<b>PARISH:</b> CHARLK
<b>APPLICANT:</b>	Boo Homes Limited	
<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	

## REPRESENTATIONS

Number of contributors	<b>94</b>
Number of objections	<b>93</b>
Number of representations	<b>0</b>
Number of supporting	<b>0</b>

Windrush  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 13th March 2017

This application is in breach of the Deed of Covenant held by the Trustees of Battledown Estate, which states the regulations that have to be complied with regarding housing density.

The application must be rejected on these grounds alone.

Skyview House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

**Comments:** 27th February 2017

every person who has purchased a property on the battle down estate , where this house lies, is legally bound by the battle down covenants.

this planning application to build two houses is in breach of these covenants. further more the developer is aware that the proposed development is in breach.

the correct legal interpretation of the wording in the Seventh Covenant, which is on elf the covenants that this proposal breaches, is that each Original Lot of the Estate may have built on it no more than one house per half-an-acre area of that Original Lot. So (for example) a two acre Original Lot could have four houses built on it. An Original Lot of 1.75 acres could have three houses built upon it, and so on .....

Original Lot 60 (within which The Water Gardens sits) had an area of 3.75 acres and it already has seven houses built upon it. So clearly the Covenants prohibit any additional house being built thereon.

The trust of battldown informs me that the developer has been made aware of this on numerous occasions but he has decided to ignore there advice and there prohibition of any additional house on his house-plot.

Its a little worrying that the documents submitted to the planning dept state that the developer is in negotiation, when the trustees have made it very clear that no negotiations are taking place and the covenants are there to stop this sort of thing.

The developer has been told that this application is in breach and thats that. There is no negotiation. The developers have just chosen to ignore the trustees. Which is worrying in itself.

I'm all for improving housing stock but the one thing that makes Battledown special is that houses are not crowded together and such this covenant is important to maintain in order for this special area to be maintained and not lost to over development of this kind. for this reason i strongly object.

The Paddocks  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

**Comments:** 14th March 2017

My family own and occupy The Paddocks on Birchley Road which is directly opposite and East of The Water Gardens. We have lived here for over 30 years enjoying the proximity of the town of Cheltenham together with the relatively tranquil nature of a private estate where housing density has been controlled to generally maintain the ambiance of the locality, the Battledown Estate.

The proposed plan for the replacement of the current single building, The Water Gardens, by two new detached buildings gives me cause to lodge the following comments.

Traffic

Birchley Road serves as one of the main ungated access roads to the Battledown Estate. Vehicular visitors, contractors as well as many Estate property owners all use Birchley Road. Horse riders and pedestrians of all ages commonly use Birchley Road even though there is no footpath on Birchley Road including none on the boundary of The Water Gardens whose access is proposed to be and always has been close to a sharp bend located on a steep hill. The increase in traffic generated by the occupants of an additional dwelling will increase the potential for accidents. During the last few years, we have witnessed several accidents with vehicles colliding in the vicinity of the access to The Water Gardens. This has caused damage to The Water Gardens wall as well as fences and the grass verge of our property. On more than one occasion we have helped remove people and vehicles from the ditch running alongside our property and directly opposite the Water Gardens entrance.

This particular development, in itself, may or may not have a significant effect on the use of the road but as I have described under Amenity below, the disregarding of the 1859 Deed of Covenant will create the probability of wholesale addition to the number of properties on the Battledown Estate.

My concern is should a second home be built on this plot it is inevitable that this will break the Deed of Covenant which controls the density of the estate and thereby set a precedent that many more houses will be built, thereby increasing traffic flow on Birchley Road and increasing the potential for road traffic accidents substantially.

### Privacy

Our family home currently enjoys a decent level of privacy from The Water Gardens as the current design of The Water Gardens property does from our property. The proposed eastern elevation shown on the plan 5516/P/81 shows three double windows on the upper level of each building which will look directly into our family home and that of our neighbours. Currently there is only one obscured bathroom window 3 to 4 metres lower than the three window areas on the proposed plans for plot 1. By contrast, there are 10 windows on the combined second and third floors of each of the two buildings.

The proposed number of windows on this elevation gives my family concern in respect of our privacy. The drawing 5516/P/84 shows clearly this intrusion into our privacy. The uppermost point of the three sets of double windows on Plot 1 is above the current ridge of the roof and the whole of the three windows on Plot 2 are above the current roof ridge of The Water Gardens. The higher roof ridge, in itself, has a significant impact on the skyline for properties adjacent to The Water Gardens and with the addition of a second even higher building (the proposed Plot 2) both buildings combined will have an overbearing impact on surrounding properties.

### Amenity

We moved on to the Battledown Estate in the 1980s due largely to its semi-rural aspect close to the town centre. Whilst there have been many developments on the Estate, the unique environment regulated by the 1859 Deed of Covenant has been maintained to ensure that a proliferation of building stock does not take place. To maintain this environment, all properties on the Estate pay an Estate rate in addition to the General Council rate. We have paid these additional rates for over 30 years in the belief that the environment, the privacy and the general amenity will be available to our family now and in the future, as it has been for the past 30 years. Whilst we do not object to the modernisation of the housing stock on the Estate it is imperative that the conditions of the Deed of Covenant are not flagrantly disregarded as we believe it will start a trend which will in time completely alter the uniqueness of this historic Cheltenham estate in respect of visual impact, noise, privacy, green space and create an increase in traffic within the Battledown Estate area.

In 1859 Cheltenham people had the foresight to understand these potential issues. They were not alone in recognising the unique quality of Cheltenham housing areas which are instrumental in attracting and retaining business owners and organisation leaders. It is these people that help generate the economic activity Cheltenham must endeavour to maintain. Cheltenham Borough Council's current Local Plan highlights the requirement to encourage economic activity and maintains the objectives of conserving historic areas and safeguarding attractive landscapes.

I am therefore asking that planning permission is not granted because of the concerns I have described above.

### **Comments:** 25th April 2017

Thank you for the opportunity to provide additional comment to the revision of the planning application 17/00365/FUL. The revisions are minor and my original objections as expressed in my letter of 12th March still stand.

I would like to extend my point regarding privacy as I am extremely concerned by the windows proposed on Plot 1 which extend to near the height of the proposed ridge. This proposed ridge is higher than the current ridge height and these windows will overlook my property, looking down into my garden and patio area but more importantly directly into the bedrooms. I request that windows and balconies on the Plot's Eastern elevation are fitted with opaque glass to provide privacy to my family.

I am therefore objecting to planning permission being granted due to the concerns I have raised.

Birchley House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 6th March 2017

Letter attached.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 9th March 2017

I strongly object to this planning application for the following reasons;

The proposed development is clearly in breach of the Battledown Estate Deed of Covenant. In addition to the legal ramifications, the existence of the covenants should be considered as part of the planning decision and not viewed as a separate matter. The Cheltenham Borough Councils (CBC) Local Plan sets out numerous objectives and policies. Those objectives include "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23). Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets...". Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..."and "safeguarding attractive landscape". Hence, the covenants are relevant and directly support the aims of the Local plan and its policies.

The scale of the proposed buildings is out of character with the immediate environment. I consider the scale, height and mass of proposed development to be visually overbearing and obtrusive. This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. The proposed houses do not compliment or respect the neighbouring properties. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the two storey house which is to be demolished, and also much higher than any of the other houses within the row of which they would form a part. This is demonstrated by the variance in the ridge height of both neighbouring properties (both directly to the North and South) which have a ridge height level of circa 103, and the contrast is clearly illustrated in the latest materials added online 'Site sections f-f as proposed with existing house outline dotted a3'. Therefore, the scale and mass of the proposed buildings do not ensure that adjoining and future residential amenities are safeguarded from loss of light, over-looking and over-bearing. The proposal therefore does not with the requirements of CP4, CP7, Policy GE3, and paragraph 17 of the NPPF.

The plot is situated on a difficult corner of Birchley Road where they have been traffic accidents in recent years. The access is difficult and this application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems, which is contrary to both; Policy CP4b - "Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level", and Policy TP1 - "Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access...."

With regards to the above concerns it is respectfully requested that planning permission for the above development be refused.

**Comments:** 20th April 2017

Thank you for your letter of 10 April 2017. My original objection stands as per below.

Further, it is interesting to read comments from the GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017)

"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."

It should be noted that the access cannot be widened without the approval of the Trustees since the verges are owned by the Battledown Estate, not the property owner.

Also, the scale of the proposed buildings remains out of character with the immediate environment. I consider the scale, height and mass of proposed development to be visually overbearing and obtrusive. This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. The proposed dwellings do not compliment or respect the neighbouring properties;

- i) The ridge height of the existing Water Gardens dwelling @ 107.68
- ii) Ridge heights of Plot 2 and Plot 1 are still not listed on any of the submitted materials, which would allow the reader to consider how these plots will contrast within the row of which they would form a part - both properties directly to the north and south have a ridge height level of circa @ 103.00
- iii) It is likely that the new plots would be similar in height to the building heights of Birchley House @ 117.66 and The Paddocks @ 112.75 , which form the row of properties behind (to the east) and include our property - Ash Tree House.

I can only surmise that these figures are intentionally omitted given the contentious nature of the size and mass of these proposed buildings...

With regards to the above concerns and in addition to my previous comments, it is respectfully requested that planning permission for the above development be refused.

**Comments:** 5th June 2017

Thank you for your letter of 16 May 2017. My original objection(s) stands as per below.

Further, a number of comments specifically on the change in the proposed access and traffic survey results;

As the existing single working access cannot be widened to "allow two-way working in accordance with the Local Design Guidance" (as per previous comment from GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017)), which implies this current access is now undesirable from a planning perspective to support additional dwellings on the plot.

Single working access to support additional dwellings would also inevitably create a 'one in / one out' situation, and mean that vehicle(s) would have to be stopping/stationary on Birchley Road, at

a point which has been well documented as being on a steep tight bend. In my opinion, this is potentially dangerous and likely to result in increased traffic incidents.

Regards the traffic survey, I strongly concur with the latest objection letter from the Battledown Trustees (Comment Date: Sat 27 May 2017);

- The assessment vehicle (white BMW) was initially parked in the wrong driveway until after 8am,
- The assessment vehicle when parked in The Water Gardens driveway was sufficiently forward to have its 'nose' overhanging the carriageway. This positioning also made it appear to oncoming traffic that the vehicle was exiting from the property as it emerged from the driveway, and therefore would have affected the traffic speeds of approaching vehicles on Birchley Road,
- The assessment vehicle was actually parked out on the downhill side of the carriageway facing uphill against the traffic flow above The Water Gardens entrance (closer to the bend) between 15:45 and 16:00, to allow for an online shopping delivery (Tesco's) to the tenants residing in The Water Gardens property. During unloading, the delivery van was parked in the road across the driveway entrance also facing uphill against traffic on the downhill side of the carriageway. Again, this would have affected the traffic speeds of approaching vehicles in both direction on Birchley Road.

Given these circumstances and the location of this single working access point on Birchley Road, it is questionable as to the validity of the traffic data submitted and would also be dangerous for CBC to allow intensification in use of the existing single working access ('one in/one out') to The Water Garden to potentially serve 3x the number of vehicle movements than at present.

With regards to the above concerns and in addition to my previous comments, it is respectfully requested that planning permission for the above development be refused.

Wellswood House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments: 5th March 2017**

I object to the proposed development on a number of grounds. The proposed development is in breach of the Battledown Estate Deed of Covenant and if the application is approved it will result in a huge loss of amenity to all of the houses on the Battledown Estate.

In addition, I consider the scale, height and mass of proposed development to be visually overbearing and obtrusive. As the next door neighbour below The Water Gardens, the proposed development will tower over our house taking away our privacy and amenity.

I also consider that an increased number of vehicles using the access on to Birchley Road will significantly reduce the safety of the Estate - we have had 3 vehicles crashing into our hedge in the last few years.

I have read through the reports that have been filed by the developer in support of the application and set out below where I think they are mistaken. I have also carried out some research into the developer and his funder which is summarised below as I think it is relevant to show that they knew about the Deed of Covenant prior to the purchase of The Water Gardens. Despite this knowledge and discussions with the Estate's solicitors, Boo Homes has chosen to go ahead with

the application in full knowledge that it is in breach of the Deed of Covenant and that a breach of this magnitude will result in a huge loss of amenity to the residents of the Battledown Estate.

From documents filed at Companies House it appears that The Water Gardens is owned by Boo Homes Limited (No 06385457). Boo Homes Limited appears to be owned and controlled by Alexander John Stuart Scott and Jillian Charlotte Scott who are the only directors.

Boo Homes Limited has four outstanding registered charges. Two of these (063854570004 and 063854570003) are over The Water Gardens and are in Favour of CAA Property Limited (No 08705623).

Companies House states that two people, [REDACTED] and [REDACTED] have significant control over CAA Property Limited.

[REDACTED] and [REDACTED] live on The Battledown Estate and from details filed at Companies House it appears that [REDACTED] and Christopher John Adey also live on the Battledown Estate. [REDACTED]

When purchasing property on the Battledown Estate the owners are bound by the Battledown Estate Deed of Covenant. As residents of the Battledown Estate all of the above four people are bound by the Deed of Covenant. The owners of Boo Homes Limited, who were already living on the Estate, would have known about the Deed of Covenant prior to purchasing The Water Gardens. In addition, it is my understanding that the previous owners of The Water Gardens told [REDACTED] that the Deed of Covenant only allowed for one house to be built on the plot.

In my opinion Boo Homes Limited is attempting to break the Deed of Covenant for the sole purpose of making a profit for its shareholders, [REDACTED] and [REDACTED]. [REDACTED]

The design & access statement supporting the application states:

*'Principle Objectives:*

*It has been our aim to provide a scheme that meets the specific requirements of the client's brief, including:*

- *Providing new homes that directly respond to the existing surrounding built form and topography, and the residential & Battledown Estate setting.*
- *Maximising the potential for the site.*

*Behind every scheme we design is the principle objective to create a pleasant, attractive and sustainable development for the local area including existing and prospective residents and to meet National and Local Planning Policies.'*

In my opinion, the scheme fails to meet this objective as the proposed development is in breach of the Battledown Estate Deed of Covenant.

The design and access statement goes on to say that:

*'Although certain aspects of the original Deed content have overtime lost relevance, many remain material for their original purpose in ensuring the standards, nature and quality of the Estate are maintained.'*

The building of two houses on the Water Gardens plot is in breach of the Deed.

The design and access statement goes on to say that:

*'The Estate remains and is considered a desirable place to live due to the retained semi-rural character established at its inception, and protected since through the regulation of the actions of residents through the Deed.'*

The building of two houses on The Water Gardens Plot would breach the Deed of Covenant making the Estate a less desirable place to live.

The design and access statement goes on to say that:

*'Battledown Consultation:*

*Ongoing consultations/negotiations regarding the proposals are currently underway with the trustees of the Battledown Estate with regards to the requirements in meeting the Estate's Deed of Covenants and Regulations and with their immediate neighbours.'*

My understanding is that there are NO ongoing consultations/negotiations with the Trustees of the Battledown Estate and as the occupier of a neighbouring property I can confirm that there are NO ongoing consultations/negotiations with me.

The design and access statement goes on to say that:

*'The layout of this scheme has arisen through the combination of the site constraints and consultations described in section 2, and our established principles for development. These principles include the following:*

- Reaction to the sites location, surroundings and setting.*
- Acknowledgement and appropriate response to surrounding boundaries.*
- Reaction to existing landscaping identified for retention.*
- Arrangement between public and private space.*
- Integration of the scheme within the existing setting of both residential and landscape.*
- Appropriate scale of building within an environment.*
- Appropriate and safe movement of people both vehicular and pedestrian on and off site.'*

The proposed properties will use the existing access from The Water Gardens to Birchley Road. This is appropriate for a single dwelling but not for two (and certainly not for two of this size). The entrance is just below a downhill corner which, on the basis that 3 separate vehicles have ended up in my hedge (I live in the property below and next door to the Water Gardens) in the last few years, I consider to be dangerous. Two houses of this size with the number of vehicles shown on the plans will only increase the risk of an accident.

The proposed scheme does not integrate well with the existing setting - in addition to breaching the Deed of Covenant, the proposed properties are overbearing and will result in a significant loss of amenity to a lot of people.

The scale of the proposed buildings is out of character with the immediate environment.

The movement of people both vehicular and pedestrian on and off site is already difficult, increasing the amount of traffic is not appropriate and is likely to be unsafe.

The design and access statement goes on to say that:

*'The proposed unit locations sited back from the main road within the overall site, can be clearly seen to reflect the existing typical relationships of built form to boundary both immediately surrounding the site and within the wider context across the Battledown Estate.'*

The proposed houses are not being built on the existing building line of The Water Gardens. They are being pushed back from the road and will tower over my property which is below and to the north of The Water Gardens.



The scale and design of the properties are such that they will be overbearing result in a considerable loss of amenity.

The design and access statement goes on to say that:

*'The lower height and mass of the proposed garage unit to Plot 1 is also located to the northern boundary to reduce the impact of the scheme upon the neighbouring property to the north'.*

I live in the neighbouring property to the north. The height and mass of the proposed garage unit to Plot 1 together with the height and mass of the house will have a major impact on us. The proposals are overbearing and will significantly reduce our ability to enjoy our home and garden.

The design and access statement provides the authors' 'Summary of Relevant Regulations' from the Battledown Estate Deed of Covenant.

There is far more to the Deed than is listed in design and access statement however the proposal is in breach of the 'Summary of Relevant Regulations' as follows:

- All Residents, their heirs, appointees and assigns, are legally bound by the Deed of Covenants when purchasing a Battledown house. This proposal is in breach of the Deed.
- No person is to build on the lots of land more houses than in proportion of one house to each half acre of land. The Water Gardens sits in lot 60 which is approximately 3.7 acres. Seven houses have already been built on lot 60 so no more can be built under the Deed.
- Houses will normally be required to stand 40 feet from the edge of the verges. The proposed houses will stand a lot further than 40 feet from the edge of the verge.
- Any change of access involving the crossing of the verges requires approval. The proposed widening of the access does not have approval.

The Planning Statement produced by Brodie Planning Associates states that one of the relevant saved policies of the existing local plan is:

*- CP 4 - 'Safe and sustainable living', supports development where it would not cause unacceptable harm to the amenity of adjoining land users and the locality.*

The proposed development is in breach of the Battledown Estate Deed of Covenant and as such it does not meet the above policy. Residents of the Estate will suffer unacceptable harm to their amenity if the Deed is breached. In addition, the poor access to the site may not result in safe living.

The Planning Statement also sets out what Brodie Planning Associates consider to be the main issues in relation to the proposed development and their interpretation as to whether these considerations have been met.

- Principle of Development - There is currently only one dwelling on the site. There is no basis for two dwellings on the site.
- Site Layout and Design - The proposed dwellings are overbearing and in many people's view completely inappropriate for these reasons, the proposals do NOT accord with Local Plan Policy CP7 and paragraph 17 and section 7 of the NPPF.
- Residential Amenity - The proposed buildings are in breach of the Battledown Estate Deed of Covenant and are overbearing meaning that the adjoining and future residential amenities will NOT be safeguarded from loss of light, over-looking and over-bearing. The proposal therefore does NOT accord with the requirements of CP4 and paragraph 17 of the NPPF.

The Conclusion of the Planning Statement produced by Brodie Planning Associates states that the following benefits will accrue from the proposed development:

- environmental - enhancement to both the site and the surrounding area through the removal of a building with little architectural merit and the introduction of attractive high quality buildings that reinforce the sense of place within the immediate and wider context of the site - This is subjective and a matter of opinion. Many people disagree.
- economic / social - the construction of two new dwellings will help to support the local economy and employment - This will only have a minor impact on the local economy and employment but it will have a major negative impact on the residents of the Battledown Estate due to the huge loss of amenity if the Trust Deed is breached.
- economic / social - the construction of an additional new dwelling will provide a modest windfall contribution to the District's 5-year housing land supply - Surely one new home will not make a real difference to achieving the 5-year housing land supply!

**Comments:** 23rd April 2017

Thank you for your letter of 10th April 2017 indicating changes made to planning application 17/00365/FUL. These changes are minor and do not do anything to address the issues and concerns set out in my first objection.

I would like to reiterate all of the points made in my earlier objection and add the following new objections:

On 10th April 2017 the applicant submitted a site layout indicative drainage sketch. This shows a proposal for foul water from both proposed properties to run across my land. THE APPLICANT DOES NOT HAVE THE RIGHT TO DO THIS. A conveyance between Cheltenham Borough Council and the purchaser of the land that I now own dated 21 July 1976 states "the right of the owner or occupier of the adjoining property known as 'Highfield' (now The Water Gardens) to use the existing foul water system". The applicant therefor has the right to use the existing foul water system that runs across my property for one of the proposed houses but not for the second - There is NO ENHANCED right for foul water from a second property/additional properties to run through my land. I therefore OBJECT to the plans on this basis.

The GCC Highways Planning Liaison Officer recommends that the application IS REFUSED on highway grounds because "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". The applicant plans to broaden the existing entrance/exit to the site - This is Battledown land and the applicant cannot simply make the entrance/exit wider without the permission of the Estate. Consequently, the visibility splays shown on the planning application CANNOT BE ACHIEVED.

Allowing a two home development on the site would put all Birchley Road users in unacceptable danger from traffic pulling out of the redeveloped site. I would like to draw attention to the list of recent accidents just outside the Water Gardens listed in the letter from the Battledown Trustees dated 10 April 2017 which includes some photographs.

The applicant has failed to provide drawings showing how much higher the proposed new properties will be in relation to the adjacent properties. It should be noted that the application moves to buildings substantially further back from the road and because of the large slope this means that both properties will be in a position whereby they tower over my property to such an extent that they will be oppressive, take away my privacy, block out the sun and take away my amenity.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 15th March 2017

I strongly object to this planning application due to the following;

I am an immediate neighbour to the east of the proposed development and would lose significant amenity should the development be allowed. This application seeks to impose on the owners of those properties that neighbour the proposed development site a form of development which is overbearing and inappropriately large. The proposals are unsympathetic to the nature and scale of the surrounding properties. It is clear that the quality of life for those who live near to the site will be adversely affected in many ways.

In particular, the granting of this consent could lead to the destruction of the Battledown Estate as an attractive feature of Cheltenham. The Battledown Estate is a unique and important asset for the town and its inhabitants. It is unique as it is the sole remaining Victorian estate which is governed by its founding Charter, (a Deed of Covenant), and it is important to Cheltenham because it complements the town's regency heritage of fine buildings, green spaces and mature trees. This is indeed acknowledged by CBC's own Local Plan and The Cheltenham Local Development Framework.

The developer assumes that the entrance on to Birchley Road can be widened, presumably for ease of access, but does not own this land. The verges are owned by the Battledown Estate and therefore the residents of the Estate. Amending the access across the verge would require approval of the Trustees, who may not be inclined to agree given the circumstances. The existing access is difficult given the plot is situated on a tight inclined corner of Birchley Road which is a well-known accident blackspot in recent years. This application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems.

The scale of the proposed buildings is out of character with the immediate environment. I consider the scale, height and mass of proposed development to be visually overbearing and obtrusive. Due to the topography the outlook from Ash Tree House is primarily to the west across the intended site. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the existing two storey house which it is proposed be demolished and also higher than any of the other houses within the row of which they would form a part. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. If two houses were built the combined width of the new development would also represent a very significant loss of outlook from my property and from that of my neighbours. As adjoining landowners there would be a significant loss of amenity arising from these current proposals.

