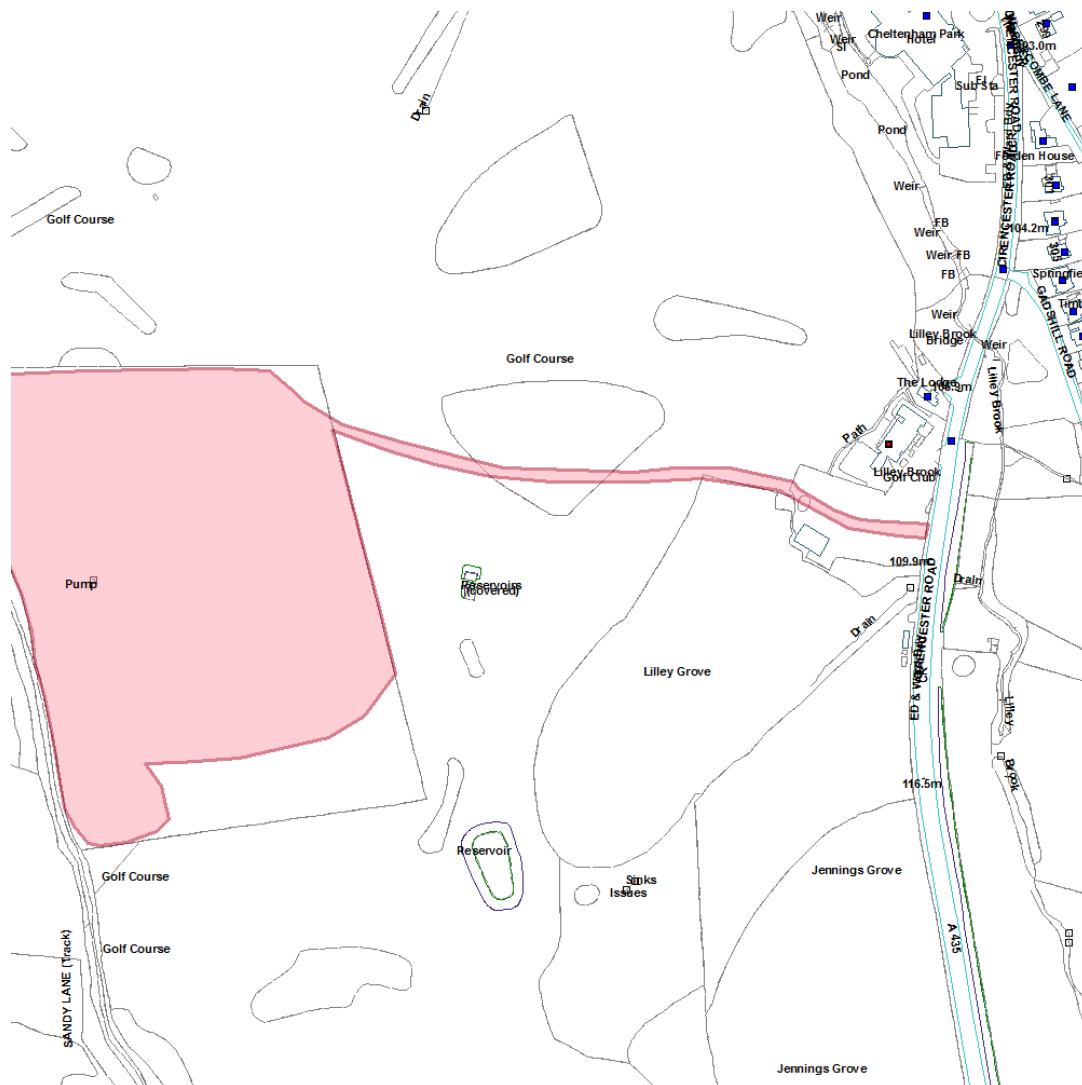


APPLICATION NO: 17/00659/FUL	OFFICER: Mr Martin Chandler
DATE REGISTERED: 31st March 2017	DATE OF EXPIRY: 30th June 2017
WARD: Charlton Park	PARISH:
APPLICANT:	Lilley Brook Golf Club
AGENT:	Grass Roots Planning Ltd
LOCATION:	Lilleybrook Golf Club, 313 Cirencester Road, Charlton Kings
PROPOSAL:	Engineering works to re-profile and re-contour the existing practice facility to create a mini 9-hole golf course by importing 100,000 cubic metres of inert fill material (re-submission following refusal of planning application ref. 16/00383/FUL)