The proposed four storey dwellings are disproportionate in their height when compared all the surrounding properties. Based on the most recent document submitted by the developer (8 March 2017), site section F-F, shows the height of the proposed dwellings versus the existing house. The ridge height of the existing Water Gardens property is 107.68, and the Plot 2 'super' garage is of a similar height with the actual Plot 2 main dwelling an extra storey and a half higher (no ridge height details provided in submitted materials online). Indeed, both plots are over two storeys higher than the direct neighbouring properties to both the north and south which both have a ridge height of 103.00. This is clearly massive on scale resembling a block of flats (each of over 6100+sqft) which would dominate the existing locality and be out of character with the immediate neighbouring properties.

With regards to the above concerns it is respectfully requested that planning permission for the above development be refused.

**Comments:** 24th April 2017

Thank you for your letter of 10 April 2017. The minor revisions here do not affect my earlier decision to object to this application.

Further, it is interesting to read comments from the GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017)

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

*..... 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."*

*"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."*

It should be noted that the access cannot be widened without the approval of the Trustees since the verges are owned by the Battledown Estate, not the property owner.

Also, the [revised] design of the proposed new houses is not in keeping with the existing surrounding dwellings. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. The elevation with four storeys is indicative of a block of flats and the design is totally unsympathetic and insensitive. I have not been able to ascertain the proposed ridge heights on Plot 1 and Plot 2 which is not listed anywhere in the materials online, however, the four storey houses would be very significantly higher than the two storey house which is to be demolished and do not compliment or respect the neighbouring properties:

- i) The ridge height of the existing Water Gardens dwelling @ 107.68
- ii) Ridge heights of Plot 2 and Plot 1 are still not listed on any of the submitted materials, which would allow the reader to consider how these plots will contrast within the row of which they would form a part - both properties directly to the north and south have a ridge height level of circa @ 103.00
- iii) It is likely that the new plots would be similar in height to the building heights of Birchley House @ 117.66 and The Paddocks @ 112.75 , which form the row of properties behind (to the east) and include our property - Ash Tree House.

I can only surmise that these figures are intentionally omitted given the contentious nature of the size and mass of these proposed buildings.

With regards to the above concerns and in addition to my previous comments, it is respectfully requested that planning permission for the above development be refused.

**Comments: 5th June 2017**

Thank you for your letter of 16 May 2017. The revised plans to the proposed access do not change my original objection(s) and these still stand.

In my opinion, the revised plans actually make this planning application worse on safety grounds. I would highlight the previous comments made by the GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017), such that "I recommend that this application be refused on highway grounds" whose advice was actually based on the enlarged access plans. As the current single working access now cannot be widened to "allow two-way working in accordance with the Local Design Guidance" this must imply that the new revised plans are worse and that the

existing access is now undesirable from a planning perspective to support additional dwellings on the plot.

Intensification of the single working access to support additional dwellings would also inevitably create a 'one in / one out' situation, and mean that vehicle(s) would have to be stopping/stationary on Birchley Road, at a point which has been well documented as being on a steep tight bend. This is dangerous and likely to result in increased incidents at a known traffic blackspot.

With regards to the traffic survey results which have been published, I totally agree with and fully support the commentary in the latest objection letter from the Battledown Trustees (Comment Date: Sat 27 May 2017), since we also observed:

- the assessment vehicle (white BMW) initially parked in the wrong driveway until after 8am,
- when the assessment vehicle was parked in The Water Gardens driveway it was parked sufficiently forward to have its 'nose' overhanging the carriageway. This positioning made it appear to oncoming traffic (myself included) that the vehicle was exiting from the property as it emerged from the driveway, and therefore would have affected the traffic speeds of all approaching vehicles on Birchley Road,
- we also noticed that the assessment vehicle was actually parked out on the downhill side of the carriageway facing uphill against the traffic flow above The Water Gardens entrance (closer to the bend) between 15:45 and 16:00, to allow for an online shopping delivery (Tesco's) to the tenants residing in The Water Gardens property. During unloading, the delivery van was parked in the road across the driveway entrance also facing uphill against traffic on the downhill side of the carriageway. Again, this would have affected the traffic speeds of approaching vehicles in both direction on Birchley Road.

Given these circumstances and the location of this single working access point on Birchley Road, it is questionable as to the validity of the traffic data submitted and would also be dangerous for CBC to allow intensification in use of the existing single working access 'one in/one out' scenario to The Water Garden to serve 3x the number of vehicle movements (based on two larger dwellings than the single current size property at present).

I would be grateful if the council would take these comments and my previous objections into consideration when deciding this application, and it is respectfully requested that planning permission for the above development be refused.

Challoners  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 15th March 2017

In recent times with the escalation of property prices there has been a spate of demolition / new build on Battledown Estate which, although allowable by Estate covenants, has in some cases not been in keeping with the existing built environment.

Now, however, I understand that a developer has bought the above property with the intention of demolition and replacement by 2 dwellings in contravention of covenants restricting housing density. I believe the plan is to obtain planning permission from yourselves and subsequently to commence legal challenge against the Battledown Estate covenant which precludes such action.

The Estate at present runs very smoothly due to the management of the Trustees and compliance by residents with the various covenants set up with the establishment of the Estate. If the developer is successful in overturning this covenant it will provide a precedent for residents / developers to ignore the covenants which underpin the very nature of the Estate. This would result in a loss of the total character of the Estate which provides a rare amenity for both residents and the Town as a whole.

I would strongly urge you to refuse permission for this "garden grab".

Fieldway  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 2nd March 2017

I am voicing my objection to the planned proposal to develop the site currently occupied by The Water Garden on Birchley Road.

My objection is based up on the great and knowing disregard by the developer of the estate's 1859 deed of covenanted and its serious contravention should this application go ahead.

The estate is a unique place to live, its properties span a great range of periods and architectural styles but with one predominant protective constraint - the low density and individuality of development protected by the common deed of covenants.

Should this application go ahead there is a great danger that the unique character of the estate would be compromised by its precedence in disregarding the original covenants limit on development density and other important areas by speculative developers capitalising on the very thing that they would be destroying. Density is peaking and the original covenant, designed to protect the estates housing density must be observed.

I am not adverse to development, I openly encourage it. But I'm also a resident of the estate who has enjoyed the diversity of aesthetic, the low density of housing and above all respects the covenant and the environment this document has created and protected for the last 157 years.

I wish the estate continuing development and architectural iteration but to be bound by the covenant, not apparent greed. I wish to enjoy the estate for many years, to develop my own property, within the respected requirements of the covenant and the locality to my family's needs and to live here for years to come enjoying the uniqueness of the estate as many residents have done and many aspire to do.

I fear compromising the covenant would set dangerous precedent, a feeling felt by many residents. Undermining its importance would likely lead to a greatly increased development rate on the estate and at a much higher densities and potentially unimaginative derivatives of the same design, destroying the unique character and individuality of the estate and ultimately its loss.

**Comments:** 2nd June 2017

With reference to amendments made to the application as highlighted in writing by CBC.

My original objections still stand.

Meadow View  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 12th March 2017

This application cannot be taken in isolation. If this is permitted, it will open the floodgates to similar applications which will ruin the unique essentially Victorian development of the Battledown Estate. This would surely contravene the Council's stated policy of conserving Cheltenham's historical heritage.

I frequently travel down Birchley Road, as not a pedestrian and car driver - this property is located on a steeply sloping and sharp bend, even with recent improvements the road can still be slippery and there have been a number of accidents in this location. Any increase to traffic will be dangerous.

Risk of flooding- the property is called The Water Gardens - is there a clue here? Water can be seen pouring down Birchley Road, after heavy or prolonged rainfall. Increasing the density of housing will mean less green areas to absorb rainfall through natural means, with consequences for neighbouring properties.

Hillcrest  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

**Comments:** 13th March 2017

I write to object to the application referred to above - the demolition of existing buildings and replacement with two new detached dwellings at The Water Gardens, Birchley Road, Cheltenham.

I am the owner of and live at Hillcrest, Birchley Road.

I understand that this application is an unusual case because I believe many local residents will object to the construction of two houses on the site because this is not 'allowed' according to the covenants of the Battledown estate. One house being demolished and being replaced by another on the same site is not an issue in the main but the application for two new houses on this site changes everything for the whole estate. Certainly we on the state will fight it all the way because once the covenants are broken this may very well open the flood gates to more of the same and then slowly but surely an historic piece of Cheltenham will eventually disappear.

I personally do not object to new houses in the right place and there are still many brown field and even green field sites where new houses can be erected without threatening the destruction of an historic part of Cheltenham. I believe that CBC has an obligation to assist in the protection of sustainable development. In this case, I do not believe that granting this developer permission to build two houses on this site will help to maintain one of Cheltenham's finest heritage assets. Granting such permission will not be beneficial in the long term and will more than likely be to the detriment of Battledown, and therefore to Cheltenham also. This developer seeks to break the covenants for his own personal gain and in doing so would almost certainly bring about the collapse of the Battledown Estate as we know it. Cheltenham would be poorer for that.

I understand CBC has its own guidelines to follow and it would appear that this application flies in the face of CP1 - Sustainable development, CP3 - Sustainable Environment, CP4a and CP4b - Safe and Sustainable Living.

Cheltenham has a well-deserved reputation for being a beautiful Regency town on the edge of the Cotswolds. Many people live and work here because they love the beauty of the town and nearly everyone hates change. Change however for the long-term good is understandable but change whereby it destroys what is already beautiful and which is unnecessary is akin to vandalism. I believe it is the responsibility of CBC to look after the long-term interests of development and sustainability in the residential areas of Cheltenham and in that respect consent for this application should be refused.

Outwoods  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QJ

**Comments:** 2nd March 2017

- *Providing new homes that directly respond to the existing surrounding built form and topography, and the residential & Battledown Estate setting*

This is the first principle objective stated in the planning application yet it also states the size of the site is <0.9 acre. It would therefore seem impossible to divide the site in 2 and end up with 2 plots over 0.5 of an acre - this is a fundamental part of the Battledown estate setting .

The corner the plot is situated is difficult access and safety may well be an issue

Whilst my last point remains I would not object if a single dwelling was built to replace existing so long as adequate safety on the road could be ensured during the building work.

Moondarra  
Beechwood Close  
Battledown  
Cheltenham  
GL52 6QQ

**Comments:** 8th March 2017

The Water Garden has asked for planning permission to build extra houses.

I live on Battledown and object to the plans .

4 Beechwood Close  
Cheltenham  
Gloucestershire  
GL52 6QQ

**Comments:** 8th March 2017

We understand that an application has been submitted for the erection of 2 houses on the site of the above-mentioned property.

As you will probably be aware, under the terms of the Battledown Trust each property must stand in half an acre but the proposed development seeks to ignore this.

The purpose of this email is to urge that the application is rejected because Battledown is an area of Cheltenham that is distinctive, adds to the attraction of the town and fulfils a need for



accommodation of this type. The area with its trust provisions is not unique nationally but is rare and this, in itself, is we believe, of value..

We urge, therefore, that the proposed development is disallowed in favour of a proposal which would be in keeping with the site's surroundings.

**Comments:** 13th April 2017

With reference to your letter dated 10th April concerning revised proposals for the development of the above-mentioned property, it is still intended to build two properties in an area of the town where great efforts have been made to preserve the practice of building no more than one property per half acre.

To permit this development would eventually spoil an area of Cheltenham which is almost unique and we urge the planning committee to consider this and, we believe, its benefit to the town.

May House  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 13th March 2017

I wish to object to the planning proposal 17/00365/FUL for the following reasons.

1. It is a breach of the Covenant of the Battledown Estate
2. The proposed new dwellings are not in keeping with surrounding area, being four storey buildings which would have a detrimental impact to the immediate neighbours and Battledown Estate as a whole
3. I think it would have serious safety implications for road users during construction, with ongoing impact on road safety on an already well known accident hotspot.
4. The developers demonstrate, with their disregard for the covenant and the size of their proposed new building, that they are totally unsympathetic to the local neighbourhood and the planning regulations of Cheltenham as a whole. The development has no significant impact on housing in the Cheltenham area and is obviously purely based on the developers desire to make money.

Battledown View  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 14th March 2017

I am writing to express my concerns about the development of additional dwellings in the lot area surrounding Water Gardens in Battledown Area, Cheltenham.

I hope the council will consider the objections from myself and the other residents.

Newhaven  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PG

**Comments:** 3rd March 2017

The Trustees of Battledown Estate have informed us of the attempt to break the Deed of Covenant of the Estate with the application to build two houses on the site of the Watergardens in Birchley Road, to which we strongly object.

Timberley  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 2nd March 2017

I do not particularly like the modern style of houses that appear to crop up nowadays, however if that's how people wish to have their new house designed then that's their choice.

What the issue is with this application is that the proposal is trying to ride roughshod over a deed of covenant that has been in place for approximately 150 years. This covenant ensures that the estate retains its unique character.

The covenant quite clearly states that each dwelling **MUST** be situated in a plot of no less than half an acre, this application details that the 2 proposed dwellings will both sit in a joint plot of 0.361 hectares which by my reckoning amounts to 0.892 acres, this clearly does not meet the criteria.

If planning is permitted for this application it will mean that the line in the sand has been moved and then when the next similar application is submitted it might well be moved again. This will clearly dilute and over time negate the whole deed of covenant.

I bought a residence on the estate as I enjoy the setting, the individuality of each plot and the reassurance that it will be continue protected by this historic deeds of covenant.

The planners should abide by the covenant ( which residents will have been made aware of if their legal conveyancer has done their job properly ) and reject this application.

**Comments:** 12th April 2017

Further to my original comment, I note that the new plans do not include any more land area for the plot, the plan for 2 is therefore still therefore against the ethos of the original covenant ( each plot should be no less than half an acre ) and it is a breach of it as the original lot has already been divided up.

The actual plans will also have a very negative effect on the view as you walk down Birchley road across Cheltenham.

Please reject this application.

**Comments:** 22nd May 2017

There have been many objections to this planning application, most have been made by residents from the Battledown estate. There have also been reasons for the refusal of the planning application put forward by the Battledown trustees.

The persons submitting the application do not seem to care about the wishes of the other residents or the breaching of the covenant, this for them is purely about money.

I like to think that the planners who will decide this application will take notice of the wishes of 99.9% of the residents and reject it.

When I bought my house on the estate it was a privilege to be part of something very unique, I believe that if this application gets through this may be the end of Battledown as it exists today and for what....greed?.

This application will definitely impinge on the daily lives of the other houses in the immediate vicinity and for me it will have a detrimental effect on the view I enjoy as I walk down Birchley Road.

In the unlikely event that this application is endorsed by CBC I suspect that there will be appeals by the proposers.

I hope that the planners at CBC will reject this and the trustees will do everything in their power to enforce the covenant should it be required .

Fermain  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PG

**Comments:** 3rd March 2017

We are residents of the Battledown estate and have been for over 4 years. What attracted us is what attracts every person who lives here and that is the unique ambience of the area created by the amount of greenery and that the homes are individual and well spaced apart, giving breathing room to each home.

When you purchase a home on the Battledown estate you are made fully aware of the Deed of Covenants. These covenants are in fact what attracts people here, in that they are purchasing a home that will be protected by these covenants and that their homes will stay as they are, as they want them. And that other homes on the estate will follow the same covenants.

However adding 2 houses to this plot contravenes the Deed of Covenants that we all follow and therefore cannot be allowed to be approved.

If this 2 house planning application is given approval to go ahead this covenant will therefore be worthless and open up the estate to be over developed wherever possible. I urge the council to reject this application on the grounds that the covenant should be maintained. Therefore even if the owners of this property came back with a more modest 2 house application, this should also be rejected. Only one house can be built where this property currently is.

I understand that the owners of this property are aware that this application contravenes the current Deed of Covenant and therefore have decided to ignore them.

**Comments:** 14th April 2017

Many thanks for your letter of 10th April 2017. However, as is being noted, the revised application does not address the issue, that being 2 properties on a plot that only allows 1 property. Therefore our original objection still stands. As will everyone who has already objected.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 10th March 2017

I strongly object to this planning application because;

Battledown Estate is one of only two extant Victorian Estates remaining in England and is an asset to Cheltenham. The proposed development is in breach of the Battledown Estate Deed of Covenant. The existence of such covenant should be considered as part of the planning decision and not viewed as a separate matter. The Cheltenham Borough Councils (CBC) Local Plan sets out numerous objectives and policies, including "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23). Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets...". Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..."and "safeguarding attractive landscape". Hence, the Estate covenants are material considerations in planning terms as they directly support the aims of the Local plan and its policies. You, as Director of Planning in Cheltenham, will be more than aware that such a breach of covenant would destroy the uniqueness of this age old Estate and indeed a part of Cheltenham's historical significance and heritage.

The proposal would have a detrimental impact upon the character and appearance of the local landscape. It does not represent sustainable development within the context of paragraph 14 of the National Planning Policy Framework (NPPF) and is contrary to section 11 of this said document, and also to requirements of CP4, CP7, and policy GE3 of the Cheltenham Borough Local Plan.

Replacing the existing single 2 storey dwelling with two extensive 4 storey properties (each of over 6100sqft) would be overbearing and would dominate the existing locality. The scale of the proposed buildings is simply out of character with the immediate environment. This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. The proposed houses do not compliment or respect the neighbouring properties. The drawing 'Site Section H-H' highlights the hypocrisy and disregard shown by the developers towards the neighbouring properties, such that a reduction in the height of the eastern boundary hedge would allow the new Plot 2 dwelling to enjoy views across Cheltenham, yet the new building itself would completely block the same views for the existing properties to the west of the site - namely Birchley House and Ash Tree House.

The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the two storey house which is to be demolished, and also much higher than any of the other houses within the row of which they would form a part. This is demonstrated by the variance in the ridge height of both neighbouring properties (both directly to the North and South) which have a ridge height level of circa 103, and the contrast is clearly illustrated in the latest materials added online 'Site sections f-f as proposed with existing house outline dotted a3'. Therefore, the scale and mass of the proposed buildings do not ensure that adjoining and future residential amenities are safeguarded from loss of light, over-looking and over-bearing. The proposal therefore does not with the requirements of CP4, CP7, Policy GE3, and paragraph 17 of the NPPF.

The existing access is difficult given the plot is situated on a sharp corner of Birchley Road where they have been traffic accidents in recent years, and this application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems. This is contrary to both; Policy CP4b - "Development will be permitted only where it would not result in levels of

traffic to and from the site attaining an environmentally unacceptable level", and Policy TP1 - "Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access...."

This planning application has now already been unanimously rejected by Charlton Kings Parish Planning Committee, they cited "Development on Garden Land and infill Sites in Cheltenham - Supplementary Planning Document June 2009" in which Annexe 3 specifically mentions Battledown.

In summary, this proposal would demonstrably harm the amenities enjoyed by local residents, in particular valuable green space, privacy and the right to enjoy a quiet and safe residential environment. I would be grateful if the council would take my objections into consideration when deciding this application.

**Comments:** 21st April 2017

Thank you for your letter of 10 April 2017. My original objection stands as per below.

The scale of the proposed buildings remains out of character with the immediate environment. Replacing the existing single 2 storey dwelling with two extensive 4 storey properties (each of over 6100sqft) would be overbearing and would dominate the existing locality. This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. The proposed dwellings do not compliment or respect the neighbouring properties;

- i) The ridge height of the existing Water Gardens dwelling @ 107.68
- ii) Ridge heights of Plot 2 and Plot 1 are still not listed on any of the submitted materials, which would allow the reader to consider how these plots will contrast within the row of which they would form a part - both properties directly to the north and south have a ridge height level of circa @ 103.00
- iii) It is likely that the new plots would be similar in height to the building heights of Birchley House @ 117.66 and The Paddocks @ 112.75 , which form the row of properties behind (to the east) and include our property - Ash Tree House.

Furthermore, it is interesting to read comments from the GCC Highways Planning Liaison Officer (Comment Date: Fri 07 Apr 2017)

"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."*

It should be noted that the access cannot be widened without the approval of the Trustees since the verges are owned by the Battledown Estate, not the property owner.

With regards to the above concerns and in addition to my previous comments, it is respectfully requested that planning permission for the above development be refused.

Cherry Court  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PJ

**Comments:** 13th March 2017

We wish to Object on the following grounds:

Legal constraints:

Permission from the trustees of Battledown Estate has not be gained.

Density.

The intention of constructing two large dwellings is not in accordance with the restrictive covenants of the estate. This is however essentially a civil matter but should also be of a consideration under the Planning process so as to protect the unique environment of the estate and what this means for the town. In order for Cheltenham town to compete both Nationally and internationally it is imperative that it offers a full spectrum of housing opportunities to incoming residents so as to support the town in its commercial and social activities. Part of this residential mix is the exceptional architectural housing which Battledown Estate is uniquely placed to deliver, evidenced by recent successful single dwelling regeneration schemes such as Cherry Court, Sky View House and Wenbans. This uniqueness is enshrined in the one dwelling per half and acre principal and it seems sensible that the planning process upholds this so as to protect the valuable asset the estate brings to the town.

Form and Function.

The height, scale and mass of the scheme let alone the overlooking issues and the unimaginative design of the development seem to be poorly considered.

Traffic Management.

A single dwelling development would allow for parking on site to facilitate safe development on a steep busy corner as opposed to the two dwelling current proposal.

Clevelands  
Ashley Road  
Battledown  
Cheltenham  
GL52 6PG

**Comments:** 10th March 2017

Letter attached.

**Comments:** 19th May 2017

Letter attached. .

Oakley Lodge  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 6th March 2017

We are writing to object to the planning application to demolish the property The Water Gardens on Birchley Road, Battledown and replace it with two dwellings (Planning Ref: 17/00365/FUL).

The Battledown Deed of Covenants

As you will no doubt be aware, in 1859 the original Trustees of the Battledown Estate drew up a Deed of Covenants and Regulations to create the legal infrastructure which would shape and perpetuate the Estate.

The restrictions of the Deed of Covenants are not particularly onerous and most residents readily accept that it is precisely their existence which has made Battledown the attractive place that it is today.

All Residents, their heirs, appointees and assigns, are legally bound by the Deed of Covenants when purchasing a Battledown house. The current owner of The Water Gardens (Boo Homes) is we are told, quite aware of the existence of the Deed of Covenants, both as a result of the purchase of the property and because the Directors of Boo Homes are themselves residents on the Battledown Estate.

#### A clear breach of the Deed of Covenants

This proposal is in clear breach of the Deed of Covenants. The Deed states that no person is to build on the lots of land more houses than in the proportion of one house to each half acre of land. The Water Gardens sits in Lot 60 which is approximately 3.7 acres. Seven houses have already been built on Lot 60 so no more houses can be built on this plot under the terms of the Deed. Replacing the existing single property with two properties would take the total number of houses on Plot 60 to eight. The construction of two houses on the Water Gardens plot would thus be in direct and flagrant breach of the Deed.

#### Our objection

We strongly object to this proposal as it is in clear breach of the Deed of Covenants. Moreover, if allowed, this application would set a precedent which would inevitably open the floodgates to more development and the potential destruction of the ambience of the entire Estate. This would be to the detriment not only of Battledown residents, but of the many Cheltenham citizens and visitors who make daily use of the Estate, for relaxation and exercise, enjoying the quiet roads and leafy and green environment of the Battledown area.

We therefore strongly urge you to reject this application.