RECOMMENDATION: Permit



1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 This application proposes engineering works to re-profile and re-contour the existing practice facility at Lilleybrook Golf Club to create a mini 9-hole golf course. It is proposed that this will be achieved by importing 100,000 cubic metres of inert fill material to the site.
- 1.2 Members will recall that an identical application was refused by planning committee in December 2016 for the following reasons:
- 1.3 *There is the potential for Roman burials, and prehistoric and Anglo-Saxon remains, to be present within the development area that could be adversely affected by the development. In the absence of an archaeological field evaluation it has not been possible to fully assess the archaeological resource within the area or understand the archaeological implications of the proposed development. In the absence of such information, the proposal fails to accord with national guidance set out within the NPPF at paragraph 128.*
- 1.4 *No legal agreement has been completed to secure the completion of the works, and therefore the provision of the academy course, within a reasonable timescale. In the absence of such an agreement, there would be no requirement for the applicant to complete the works in their entirety, therefore opening up the possibility that only the importation of the fill material would occur. The implication of this would be that ultimately a waste 'disposal' operation would have been carried out; one that should have been considered by the County Council as the waste planning authority. An agreement is therefore necessary to make the development acceptable in planning terms in accordance with national guidance set out within the NPPF at paragraphs 203 and 204.*
- 1.5 The applicant has now undertaken the relevant archaeological work and has also made progress in relation to the necessary Section 106 agreement. They are therefore seeking planning permission for the works, having addressed the previous reasons given for refusal.
- 1.6 The application is before committee due to the site's history and at the request of Cllr Baker.
- 1.7 Members may recall that at the previous committee meeting, the debate considered and exhausted various matters, with flooding being a particular concern of some members. This report will therefore focus on the matters that were raised at committee as well as the two refusal reasons.
- 1.8 Officers would advise that the previous decision has to be a material consideration of significant weight when assessing the merits of this application. It would be unreasonable to introduce new reasons for refusal without being able to demonstrate a significant change in circumstances.
- 1.9 Members will visit the site on planning view.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Ancient Woodland
Area of Outstanding Natural Beauty
Airport safeguarding over 15m
Airport Safeguarding All Developments
Smoke Control Order

Relevant Planning History:

00/00679/FUL 23rd October 2000 PER

Erection of 27m high lightweight lattice mast and antennae within chainlink fence, adjoining equipment cabin and ancillaries on land adjoining the 15th tee

02/00468/FUL 23rd May 2002 PER

Erection of 30m high telecommunications lattice mast with 8 no. panel and 3 no. dish antennae attached, following removal of existing 27m high mast; installation of equipment cabin and ancillary development

15/00328/FUL 21st April 2015 WDN

Regrading of existing practice facility using approximately 50,000 cubic metres of inert landfill material. Works to include additional tree planting and areas of native shrub and wild flower planting. Reinforcement of unrestricted byway (Sandy Lane) to accommodate material delivery requirements

16/00383/FUL 16th December 2016 REF

Engineering works to re-profile and re-contour the existing practice facility to create a mini 9-hole golf course by importing 100,000 cubic metres of inert fill material

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 1 Sustainable development
CP 3 Sustainable environment
CP 4 Safe and sustainable living
GE 5 Protection and replacement of trees
GE 6 Trees and development
CO 1 Landscape character
CO 2 Development within or affecting the AONB
CO 14 Development abutting the countryside
NE 1 Habitats of legally protected species
RC 11 Recreation and sport in the countryside
RC 12 Golf courses
UI 2 Development and flooding
UI 3 Sustainable Drainage Systems
TP 1 Development and highway safety

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

County Archaeology

18th April 2017

Thank you for consulting me concerning the above planning application. I wish to make the following observations concerning the archaeological implications of the proposed development.

I note that this planning application is supported by a report on an archaeological field evaluation compiled by Worcestershire Archaeology (dated March 2017). Eleven trial-trenches were investigated, revealing a previously unknown later prehistoric or Roman ditch (in Trench 9) as well as several undated features including a pit and a ditch (in Trenches 1 and 9). The archaeological evaluation also established that the archaeological features were covered by a thick deposit of colluvium washed down from higher ground.

The report concludes that the evidence indicates the presence of an agricultural field system of later prehistoric or Roman date. No evidence was found to indicate that the land had been used for burial during the Roman period (as previously indicated by the County Historic Environment Record), and it is thought that the discovery of a Roman burial in 1939 in this locality lay to the north of the proposed development area.

I note that the applicant's Planning Statement (March 2017) confirms that the development will not involve any excavation of existing ground levels. While some ground impacts may arise from the use of plant and machinery it is my view that these will not have any impacts on the archaeological remains, since these are deeply buried below colluvium.

Therefore, I advise that I have no objection to the proposed development, and I recommend that no further archaeological investigation or recording should be required in connection with this scheme.

I have no further observations.

GCC Local Flood Authority (LLFA)

23rd May 2017

I refer to the above application, your request for advice from the Lead Local Flood Authority (LLFA) on the applicant's proposals for the management of surface water and my previous responses regarding the applicant's previous application number 16/00383/FUL.

I note the applicant's flood risk assessment and drainage strategy dated 7th November 2016 and their assessment of the required attenuation volume. The applicant has acknowledged the need to manage the flows from the upper catchment and to include this in their mitigation proposals. They have stated that the attenuation volumes will be made sufficient to accommodate flows from the development site and the upper catchment comprising a total of 10.2 Ha. The applicant has also agreed to include an allowance of 40% for an increase in rainfall intensity arising from the effects of climate change. The applicant has agreed to restrict the discharge rate to the pre development equivalent. The applicant has also agreed to incorporate a bund along the west facing boundary to prevent the risk of the development diverting surface water into Sandy Lane.

The Environment Agency has indicated that it has no objections in principle to the applicant's proposed point of surface water discharge subject to the applicant obtaining a permit for Flood Risk Activities if this is deemed a requirement. The applicant should also ensure any requisite Land Drainage Act consent is obtained from the Principal Engineer, Civils and Flood Risk Management, Cheltenham BC.

The strategy documents provide only a conceptual plan with indicative information of the location and scale of the bund, swale, basin and outfall. The LLFA will require further information to clarify the detailed design of the bund, swale, basin, control device connection and outfall structures to the existing ditch/watercourse.

On the basis of the information provided the LLFA is satisfied that the proposals are broadly compliant with the requirements for a viable sustainable drainage system however, the applicant has not yet provided the design details and therefore, if the LPA is minded to

approve the application, it is recommended that the following condition be included in the approval;

Condition: Development shall not begin until drainage design details of the proposed bund, swale, basin, control device, connecting channel and outfall structure have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be completed in accordance with the approved details before the development is first brought into use/occupied.

Reason: To ensure the development is provided with a satisfactory means of drainage and thereby preventing the risk of flooding. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality.

NOTE 1 :The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency

NOTE 2 : Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through suds@gloucestershire.gov.uk e-mail address. Please quote the planning application number in the subject field.

Tree Officer

25th April 2017

CBC tree Section has no further comment notwithstanding than that of 18/4/16 (previous application), in that there are no alterations to this application which have an impact on trees.

Minerals And Waste Policy Gloucestershire

26th May 2017

It is understood that Cheltenham Borough Council is in receipt of a planning proposal to re-contour an existing practice facility to create a mini 9-hole golf course through the importation of 100,000 m³ of inert fill material at Lilleybrook Golf Club, Cheltenham. The planning application is a re-submission of a previous scheme that was determined by Cheltenham Borough Council back in 2016.

The comments provided below are aimed at assisting Cheltenham Borough Council in their future handling of the proposal and are largely focused on ensuring that the right matters are being looked at and appropriate information has been made available to decision takers as they come forward with a reasoned and sound local conclusion.

A review of the applicant's accompanying planning statement describes the proposal as engineering works, which will utilise the importation of the equivalent of 100,000m³ of soils and free draining material. The applicant has provided a narrative to explain that the inert fill material will be of a waste origin although 'recovered' and deemed to be fit for use by virtue of its chemical composition, granular size and drainage characteristics.

Deciding whether the proposal includes 'waste' material should be fundamental to the application's consideration - it is the key factor to resolving whether waste-related local planning policies should be applied under the subsequent analysis of the local development plan. A good starting point in this respect is the DEFRA / EA Guidance: - Decide if a material is waste or not: general guide | <https://www.gov.uk/government/publications/legal->

definition-of-waste-guidance/decide-if-a-material-is-waste-or-not#decide-if-your-material-is-waste. Specific attention will probably need to be given to section 5 - When waste ceases to be waste, as this looks to relate to the circumstances advised by the applicant. Whether 'end-of-waste' status has been achieved for the infill material planned to be used, will be an important judgement. 'End-of-waste' status can be assessed through EA Guidance: - Turn your waste into a new non-waste product or material | <https://www.gov.uk/guidance/turn-your-waste-into-a-new-non-waste-product-or-material>. In the case of excavated materials this guidance refers to The Definition of Waste: Development Industry Code of Practice | <http://www.claire.co.uk/projects-and-initiatives/dow-cop/28-framework-and-guidance/111-dow-cop-main-document>. It is anticipated that the applicant will need to present clear, robust and demonstrable evidence that appropriately accords with the respective elements of the Code of Practice set out by CL:AIRE. It is strongly advised that particular advice is sought from the Environment Agency (EA) on the application of their guidance before a local view is taken as to the 'waste' status of the imported material.