#### Likely future legal action

Should the Council grant planning permission for this application we expect the Trustees of the Battledown Estate to take legal action to enforce the terms of the Deed of Covenants to prevent this development taking place. We would fully support the Trustees in taking such action. Again, we strongly urge the Council to reject this application for the reasons given above and to avoid the need for costly and unnecessary legal action.

[name and address supplied]  
Battledown  
Cheltenham  
GL52 6NZ

#### **Comments:** 8th March 2017

I am a resident of the Battledown Estate and have lived here for approximately 9 years. I have been made aware of the above referenced application to build 2 houses on the site at Waterside where previously there was one.

I understand from the Battledown trustees that the developer has been advised that this development would be a significant breach of the covenants that govern the estate and by which all residents agree to abide. In particular the development would breach the covenant pertaining to permitted housing density. I would like to add my opinion that if the development were to go ahead then it would appear to go against the covenants of the estate.

You might also appreciate that Battledown is a unique part of Cheltenham that has managed to preserve its own particular character for over 150 years. It would be a shame if developers were allowed to move in and start garden grabbing, as has been seen in so many other areas of the country, most often with significant detriment to the local environment.

I therefore object to this application and would urge you to consider the preservation of the "Character of Battledown" and the opinion of the trustees.

Please could you remove my address if this letter is to be made available in public and online.

Oakhurst  
Oakley Rd  
Cheltenham  
GL526NZ

**Comments:** 8th March 2017

I am writing to object to the above planning permission application which is to demolish the exiting property, Water Gardens, and to erect two dwellings on Birchley Rd in Battledown.

This is a very serious breach of the Battledown Deed of Covenants which states that the house plot is on the Original Lot 60, which is approx 3.75 acres in size and permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

The applicants are fully aware of the Deed of Covenant as they have lived here for a number of years and it has the potential to destroy this current environment, They also confirmed to the Trustees that it was important that they complied strictly with the terms of the Deed.

Unfortunately, it would appear that the applicant did not conduct adequate Due Diligence on these matters before purchasing The Water Gardens, but that is not the fault of the Trustees. Had they approached the Trustees before purchasing the property, they could have very quickly advised them of the true state of affairs. Their lack of lack of attention to detail meant that they initially believed there were currently only six houses on Original Lot 60).

Should the applicant receive planning permission and be allowed to proceed with its Two House scheme at The Water Gardens, then this would effectively drive a coach & horses through the governing Covenants to the ultimate detriment of ALL residents throughout the Estate. Once the terms of the Seventh Covenant have been successfully breached by one developer, then it will be almost impossible for the Trustees to prevent them being breached once again. This will lead to house plots being bought up throughout the Estate by avaricious developers who will build additional houses on these plots with relative impunity -- and it won't just be a case of one extra house, it may well be two, three or four extra houses. So, not only will our beautiful Estate be turned into one huge building site but also it will eventually mean the destruction of that special environment that has stood the test of time for over 150 years. This current environment benefits not only all the Estate residents but the hundreds of other Cheltenham citizens who daily make use of our estate for exercise and relaxation -- dog-walkers, cyclists, runners and other people who just wish to walk and enjoy the quiet roads and the leafy, green environment up here on Battledown Hill.

Ravenswood  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PB

**Comments:** 8th March 2017

I am writing to raise objections to the above application. The main objections relate to the following aspects of the application .



- 1) The application is proposing to build two very substantial dwellings each being in excess of 6000sq feet in a relatively small plot of land. This overdevelopment of the plot is out of keeping with the construct of Battledown estate and contravenes the Battledown Deed of Covenants .
- 2) The plot is situated on a difficult corner of Birchley Road where they have been traffic accidents in recent years. The access is difficult. The application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems .

The application states that the building of two properties on a site would help alleviate current housing shortages within Cheltenham but I would contest that this would make any difference and is not the main reason for wanting to have two properties .

Also the applicants are already home owners on the estate and like all other owners would be fully aware of the Deed of Covenant when purchasing a property in Battledown

Hawthorns  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 8th March 2017  
Letter attached.

**Comments:** 24th April 2017  
Letter attached.

Carlton House  
4 Battledown Drive  
Cheltenham  
GL52 6RX

**Comments:** 9th March 2017

As a family and residents of Battledown Estate we feel that we need to object to this development, on the grounds that the individual plot size of the other dwellings in the immediate area, consequentially the large footprint of the houses constitutes an over development of the site. The sighting of these houses, being 3./ 4. Storey, seriously effects the view of other nearby houses.

Although not strictly a planning matter, when we purchased plot 3 number 4 from Cheltenham Borough Council, we were informed by their sales brochure that the property would be subject to the Battledown Rate, and that I would be responsible for maintaining those things listed and upholding the values contained in the Battledown Covenant, which I subsequently obtained.

Cheltenham Borough Council Engineer & Surveyors Department supervised the setting out of the roads and the provision of services, setting out and marking the requisite plots all within the criteria of the Battledown Covenant with the intension that the future maintenance of the highway would be the responsibility of Battledown Trustee's. (Your drawing is marked W. S. Wadsworth, B. Sc, F.I. Mun Eng. Borough Engineer & Surveyor. Cheltenham B.C. It is dated April 1997)

Cheltenham Borough Council's sales brochure for these plots. Entitled, "Cheltenham Borough Council offer for sale building plots for sale at Battledown" implies that the Council had control of all of the land, I am informed that part of which formed a part of the original lot 60 of the Battledown Covenant. We must assume that the council were fully aware of the restrictions

placed upon that land by the Covenant and they set out to satisfy this in the drawing prepared for the trustee's and others by the Borough Engineer & Surveyor. For those that are familiar and have copies of the two documents it becomes apparent that the , Cheltenham Borough Council Engineering and the Borough Valuers' Departments must have agreed with the Trustee's the principals of design and set about designing six of the plots covering the land area contained in lot 60. The seventh plot that makes up the quota for lot 60 is "The Water Gardens"

We believe that all the above sets out the basis of an agreement between Cheltenham B.C., the Trustee's (As Battledown Estate as they are referred to in the Conveyance of my property) and the freeholders of Battledown Drive that we would be purchasing a plot on Battledown under the terms of the covenant.

If your committee approve this scheme, by implication you are refusing to recognise the agreement negotiated by your own Council, Battledown Trustee's and estate freeholders. This would put the Trust to a great deal of expense in taking action in the Courts. It would also have the long term effect of encouraging others to seek planning permission to force the estate to act in a way that may possibly bankrupt the estate in the longer term.

To approve this development would have serious consequences for the Estate. This is a unique development, alongside residents live Deer, Squirrels, badger and fox that all roam free and bird life which include Bullfinches, tree creepers and also many differing types of thrush and tit all thrive in this unique environment, the reason is its of low density housing, (2 per acre), We urge you to stand by your agreements to protect this unique part of Cheltenham by refusing this application.

**Comments:** 21st April 2017

Letter attached.

High Roding  
Beechwood Close  
Cheltenham  
Gloucestershire  
GL52 6QQ

**Comments:** 15th March 2017

I would like to object to this planning application.

I am one of the residents of the Battledown estate and moved to the estate about 3 years ago only due to unique environment, green space, less housing density and low vehicular traffic which has been preserved over many decades by strict adherence to the estate regulations.

We pay additional annual rate to the estate in addition to the council tax to maintain the unique character of estate.

This application is in breach of the Deed of Covenant held by the Trustees of Battledown Estate, which states the regulations that have to be complied with regarding housing density.

This application should be rejected.

Glenwhittan  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 16th March 2017

We write to object to the proposed development of The Water Gardens plot, on the grounds that it would infringe the Battledown Estate covenants. It would also set an undesirable precedent which could lead to over-development of a privately maintained Victoria estate.

Baedalas Tun  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PJ

**Comments:** 16th March 2017

I am proudly a long term resident of Battledown since I was a small girl and am increasingly worried that developers are continuing to attempt to flout the Battledown covenant which requires each house to stand in half an acre of land. It would be very upsetting if they are allowed to have their way.

For more than 150 years residents have happily lived here abiding by the rules of the estate. It is one of the the nicest areas to live in Cheltenham and would be very spoilt if developers set about blatantly disobeying the rules for monetary gain. It would pave the way for other unscrupulous people to follow suit and would be a dreadful shame for Cheltenham.

Battledown is a beautiful estate - many of the old poorly-built sixties houses are being knocked down and rebuilt to the highest standard. But one bad planning decision could ultimately lead to its decline. I do think that the many people who already live here should have a voice.

**Comments:** 25th April 2017

Thank you for your letter of 10th April regarding this planning application.

In response I would like to reiterate the comments I made previously and I strongly agree with all those made by my neighbours and fellow residents of the Estate.

I have a particular passion about the history of this most unique Victorian estate; I have even named my house after it - Baedala's Tun - the Anglo Saxon name from which Battledown has evolved.

One of my favourite views would be at risk if it were to go ahead - that is seeing the sunset as I drive from the postbox down towards The Water Garden.

I'm worried that a larger house in this location would be an eyesore and two houses even more so.

Please do not allow this most unpopular and antagonistic development to go ahead.

Hillview House  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 2nd March 2017

The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

The Oaks  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PR

**Comments:** 6th March 2017

I have been made aware of a recent planning application for Water Gardens on Birchley Road.

Water Gardens changed hands last year and the new owner/developer has filed a planning application with CBC (17/00365/FUL) to demolish the existing property and erect two new dwellings. The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

By proceeding to seek CBC approval it appears that the developer is not prepared to observe the necessary provisions of the Covenants and intends to flout legal obligations which are the same obligations by which all property owners on the Estate are bound - and have been since 1859.

The Battledown Estate has been preserved as a unique environment for over 150 years by the provisions of the 1859 Deed of Covenants. For most residents, this unique sylvan environment with its low-density housing is one of the primary reasons why they purchased a property on the Estate. Within the Deed, the Seventh Covenant determines the maximum permitted density of housing. This ensures that no more properties than one house per half-acre on aggregate are built on each of the Original Lots. It is the overall maximum number of properties built on the Original Lot compared to the total area of the Lot that is specified by the Deed of Covenants (not the individual property plot size).

Independent of this, the recent increases in road traffic, the destruction of surrounding roads due to excess use are dramatic, with trucks using them is just one other small example of where over building and population in the area is destroying the unique reason why Cheltenham is Cheltenham. I urge you to drive Harp Hill and see the destruction, pot holes, and damage to property that is occurring. I myself have had a gate destroyed, a drive destroyed by trucks running over them, reversing into them. It is extraordinary that so much planning has been allowed, the ridiculous decision to build on the old GCHQ property has not even started to impact as the properties (hideous design, again how was it allowed) are only being completed. Greenway lane is also falling apart due to dramatic traffic increases. It will not be long before someone is killed on Harp Hill, walkers have to take refuge on the ridges in front of houses. I have seen numerous near misses and traffic is often speeding. It is not acceptable to increase housing with a disregard for the infrastructure.

I do not believe CBC should be encouraging overbuilding on the Battledown estate. The area is in crisis .

9 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

**Comments:** 6th March 2017

I would like to express strong objection to the proposed planning application at the Water Gardens, Birchley road. This proposal is in breach of the Battledown estate deed of covenant. Part of the reason we bought a house here was because of the unique environment this covenant exists to protect. If this planning application is accepted then a precedent would be created that allows for unlimited expansion. The trustees have objected rightly and I am sure would fight any application that ignores this. However it would seem a waste of taxpayers/council money if this had to go to court. I would respectfully hope that the covenant is respected.

Springfield  
Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

**Comments:** 3rd March 2017

As a resident and owner of a property in Battledown Drive I object most strongly to the above proposal as it is in breach of the 1859 Deed of Covenant which specifies the number of houses that can be lawfully constructed on each of the original plots.

I would point out that when I purchased the plot of land in Battledown Drive from the CBC it was stressed, that after purchase, the plot would adopted into the Battledown Private Estate and be subject to the same deed of covenant as all other properties on said estate. This promise was the single most important reason for my purchase of the plot.

If the CBC is now considering giving planning permission for the construction of two houses on the above plot, which they are obviously aware is in breach of Battledown rules and would force the Trustees into a legal battle, then I consider this to be a breach of trust and compromises the main reason I bought a plot on the Battledown Estate namely the unique environment which has become part of Cheltenham's heritage. This would indeed be a sad day for the town. I sincerely hope you will think very hard before embarking on this course.

Ashley Rise  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 3rd March 2017

We have been forwarded an email from friends who live on the estate that the builder who is intending to build two homes at the above address and in the process ignore the Covenant which states that all property must have a minimum of half an acre and has applied for planning permission to erect two houses with less than half an acre for each house.

As a resident on Battledown I strongly object to the builder contesting a Covenant that has been in place for many years and it makes his actions totally unacceptable since I gather he originally accepted the terms of the Covenant. We as residents have all accepted the terms and conditions of Battledown estate when we purchased our properties and therefore a developer who at the

end of the day is only out to make money from the land should be obliged to adhere to the terms of the estate which have been in place since the estate was formed.

Glendower  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 15th March 2017

The proposed plan for the replacement of a current single building by 2 new detached buildings is a concern.

Access from this property is onto a private Road owned by the trustees.

The size of the intended new detached buildings is such that there will be several vehicles and I would question whether there is sufficient space for parking and turning within the site and for visitors. The verges are also owned by the trustees. There is no right to park on the private roadway. The impact of increased traffic to and from this plot in the situation where it is is a concern. The property is on a bend and an incline. Access is for 1 plot not 2. The owners of the road and verges are the trustees who have the benefit of a covenant that states this plot is for a single dwelling only.

The infrastructure was designed for a defined number of properties. The continual development on this estate has caused issues with the natural springs. Birchley Road already suffers from running spring water which is lethal in winter time. The impact of this development needs to be considered with reference to the underground springs and how this may impact elsewhere within the estate.

The overriding point is that the owners are fully aware there is a covenant on the title regarding this being only one property within the grounds. The covenant is not open to interpretation. It is clear what it means. For these reasons planning should be refused

Birchley House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 13th March 2017

Letter attached.

Field House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PH

**Comments:** 16th March 2017

Letter attached.

Wellswood House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 16th March 2017

Letter attached.

**Comments:** 23rd April 2017

Thank you for your letter of 10th April 2017 indicating changes made to planning application 17/00365/FUL. I would like to reiterate my strong objection to the Planning Application made for two houses following the demolition of the Water Gardens.

In particular I would like to highlight the following:

The applicant submitted a site layout indicative drainage sketch on 10 April 2017. This shows a proposal for foul water from both properties to run across my land. A conveyance between Cheltenham Borough Council and the purchaser of the land that I now own dated 21 July 1976 states "the right of the owner or occupier of the adjoining property known as 'Highfield' (now The Water Gardens) to use the existing foul water system". There is no enhanced right for foul water from a second property/additional properties to run through my land. I therefore object to the plans on this basis.

The GCC Highways Planning Liaison Officer recommends that the application be refused on highway grounds because "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". This objection is based on the visibility splays shown on the planning application which cannot be achieved as the applicant has no rights over Battledown land. Allowing a two home development on the site would put all Birchley Road users in unacceptable danger from traffic pulling out of the redeveloped site. I would like to draw attention to the list of recent accidents just outside the Water Gardens listed in the letter from the Battledown Trustees dated 10 April 2017 which includes some photographs.

Whilst the kitchen window which looks directly in to my bedroom has been altered on the revised plan to obscure glass, the snug window, rear staircase window and the proposed terrace on the lower ground floor sitting just above my pool will destroy the privacy and my enjoyment of my property.

For completeness I include below my original objection:

Planning Application at The Water Gardens, Birchley Road. Ref 17/00365/FUL

I strongly object to the Planning Application made for two houses following demolition of The Water Gardens, your reference Ref 17/00365/FUL. I am an immediate neighbour to the north of the proposed development and would lose significant amenity should the development be allowed.

Loss of light and overshadowing

The most recent document submitted by the developer (8 March 2017), site section F-F, shows the height of the proposed house on plot 1 as being slightly taller than the existing house. However, the new house will sit further back on the plot; it will be downhill and will therefore actually tower over my property. It will cut out all the southerly light to my property in the winter and over my pool until late afternoon /evening even in the summer. This would greatly reduce my enjoyment of my property.

Further, as the new garage of plot 1 will sit very close to the boundary at what appears to be the same height as my upper floor I will lose light in two of the most used rooms in my property, the lounge and the largest bedroom.

#### Overlooking and loss of privacy

The proposed terrace of plot 1, although on the lower ground floor, would I believe sit just above my pool, taking away the privacy I currently enjoy whilst using the pool.

The kitchen window to the north and large rear staircase window in the plot 1 house would look directly in to my largest bedroom window and downwards in to both my lounge and glass roofed conservatory. This is an unacceptable loss of privacy.

#### Design materials and appearance

A previous objector described the design as "Russia in the 1970's". I agree. The frontage of the properties has a commercial feel. The northern elevation of plot 1, facing my property, is shown as comprising five different building materials. It has an industrial look and is very unattractive.

#### Layout and density

The existing house on The Water Gardens plot has a large floor area and is two storeys. In order to site 2 houses on the plot the developer proposes reducing the floor area and building properties that are four storeys high. This is a much higher density of building and hard standing than currently exists on the plot and beyond that allowed by the Battledown Estate covenants.

The infrastructure in Battledown is struggling to support recent development. Extreme weather conditions are already testing the drainage/sewerage systems and the roads deteriorating with overuse by construction traffic. Increasing the housing density will aggravate these problems.

#### Access

Although The Water Gardens plot is 0.361 hectares in size its position allows for only one access point on a sharp and steep bend. Adding another house to the plot doubles the risk of a serious accident. In recent years three vehicles have breached my hedging (after shot of one attached), another hit the wall of The Water Gardens, and two vehicles (photo of one incident attached) have been pulled from the ditch opposite my property. One vehicle hit the fencing on the outside of Birchley House, both a cyclist and micro-scooter rider have lost control coming downhill and been injured. More vehicles using this entrance can only increase the risk of accidents and injury.

The developer assumes that the access can be widened, presumably for safety purposes, but does not own this land. It is owned by the Battledown Estate and therefore the residents of the Estate. Amending the access across the verge would require approval of the Trustees, who may not choose to grant it. If this were the case, then I believe that allowing the development of two houses on the plot would pose a great danger to traffic and pedestrians.

Serious breach of the Terms of the Deed of Covenants of The Battledown Estate

My property and The Water Gardens sit within the Original Lot 60 of The Battledown Estate, which is approx. 3.75 acres in size. The Deed of Covenants permit only seven houses to be built on this Original Lot and it is, therefore, full. If the Water Gardens is demolished it can be replaced with just one property under the Trust Deed.

When purchasing a property on the Estate buyers are made aware of their legal duty under the Covenants, which are the same obligations for all members of the Battledown community. There are no exceptions for developers.

Of the 16 properties in Birchley Road, Skyview House (formerly Glenesk) was demolished and the rebuild completed last year. The demolition and rebuild of Kerrynead, has just received planning permission; despite being a very modern build there were no objections. The Battledown community accept the cycle of change and improvement to properties but a challenge to the rules we all observe after legally accepting these is underhand.

In conclusion



Descending Battledown Hill via Birchley Road, residents and visitors alike enjoy a fantastic vista across Cheltenham to the Black Mountains. To allow the development of two such domineering properties on this plot, merely for the financial advantage of a developer and their financial backer, will take this from future generations. An important part of the Battledown heritage will be lost and the properties will have an adverse effect on the visual amenity of the area as a whole.

I urge the developer to withdraw these plans. They miss an opportunity to make best use of a very private and attractive plot. Building a single low level house taking in the views and utilising the aspect of the plot including the reinstatement of the ponds could result in a stunning home commanding a premium. This could be newsworthy for the right reason and not for a challenge to a Deed put in place to secure the amenity of the majority.

**Comments:** 5th June 2017

Thank you for your letter of 16 May. I note that a new fowl drainage plan has been submitted. This continues to show the fowl drains for both proposed properties running over my land. There is no legal right of enhancement for the fowl drain of more than one property to cross my land therefore I strongly object to the plans submitted. In addition, I fully support the comments made today by the owner of Ash Tree House in respect of the access and validity of the traffic survey undertaken in support of the application.

The Court House  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 3rd March 2017

I have just read an e-mail regarding the application by the owners of the above property to demolish the property and build two new houses in its place. The motive is, presumably, profit.

It appears that the owners, on purchasing the property, fully understood and accepted the existing deed of covenant which expressly forbids this.

I would urge your department to reject this application on the grounds that a legal agreement already exists nullifying it. Furthermore allowing the application is likely to involve C.B.C. in embarrassing and costly legal action for no purpose.

**Comments:** 20th April 2017

In reply to your letter of the 10th April and in reiteration of my earlier comment.

The property in question : The Water Gardens has been purchased by a Battledown resident who was perfectly well acquainted with the covenant restricting development. Either he or his solicitor may have not conducted searches properly leading to the expectation that the property could be developed to incorporate another property on this site. It cannot. If the searches were conducted properly then the assumption may have been that the covenant could be ignored. It cannot.

The Flower House  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PD

**Comments:** 3rd March 2017

We would hereby register our objection to the above planning application.

The Headlands  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

**Comments:** 3rd March 2017

I wish to object strongly to the above planning application, both as a resident, former Trustee of the Battledown Estate and Chairman of the Charlton Kings Local History Society. It is not simply whether the developers wish to build one or two houses on the site, though the fact that they have the intention of disregarding a density of housing Covenant which they and all residents of the 186 houses on the Estate agreed to when purchasing, without any regard for the disastrous effect on the future of the Estate, is contemptible. There is a wider dimension involved.

The Estate is more than just an environmentally attractive and historic asset to the housing stock of the Town; it is historically and geographically part of Cheltenham's Victorian heritage, a legacy which the Town relies on to present itself as an attractive place to live. Battledown survived when most other private estates have not and it is historically unique in that respect. Over 158 years its Deed of Covenants has preserved "Rus in Urbe", the Country in the Town. Its trees, gardens and simple green-verged roads and ditches providing the semi-rural ambience which gives it its attractive character. Its slow development has produced a wide variety of houses. It straddles the Cotswold AONB, incorporates The Camp, a scheduled Ancient Monument and provides a part of the hill rim which surrounds the town. It is fully open to the public and currently much used by runners, walkers, horse riders and cyclists.

All this is at stake. I cannot believe our Councillors would allow it be lost.

**Comments:** 18th April 2017

This attempt to ignore the covenanted limitation of this site to one house only, accepted by the owner on purchasing the house as well as by the other 185 houses, renders any views on the building plans per se irrelevant.

However, I wish to point out that when Battledown Drive was built off Battledown Approach, the lower right hand side of the road was on Council land and the left side was on Battledown Estate land. The Council insisted in their sales publication that all their houses on the right hand side had to be covenanted individually to the Deed of Covenants of the Estate, as they were and are. It would be extraordinary if the Council changed its position on proper observance of the Deed of Covenants; if it did so, it would create a precedent which would lead to the end of the what is a historical and geographical legacy of the sort which Cheltenham relies upon to be seen as an attractive place to live. I think that would be shameful.

I write as a resident, former Trustee and Historian of the Estate.

Newlands  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 3rd March 2017

My family and I recently moved to Newlands, Battledown and am extremely concerned about the above proposal as it is in breach of the 1859 Deed of Covenant which specifies the number of houses that can be lawfully constructed on each of the original plots.

We would not have bought this property had we known otherwise.

The CBC are obviously aware this is in breach of Battledown rules and would force the Trustees into a legal battle, and we consider this to be a breach of trust and nothing we knew anything about when moving to Battledown just before Christmas.

We cannot quite believe this is happening and feel this is our worst nightmare coming true.

Springhill  
Stanley Road  
Cheltenham  
GL52 6QD

**Comments:** 3rd March 2017

I write to object to the proposed development of two houses on the site of Water Gardens, Birchley road. (17/00365/full)

The main reason for my objection is that the density would breach the guidelines of the Battledown Trust, which have been in existence since 1859.

Whilst these guidelines may not be capable of being used as a planning guideline in themselves, they have ensured that Battledown maintains its present character, which presumably Cheltenham values for numerous reasons

These include a low density and spacious setting and the provision of high value houses required for existing and newly arrived executives.

I would therefore wish the application be turned down on the basis that the density proposed would set a bad precedent. Approval would mean that an increased density could not be resisted in the future and so the Estate's character would change to the detriment of Cheltenham.

Birchley House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 14th March 2017

Letter attached.

Bay Hill  
6 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

**Comments:** 12th March 2017

I strongly object to the above planning application.

My primary objection to the proposed development of The water gardens, is that the proposal for 2 dwellings constitutes a material breach of The Battledown Estate Deed of Covenants, in that it will increase the density of housing on Lot No: 60 of The Battledown Estate. Such a breach of The deed of Covenant would set a dangerous precedent.

Steeptolme  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

**Comments:** 12th March 2017

I wish to object to this planning application because it seems to violate covenants protecting Battledown Estate from over development.

Chestnut House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PH

**Comments:** 10th March 2017

I understand that the Water Gardens, Birchley Road owner/developer has filed a planning application with CBC (17/00365/FUL) to demolish the existing property and erect two new dwellings. The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

I am informed that the Trustees have advised the developers of this fact many times during the past five months and made them fully aware that any such two-house development would seriously breach the terms of the Deed of Covenants and therefore cannot be permitted.

By proceeding to seek CBC approval it appears that the developer is not prepared to observe the necessary provisions of the Covenants and intends to flout his legal obligations (despite earlier advising the Trustees to the contrary), which are the same obligations by which all property owners on the Estate are bound - and have been since 1859.

This is a serious and flagrant breach of the Covenants' terms and as such I object to this proposed development.

Overdale House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 14th March 2017

**THE ISSUE:**

CBC Planning Dept Ref. No: 17/00365/FUL | Received: Tue 21 Feb 2017 | Validated: Wed 22 Feb 2017 | Status: Pending Consideration. Namely: Proposed demolition of existing building and garage and replacement with two new detached dwellings at 'The Water Garden' in Birchley Road, Battledown, Cheltenham Gloucestershire GL52 6NY

Reference A: Cheltenham Borough Local Plan Second Review 1991 - 2011 - Adopted by Council 29 June 2006, adoption notice published 10 July 2006

Reference B: Cheltenham Local Development Framework - Development on Garden Land and Infill Sites in Cheltenham - Supplementary Planning Document June 2009

Reference C: Cheltenham Borough Council offer for sale of building plots for sale at Battledown April 1997

Reference D: Battledown Covenant 1859  
Objections to Granting of Planning Permission:

1. Reference A Cheltenham Borough Local Plan Second Review 1991 - 2011 which was published in July 2006 remains in force until JCS and Local Plans are approved has sections where this application seems to be at odds.

#### SUSTAINABLE COMMUNITIES:

3.5 The Government recognises the important role of the planning system in delivering sustainable communities. In particular, Government guidance promotes: - provision for the nation's needs for new homes and other buildings, whilst respecting environmental objectives such as the conservation of cultural heritage and important physical features. Concentration of development in order to minimise the need to travel (The Water Gardens site entrance is set on the bend of a steep descending private road which has a history of vehicle incidents. The Trustees have installed anti-skid road surface and verge posts to prevent such accidents but these continue. Another additional house with an expected increase in traffic will exasperate an already difficult situation .It also has no access to public transport )

3.19 The Government considers the historic environment to be a central part of the country's heritage and national identity, which contributes to the quality of life and economic prosperity. Battledown Estate with its 179 housing stock dating back to the 1870's is such a heritage site. Also see Reference B&C.

3.20 Effective protection for all aspects of the country's historic environment is fundamental to the Government's policies for environmental stewardship, with particular emphasis on protecting conservation areas, listed buildings and open space. (There are several individual listed houses on estate as well the whole being a unique historic 158 year old record of Cheltenham's history)

3.51 The Council's housing strategy aims to ensure the provision of affordable and well-maintained public and private housing in Cheltenham to meet assessed housing needs, and to encourage balanced, mixed tenure communities and 3.53 The Council will continue to pursue all opportunities to secure additional affordable housing through the planning system. ( The size and design of these two proposed houses - 5-6000 Sq Ft indicate a selling price in excess of £2 million each. They will not contribute affordable availability to 90+% of citizens in Cheltenham)

#### LOCAL PLAN OBJECTIVES:

The proposed development appears to conflict with several of the Objectives within the Local Plan.

O2 to achieve a high standard of design in new development and - O9 to conserve and enhance the setting of Cheltenham the design for the two proposed properties is extremely modernistic, of such a size as to overfill the grounds, involves removing greenery and at 4 storey's, situated on the slopes of Battledown Estate, it towers over the current lower properties in Battledown Drive and will be visible to Cheltenham town as it is half way up the escarpment behind Battledown and the protected Hewletts Camp site.

O11 to conserve and improve Cheltenham's architectural, townscape and historical heritage - The existing Water Gardens property blends into the natural landscape, is constructed of red

brick and an interesting 1970's style. The proposed double development conflicts with O11 as it does not improve the town's architectural stock or landscape to the east and Cotswold escarpment.

O12 to conserve and improve Cheltenham's landscape character and green environment - by building a second home of the site the landscape will be greatly altered and the present green environment destroyed.

O22 to meet housing requirements, including the need for affordable housing - the construction of two extremely large properties that will be sold for over £2M does not in any way contribute to affordable housing. The Water Gardens was sold to the developer for over £1.3M therefore any replacement would be expected to give a large return.

## PRINCIPLES OF SUSTAINABLE DEVELOPMENT

The proposed overdevelopment of the site does not conform to the principle of sustainable development, namely:

- conserving green space and trees
- safeguarding attractive landscape
- incorporating trees and other landscape features into development
- reducing the need to travel, especially by car i.e. there is no public transport, it is on a dangerous descending bend in a narrow road.
- providing facilities to encourage walking, cycling and the use of public transport or making provision for parking that will not encourage use of the private car
- minimising the risk of flooding i.e. in building two such large properties, the water runoff to housing below will increase as the ability for ground soaking is diminished

## SUSTAINABLE ENVIRONMENT:

- Development will be permitted only where it would:
  - (a) not harm the setting of Cheltenham including views into or out of areas of acknowledged importance
  - (b) not harm landscape character
  - (c) conserve or enhance the best of the built and natural environments of Battledown .
  - (d) minimise the risk of flooding

The proposed development does not meet any of these criteria.

## SAFE AND SUSTAINABLE LIVING :

- Development will be permitted only where it would:
  - (a) not cause unacceptable harm to the amenity of adjoining land users.
  - (b) not result in levels of traffic to and from the site attaining an environmentally unacceptable level;

The proposed development does not meet any of these criteria.

## SUSTAINABLE TRANSPORT:

- Development will be permitted only where it is located and designed so as to:
  - (a) minimise the need to travel;
  - (b) provide adequate accessibility to the site for vehicles,
  - (c) encourage walking, cycling and public transport and discourage use of the private car

The proposed development does not meet any of these criteria.

## DESIGN:

- Development will only be permitted where it:
  - (a) complements and respects neighbouring development and the character of the locality and/or landscape

The proposed development does not meet this criteria.

**PRINCIPLES OF URBAN DESIGN:**

- This should reflect existing topography, landscape and ecology
- utilise a hierarchy of building form and design to reflect the use and importance of buildings
- create areas of hard and soft landscaping continuity

The proposed development does not meet these principles

Reference B: The Cheltenham Local Development Framework - Development on Garden Land and Infill Sites in Cheltenham - Supplementary Planning Document June 2009

In this Framework paper accepted by the Cheltenham Borough Council, the Battledown Covenant is documented in Appendix 3 (page 51) where the special nature of Battledown is recognised as follows:

- (a) 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.
- (b) The area benefits from a covenant which means that garden land is not subject to subdivision and intensification here.
- (c) This acceptance that the estate is special and benefits from a covenant is clearly relevant to the Planning Committee's decision process. Therefore the Deed of Covenant of 1859 should be taken into account.

The same document has recommendations concerning to back garden development in the sense that it looks to build two houses on a plot where there is currently only one. The policy states that the CBC Planning authorities should resist back garden development when it is inappropriate and impacts adversely on the overall environment. Plot 60 within 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.

Reference C: Cheltenham Borough Council offer for sale of building plots for sale at Battledown. The Cheltenham Borough Council Engineer & Surveyors Department supervised the setting out of the roads and the provision of infrastructure services on Battledown Drive then set out and marked those plots all within the criteria of the Battledown Covenant with the intention that the future maintenance of the highway would be the responsibility of Battledown Trustees. The Council also acknowledges the Covenant as the Battledown Estate and Trustees were referred to in the Conveyance of the properties. The Council then issued a sales brochure for these plots. This was entitled, "Cheltenham Borough Council offer for sale building plots for sale at Battledown.

Reference D:

As the Council have acknowledged the Battledown Estates Covenant in both Ref B & C it is relevant to have any potential planning impacts reviewed in parallel with normal planning considerations.

If your committee approve this scheme, by implication you are refusing to recognise the agreement negotiated by your own Council, Battledown Trustees and estate freeholders. This would put the Trust to a great deal of expense in taking action in the Courts. It would also have the long term effect of encouraging others to seek planning permission to force the estate to act in a way that may possibly bankrupt the estate in the longer term.

Ref D BACKGROUND:

The Water Gardens site is within the private Battledown Estate in Cheltenham where Trustees are appointed to oversee and manage day-to-day affairs on behalf of its residents. During the entirety of the nineteenth century and the early part of the twentieth century, a series of complex land transactions centred on the hill known as Battledown, led to the creation of the Battledown

Estate. The Estate was formally established in 1859 as a location for "first class residences" and was originally laid out in strict accordance with plans produced in 1858 by Mr Henry Dangerfield, the first architect and surveyor appointed by the original Trustees.

The purchasers of the original lots on the Estate signed the original 1858 Trust Deed thus binding them, their heirs, appointees and assigns in perpetuity to its terms and conditions. This Deed entitled "Re the Battledown Estate in the Parish of Charlton Kings in the County of Gloucester - Deed of Covenants and Regulations for the future enjoyment of the same Estate" contains the original Estate map and various covenants.

The Trustees are responsible for administering the Deed of Covenant and Regulations. Over the past 158 years they have encouraged the development of high quality houses sited on relatively large plots within an Estate that retains a semi-rural character. Their aim is to maintain the character of the Estate and allow developments and alterations to properties that are compliant with these concepts.

In order to manage the terms of the Covenant the Trustees own the four miles of Estate roads and most verges and are responsible for their maintenance, drain and leaf clearance in Autumn, gritting through the winter months and the maintenance of the trees on the verges. None of which are funded by the Council

All house-owners have to obtain the agreement of the Trustees for any new buildings or alterations to existing buildings. The main criterion is that these should be consistent with the Covenant, i.e. satisfy the number of houses per original Lot, which effectively means that there shall not be more than two houses to an acre in each lot. Thus some houses may have more the half an acre and others less but overall the Lot shall have the number of houses which add up to the total Lot acreage. The Trustees levy an Annual Rate based on acreage to fund the maintenance of the common areas, legal fees and charges made by professional advisors, etc.

As a result of this management over 158 years the results of strict control over development and early town planning are plain to see throughout the Estate. Grand, but individually designed properties including Grade II listed original villas, coach houses and early manor houses stand in spacious grounds on the side of a tree covered hill. Within the estate a mix of design exist from the 1860's through to 21st century designs, but all currently comply with the original Covenant.

As a result of this the Battledown Estate is now one of the premier residential areas of Cheltenham - an accolade acknowledged in the Cheltenham Town Plan some thirty years ago. It is also the only surviving Victorian private estate in Gloucestershire and one of very few in the whole country. The Estate is not currently a designated conservation area, but given its origins, history and present character, the residents would like to see the estate treated in a similar way to other Regency and Victorian areas of Cheltenham.

#### Ref D: THE PROBLEM:

The Water Gardens in Birchley Road has recently changed hands and the new owner/developer has filed a planning application with Cheltenham Borough Council, ( 17/00365/FUL) to demolish the existing property and erect two new very large modern design dwellings. The house-plot is of approx 0.9 of an acre and lies on Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants therefore permits only seven (7) houses to be built on this Original Lot and there are already seven houses on this Original Lot.

The Battledown Estate Trustees have advised the developers of this fact on multiple occasions during the past five months and made them fully aware on many occasions that any such Two House development would seriously breach the terms of the Deed of Covenants and therefore cannot be permitted.



If the 1859 Covenant is breached the Trustee's ability to maintain Battledown Estates is removed and it sets a precedence for other developers to construct high density housing on the estate. In order to achieve this large areas of existing trees and greenery will be removed and half way up the Cotswold escarpment a mass of housing will be exposed which overlooks Cheltenham from the east. A unique heritage area of Cheltenham will therefore be lost.

In conclusion the Charlton Kings Parish Council have already turned down the application for the following reasons:

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 Cudhall 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.

**CONSERVATION AREAS:** 5.5 Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on the local Council to designate as conservation areas any 'areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance'. Section 72 of the Act requires the Council to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas in the exercise of their planning functions. The Act also places upon the Council a duty to review its area from time to time to consider whether any parts or further parts of the area should be designated as conservation areas.

Given all the References above I strongly object to the granting of planning permission for two properties to be erected on this site and recommend the Cheltenham Borough Council should consider listing Battledown Estate as a Conservation area which represents a unique heritage of the Spa town.

Toynnton  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PH

**Comments:** 6th March 2017

We would like to raise an objection to the proposed planning application ref 17/00365/FUL relating to the proposal for the demolition of Water Gardens and the erection of two houses within the plot. The covenants under which Battledown estate is protected have existed for over 150

years and exist for the protection and to preserve the integrity of the estate for all the residents, and not for the benefit of a single developer. The estate has existed since 1859 and as I understand it is the last remaining private Victorian estate to do so within Cheltenham. The reason this has occurred is in no small part due to the strict covenants that exist and that all the residents have adhered to throughout its 150+ year existence. Entitling a developer to breach these covenants sets a dangerous precedent that could likely jeopardise the long term future of the unique environment and would ultimately result in a loss for the town.

The developer has clearly been aware of these covenants and had chosen to disregard them.

We would urge CBC to reject the planning application based on the Deed of Covenants formed in 1859 that clearly outlines under the seventh covenant the maximum permitted density of housing which planning application 17/00365/FUL is in breach of.

Holly Hill House  
Oakley Road  
Battledown  
Cheltenham

**Comments:** 6th March 2017

We are the resident owners of Holly Hill House in Oakley Rd, Battledown, Cheltenham. This is regarding the planning application for new development in Water Gardens estate.

We bought our house and moved few months ago so remember very well all the rules new owners agree with before purchasing house here in Battledown. As we all know Mr. Roger Willbourn is the trustee of our estate representing the interests of the residents and other people visiting, enjoying our area now and in the future. Therefore, we express our support with his judgement and actions as per the existing Deed of Covenants. We also kindly ask you to support us in following the accepted rules. If anyone doesn't agree with the rules (which they accepted in first place) then they first need to change the rules and then act as per new rules. But we are strongly object any actions which are ignoring existing rules and order.

Shawford  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 6th March 2017

Letter attached.

Shawford  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 6th March 2017

Letter attached.

Shawford  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 6th March 2017

Letter attached.

Shawford  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 6th March 2017

Letter attached.

Rosemere House  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PB

**Comments:** 8th March 2017

I have been made aware of the above referenced application in respect of a proposed development in respect of 'The Water Gardens' on Battledown Estate. I am not directly affected by this proposal but as a resident of the Estate I would like to set down my thoughts as to why this development should not be approved.

While the Deed of Covenants that covers the Estate forbids this development, as this is something that may not be directly relevant to the planning approval process I would respectfully ask the committee to bear in mind the following:

- While this application is for only one additional house on Battledown it would likely lead to very many existing residents, seeing a breakdown in the Deed of Covenants, looking to realise the potential of their half acre plots. While some existing residents would not take advantage of such a windfall now (based on the current realistic price of a modern 4/5 bedroom house on what would be a quarter acre plot this windfall would likely be a seven figure sum and indeed could be more if an existing plot is of such a shape that more than two houses could be built) others would and the prospect of what could be in a few years time of another 100 or more houses being built on the Estate is not unrealistic and is something I suggest the Planning Committee would not be happy with.
- Following from the above, the roads in the Estate are not able to accommodate the extra traffic that a number of new houses would bring; in addition the access roads are insufficient and of the four access roads two pass by schools and the danger to schoolchildren of much extra traffic on narrow roads, particularly at setting down time and collection time, do not bear thinking about.
- Battledown Estate is one of only two extant Victorian Estates remaining in England and is an asset to Cheltenham; it would be a great loss to the town if this area which has been there since 1859 was to be lost .

- The site of The Water Gardens is approached by a piece of adverse camber road where in the past, particularly during times of ice and snow, vehicles have left the road. Even one extra house at this point would be unwelcome and would undoubtedly lead to more accidents, hopefully not fatal. The short stretch of road surface on this bend has been specially treated to alleviate the issue but it remains a nasty bend.

I trust the above will be helpful in assessing this planning application

Charlton Manor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 8th March 2017

The local development framework document entitled "Development on Garden Land and Infill Sites in Cheltenham, Supplementary Planning Document of June 2009" states that Battledown properties should not be subject to sub division or intensification.

To agree to this proposal would put the Battledown covenant at risk; that opens the whole historic estate up to further development and sub division, and runs counter to obligations to protect local amenity and the unique nature of Battledown's character.

Furthermore there is unique and exceptional wildlife throughout this part of Charlton Kings including bats and owls. The pressure to increase footprint of built environment on each of the Battledown lots is diminishing the quality of wildlife habitats and the existence of 'wildlife corridors' through which our protected species can forage. It would be disappointing to lose yet more green space to over development of lots.

And finally, there are both subsidence and flooding risks materialising on Battledown; the former is due to over-development and breaches of weight limits on the local roads, the latter due to stresses and strains of extreme weather events and inadequate Victorian drainage and sewerage systems. While this isn't the fault of any one developer, the cumulative effect is putting pressure on the whole estate.

For the above reasons and others captured more eloquently by other objections provided by local residents, I request that the council reject the application.

**Comments:** 12th April 2017

Thank you for your letter of 10th April.

Original objection stands; this is in breach of the Battledown covenant.

In addition, the revised access lays claim to the verge, which is owned by the Battledown estate, not the property owner.

This is a dangerous corner with a reverse camber on the road and has been the site of multiple accidents in recent winters due to ice formation from poor drainage. I've been off the road here myself despite the traction of a 4x4, and the silver birch tree that used to be to the side of the Winter Gardens gate was scarred by multiple vehicles leaving the road.

Ashley House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QE

**Comments:** 9th March 2017

I object to this planning application on the following grounds:

1. Policy CP1 Sustainable Development of Cheltenham Borough's Local Plan sets out the principles of sustainable development, which include conserving historic areas and safeguarding attractive landscape.

With the knowledge that in the trustees' view this application breaches the governing "Deed of Covenants and Regulations as to the Future Enjoyment of the Battledown Estate" (covering close to 200 properties), there simply cannot be any certainty that the sustainable development principle will be met. I will explain. There is a real risk, perhaps on a technicality, that the trustees fail to legally defend the density provisions of the ancient 1859 Deed. This will inevitably lead to a domino effect of further inappropriate developments; thereby ensuring an ignominious end for a jewel amongst Cheltenham's Victorian heritage .....which is open to the public and used daily by walkers, runners, cyclists and horse riders. Cheltenham has long relied upon the unique character of this legacy to present itself as an attractive place to live. Frankly, with all this at stake it is very difficult to comprehend that the planning authorities would do other than refuse this planning application on this ground alone.

2. Policy CP3 Sustainable Environment states that development will only be permitted where it would conserve or enhance the best of the built or natural environments.

Best is defined as "a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site or locally". Indeed, the applicant's own planning statement makes much emphasis of the attractive features of the Battledown Estate.

For the reason cited above regarding adherence to Policy CP1, there is an associated question mark (and therefore ground for refusal) over the certainty that the sustainable environment principle under Policy CP3 will be met.

3. Policy CP4b Safe and Sustainable Living and Development and Highway Safety (TP1) states that "Development will only be permitted where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level." Policy TP1 provides that "Development will not be permitted where it would endanger highway safety, directly or indirectly by ....increasing the use of an existing access...."

A very significant increase in resident and regular delivery vehicles is guaranteed if a four bedroom house is replaced by two 6 bedroom houses. As the proposed entrance for both properties sits very close to a bend on a steep road that is well known for accidents, compliance with Policy CP4b and TP1 is not achieved.

4. Policy CP7 and Development within extensive gardens (GE3)

Policy CP 7 states that "Development will only be permitted where it.... adequately reflects principles of urban design and...compliments and respects neighbouring development..."

Policy GE3 states that " In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site."

It is clear from the plans submitted that the proposed 6,000sq ft+ four storey houses and integral "super garages" with living space above are enormous and (to the writer's eye) resemble blocks of flats. They do not in any way compliment and respect neighbouring development. Further, given their bulk and mass, they will have a visually overbearing impact on surrounding properties. Compliance with policies CP7 and GE3 has therefore not been achieved.

In conclusion, on the basis that this planning application fails to comply with Policies CP1, CP3, CP4b and CP 7 along with TP1 and GE3, I would ask the Council to refuse this application.

Oakwood  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

**Comments:** 20th March 2017

We would like to strongly object to the planning application 17/00365/FUL for the the demolition of the Water Gardens and replacement with 2 dwellings. Due to the simple fact it breaches the 1859 Deed of Covenants, that all residence are aware of before buying a property on the Battledown Estate.

Kerrymead (owner)  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

**Comments:** 2nd March 2017

I would like to object to the following application - CBC (17/00365/FUL). It is against the terms of the covenant of the Battledown Estate to have higher density housing on each plot and I understand that 2 houses are proposed to be developed on the plot.

Highlands  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PG

**Comments:** 2nd March 2017

We are residents of the Battledown estate and we strongly object to this proposed development as it is in breach of the estate covenant.

11 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

**Comments:** 2nd March 2017

As a property owner of 11 Battledown Drive, Cheltenham, GL52 6RX, I am writing to object the planning application of Water Gardens, CBC (17/00365/FUL), which apply to demolish the existing property and erect two new dwellings. This will seriously breach the terms of the Deed of Covenants and therefore cannot be accepted at all. The reason for me to purchase my home is

largely because of its low building density, which clearly stated in Deed and I believe most of residents in our area will not want to see people ignore the rule which was in place since 1859.

Please kindly consider the interests in majority favor and don't approve the application.

Tall Timbers  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 2nd March 2017

I have recently become aware of the planning application numbered CBC (17/00365/FUL). I am not a close neighbour of the proposed development but I am a beneficiary of the Battledown Trust. I understand that Boo Homes, the planning applicants, are well aware that the application that they have made is a flagrant breach of the terms of the Battledown Trust. If the application goes ahead it will contravene the terms of the Trust and will therefore threaten the benefits that I receive under the terms of that trust.

Clearly I reserve the rights to seek recompense from Boo Homes for any damage that I might suffer because of their breach of our Trust deed. However, I would also encourage Cheltenham Borough Council to reject this application because of its breach of a Trust that has helped to preserve some of the unique character of the wider Cheltenham estate.

Battledown Court  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 2nd March 2017

As a homeowner on the estate I would like to register very strong objection to this application.

The Council would have no right to contravene, or authorise contravention of, the legally binding Covenant which has regulated all properties on the Battledown Estate since 1859.

I believe this is a significant legal issue with significant adverse legal implications for the Council.

Tor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 2nd March 2017

I am writing to object to the above planning application, I am a resident of battledown and as you may be aware the estate id governed by a deed of trust which only allows houses to be built in a half acre of land.

The developer is intending to flout the trust and proceed with planning despite the objections of the trustees.

Battledown is a unique area and should planning be granted the it would likely open the flood gate and encourage more builders to try to purchase houses in Battledown and build more houses on each plot.

It is likely that if planning is granted the trustees will have to fund a legal battle needlessly.

Karadys  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 2nd March 2017

As residents of Battledown Estate, we would like to bring to your attention an instance of severe breach of the Battledown Estate Deed of Covenant.

After assuring the Battledown Committee there would be one house built to replace the existing building, it seems the developers concerned have decided to ignore the Deed of Covenant and build two houses, thus creating a precedence for further breaches.

You, as Director of Planning in Cheltenham, will be more than aware that such a breach of covenant would destroy the uniqueness of this age old Estate and indeed a part of Cheltenham's historical significance and heritage.

We therefore wish to express our sincere thanks, And, trusting your judgement in this matter, Our kindest regards.

Falcon's Crest  
Stanley Road  
Cheltenham  
GL52 6QD

**Comments:** 2nd March 2017

One of the Battledown trustees has informed residents of this plan to ignore a key element of the trust deed for the estate, i.e. to restrict the number of houses that can be built per acre.

There is little doubt that Battledown retains a lovely ambience because of the lack of crowding. I have no doubt that it could prove very costly for us to mount a legal fight against this plan. If lost, then the nature and character of Battledown is likely to change dramatically within a few years, as I would expect there to be a flood of new applications.

I very much hope you will take this into account in your decision making. If you were simply to reject the application, because it falls foul of our local trust deed, I have no doubt that this would save a great deal of time, effort and money.

I have no doubt that you are repeatedly subjected to NIMBY requests. I recognise that my email may fall within this category. But there are very few areas within Cheltenham that enjoy the character of Battledown. It would be a great shame if this was lost.



Woodlands  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 2nd March 2017

The above mentioned planning application has recently been brought to my attention.

My wife and I as owners of Woodlands, Oakley Rd, Battledown, hereby formally record our very strong objection to this planning application which flies in the face of the covenants established for Battledown estate over our 150 year history.

One of the primary reasons for our decision (22 years ago) to buy and live in Battledown were the strong covenants protecting the estate from any and all developments which do not meet the 'rules' as established by generations of previous owners/caretakers of this precious part of our Town.

I sincerely hope that you and your committee will reject this application.

Hillview House  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 2nd March 2017

I have been made aware of plans to demolish and replace with two dwellings the property 'The Watergardens' Battledown.

I would like to object to this based on the precedent it could set. It is against the deed of covenant we all signed up to on purchasing property on the estate. A point no doubt the developers are aware of but clearly not stated in any application. They are breaching the covenant in increasing the number of properties allowed on an original lot. It will open the floodgates to more development and destruction of the ambience of the entire estate.

Beechwood  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PG

**Comments:** 2nd March 2017

We are writing to strongly object to the above planning application.

We have lived on the Battledown estate for nearly 14 years. The title in respect of the property, as lodged with HM Land Registry, clearly shows the charge relating to the 1859 Deed of Covenant and a full transcript of this covenant was passed to us by our solicitor prior to the purchase. Any other diligent solicitor would likewise do the same and, even if the transcript was not passed to the current owners of the Water Gardens, they would have been advised of the covenant at the very least and it would have been foolhardy of them not to appraise themselves of the full details given the significant price presumably paid for the property.

Battledown Estate was originally sold off in lots and one of the clauses of the covenant is that any sub-division of the original lot size can only happen if the average plot size of all the resultant

plots remain at least half an acre. The important word here is "average" so, on original lot 60 (on which Water Gardens is situated) which is about 3.7 acres, the current seven houses have an average plot size of 0.53 acres and sub-division has reached the maximum under the 1859 Covenant. The construction of two houses on the Water Garden plot, therefore, would be in direct and flagrant breach of the covenant as the average plot size would then fall to 0.46 acres.

The granting of planning permission for this development would set a precedent that would make it extremely difficult for the Trustees of Battledown to resist a similar breach in the future. In a short space of time, an area of Cheltenham which has preserved much of its character since the mid 1850's would be destroyed along with the semi rural ambiance contained therein.

We would also draw your attention to the fact that the specific online "application summary" shows a "constraints" section under which "Residents' Associations" is shown as a constraint in this particular case. Clearly this relates to the Battledown Trust, of which the 1859 Covenant forms the basis, so the fact that this is recognised by the planning department would indicate that due consideration has to be given to the covenant when ruling on this application.

Finally, we would confirm that we have no objection to the building of a single replacement dwelling on the plot.

1 The Willows  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 5th March 2017

I object to the proposal to build two properties on the above site. The proposal is to build 2 six-bedroom houses, each in excess of 6000 sq ft. This is overdevelopment of the plot, particularly given that due to the natural constraints of the site the properties must be positioned side by side and share access onto Birchley Road. The properties will directly overlook 10 Battledown Drive with a consequent loss of amenity for that property. The southern of the two proposed dwellings, by virtue of its position, is likely to have very little direct sunlight until evening. On the basis of modern patterns of car ownership, a substantial 6 bedroom house is likely to be supported by at least 4 vehicles, meaning that it is likely that a minimum of 8 vehicles will be seeking access to Birchley Road on a difficult corner. This will be dangerous.

I would have no objection to a proposal to erect one of these dwellings on the plot.

Finally, although it is not really a planning issue, I would observe that since the plot on which the current property is situated is but one plot of a number comprising 'Lot 60' for the purpose of calculating the number of properties that can be erected in compliance with the covenants contained in the Battledown Deed of trust (which the developers acknowledge is binding upon them), it must be necessary to consider the interests of the owners of land comprising Lot 60 as a whole, not simply the interests of the current owners of The Water Garden, in deciding whether this is an acceptable development. In other words, the developers are not entitled unilaterally to decide that their plot and their plot alone should have the benefit of any additional development at the expense of the other Lot 60 owners.

Birchley House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 10th March 2017

Letter attached.

Montrose  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

**Comments:** 12th March 2017

We strongly object to this planning application.

When buying a house on the Battledown Estate one is made very aware, prior to buying, of the restrictive covenants in place which protect this estate and which have done so for over 150 years. Battledown is not in the best area of Cheltenham, but people here choose to buy into a lifestyle where over development is not permitted and therefore traffic is kept to a minimum. This historic estate is well known throughout Gloucestershire and needs to be preserved. The essence of Battledown must be maintained. The minimum 1/2 acre per house must be adhered to and 2 houses built on this plot is not in keeping with the surrounding area.

Once again, we strongly object to 2 houses being built on this single house plot.

Coversdown  
Birchley Road  
Cheltenham  
GL526NY

**Comments:** 9th March 2017

As a resident of Battledown Estate, I would like to object to the above proposal on a various grounds.

1. Breach of the Battledown Covenant of 1859

Water Gardens changed hands last year and the new owner/developer has filed a planning application with CBC (17/00365/FUL) to demolish the existing property and erect two new dwellings. The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

The Trustees have advised the developers of this fact many times during the past five months and made them fully aware that any such two-house development would seriously breach the terms of the Deed of Covenants and therefore cannot be permitted. The Trustees' position is based upon the Estate Surveyor's independent analysis and detailed professional legal advice.

By proceeding to seek CBC approval it appears that the developer is not prepared to observe the necessary provisions of the Covenants and intends to flout his legal obligations (despite earlier advising the Trustees to the contrary), which are the same obligations by which all property owners on the Estate are bound - and have been since 1859.

The Battledown Estate has been preserved as a unique environment for over 150 years by the provisions of the 1859 Deed of Covenants. For most residents, this unique sylvan environment with its low-density housing is one of the primary reasons why they purchased a property on the Estate. Within the Deed, the Seventh Covenant determines the maximum permitted density of housing. This ensures that no more properties than one house per half-acre on aggregate are built on each of the Original Lots. It is the overall maximum number of properties built on the Original Lot compared to the total area of the Lot that is specified by the Deed of Covenants (not the individual property plot size).

When we purchased our house in 1998, we were advised by the council and the Trustees of Battledown, that any planning applications we may wish to consider in the future would have to comply not only with the CBC planning regulations but also to the Battledown Covenant of 1859. It is beyond belief that the Planning Department would therefore entertain such a proposal as above which they are fully aware is in contravention of the Covenant.

This is potentially one of the most serious cases of a flagrant breach of the Covenants' terms since the Estate was founded in 1859. If the application is approved it could set a dangerous precedent for further such developments on the other 70 or so Original Lots on the Estate. In turn this could mean that the whole ambience of our unique environment could be destroyed.

## 2. Height and Size of proposed buildings.

I have not been able to ascertain the proposed ridge heights on Plot 1 and Plot 2 which is not listed anywhere in the materials online. The maximum ridge height on both adjacent properties to the North and South [both] have a ridge height level of only circa 103.0., and it's my belief that the proposed development is significantly higher. It is clear from the plans submitted that the proposed 6,000sq ft+ four storey houses and integral "super garages" with living space above are enormous and (to the writer's eye) resemble blocks of flats. They do not in any way compliment and respect neighbouring development. Further, given their bulk and mass, they will have a visually overbearing impact on surrounding properties. Compliance with policies CP7 and GE3 has therefore not been achieved.

In conclusion, on the basis that this planning application fails to comply with a number of policies, I would ask the Council to refuse this application.

### **Comments:** 18th April 2017

As this revised plan does not address my original objection, i once again wish to object to the revised plan. My reasons for objecting are restated for easy reference.

"As a resident of Battledown Estate, I would like to object to the above proposal on a various grounds.

#### 1. Breach of the Battledown Covenant of 1859

Water Gardens changed hands last year and the new owner/developer has filed a planning application with CBC (17/00365/FUL) to demolish the existing property and erect two new dwellings. The house plot is within Original Lot 60, which is approx 3.75 acres in size. The Deed of Covenants permits only seven (7) houses to be built on this Original Lot and there are already seven houses on the Lot.

The Trustees have advised the developers of this fact many times during the past five months and made them fully aware that any such two-house development would seriously breach the terms of the Deed of Covenants and therefore cannot be permitted. The Trustees' position is based upon the Estate Surveyor's independent analysis and detailed professional legal advice.

By proceeding to seek CBC approval it appears that the developer is not prepared to observe the necessary provisions of the Covenants and intends to flout his legal obligations (despite earlier advising the Trustees to the contrary), which are the same obligations by which all property owners on the Estate are bound - and have been since 1859.

The Battledown Estate has been preserved as a unique environment for over 150 years by the provisions of the 1859 Deed of Covenants. For most residents, this unique sylvan environment with its low-density housing is one of the primary reasons why they purchased a property on the Estate. Within the Deed, the Seventh Covenant determines the maximum permitted density of housing. This ensures that no more properties than one house per half-acre on aggregate are built on each of the Original Lots. It is the overall maximum number of properties built on the

Original Lot compared to the total area of the Lot that is specified by the Deed of Covenants (not the individual property plot size).

When we purchased our house in 1998, we were advised by the council and the Trustees of Battledown, that any planning applications we may wish to consider in the future would have to comply not only with the CBC planning regulations but also to the Battledown Covenant of 1859. It is beyond belief that the Planning Department would therefore entertain such a proposal as above which they are fully aware is in contravention of the Covenant.

This is potentially one of the most serious cases of a flagrant breach of the Covenants' terms since the Estate was founded in 1859. If the application is approved it could set a dangerous precedent for further such developments on the other 70 or so Original Lots on the Estate. In turn this could mean that the whole ambience of our unique environment could be destroyed.

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In conclusion, on the basis that this planning application fails to comply with a number of policies, I would ask the Council to refuse this application."

Inches  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

### **Comments:** 9th March 2017

We strongly object to the above planning application on the grounds that it is a blatant contravention of the Battledown covenant for seemingly no other reason than the purpose of financial gain. To allow two houses to be built on the existing site would be out of keeping with the surrounding properties, where there is currently only one house per half acre. In no way would it be possible to argue that the proposed development is in keeping with the immediate neighbourhood.

Every owner of a property in Battledown is made aware of the covenant upon purchase of the property and this is a flagrant attempt to flout the rules that everyone else adheres to.

The site is also on a dangerous bend in the road where there have been numerous accidents in recent times. A large number of pedestrians, not just Battledown residents, use the road for dog walking, and running, where traffic coming up and down the hill have to pull into the middle of the road almost on a blind corner to overtake those on foot, so any increased traffic coming out of the site, would be an added danger.

We trust that the above application will not be permitted.

Fremington  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 13th March 2017

When I moved to Cheltenham 25 years ago I chose to live on the Battledown Estate because of its sylvan environment and low density housing protected by covenants. I am pleased to say that this has been maintained over the years. The vast majority of developments have been carried out within the rules of the covenants and one attempt to breach the covenants some years ago did not receive planning approval.

Therefore I strongly object to the proposal to demolish the Water Gardens and replace one property with two houses mainly because it breaches the Battledown Estate covenant related to property density.

The Proposal to replace one property with two does not meet the test of sustainable development under CP1 and CP2 of Cheltenham Borough Local Plan. If approved, it would cause significant and irreversible harm to the setting of Cheltenham and to valued landscapes.

The Battledown Estate is unique as the only Victorian Estate in England to have retained its original characteristics. This is due to an unbroken line of Trustees who have, over more than 150 years, enforced the original covenants despite numerous attempts by developers to breach them. The Trustees have worked closely with CBC on many occasions and it is through such joint efforts that the character of the area has been conserved for future generations. Public rights of way along the verges and public footpaths ensure that many non-residents also enjoy these benefits.

Although the covenants themselves do not bar planning approval, CBC acknowledges its part in conserving the environment. The damage created by allowing the sub-division of this plot, and the addition of a second property would have a major impact on the immediate surroundings as well as setting a precedent that would make further such proposals difficult to resist.

Runsell House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QE

**Comments:** 12th April 2017

Thank you for your letter dated 10th April informing me of the submission of revised plans for the said development. Having reviewed these plans I do not believe the revisions materially affect my objection submitted as : Runsell House Ashley Road Cheltenham Gloucestershire GL52 6QE (Objects) Comment submitted date: Sat 11 Mar 2017. I wish therefore for that objection to stand and that you take it into account when coming to your decision on the revised plans.

**Comments:** 11th March 2017

We have lived on the Battledown Estate for over 25 years and have witnessed a steady stream of developments on the Estate. Given the age and nature of the original in-fill development the incentive to "upgrade" certain properties is understandable. So far these developments, whilst very intrusive during their construction, have largely complied with a covenant governing development on the Estate and we have not objected. There are two such developments in progress on Ashley Road close to where we live and a third has been completed recently.

The applicants for the proposed development are fully aware of that covenant and so is CBC who state in their Supplementary Planning Document (SPD) - Development on Garden Land and Infill

Sites in Cheltenham: "Battledown- This area comprises large individual properties set into their own grounds climbing up the escarpment to the east away from the 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 Trustees of the Estate have determined that the proposed development breaches that covenant. A fact known to and wilfully ignored by the applicants. If planning permission is granted it would erode the benefits recognised above by CBC and set a precedent for further such development. That would destroy the distinctive character of the Estate to the detriment of its current residents and to Cheltenham in general.

We are aware of the very large number of residents who have also objected on these grounds so we will not pursue these arguments further and rely on others' more detailed comments. We will note simply that, if planning permission is granted, the matter of the covenant breach will almost certainly be put before a court.

Over and above the legal standing of the covenant the proposed development would appear to contravene a number of the principles for approval set out in the SPD. Below we cite a series of examples with reference to a selection of questions from Box 7 on pages 20 and 21 of that document. This is by no means exhaustive but, to us, is sufficient to demonstrate that planning permission should not be granted.

Questions C1 to C3: The scale and prominence of the proposed development is much greater than that of the surrounding properties and its appearance would detract from the local character and distinctiveness of the Estate. It would have a negative impact on the landscape setting and would affect the views of the neighbouring properties.

Question C8: The proposed development would constitute a major road safety hazard during construction due to its siting by and access on to a tight bend on a steep slope. This has been the site of numerous accidents despite the Estate acting to mitigate, as far as possible, the risks at this bend by means of speed bumps before it, prominent road markings and a high friction road surface. Beyond construction, the size of the development would lead to a significant increase in domestic vehicle movements into and out of the development. These would exacerbate the road safety issues and increase the general traffic volume on the Estate roads to the detriment of the amenity of its existing residents.

Questions C9 and C10: The scale, height and massing of the proposed development would not complement the existing development and would significantly detract from the distinctive character of the area.

Question A1: We will leave it to residents from the neighbouring properties to comment in detail on the expected significant impact on them. From our perspective it is the detriment to the overall distinctive character of the Estate that concerns us, together with the precedent allowing its construction would set for further such development and thereby the eventual destruction of that distinctive character.

Question AP4: See the comments in relation to question C8 above.

In conclusion we object to planning permission being granted for this development. We believe there are both legal (the covenant) and planning reasons why this development should not go ahead and trust that CBC will take these fully into account when making its determination.

**Comments:** 12th April 2017

Thank you for your letter dated 10th April informing me of the submission of revised plans for the said development. Having reviewed these plans I do not believe the revisions materially affect my objection submitted as : Runsell House Ashley Road Cheltenham Gloucestershire GL52 6QE

(Objects)Comment submitted date: Sat 11 Mar 2017. I wish therefore for that objection to stand and that you take it into account when coming to your decision on the revised plans.

Greenacre  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

**Comments:** 13th March 2017

I am writing in reference to the above planning permission application. I am a resident of Battledown Estate, on Stanley Road. We love living in this part of town. A huge 'pull' to the area relates to the density of housing and we very much value the Deed of Covenants that applies to the Estate, which limits this housing density to what is considered reasonable to maintain a lack of overcrowding.

We are very concerned about the proposed planning application. If permission is granted for this application, it will represent of blatant breach of the covenant. In itself this will be a real shame, but more importantly it will start a precedent that will allow future similar such applications to be granted - which in turn will gradually but surely affect the whole estate. We are very much opposed to such a proposal and find it important to raise our concerns and objections to the proposed plans.

We very much hope that our concerns will be taken into account and acted upon when consideration is made by the Council towards this particular application.

High Croft  
Oakley Road  
Battledown  
Cheltenham

**Comments:** 3rd March 2017

I write in my private capacity as a resident of High Croft, Oakley Road, Battledown. I have lived in my house on the Battledown Estate ("the Estate") since 1989 and have practised as a lawyer both in Cheltenham and London during this period of my local residence.

One of the primary reasons for purchasing our property ,as our family home and for choosing to educate our three children locally, when I re-located my professional career from Clifford Chance , London to Wiggin in Cheltenham, was to be able to enjoy the privilege of the lower-density housing on the Estate which is integral to the area.

I understood that this concept was protected by a combination of the Estate's 1859 Deed of Covenants , which all residents of the Estate voluntarily agree to sign up to on first occupation , and , since 1948 onwards , the planning policies for the local area and the associated planning regime for which your Council are responsible for upholding and enforcing.

I believe that this dual regime and its synergy of approach has helped to preserve a unique environment for in excess of 150 years not only for Estate residents , like myself and my family, but also for the multitude of other citizens of or visitors to our area in Cheltenham all of whom make regular, and in some cases daily, use of the Estate , including for relaxation and exercise purposes , allowing everyone to enjoy the quiet roads and the leafy and green environment of the Battledown area.

I understand that the applicant company is owned by or otherwise connected with a resident or residents of the Estate and so he/she/they will have signed up to the said Deed of Covenants



when becoming an occupier of an Estate property. If so , I find it difficult to comprehend why he/she/they would submit such a planning application for this proposed two-house scheme on the above site which, as they will personally know , is so clearly a flagrant breach of the density of dwelling provisions contained within the said Deed of Covenants which must be preserved by the Battledown Trustees for the continued benefit of the developer's co-residents and everyone else using the Estate.

For similar reasons , on any reasonable planning analysis, this application constitutes "over-development " of the site , and therefore ,if this planning (or any similar) application is allowed by the Council and if a two-house development were to proceed on this part of the Estate , in my view, the Council will be responsible for condoning the potential detriment which will be caused thereby to all residents of the Estate as well as to hundreds of other people from throughout the local area both now or in the future.

In summary, I consider this application both vexatious and bad-neighbourly and object to it in the strongest terms.

I implore the Council to use all of its planning powers to support the long-standing integrity and established ambience of the Estate and to refuse this planning application.

Please also note, for the record , that :-

- 1) regardless of the dwelling's re-design , the present proposed form of which I do not consider appropriate for the Estate and therefore for the Council to permit , I consider that any two-house scheme on this property would be unacceptable. To grant planning consent for this or any alternative form of such intense development of this application site would create an adverse planning precedent . Also , it would be detrimental to the residents of the Estate as well as to the wider people living within and to the heritage of Cheltenham.
- 2) I have grave concerns about the adverse impact of this two-house development proposal , or any similar scheme, on the visual and other amenities of the subject property.
- 3) There must be real health and safety concerns regarding any intensification of use allowed in respect of the current or any modified access to and from this application site on to Birchley Road and in particular at such a point so close to the already dangerous bend in the configuration of that Estate Road.

Therefore , my objections , as set out in this communication , will stand against this or any future two-house scheme , whatever its modified size or appearance might be , in respect of this property.

Please acknowledge safe receipt of this communication and confirm that my objections are duly noted and will be taken into account by the Local Planning Authority prior to any decision being made on this application.

**Comments: 18th April 2017**

I have received your letter of 10 April notifying me of the revised proposal for the above development , for which many thanks.

Having now reviewed these proposed changes to this scheme , I confirm that all of my objections , as set out in my communication of 3 March which is captured below, remain as stated therein and which are therefore deemed repeated by me.

For all of these reasons , I continue to object to this two-house scheme on this site.

**Comments: 19th May 2017**

Thank you for your letter of 16 May notifying me of the further revisions (including the supporting plans and changes relating to access) to the above application.

Having reviewed all this information on-line , I confirm that I maintain my previous objection to this proposed development on safety grounds .

Also , I confirm , for the avoidance of doubt , that all of my original objections to this two-house scheme remain and for the various reasons I have set out in my previous communications.

I therefore ask the Council to reject it.

Oak Magna  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

**Comments:** 7th March 2017

We would like to express our sincerest objection against the abovementioned planning application from the current owners of Water Gardens to erect two new dwellings in place of the existing property.

This would be in conspicuous violation of the 1859 Deed of Covenants, the terms of which we, as property owners of The Battledown Estate, are not only bound to observe, but hold in the highest of regards. The Deed has preserved the Estate in pristine condition since its foundation. I believe I speak for most of us when I describe the Estate as an extraordinary neighbourhood - a unique, picturesque, sylvan environment. The Seventh Covenant fortifies each property's privacy, and thus ensures the privacy of its inhabitants.

Violation of this Covenant, and indeed the Deed itself in any way, would be a disappointing and dangerous precedent for further such developments on the Estate. I will not partake in the defiling of my home, of our home, by remaining reticent.

Thank you for your time, your consideration is sincerely appreciated.

Pedwardine  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 3rd March 2017

When I purchased my property in Battledown I was advised by my solicitor of the obligations under the Covenants relating to the estate and proceeded with the purchase confident that all owners would be similarly bound.

In submitting this application it appears that the owner of the property in question wishes to be exempt from those obligations.

If this development goes ahead it will damage the current environment of the Estate and may open the floodgates to significant future densification which the local infrastructure and access cannot support.

2 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

**Comments:** 7th March 2017

I object to the above planning application that is pending your decision.

My principal objection is that the plan to build two dwellings on the current 'The Water Gardens' plot would constitute a material breach of the 1859 Battledown Estate Deed of Covenants in that it will increase the density of housing on the Battledown 'Lot 60' site beyond permitted limits.

Such a breach would set a dangerous precedent. If this plan is approved it could be reasonably expected that other similar schemes would follow and, over time, the heritage of Battledown, Cheltenham's last surviving private estate from the 19th century would be eradicated.

To preserve the unique environment and the treasured, airy domestic ambience of Battledown (which is enjoyed not just by residents, but numerous others too for recreational purposes - running, cycling, walking etc.), I request that you reject this and any other plans that may be forthcoming for the development of two dwellings on this site.

Subordinate to the above point please also consider the following which seek to note where the existing Council Core Planning Policy, as I understand it, is significantly challenged by this proposal:

- 1) The pictures that have been provided do not seem to include details of the scale (in particular the height) of the proposed new dwellings relative to the existing property. Depending on this there is the potential for this scheme to be breaching the existing privacy of other properties (including my own) in the near vicinity.
- 2) Even without scales included, I would imagine that replacing the existing single 2 floor dwelling with a couple of extensive 4 floor properties would be overbearing and would dominate the existing locality.
- 3) The proposed industrial scale 'Russia in the 1970s' look of this development is completely out of keeping with the character of the existing Water Gardens property and other properties nearby.
- 4) Whilst the existing properties in the area seek to passively blend in with the natural leafy environment of Battledown this effort seeks to quite brashly place a stand out scar on the local environment.

I would be most grateful if you would give consideration to the above points when making your decision on this matter and I would respectfully request that, having done so, you refuse this application.

Southern Lawn  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 12th March 2017

I object to the proposal to demolish the house known as Water Gardens and replace one dwelling with two houses on the following grounds:

The Proposal to replace one dwelling with two dwellings does not meet the test of sustainable development under CP1 and CP2 of Cheltenham Borough Local Plan. If approved, it would cause significant and irreversible harm to the setting of Cheltenham and to valued landscapes.

The Battledown Estate is unique as the only Victorian Estate in England to have retained its original characteristics. This is due to the unbroken line of Trustees who have, over 157 years, enforced the original covenants despite numerous attempts by developers to breach them.

The trustees have worked closely with Cheltenham Borough Council on many occasions and it is through such joint efforts that the character of the area has been conserved for future generations. Public rights of way along the verges and public footpaths ensure that many non-residents also enjoy these benefits.

The covenants specify, amongst other matters, a low density of housing. This has resulted in a unique pattern of housing and a visual "greenness" which has been explicitly valued on many occasions not only by CBC but also by other environmentally aware bodies.

For example, CBC states in the Local Development Framework. Development on Garden Land and Infill Sites in Cheltenham. Supplementary Planning Document. June 2009. Appendix 2: "Battledown - This area comprises large individual properties set into their own grounds climbing up the escarpment to the east away from the 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."

Although the covenants themselves are no bar to planning approval, the Council explicitly acknowledges their part in conserving the environment. The damage created by allowing the sub-division of this plot, and the intensification of an additional dwelling would have a major impact on the immediate surroundings as well as setting a precedent that would make further such proposals difficult to resist.

I have read the other objections on the Council website, and many are both well-argued and well-informed. Whilst supporting most of what has been said elsewhere, in particular, I wish to repeat the comments registered by:

Wellswood House (5 March) challenging the Design and Access Statement, which claims that consultation with neighbours and the Battledown Estate have taken place and are ongoing. I believe these claims to be untrue.

The Headlands (3 March) concerning the historical and locational value of the Battledown Estate. Which "straddles the Cotswold AONB, incorporates The Camp, a scheduled Ancient Monument and provides a part of the hill rim which surrounds the town. It is fully open to the public and currently much used by runners, walkers, horse riders and cyclists."

Birchley House (Letter 3 March) which refers in detail to planning Strategy and Policy.

I ask the Council to consider this application in its wider context and to refuse permission to the developer for the second dwelling. There would be no objection to a request to demolish and replace or to renovate the existing single dwelling.

**Comments: 21st April 2017**

The revised plans offer no improvement upon the previous plans in terms of the objections already submitted.

Neighbours and consultees, including the Parish Council on 9 March 2017, have made clear that the proposed development - by breaching specific density guidelines - would have a disproportionately negative impact upon the local environment.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 11th March 2017

I strongly object to this planning application due to the following;

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique as it is the sole remaining Victorian estate which is governed by its founding Charter, (a Deed of Covenant or Trust), and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees. This proposed development is in breach of the Battledown Estate Deed of Covenant. The existence of such covenant should be considered as part of the planning decision and not viewed as a separate matter. This planning application has now already been unanimously rejected by Charlton Kings Parish Planning Committee, and they also support the view "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"

The Cheltenham Borough Councils (CBC) Local Plan sets out numerous objectives and policies, including "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23). Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets...". Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..."and "safeguarding attractive landscape". Hence, the Estate covenants are material considerations in planning terms as they directly support the aims of the Local plan and its policies.

You, as Director of Planning in Cheltenham, will be more than aware that such a breach of covenant would destroy the uniqueness of this age old Estate and indeed a part of Cheltenham's historical significance and heritage. The proposal would have a detrimental impact upon the character and appearance of the local landscape. It does not represent sustainable development within the context of paragraph 14 of the National Planning Policy Framework (NPPF) and is contrary to section 11 of this said document, and also to requirements of CP4, CP7, and policy GE3 of the Cheltenham Borough Local Plan.

The specific design of the proposed new houses is neither in keeping with the existing surrounding dwellings. The elevation with four storeys is indicative of a block of flats and the design is totally unsympathetic and insensitive. I have not been able to ascertain the proposed ridge heights on Plot 1 and Plot 2 which is not listed anywhere in the materials online, however, the four storey houses would be very significantly higher than the two storey house which is to be demolished and would also be much higher than any of the other houses within the row of which they would form a part. The maximum ridge height on both adjacent properties to the North and South [both] have a ridge height level of only circa 103.0. It is clear from the plans submitted that the proposed 6,100+sqft four storey houses and integral "super garages" with living space above are enormous and resemble blocks of flats. They do not in any way compliment and respect neighbouring properties.

This is clearly overdevelopment of the plot, particularly due to the natural constraints of the site and shared access onto Birchley Road. Policy CP4a provides that "Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality." In this context amenity includes loss of outlook and separately loss of privacy. The drawing 'Site Section H-H' highlights the hypocrisy and blatant disregard shown by the developers towards the neighbouring properties, such that a planned reduction in the height of

the eastern boundary hedge would allow the new dwellings to enjoy views across Cheltenham, yet the new buildings themselves would completely block the same current views for the existing properties to the west of the site - namely Birchley House and Ash Tree House. Further, given their bulk and mass, they will have a visually overbearing impact on surrounding properties. Therefore, compliance with policies CP7 and GE3 has not been achieved.

Similarly the four storey buildings are shown to have bedroom windows overlooking my property and those of my neighbours. Although those overlooking windows will be more than 21 metres away, in the context of the open aspect of this site and the topography the loss of privacy would be very significant. In these circumstances, the minimum distances should be disapplied.

This application to build two sizeable houses with accompanying vehicle numbers will add to the risk of further traffic problems as the existing access is difficult given the plot is situated on a steep bend of Birchley Road where they have been traffic accidents in recent years. This is contrary to both; Policy CP4b - "Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level", and Policy TP1 - "Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access...."

I would be grateful if the council would take my objections into consideration when deciding this application and it is respectfully requested that planning permission for the above development be refused.

**Comments:** 23rd April 2017

Thank you for your letter dated 10 April 2017.

Having reviewed these new plans I do not believe the revisions materially affect my objection submitted previously.

The proposed 6,100+sqft four storey houses are [still] enormous and resemble blocks of flats. They do not in any way compliment and respect neighbouring properties.

I would be grateful if the council would take my previous objections into consideration when deciding this application and it is respectfully requested that planning permission for the above development be refused.

The Uplands  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

**Comments:** 14th March 2017

As residents living in Battledown (since 2014, and we plan to stay at least another 20 years) our attention has been drawn to the proposal of the relatively new owners of The Water Gardens, Birchley Road, to demolish one large residence, and replace it with two brand new properties.

We would like to lodge our strong opposition to this plan, as it breaches the Deed of Covenants, in terms of maximum property numbers per lot, which all Battledown residents have, and continue to, abide by since they were first introduced over 150 years ago.

In addition, the property in question is not in need of anything other than redecoration/renovation, to suit personal tastes. It is certainly NOT a small, tired or old/run down building, and as such, we also feel that, aside from our key concern above, this proposal also poses a detrimental

environmental impact, in planning to demolish a large modern home unnecessarily, and seemingly purely for financial gain.

Thank you for your kind attention.

**Comments:** 15th March 2017

I wanted to add a couple of quick points to my wife's note (attached) to the planning department;

- (1) One key factor in our decision to buy on the Battledown estate was the specific protection around future development 'intensity' contained in the Estate Deed of Covenants

This was, and is, very important to us and resulted in us making a significant emotional and financial commitment to living on the Estate and in Cheltenham

- (2) I don't have knowledge of development volumes and intensity in Cheltenham - appears to be a lot going on which is positive for the town. However, in this case I would urge the Council to additionally consider the potential legal costs which may result in contesting the principles and legal position of the Estate Deed - I assume ultimately with both residents and Trustees if it came to that

From my experience this can be protracted and difficult resulting in material opportunity cost - with minimal overall benefit to the Towns wider development initiatives

I would ask that the council officials, exercising their powers as elected representatives, to please carefully and critically review this request (as usual)

Avalon  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PB

**Comments:** 14th March 2017

I should like to object to the planning application regarding the above property on many grounds but particularly because it will increase vehicular traffic on this really dangerous bend, which is a notorious 'black-spot'. In fact, special surfacing has already been applied in this area to increase tyre grip in inclement weather. Even so, over the years there have been many accidents at this point of the estate.

Obviously, increased usage will exacerbate the problem.

Cobham Court  
Beechwood Close  
Battledown  
GL52 6QQ

**Comments:** 14th March 2017

I would like to object to the building of extra houses on water garden.

Little Ashley  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QE

**Comments:** 14th March 2017

Concerning the Water Gardens development application by BHL. As residents at the Battledown estate conscious of the existing traffic hazards from traffic along Battledown approach we express concern in relation to a potential increase in motor traffic if road access between the new estate and Battledown Approach is permitted. Considerable risks are attached to an increase in traffic past the primary school situated on Battledown approach.

Greenacre  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

**Comments:** 23rd April 2017

I am writing in reference to the above planning permission application.

We have been living in Battledown for 7 years now and love the peace and tranquility of the neighbourhood. We love living in this part of town and actively looked to live here because of the density of housing. We very much value the Deed of Covenants that applies to the Estate, which limits this housing density to what is considered reasonable to maintain a lack of overcrowding.

We are very concerned about the proposed planning application. If permission is granted for this application, it will represent of blatant breach of the covenant. In itself this will be a real shame, but more importantly it will start a precedent that will allow future similar such applications to be granted - which in turn will gradually but surely affect the whole estate. We are very much opposed to such a proposal and find it important to raise our concerns and objections to the proposed plans.

We very much hope that our concerns will be taken into account and acted upon when consideration is made by the Council towards this particular application.

Tanglin  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:**  
NONE GIVEN

Falcons Crest  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

**Comments:** 13th April 2017



I have objected before by email. The revised plans do not resolve the key difficulty, which is that the owner plans to flout the trust deed.

Lisvane  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:**

Letter attached.

Birchley House, Birchley Road, Battledown, Cheltenham,

Glos GL52 6NY

Telephone: [REDACTED]

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To Cheltenham Borough Council  
Planning Department  
P.O. Box 12  
Municipal Offices  
Promenade  
Cheltenham  
GL50-1PP

For the attention of Mr Ben Hawkes

6<sup>th</sup> March 2017

Planning Ref:-17/00365/FUL

Dear Sir

Proposal; Demolition of existing building and garage and replacement with two new detached dwellings at The Water Gardens, Birchley Road Cheltenham

1. Introduction

I am the owner of Birchley House, Birchley Road, the property which immediately abuts the eastern boundary of the proposed development site. I have lived at this property for almost 14 years.

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique because as far as I am aware it is the sole remaining Victorian estate which is governed by its founding Charter, (a Deed of Covenant or Trust), and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees.

2. Planning Strategy and Policy

Government has published a national sustainable development strategy. In that strategy "Sustainable Development" means "A better quality of life", the object of which is to ensure "a better quality of life for everyone, now and for future generations to come, through...effective protection of the environment..."

The Government guidance also states that it considers the historic environment to be a central part of the country's heritage and national identity which contributes to the quality of life and economic

activity. It says that effective protection for ALL aspects of the country's historic environment is fundamental to the Government's policies for environmental stewardship.

In 1999 Cheltenham Borough Council commissioned a report entitled "Cheltenham: Its Economy and Future". That report concluded that the economic success of the town is the product of its "total heritage---its history and environmental quality..." and its recommendation was that "the cultivation of this total approach must be maintained". Based on this report CBC published an Economic Development and Regeneration Strategy which established five strategic priorities for the town, the one of relevance to this objection being "a quality approach to the town".

Against this background CBC has produced its Local Plan. Various statutory provisions require that planning applications are determined in accordance with the Local Plan. The Local Plan sets out numerous objectives and policies which are informed by the Government's guidance and CBC's own research. Those objectives include "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23).

Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets..." Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..." and "safeguarding attractive landscape".

### 3. The Planning Statement and Sustainable Development (CP1)

The Planning Statement which has been lodged by the applicant admits at Para 1.8 that "The area (i.e. Battledown estate) is characterised by large houses in large plots which is the dominant typology of the Battledown Estate and along with its mature landscape setting gives the area its identity....its landscaped setting does positively contribute to the local character".

The applicant also states correctly at para 1.8 of his Planning Statement that "to preserve the founding green and spacious principles of this residential estate a legal deed (i.e. the Deed of Covenant to which I have referred above) restricts owners and any successors in title to a number of conditions including the density and character of new residential development". The applicant has prefaced the above comment by saying that this is not a planning matter but in the context of what I have set out in the paragraphs above that is not correct. That is because this proposed development is for two houses to replace the one which he proposes to demolish. The trustees' professional advice from both surveyors and solicitors is that the construction of two houses on the site would breach the density obligation in the governing deed. If the planning consent is granted then the trustees of the Battledown Estate will be obliged by the duties of their office as trustees to take appropriate steps, possibly including litigation, to enforce the deed to prevent the building works from taking place. However, there can never be absolute certainty in litigation and so if the result is that the construction does eventually take place then the precedent will have been set and it is inevitable that there will be intense pressure for the similar development of many of the other houses on the Battledown Estate which the trustees will be powerless to prevent and one of Cheltenham's heritage assets will be lost for ever.

If CBC were minded to grant this application then the resulting damage to Cheltenham's attractiveness to all of its inhabitants, and to Battledown in particular, would be severe. Current and future generations would not be able to enjoy the amenity of its mature landscaped setting and the CBC objectives and policies in its Local Plan and Government guidance would have been cast aside. On this basis therefore this planning application does not constitute sustainable development.

Therefore the presumption which would otherwise apply in favour of granting the application cannot apply and so I would request that this application be refused.

#### 4. The Planning Statement and Sustainable Environment (CP3)

The Local plan includes a policy for sustainable environment (CP3). The aim is stated to be “to protect and enhance the built and natural environments...” It continues “...A high quality environment can help the towns economy” and further the CBC will “...control () any negative impacts of development on landscape, buildings and wildlife.” In furtherance of these aims CP3 provides that “Development will be permitted only where it would...conserve or enhance the best of the built or natural environments”. “Best” is defined as “a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site OR LOCALLY”(my emphasis).

The area of the Battledown Estate is a feature of Cheltenham’s environment which by the applicants own planning statement is described as “an attractive rural leafy setting within proximity to Cheltenham town”. Furthermore, “its mature landscape setting gives the area its identity.” And further “its landscaped setting does positively contribute to local character”.

It is clear that granting consent for two houses on this site for the reasons explained at 3 above could possibly/likely lead to the destruction of the Battledown Estate as originally conceived and subsequently preserved by the trustees over the generations for the benefit of the residents and also for the town. Consequently granting consent is not consistent with the CBCs policy CP3 and should be refused.

#### 5. Safe and Sustainable Living (CP4a)

Policy CP4a provides that “Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality.” In this context amenity includes loss of outlook and separately loss of privacy.

Loss of Outlook---Due to the topography the outlook from Birchley House is primarily to the west across the intended site. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the two storey house which is to be demolished and also higher than any of the other houses within the row of which they would form a part. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. If two houses were built the combined width of the new development would also represent a very significant loss of outlook from my property and from that of my neighbours. As adjoining landowners there would be a significant loss of amenity arising from these current proposals.

Loss of Privacy---Similarly the four storey buildings are shown to have bedroom windows overlooking my property and those of my neighbours. Although those overlooking windows will be more than 21 metres away, in the context of the open aspect of this site and the topography the loss of privacy would be very significant. In the circumstances the minimum distances should be disapplied.

For both of these reasons policy CP4a has not been complied with and so the application should be refused.

#### 6. Safe and sustainable Living (CP4b) and Development and Highway Safety (TP1)

Policy CP4b provides that “Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level”

Policy TP1 provides that “Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access....”

The point at which the existing house joins the highway is very near to a bend. The road at this point is quite steep. This section of road is particularly dangerous. There have been numerous accidents on this bend. I have had a car go through my fence in to my garden. There have been numerous instances of cars hitting the walls and trees which line the road at this point and indeed going into the ditch on this bend. The trustees have done what they can to make the situation safer but there is little more that they can do.

The maximum number of occupants for which the existing house has been built is 8 (i.e. four double bedrooms). If the proposed new houses were built then the maximum number of occupants would be 24 (i.e. 12 double bedrooms). It is to be expected therefore that the number of vehicle movements to and from the new premises would be three times greater than at present and so the risk associated with that would also be significantly greater.

For this reason policies CP4b and TP1 have not been complied with and the application should be refused.

#### 7. Design (CP7) and Development within extensive gardens (GE3)

Policy CP7 provides that “Development will only be permitted where it....adequately reflects principals of urban design and ...compliments and respects neighbouring development...” It is a principle of urban design in the Local Plan to “retain...skylines...”

Policy GE 3 provides that “In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site...”

As stated at 5 above the proposed four storey dwellings are disproportionate in their height when compared to the other houses in the row of which these two are intended to form part. The ridge line will be significantly higher than that of the house which is to be demolished (although the applicant has chosen not draw attention to this by including this detail on the submitted drawings). The proposed dwellings are also very much higher than the rooves of the dwellings which are on either side (north and south) particularly the house to the north and there are great concerns as to the restriction of sunlight to that property particularly during the winter. The proposed houses do not compliment or respect the neighbouring properties in these various respects.

Also the houses which are proposed are inappropriate to those which are nearby due to their mass and bulk. The properties would have a visually overbearing impact on the premises around them and as such would be intrusive.

It is clear therefore that policies CP7 and GE3 have not been complied with and therefore the application should be refused.

## 8. Private Green Space (GE2)

The Local Plan states that green space is “undeveloped land, not necessarily provided for formal recreation or public amenity, which makes a positive visual and environmental contribution to the town...” which includes “...private gardens...” Green space is acknowledged in the Plan as having “worth for townscape environmental wildlife and recreational values”. The townscape is defined in the Local plan as “the positive features of a place which create a special identity for a given area”. Outside of the conservation area “green space is just as important to the local townscape and character and is as highly valued by residents.” “...green space contributes to an urban environment...by creating lower densities of development it can reduce levels of activity in an area, thereby contributing to a more peaceful and relaxed ambiance, a benefit...in...residential areas”. “Human life, health and wellbeing depend on a healthy natural environment.” “Green spaces are essential in providing habitats for a wide range of flora and fauna.”

In paragraph 6.23 of the Local Plan relating to private green space it states that such gardens “are often considered by owners to be a valuable resource; a financial resources which may be realised through development....Developments of this nature can be to the detriment of the townscape and environmental value of green space.”

Against this background the Local Plan establishes the policy (GE2) that “The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted.” Note 2 to this policy provides that “the fact that a site is the most cost effective development option for the applicant is not justification for an exception to policy GE2”

The green space of this site is an integral part of the green space provided by the Battledown Estate to the townscape of Cheltenham. Battledown Hill is an attractive wooded feature which can be seen from many vantage points around the town and from the surrounding countryside. Clearly the Battledown Estate makes a significant townscape and environmental contribution to the town and so granting this consent would be in breach of this policy and it should be refused.

## 9. Conclusion

This application seeks to impose on the owners of those properties that neighbour the proposed development site a form of development which is overbearing and inappropriately large. The proposals are unsympathetic to the nature and scale of the surrounding properties. It is clear that the quality of life for those who live near to the site will be adversely affected in many ways. In particular the granting of this consent could lead to the destruction of the Battledown Estate as an attractive feature of the town and that would be much to be regretted. I have explained that whereas that would not normally be considered a planning matter it is a planning matter in this instance because the application if granted would be detrimental to the survival of the Battledown Estate and so does not satisfy the requirements for sustainable development. Furthermore, as I have demonstrated, this application does not comply with many of the Council’s Local Plan policies and so I would strongly urge CBC to refuse this application.

Please be aware that this is not a case of “NIMBYism”. The officers will be aware that there have been numerous applications for planning consent on the Battledown Estate. Some of those attract a few objections but there are some which attract no objections at all. This application however is of a different order, it is not supported by the Battledown trustees, and is highly insensitive to the neighbouring residents. I would remind the Council that, as I have said at 2 above, the Government

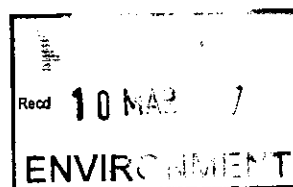
is seeking to promote sustainable development being a better quality of life for everyone, now and for future generations and that cannot be achieved by granting this application.

10. Referral to committee

If this application is to be referred to the Councillors for a decision then please note that I would like to address the meeting of the committee at which this application is to be decided and would you therefore please let me know in due course the date that that meeting is to be held

Yours faithfully,

A solid black rectangular box used to redact the signature of the sender.



Clevelands  
Ashley Road  
Battledown  
Cheltenham  
GL52 6PG

Thursday, 2 March 2017

Ms Tracy Crews  
Director of Planning  
Cheltenham Borough Council  
The Promenade  
Cheltenham

Dear Ms Crews

**Re: Planning application 17/00365/FUL**  
**The Water Gardens**  
**Birchley Road**  
**Battledown**  
**Cheltenham**

It has recently come to my attention that the above planning application is applying to divide this plot in two thus creating two separate dwellings.

My understanding regarding properties in the Battledown Estate is that each property has approx. half an acre per plot, by allowing this development it subsequently reduces this to two plots per half acre.

There are many properties within the Battledown Estate that could very easily be sub divided into smaller plots each with less than half an acre.

The negative outcome of allowing such an application is that it would set a precedent for such developments, increase traffic flow set against an area with few if no pathways to walk on.



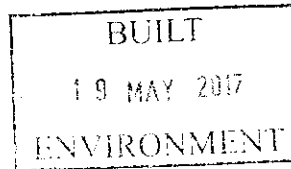
If by allowing this development you can be assured that within a short space of time you will be presented with another proposal to divide for the reasons of personal benefit only.

I am therefore asking that you do not consider this application for the reasons that i have outlined.

Thank you

~~Yours sincerely~~





Clevelands  
Ashley Road  
Battledown  
Cheltenham  
GL52 6PG

Friday, 19 May 2017

Mr Ben Hawkes  
The Planning Dept.  
Cheltenham Borough Council  
The Promenade  
Cheltenham  
GL50 1PP

Dear Mr Hawkes

**Re: Planning Application 17/00365/FUL**  
**The Water Garden, Birchley Road, Cheltenham**

As an owner of a house in Battledown, I am objecting to the over development of The Water Garden plot in Birchley Road on the basis that it will effectively double the amount of vehicles.

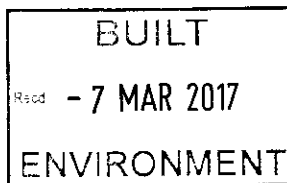
The drawings show the development of two separate houses with at least 3 or 4 vehicles each, in affect that plot with one entrance could be used by up to 8 vehicles , also bearing in mind that it is located on a blind bend as well as on a downward sloping road.

My concern would be that there could be some sort of vehicle incident in the future as well as the fact that there is no pavement so people have to walk in the roadway.

Please will you consider my objection.

Yours sincerely

A large black rectangular redaction box covering the signature area.A small black rectangular redaction box covering a line of text.



Phone [REDACTED]  
Email [REDACTED]

Hawthorns  
Oakley Road  
Cheltenham  
Glos. GL52 6NZ

6<sup>th</sup> March 2017

*Dear Ms. Crews*

**Planning Application 17/00365/FUL  
Objection thereto**

As residents of the Battledown Estate, we wish to object, with the greatest vigour, to the above planning application.

The grounds for our objection are that a two-dwelling proposal (of whatever size or design) would breach the Estate's 1859 Deed of Covenant, which limits the housing density permitted on the Estate. It is this low density which gives the Estate its characteristic, and to which each existing householder (including the controlling shareholders of the developer submitting the Application) has signed up.

The issue for us, and for the Trustees of the Estate, is not one of design or of the act of replacement of the existing property at The Water Gardens, but is of opposition to a "2 property" replacement.

Approval of this application, as submitted, would open the floodgates to widespread further development of the Estate, in contravention of our long-standing, and equally long-observed Deed of Covenant, and we ask that the Council refuse the application on this basis.

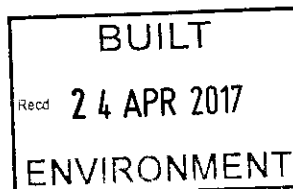
*Yours sincerely,*

[REDACTED]

[REDACTED]

Ms Tracey Crews  
Director of Planning  
Cheltenham Borough Council

BY HAND



Phone [REDACTED]  
Email [REDACTED]

Hawthorns  
Oakley Road  
Cheltenham  
Glos. GL52 6NZ

21<sup>st</sup> April 2017

*Dear Ms Crews,*

**Planning Application 17/00365/FUL**

Thank you for the opportunity (provided by your letter dated 10<sup>th</sup> April) to react to revisions to the planning application referenced above.

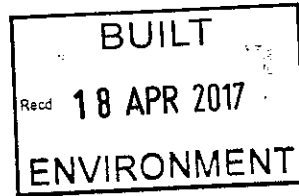
In my view, the revisions are minor, and do not change the opinions of my wife and myself, as submitted in our letter dated 6<sup>th</sup> March. They do not appear to address what for us is the fundamental issue of the density of development on the Battledown Estate, and the implications for the Covenant which each and every resident of the Estate has accepted in their purchase of property on the Estate.

We therefore ask you to accept that our letter of 6<sup>th</sup> March apply to the revised planning submission, as to the original version.

*Yours sincerely,*

[REDACTED]

Ms Tracey Crews  
Director of Planning  
Cheltenham Borough Council



*Carlton House.  
Battledown Drive,  
Cheltenham,  
Gloucestershire.  
GL52 6RX.*



Cheltenham Borough Council,  
Planning Department.  
P.O. Box 12,  
Municipal Offices,  
Promenade,  
Cheltenham.

17<sup>th</sup> April 2017

Dear Ms Crews

The observations and advice contained in our last letter to you remain the same as there are two houses shown on the plans. Perhaps you need to look at your records of your valuation officer and the legal department you had at that time. This would have been prior the sale, the agreement you must have reached with the Trustee's of the Estate which enabled you sell this land in plots of a pre-determined size, together with the Battledown Estate maintained Road?

Yours faithfully



Birchley House, Birchley Road, Battledown, Cheltenham,

Glos GL52 6NY

Telephone: 01242 [REDACTED]

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To Cheltenham Borough Council  
Planning Department  
P.O. Box 12  
Municipal Offices  
Promenade  
Cheltenham  
GL50-1PP

For the attention of Mr Ben Hawkes

10<sup>th</sup> March 2017

Planning Ref:-17/00365/FUL

Dear Sir

Proposal; Demolition of existing building and garage and replacement with two new detached dwellings at The Water Gardens, Birchley Road Cheltenham

I am the owner of Birchley House, Birchley Road, the property which immediately abuts the eastern boundary of the proposed development site. I have lived at this property for almost 14 years.

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique because it is believed to be the sole remaining Victorian estate which is governed by its founding Charter, a 1859 Deed of Trust, and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees.

I wish to object to this planning application on the following grounds:

1. It does not comply with or satisfy the requirements of:
  - a) The Government's national sustainable development strategy for protection of our heritage and historic environment.
  - b) Cheltenham Borough Council's 1999 Economic Development and Regeneration Strategy for the cultivation of the town's history and environmental quality
  - c) Cheltenham Borough Council's Local Plan Policy O11 "to conserve and improve Cheltenham's....historical heritage"
  - d) Cheltenham Borough Council's Local Plan Policy O12 "to conserve and improve Cheltenham's landscape character and green environment"

- e) Cheltenham Borough Council's Local Plan Policy O23 "to secure a high standard of residential amenity"

## 2. Cheltenham Borough Council's Local Plan Policy CP1

Policy CP1 is to ensure that development is sustainable ie development which conserves or enhances environmental assets including conserving historic areas and safeguarding attractive landscape. The Planning Statement which has been lodged by the applicant admits at Para 1.8 that "The area (i.e. Battledown estate) is characterised by large houses in large plots which is the dominant typology of the Battledown Estate and along with its mature landscape setting gives the area its identity....its landscaped setting does positively contribute to the local character".

The applicant also states correctly at para 1.8 of his Planning Statement that "to preserve the founding green and spacious principles of this residential estate a legal deed (i.e. the 1869 Deed of Trust to which I have referred above) restricts owners and any successors in title to a number of conditions including the density and character of new residential development". This proposed development is for two houses to replace the one which it is proposed be demolished. The Battledown Trustees professional advice from both surveyors and solicitors is that two houses on the site would breach the density obligation in the 1859 Trust Deed. If planning consent is granted then a precedent will have been set with the inevitable pressure for the similar over development of many of the other houses on the Battledown Estate leading to the loss of one of Cheltenham's heritage assets for ever.

If this application is granted then the resulting damage to Cheltenham's attractiveness to all of its inhabitants, and to Battledown in particular, would be severe. People now and in the future would not be able to enjoy the amenity of the Battledown mature landscaped setting and the CBC objectives and policies in its Local Plan and Government guidance would have been cast aside. On this basis therefore this planning application does not constitute sustainable development and comply with Policy CP1. Therefore the presumption which would otherwise apply in favour of granting the application cannot apply.

## 3. Cheltenham Borough Council's Local Plan Policy CP3

The aim is stated to be "to protect and enhance the built and natural environments..." It continues "...A high quality environment can help the towns economy" and further the CBC will "...control ( ) any negative impacts of development on landscape, buildings and wildlife." In furtherance of these aims CP3 provides that "Development will be permitted only where it would...conserve or enhance the best of the built or natural environments". "Best" is defined as "a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site OR LOCALLY"(my emphasis).

The area of the Battledown Estate is a feature of Cheltenham's environment which the applicant himself describes as "an attractive rural leafy setting within proximity to Cheltenham town". Furthermore, "its mature landscape setting gives the area its identity" and further "its landscaped setting does positively contribute to local character".

Granting consent for two houses on this site as explained at item 2 above could possibly/likely lead to the destruction of the Battledown Estate as originally conceived and subsequently preserved by the trustees over the generations for the benefit of the residents and also for the town. Consequently granting consent is not consistent with the CBCs policy CP3.



#### 4. Cheltenham Borough Council's Local Plan Policy CP4a

Policy CP4a provides that "Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality." In this context amenity includes loss of outlook and separately loss of privacy.

Loss of Outlook---Due to the topography the outlook from Birchley House is primarily to the west across the intended site. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the existing two storey house which it is proposed be demolished and also higher than any of the other houses within the row of which they would form a part. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. If two houses were built the combined width of the new development would also represent a very significant loss of outlook from my property and from that of my neighbours. As adjoining landowners there would be a significant loss of amenity arising from these current proposals.

Loss of Privacy---Similarly the four storey buildings are shown to have bedroom windows directly looking into my property and overlooking those of my neighbours. Although those windows will be more than 21 metres away, in the context of the open aspect of this site and the topography the loss of privacy would be very significant. In the circumstances the minimum distances should be disapplied.

For both of these reasons policy CP4a has not been complied with.

#### 5. Cheltenham Borough Council's Local Plan Policy CP4b and Development and Highway Safety TP1

Policy CP4b provides that "Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level"

Policy TP1 provides that "Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access...."

The site boundary with Birchley Road from which access to the site is obtained is very near to a bend and also the road at this point is quite steep. This section of road is particularly dangerous as evidenced by the fact that there have been numerous accidents on this bend. There have been numerous instances of cars hitting the walls and trees which line the road at this point and indeed going into the ditch on this bend; I have even had a car go through my fence in to my garden. The trustees have done what they can to make the situation safer but there is little more that they can do.

The current house on the site has four double bedrooms indicating a maximum number of 8 adults living there. If the proposed new houses were built then the maximum occupancy would be 24 (i.e. 12 double bedrooms). Consequently the number of vehicles going to and from the proposed 2 new houses could be three times greater than at present and so the risk associated with that would also be significantly greater.

For this reason policies CP4b and TP1 have not been complied with.

#### 6. Cheltenham Borough Council's Local Plan Policies CP7 and GE3

Policy CP7 provides that "Development will only be permitted where it....adequately reflects principals of urban design and ...compliments and respects neighbouring development..." It is a principle of urban design in the Local Plan to "retain...skylines..."

Policy GE 3 provides that "In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site..."

As stated at 4 above the proposed four storey dwellings are disproportionate in their height when compared to the other houses in the row of which these two are intended to form part. The ridge line will be significantly higher than that of the existing house which is to be demolished.. The proposed dwellings are both also very much higher than the rooves of the dwellings which are on the north and south sides of them, particularly the house to the north and there are great concerns as to the restriction of sunlight to that property particularly during the winter. The proposed houses do not compliment or respect the neighbouring properties in these various respects.

Also the houses which are proposed are inappropriate to those which are nearby due to their mass and bulk. The properties would have a visually overbearing impact on the premises around them and as such would be intrusive.

It is clear therefore that policies CP7 and GE3 have not been complied with

#### 7. Cheltenham Borough Council's Local Plan Policy GE2

Policy GE2 states that green space is "undeveloped land, not necessarily provided for formal recreation or public amenity, which makes a positive visual and environmental contribution to the town..." and this includes "...private gardens..." Green space is acknowledged in the Plan as having "worth for townscape environmental wildlife and recreational values". The townscape is defined in the Local plan as "the positive features of a place which create a special identity for a given area". Outside of the conservation area "green space is just as important to the local townscape and character and is as highly valued by residents." "...green space contributes to an urban environment...by creating lower densities of development it can reduce levels of activity in an area, thereby contributing to a more peaceful and relaxed ambience, a benefit...in...residential areas". "Human life, health and wellbeing depend on a healthy natural environment." "Green spaces are essential in providing habitats for a wide range of flora and fauna."

The Local Plan also states that such gardens "are often considered by owners to be a valuable resource; a financial resources which may be realised through development....Developments of this nature can be to the detriment of the townscape and environmental value of green space."

Accordingly Policy GE2 establishes that "The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted." Note 2 to this policy provides that "the fact that a site is the most cost effective development option for the applicant is not justification for an exception to policy GE2"

The green space of this site is an integral part of the green space provided by the Battledown Estate to the townscape of Cheltenham, and intended to be protected by the terms of the 1859 Trust Deed under the provisions I have already referred to at item 2 above. Battledown Hill is an attractive wooded feature which can be seen from many vantage points around the town and from the

surrounding countryside. Clearly the Battledown Estate makes a significant townscape and environmental contribution to the town. The size and design of the proposed two new houses would be such as to stand out on the hill locally and from a distance and alter this landscape. Accordingly the proposed development would be in breach of this Policy.

#### 8. Flooding

I understand that there are numerous natural underground springs on the Battledown Hill, one or more of which come to the surface within the development site – hence the name given to the existing house of “The Water Gardens”. Currently the springs feed a large ornamental pond within the existing garden but if the proposed development takes place these watercourses would be interfered with resulting in the potential of causing flooding or water logging in gardens nearby or upstream, or worse endangering house foundations with the excess water washing away the subsoil.

#### 9. Housing

The applicant indicates that the proposed development will assist the housing shortage. However it is my understanding that the shortage is in starter and mid-range properties, and therefore not of the type being proposed.

#### 10. Design

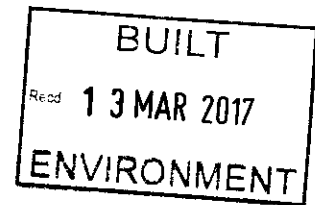
The specific design of the proposed new houses is neither in keeping with the existing surrounding dwellings nor, even on a modern interpretation, does it bear any resemblance to a regency style villa. The elevation with four storeys is indicative of a block of flats and the chimneys at both ends of both houses are reminiscent of a power station. The design is totally unsympathetic and insensitive.

In conclusion, whilst I do not object to development per se, as explained above this particular application does not comply with or satisfy the Government’s national strategy or the policies in the Council’s Local Plan. Accordingly I object to the application and ask the Council to refuse it.

Yours faithfully,

[Redacted Signature]

Field House  
Ashley Road  
Cheltenham  
GL52 6PH



8<sup>th</sup> March 2017

Dear Ms Crews

Planning Application 17/00365/FUL

I write on behalf of my husband and myself to object to the planning application as above.

Having lived on Battledown for at least 42 years, we believe we are the residents who have lived here the longest. Hopefully we are not "old codgers" but people caring and concerned about our surroundings. During all this time it has always been said by the Trustees that only one house is permitted per half-an-acre, as stated in the Covenant of 1859. No-one has been able to alter this, and we can see no reason why the owner/developer of The Water Garden should have the right to do so now, and the Planning Committee of the Cheltenham Borough Council should follow the terms of this Covenant.

The area of Battledown is unique. The other evening we had cause to drive down Birchley Road and could look across through a beautiful pine tree and over The Water Garden to the stunning view across Cheltenham and beyond to the Black Mountains in Wales. Across the road walked two roe deer. I suggest the planning committee might do the same thing to appreciate the area, by driving downhill on Birchley Road. It would be a sacrilege to demolish this house and replace it with two, three storey houses that look more like factory units. Even if permission were given to rebuild one house instead of the present one, we would object to a three storey property, as it would create a precedent, and would not be in-keeping with the other surrounding houses. The view down Birchley Road would be ruined.

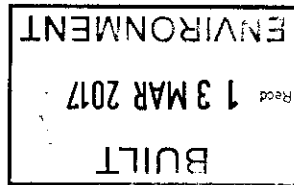
We are lucky and appreciate that the larger gardens provide a haven for wild life. The deer as mentioned above, badgers, foxes, bats, squirrels; and today we can hear the woodpecker drilling in an oak tree. The area is well know for it's bird life and is popular with ornithologists. Recently we have had an owl box fitted into one of our

trees by the Gloucestershire Barn Owl Recovery Unit to encourage them to breed in our garden.

The increase in the density of housing on this estate would be to destroy it's ethos. We strongly object to this planning application for the reasons mentioned above.

Yours sincerely,

[Redacted signature block]



Wellswood House  
Birchley Road  
Cheltenham  
GL52 6NY



12 March 2017

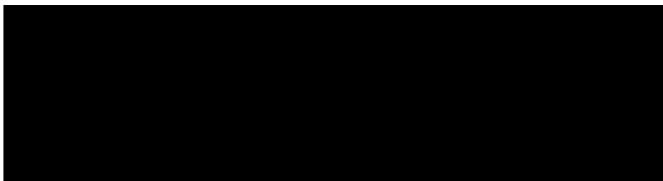
Mr B Hawkes  
Planning Officer, Cheltenham Borough Council  
PO Box 12  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Dear Mr Hawkes

**17/00365/FUL | Demolition of existing building and garage and replacement with two new detached dwellings | The Water Garden Birchley Road Cheltenham Gloucestershire GL52 6NY**

I strongly object to the proposed application. I am submitting my objection by post in order to include two photographs but have started the text of my objection on a separate page for ease of posting online.

Yours sincerely



## **Planning Application at The Water Gardens, Birchley Road. Ref 17/00365/FUL**

I strongly object to the Planning Application made for two houses following demolition of The Water Gardens, your reference Ref 17/00365/FUL. I am an immediate neighbour to the north of the proposed development and would lose significant amenity should the development be allowed.

### **Loss of light and overshadowing**

The most recent document submitted by the developer (8 March 2017), site section F-F, shows the height of the proposed house on plot 1 as being slightly taller than the existing house. However, the new house will sit further back on the plot; it will be downhill and will therefore actually tower over my property. It will cut out all the southerly light to my property in the winter and over my pool until late afternoon /evening even in the summer. This would greatly reduce my enjoyment of my property.

Further, as the new garage of plot 1 will sit very close to the boundary at what appears to be the same height as my upper floor I will lose light in two of the most used rooms in my property, the lounge and the largest bedroom.

### **Overlooking and loss of privacy**

The proposed terrace of plot 1, although on the lower ground floor, would I believe sit just above my pool, taking away the privacy I currently enjoy whilst using the pool.

The kitchen window to the north and large rear staircase window in the plot 1 house would look directly in to my largest bedroom window and downwards in to both my lounge and glass roofed conservatory. This is an unacceptable loss of privacy.

### **Design materials and appearance**

A previous objector described the design as "Russia in the 1970's". I agree. The frontage of the properties has a commercial feel. The northern elevation of plot 1, facing my property, is shown as comprising five different building materials. It has an industrial look and is very unattractive.

### **Layout and density**

The existing house on The Water Gardens plot has a large floor area and is two storeys. In order to site 2 houses on the plot the developer proposes reducing the floor area and building properties that are four storeys high. This is a much higher density of building and hard standing than currently exists on the plot and beyond that allowed by the Battledown Estate covenants.

The infrastructure in Battledown is struggling to support recent development. Extreme weather conditions are already testing the drainage/sewerage systems and the roads deteriorating with overuse by construction traffic. Increasing the housing density will aggravate these problems.

## **Access**

Although The Water Gardens plot is 0.361 hectares in size its position allows for only one access point on a sharp and steep bend. Adding another house to the plot doubles the risk of a serious accident. In recent years three vehicles have breached my hedging (after shot of one attached), another hit the wall of The Water Gardens, and two vehicles (photo of one incident attached) have been pulled from the ditch opposite my property. One vehicle hit the fencing on the outside of Birchley House, both a cyclist and micro-scooter rider have lost control coming downhill and been injured. More vehicles using this entrance can only increase the risk of accidents and injury.

The developer assumes that the access can be widened, presumably for safety purposes, but does not own this land. It is owned by the Battledown Estate and therefore the residents of the Estate. Amending the access across the verge would require approval of the Trustees, who may not choose to grant it. If this were the case, then I believe that allowing the development of two houses on the plot would pose a great danger to traffic and pedestrians.

## **Serious breach of the Terms of the Deed of Covenants of The Battledown Estate**

My property and The Water Gardens sit within the Original Lot 60 of The Battledown Estate, which is approx. 3.75 acres in size. The Deed of Covenants permit only seven houses to be built on this Original Lot and it is, therefore, full. If the Water Gardens is demolished it can be replaced with just one property under the Trust Deed.

When purchasing a property on the Estate buyers are made aware of their legal duty under the Covenants, which are the same obligations for all members of the Battledown community. There are no exceptions for developers.

Of the 16 properties in Birchley Road, Skyview House (formerly Glenesk) was demolished and the rebuild completed last year. The demolition and rebuild of Kerrynead, has just received planning permission; despite being a very modern build there were no objections. The Battledown community accept the cycle of change and improvement to properties but a challenge to the rules we all observe after legally accepting these is underhand.

## **In conclusion**

Descending Battledown Hill via Birchley Road, residents and visitors alike enjoy a fantastic vista across Cheltenham to the Black Mountains. To allow the development of two such domineering properties on this plot, merely for the financial advantage of a developer and their financial backer, will take this from future generations. An important part of the Battledown heritage will be lost and the properties will have an adverse effect on the visual amenity of the area as a whole.

I urge the developer to withdraw these plans. They miss an opportunity to make best use of a very private and attractive plot. Building a single low level house taking in the views and utilising the aspect of the plot including the reinstatement of the ponds could result in a stunning home commanding a premium. This could be newsworthy for the right reason and not for a challenge to a Deed put in place to secure the amenity of the majority.











Birchley House, Birchley Road, Battledown, Cheltenham,

Glos GL52 6NY

Telephone: [REDACTED]

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To Cheltenham Borough Council  
Planning Department  
P.O. Box 12  
Municipal Offices  
Promenade  
Cheltenham  
GL50-1PP

For the attention of Mr Ben Hawkes

13<sup>th</sup> March 2017

Planning Ref:-17/00365/FUL

Dear Sir

Proposal; Demolition of existing building and garage and replacement with two new detached dwellings at The Water Gardens, Birchley Road Cheltenham

I live at Birchley House, Birchley Road; the property which immediately abuts the eastern boundary of the proposed development site.

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique because it is believed to be the sole remaining Victorian estate which is governed by its founding Charter, a 1859 Deed of Trust, and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees. It should therefore be preserved at all costs.

I wish to object to this planning application on the following grounds:

1. It does not comply with or satisfy the requirements of:
  - a) The Government's national sustainable development strategy for protection of our heritage and historic environment.
  - b) Cheltenham Borough Council's 1999 Economic Development and Regeneration Strategy for the cultivation of the town's history and environmental quality
  - c) Cheltenham Borough Council's Local Plan Policy O11 "to conserve and improve Cheltenham's....historical heritage"
  - d) Cheltenham Borough Council's Local Plan Policy O12 "to conserve and improve Cheltenham's landscape character and green environment"

- e) Cheltenham Borough Council's Local Plan Policy O23 "to secure a high standard of residential amenity"

## 2. Cheltenham Borough Council's Local Plan Policy CP1

Policy CP1 is to ensure that development is sustainable, i.e. development which conserves or enhances environmental assets including conserving historic areas and safeguarding attractive landscape. The Planning Statement which has been lodged by the applicant admits at Para 1.8 that "The area (i.e. Battledown estate) is characterised by large houses in large plots which is the dominant typology of the Battledown Estate and along with its mature landscape setting gives the area its identity....its landscaped setting does positively contribute to the local character".

The applicant also states correctly at para 1.8 of his Planning Statement that "to preserve the founding green and spacious principles of this residential estate a legal deed (i.e. the 1869 Deed of Trust to which I have referred above) restricts owners and any successors in title to a number of conditions including the density and character of new residential development". If two houses are built in place of the one presently there, this will breach the density obligation in the 1859 Trust Deed, as confirmed by the professional advice obtained by the Battledown Trustees from both surveyors and solicitors. This will then set a precedent for the similar over development of many of the other houses on the Battledown Estate, and one of Cheltenham's heritage assets will be lost forever.

If this application is granted, people now and in the future will not be able to enjoy the amenity of the Battledown mature landscaped setting, and the CBC objectives and policies in its Local Plan and Government guidance would have been ignored. The resulting damage to Cheltenham's attractiveness, both to Battledown and to wider inhabitants, would be severe. Therefore this planning application does not constitute sustainable development and comply with Policy CP1, and should be rejected.

## 3. Cheltenham Borough Council's Local Plan Policy CP3

The aim is stated to be "to protect and enhance the built and natural environments..." and "...A high quality environment can help the towns economy". Further, the CBC will "...control () any negative impacts of development on landscape, buildings and wildlife." In accordance with these aims, CP3 states that "Development will be permitted only where it would...conserve or enhance the best of the built or natural environments". "Best" is defined as "a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site OR LOCALLY"(my emphasis).

The applicant himself describes the Battledown Estate as "an attractive rural leafy setting within proximity to Cheltenham town". Furthermore, "its mature landscape setting gives the area its identity" and "its landscaped setting does positively contribute to local character".

As detailed at item 2 above, if planning permission for 2 houses is granted, it would lead to the destruction of the Battledown Estate as originally conceived and subsequently preserved by the trustees over the generations for the benefit of the residents and also for the town. Consequently granting consent is not consistent with the CBCs policy CP3 and the application should be rejected.

## 4. Cheltenham Borough Council's Local Plan Policy CP4a

Policy CP4a states that “Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality.” This refers to loss of outlook and separately loss of privacy.

The outlook from Birchley House is primarily to the west across the intended site. The proposed four storey houses would be much higher than the existing two storey house and also higher than any of the other houses within that row. The new houses would dominate and ruin the current outlook due to their disproportionate size in terms of both height and width. The combined width of the new development would not only result in a significant loss of outlook from Birchley House but also from that of my neighbours. Taken together, this is unacceptable harm to the amenity of adjoining landowners and the locality, and is not in agreement with Policy CP4a.

The location of the bedroom windows of the four storey dwellings is such that they would be looking directly into my home and also my neighbours, resulting in a significant loss of privacy for both houses. This would be so despite the windows being more than 21 metres away due to the open aspect of the site and the topography. In the circumstances the minimum distances should be disappplied to preserve amenity in accordance with Policy CP4a.

#### 5. Cheltenham Borough Council’s Local Plan Policy CP4b and Development and Highway Safety TP1

Policy CP4b states that “Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level”

Policy TP1 states that “Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access....”

The development site is accessed very near to an almost blind bend where the road is quite steep. It is particularly dangerous here and there have been numerous accidents. Cars have hit walls and trees and have even gone into the ditch; we have had a car go through our fence and into our garden. Measures have been taken by the Trustees to improve safety at this point in the road but it still remains perilous.

The maximum occupancy of the proposed new houses is 24 (i.e. 12 double bedrooms), which is a significant increase from the maximum occupancy of the current house which is 8 (i.e. 4 double bedrooms). This means there is the potential for a threefold increase in traffic and therefore the risk of further accidents on this stretch of road will be increased.

Policies CP4b and TP1 have not been complied with and the application should be rejected.

#### 6. Cheltenham Borough Council’s Local Plan Policies CP7 and GE3

Policy CP7 states that “Development will only be permitted where it....adequately reflects principals of urban design and ...compliments and respects neighbouring development...” It is a principle of urban design in the Local Plan to “retain...skylines...”.

Policy GE 3 states that “In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site...”

As outlined previously at point 4, the proposed four storey dwellings are disproportionate in their height when compared to the other houses in the row. The ridge line will be significantly higher than that of the existing house which is to be demolished. This is also the case for the properties on the north and south sides, particularly the house to the north, and there is a considerable risk of sunlight restriction to that property, especially during winter. As such, the proposed houses do not compliment or respect the neighbouring properties at all and the skyline would not be retained.

Also the mass and bulk of the proposed houses renders them inappropriate to those which are nearby. The properties will be visually overbearing and therefore intrusive.

If planning permission were granted, policies CP7 and GE3 would be breached, therefore the proposal should be rejected.

## 7. Cheltenham Borough Council's Local Plan Policy GE2

Policy GE2 states that green space is "undeveloped land, not necessarily provided for formal recreation or public amenity, which makes a positive visual and environmental contribution to the town..." and this includes "...private gardens..." Green space is acknowledged in the Plan as having "worth for townscape environmental wildlife and recreational values". The townscape is defined in the Local plan as "the positive features of a place which create a special identity for a given area". Outside of the conservation area "green space is just as important to the local townscape and character and is as highly valued by residents." "...green space contributes to an urban environment...by creating lower densities of development it can reduce levels of activity in an area, thereby contributing to a more peaceful and relaxed ambience, a benefit...in...residential areas". "Human life, health and wellbeing depend on a healthy natural environment." "Green spaces are essential in providing habitats for a wide range of flora and fauna."

The Local Plan also states that such gardens "are often considered by owners to be a valuable resource; a financial resources which may be realised through development....Developments of this nature can be to the detriment of the townscape and environmental value of green space."

Accordingly Policy GE2 establishes that "The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted." Note 2 to this policy provides that "the fact that a site is the most cost effective development option for the applicant is not justification for an exception to policy GE2".

The 1859 Trust Deed is intended to protect the green spaces of the Battledown Estate provided to the townscape of Cheltenham, as outlined at point 2 above, including the green space at the proposed development site. Battledown Hill is an attractive wooded feature which can be seen from many vantage points around the town and from the surrounding countryside, making a significant townscape and environmental contribution to the town. The proposed two new houses would stand out on the hill locally and from a distance due to their size and design, altering this landscape and breaching Policy GE2. As such, the proposal should be rejected.

## 8. Flooding

Many natural underground springs exist on Battledown Hill, some of which surface within the development site, which is why the house was named "The Water Gardens". At present there is a large ornamental pond within the existing garden which the springs feed into. Building the 2

proposed houses would interfere with the water flow, flooding or water logging gardens nearby or upstream, or worse endangering house foundations with the excess water washing away the subsoil.

9. Housing

The applicant refers to the housing shortage and how the proposed development will help. However the shortage is in starter and mid-range properties, and therefore these 2 properties will not help at all.

10. Design

The proposed houses will not blend in with the existing surrounding properties due to their design. Even on a modern interpretation, the houses do not resemble regency style villas. Having four storeys, they are more akin to a block of flats and the chimneys at both ends of both houses are reminiscent of a power station. The design is, frankly, ugly, unsympathetic and insensitive.

In conclusion, whilst I do not object to development per se, as explained above this particular application does not comply with or satisfy the Government's national strategy or the policies in the Council's Local Plan. Accordingly I object to the application and ask the Council to refuse it.

Yours faithfully,

A solid black rectangular box used to redact the signature of the author.

[REDACTED]  
**Shawford, Oakley Road, Cheltenham, Gloucestershire GL52 6NZ**  
[REDACTED]

Ms Tracey Crews, Director of Planning  
CBC Planning Department  
Municipal Offices, Promenade, Cheltenham GL509SA  
3/03/2017



Dear Ms Crews

**Re: Planning Application (17/00365/FUL)**

I should like to object to the above Planning application in the strongest possible terms. My objection is based on the following reasons

Regardless of house design it would be massively detrimental to the people and heritage of Cheltenham to permit any two house development scheme to proceed

Even if the developer came back and reapplied with another, more modest, scheme of two less intrusive houses, my objection will still stand

Any development for two plus houses per plot is within direct breach of the Battledown covenant.

Any development such as this will lead to the destruction of a special environment that has stood for over 150 years and which benefits not only all the residents of the estate, but hundreds of other Cheltenham citizens who daily make use of the estate for exercise and relaxation, dog walking, running, cycling, horse riding and just generally enjoying the quiet roads and leafy green environment on Battledown Hill

The increased traffic from any such application and further applications would also seriously add to the risk of injury and death to the children and parents who attend the Holy Apostles School on Battledown Approach and all other users, residents and visitors of Battledown Hill. No two house, or more, scheme should be permitted.

Thank you

Yours sincerely

[REDACTED]

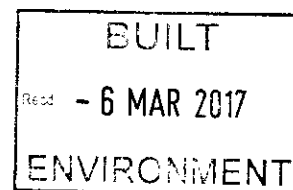
[REDACTED]

[REDACTED]



[REDACTED]  
Shawford, Oakley Road, Cheltenham, Gloucestershire GL52 6NZ

Ms Tracey Crews, Director of Planning  
CBC Planning Department  
Municipal Offices, Promenade, Cheltenham GL509SA  
3/03/2017



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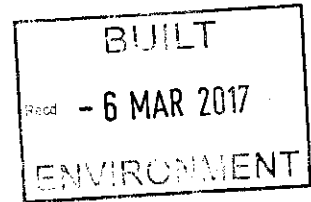
Thank you

Yours sincerely

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
Shawford, Oakley Road, Cheltenham, Gloucestershire GL52 6NZ

Ms Tracey Crews, Director of Planning  
CBC Planning Department  
Municipal Offices, Promenade, Cheltenham GL509SA  
3/03/2017



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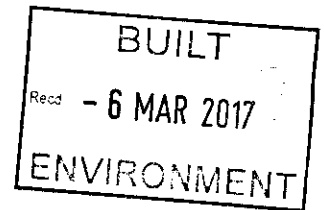
Thank you

Yours sincerely

[REDACTED]

[REDACTED]  
Shawford, Oakley Road, Cheltenham, Gloucestershire GL52 6NZ

Ms Tracey Crews, Director of Planning  
CBC Planning Department  
Municipal Offices, Promenade, Cheltenham GL509SA  
3/03/2017



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Thank you

Yours sincerely

[REDACTED]  
[REDACTED]

Birchley House, Birchley Road, Battledown, Cheltenham,

Glos GL52 6NY

Telephone: [REDACTED]

---

To Cheltenham Borough Council  
Planning Department  
P.O. Box 12  
Municipal Offices  
Promenade  
Cheltenham  
GL50-1PP

For the attention of Mr Ben Hawkes

6<sup>th</sup> March 2017

Planning Ref:-17/00365/FUL

Dear Sir

Proposal; Demolition of existing building and garage and replacement with two new detached dwellings at The Water Gardens, Birchley Road Cheltenham

1. Introduction

I am the owner of Birchley House, Birchley Road, the property which immediately abuts the eastern boundary of the proposed development site. I have lived at this property for almost 14 years.

The Battledown Estate is a unique and important asset for Cheltenham and its inhabitants. It is unique because as far as I am aware it is the sole remaining Victorian estate which is governed by its founding Charter, (a Deed of Covenant or Trust), and it is important to Cheltenham because (though not regency itself) it complements the town's regency heritage of fine buildings, green spaces and mature trees.

2. Planning Strategy and Policy

Government has published a national sustainable development strategy. In that strategy "Sustainable Development" means "A better quality of life", the object of which is to ensure "a better quality of life for everyone, now and for future generations to come, through...effective protection of the environment..."

The Government guidance also states that it considers the historic environment to be a central part of the country's heritage and national identity which contributes to the quality of life and economic

activity. It says that effective protection for ALL aspects of the country's historic environment is fundamental to the Government's policies for environmental stewardship.

In 1999 Cheltenham Borough Council commissioned a report entitled "Cheltenham: Its Economy and Future". That report concluded that the economic success of the town is the product of its "total heritage---its history and environmental quality..." and its recommendation was that "the cultivation of this total approach must be maintained". Based on this report CBC published an Economic Development and Regeneration Strategy which established five strategic priorities for the town, the one of relevance to this objection being "a quality approach to the town".

Against this background CBC has produced its Local Plan. Various statutory provisions require that planning applications are determined in accordance with the Local Plan. The Local Plan sets out numerous objectives and policies which are informed by the Government's guidance and CBC's own research. Those objectives include "to conserve and improve Cheltenham's....historical heritage"(O11), "to conserve and improve Cheltenham's landscape character and green environment"(O12) and "to secure a high standard of residential amenity"(O23).

Within the Local Plan, Policy CP1 Sustainable Development, states that a "development should...conserve or enhance....environmental assets..." Policy CP1 also sets out the principles of sustainable development included within which is "conserving historic....areas..." and "safeguarding attractive landscape".

### 3. The Planning Statement and Sustainable Development (CP1)

The Planning Statement which has been lodged by the applicant admits at Para 1.8 that "The area (i.e. Battledown estate) is characterised by large houses in large plots which is the dominant typology of the Battledown Estate and along with its mature landscape setting gives the area its identity....its landscaped setting does positively contribute to the local character".

The applicant also states correctly at para 1.8 of his Planning Statement that "to preserve the founding green and spacious principles of this residential estate a legal deed (i.e. the Deed of Covenant to which I have referred above) restricts owners and any successors in title to a number of conditions including the density and character of new residential development". The applicant has prefaced the above comment by saying that this is not a planning matter but in the context of what I have set out in the paragraphs above that is not correct. That is because this proposed development is for two houses to replace the one which he proposes to demolish. The trustees' professional advice from both surveyors and solicitors is that the construction of two houses on the site would breach the density obligation in the governing deed. If the planning consent is granted then the trustees of the Battledown Estate will be obliged by the duties of their office as trustees to take appropriate steps, possibly including litigation, to enforce the deed to prevent the building works from taking place. However, there can never be absolute certainty in litigation and so if the result is that the construction does eventually take place then the precedent will have been set and it is inevitable that there will be intense pressure for the similar development of many of the other houses on the Battledown Estate which the trustees will be powerless to prevent and one of Cheltenham's heritage assets will be lost for ever.

If CBC were minded to grant this application then the resulting damage to Cheltenham's attractiveness to all of its inhabitants, and to Battledown in particular, would be severe. Current and future generations would not be able to enjoy the amenity of its mature landscaped setting and the CBC objectives and policies in its Local Plan and Government guidance would have been cast aside. On this basis therefore this planning application does not constitute sustainable development.

Therefore the presumption which would otherwise apply in favour of granting the application cannot apply and so I would request that this application be refused.

#### 4. The Planning Statement and Sustainable Environment (CP3)

The Local plan includes a policy for sustainable environment (CP3). The aim is stated to be “to protect and enhance the built and natural environments...” It continues “...A high quality environment can help the towns economy” and further the CBC will “...control () any negative impacts of development on landscape, buildings and wildlife.” In furtherance of these aims CP3 provides that “Development will be permitted only where it would...conserve or enhance the best of the built or natural environments”. “Best” is defined as “a feature within the built or natural environment which makes a significant contribution to the character, appearance, amenity or conservation of a site OR LOCALLY”(my emphasis).

The area of the Battledown Estate is a feature of Cheltenham’s environment which by the applicants own planning statement is described as “an attractive rural leafy setting within proximity to Cheltenham town”. Furthermore, “its mature landscape setting gives the area its identity.” And further “its landscaped setting does positively contribute to local character”.

It is clear that granting consent for two houses on this site for the reasons explained at 3 above could possibly/likely lead to the destruction of the Battledown Estate as originally conceived and subsequently preserved by the trustees over the generations for the benefit of the residents and also for the town. Consequently granting consent is not consistent with the CBCs policy CP3 and should be refused.

#### 5. Safe and Sustainable Living (CP4a)

Policy CP4a provides that “Development will be permitted only where it would...not cause unacceptable harm to the amenity of adjoining land owners and the locality.” In this context amenity includes loss of outlook and separately loss of privacy.

Loss of Outlook---Due to the topography the outlook from Birchley House is primarily to the west across the intended site. The development proposed represents an unacceptable loss of outlook in that the four storey houses would be very significantly higher than the two storey house which is to be demolished and also higher than any of the other houses within the row of which they would form a part. The new houses would dominate the outlook by their disproportionate size in terms of both height and width. If two houses were built the combined width of the new development would also represent a very significant loss of outlook from my property and from that of my neighbours. As adjoining landowners there would be a significant loss of amenity arising from these current proposals.

Loss of Privacy---Similarly the four storey buildings are shown to have bedroom windows overlooking my property and those of my neighbours. Although those overlooking windows will be more than 21 metres away, in the context of the open aspect of this site and the topography the loss of privacy would be very significant. In the circumstances the minimum distances should be disapplied.

For both of these reasons policy CP4a has not been complied with and so the application should be refused.

#### 6. Safe and sustainable Living (CP4b) and Development and Highway Safety (TP1)

Policy CP4b provides that “Development will be permitted only where it would not result in levels of traffic to and from the site attaining an environmentally unacceptable level”

Policy TP1 provides that “Development will not be permitted where it would endanger highway safely, directly or indirectly by....increasing the use of an existing access....”

The point at which the existing house joins the highway is very near to a bend. The road at this point is quite steep. This section of road is particularly dangerous. There have been numerous accidents on this bend. I have had a car go through my fence in to my garden. There have been numerous instances of cars hitting the walls and trees which line the road at this point and indeed going into the ditch on this bend. The trustees have done what they can to make the situation safer but there is little more that they can do.

The maximum number of occupants for which the existing house has been built is 8 (i.e. four double bedrooms). If the proposed new houses were built then the maximum number of occupants would be 24 (i.e. 12 double bedrooms). It is to be expected therefore that the number of vehicle movements to and from the new premises would be three times greater than at present and so the risk associated with that would also be significantly greater.

For this reason policies CP4b and TP1 have not been complied with and the application should be refused.

#### 7. Design (CP7) and Development within extensive gardens (GE3)

Policy CP7 provides that “Development will only be permitted where it....adequately reflects principals of urban design and ...compliments and respects neighbouring development...” It is a principle of urban design in the Local Plan to “retain...skylines...”

Policy GE 3 provides that “In considering planning applications for development within extensive grounds the Borough Council will have regard to the height and location of existing buildings within or adjacent to the site...”

As stated at 5 above the proposed four storey dwellings are disproportionate in their height when compared to the other houses in the row of which these two are intended to form part. The ridge line will be significantly higher than that of the house which is to be demolished (although the applicant has chosen not draw attention to this by including this detail on the submitted drawings). The proposed dwellings are also very much higher than the rooves of the dwellings which are on either side (north and south) particularly the house to the north and there are great concerns as to the restriction of sunlight to that property particularly during the winter. The proposed houses do not compliment or respect the neighbouring properties in these various respects.

Also the houses which are proposed are inappropriate to those which are nearby due to their mass and bulk. The properties would have a visually overbearing impact on the premises around them and as such would be intrusive.

It is clear therefore that policies CP7 and GE3 have not been complied with and therefore the application should be refused.

## 8. Private Green Space (GE2)

The Local Plan states that green space is “undeveloped land, not necessarily provided for formal recreation or public amenity, which makes a positive visual and environmental contribution to the town...” which includes “...private gardens...” Green space is acknowledged in the Plan as having “worth for townscape environmental wildlife and recreational values”. The townscape is defined in the Local plan as “the positive features of a place which create a special identity for a given area”. Outside of the conservation area “green space is just as important to the local townscape and character and is as highly valued by residents.” “...green space contributes to an urban environment...by creating lower densities of development it can reduce levels of activity in an area, thereby contributing to a more peaceful and relaxed ambiance, a benefit...in...residential areas”. “Human life, health and wellbeing depend on a healthy natural environment.” “Green spaces are essential in providing habitats for a wide range of flora and fauna.”

In paragraph 6.23 of the Local Plan relating to private green space it states that such gardens “are often considered by owners to be a valuable resource; a financial resources which may be realised through development....Developments of this nature can be to the detriment of the townscape and environmental value of green space.”

Against this background the Local Plan establishes the policy (GE2) that “The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted.” Note 2 to this policy provides that “the fact that a site is the most cost effective development option for the applicant is not justification for an exception to policy GE2”

The green space of this site is an integral part of the green space provided by the Battledown Estate to the townscape of Cheltenham. Battledown Hill is an attractive wooded feature which can be seen from many vantage points around the town and from the surrounding countryside. Clearly the Battledown Estate makes a significant townscape and environmental contribution to the town and so granting this consent would be in breach of this policy and it should be refused.

## 9. Conclusion

This application seeks to impose on the owners of those properties that neighbour the proposed development site a form of development which is overbearing and inappropriately large. The proposals are unsympathetic to the nature and scale of the surrounding properties. It is clear that the quality of life for those who live near to the site will be adversely affected in many ways. In particular the granting of this consent could lead to the destruction of the Battledown Estate as an attractive feature of the town and that would be much to be regretted. I have explained that whereas that would not normally be considered a planning matter it is a planning matter in this instance because the application if granted would be detrimental to the survival of the Battledown Estate and so does not satisfy the requirements for sustainable development. Furthermore, as I have demonstrated, this application does not comply with many of the Council’s Local Plan policies and so I would strongly urge CBC to refuse this application.

Please be aware that this is not a case of “NIMBYism”. The officers will be aware that there have been numerous applications for planning consent on the Battledown Estate. Some of those attract a few objections but there are some which attract no objections at all. This application however is of a different order, it is not supported by the Battledown trustees, and is highly insensitive to the neighbouring residents. I would remind the Council that, as I have said at 2 above, the Government



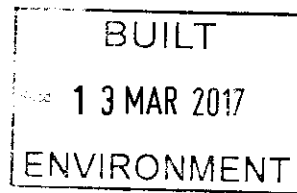
is seeking to promote sustainable development being a better quality of life for everyone, now and for future generations and that cannot be achieved by granting this application.

10. Referral to committee

If this application is to be referred to the Councillors for a decision then please note that I would like to address the meeting of the committee at which this application is to be decided and would you therefore please let me know in due course the date that that meeting is to be held

Yours faithfully,

A solid black rectangular box used to redact the signature of the sender.



LisVane.  
Oakley Road  
Battledown  
Chesterham  
91526PA.

8.3.2017.

Dear Sirs

We have recently  
received a letter from the  
Trustees of Battledown Estate  
saying they have had an  
application to demolish Water  
gardens in Birchley Road & then  
build two new houses on the  
plot. This in my opinion is  
absolutely necessary & should  
not be allowed.

Yours faithfully