If it is concluded that the proposal does not involve the importation and handling of a 'waste' material, the County Council in its capacity as the Waste Planning Authority (WPA) has little more to comment on. However, it is noted that the applicant's supporting statement has made reference to those parts of the local development plan applicable to waste matters. It is advised that weight afforded to the policies referred to will need to be very carefully considered as they do not strictly apply in a development plan context. They represent somewhat of a limited material consideration primarily to demonstrate how the use of a material from a waste origin may be beneficial in contributing to the delivery of waste diversion through facilitating inert waste recycling - an important element of the waste hierarchy. This will only form part of the wider planning balance, which must be heavily concentrated on site-specific matters such as (but not exclusively covering): - sufficient safeguards to avoid unacceptable impacts on the amenity of nearby residents and businesses, more general public health concerns and the protection of the natural environment.

Alternatively, if it is decided that the proposal contains a 'waste' element, officers would urge further discussion with the County Council in its capacity as the Waste Planning Authority and in particular its Development Management service. The size and scale of the proposal would appear to run close to the recommended advisory threshold of a 'county matter' as set out in government advice contained in a CLG letter to Chief Planning Officers: - Large-scale Landscaping Development Using Waste. Having said this and irrespective of the eventual determining authority, the current presentation of the application would still benefit from a very careful review. In particular the approach to what are relevant development plan policies / material considerations will need to be re-assessed that they are currently heavily focused on engineering works rather than waste management. Furthermore, the applicant's current interpretation of WCS Core Policy 4 (see paragraph 6.21 of the supporting statement) is not shared by officers of the WPA and this will have a bearing on what are deemed applicable policies of the local development plan. This may also impact on the subsequent assessment of necessary supporting evidence. WCS Core Policy 4 does indeed note the value of using inert waste in a 'recovery' capacity for engineering purposes but only in respect to existing waste management sites and mineral operations. It does not have a wider application such as the current proposal, despite such activities been mentioned in the supporting text under WCS paragraph 4.43.

I hope this representation is useful to you in your further consideration of the application.

If you have any further queries regarding the officer comments set out above, please do not hesitate to contact me.

Parish Council
22nd May 2017
Objection

We previously commented on the earlier refused scheme 16/00383/FUL and also on revisions made in December 2016. As before we are formally reviewing the plans as they have potential impact on our parish.

We note that in April 2017 the Land Drainage Officer was concerned with the lack of drainage design details of the proposed bund, swale, basin, control device, connecting channel and outfall structure. In our view these are serious matters and the application should not be permitted without all this in place, as otherwise the risk of flooding remains.

The Officer also states that 'it is important these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality'. In our view it is crucial that all technical elements of the plan are agreed and conditioned in any permission. As an example of an issue needing clarification, there is nothing specific on how the volume of water in the swale would be assessed.

We are surprised that a comprehensive geotechnical survey has not been carried out. Without such technical analysis and subsequent mitigation, it's possible that there is a risk of ground slippage. Filling on the hillside could trigger the movement of slip circles in the ground, with the potential for upwards heave and new springs being formed, as far as several hundred metres downhill of the fill. Although Ordnance Survey shows no presence of springs, these do exist and there are flows of underground water which need to be taken into account.

Detail is lacking on plans for downstream drainage and these need to be in place. Also binding conditions must be made for the on-going maintenance of the scheme.

The Charlton Kings Flood Action Group (CKFAG) has commented in detail and we support their concerns and are clear that robust flood reduction mechanisms have to be in place before any scheme begins.

As this can be considered a 'major development' it's our understanding that this means that the Borough Council has the right to insist that the scheme results in an improvement to existing drainage mechanisms, not just maintaining the status quo.

Finally, we note from the website that the application is presently due to have a delegated decision. We request that it goes before the Planning Committee, as it has before, due to its potentially seriously damaging impact not just on residents in our parish but further downstream across Cheltenham.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	140
Total comments received	10
Number of objections	6
Number of supporting	4
General comment	0

- 5.1** In response to the 140 neighbours that were written to, 10 letters of representation have been received. Six of these object to the application, and four are supportive. The comments in objection to the application refer to:

- Flooding concerns

- The nature of the material being brought onto the site
- Inappropriate waste disposal activity
- Impact on AONB
- Geological concerns and landslip risk

5.2 The comments in support generally relate to the social benefits of the scheme.

5.3 These matters will be discussed below.

6. OFFICER COMMENTS

6.1 Determining Issues

6.1.1 Given the history of the site, the two key areas for consideration at this stage are the two reasons previously given for refusal, namely archaeological considerations and the successful completion of a Section 106 legal agreement that requires the completion of the work. That said, in light of the previous committee discussion, and the nature of the objections submitted, it would be naïve not to give further consideration to flooding, waste disposal, geological issues, and potential impact on the AONB.

6.1.2 For convenience, the previous officer report it appended to this report.

6.2 Archaeology

6.2.1 Members will note from the consultation response set out at section 4 above, that the applicant has now conducted the work required of them by the County Council and nothing has been found. The County recommended that no further work be undertaken so this previous refusal reason has been satisfactorily addressed.

6.3 Need for a S106 agreement

6.3.1 This was a relatively technical reason for refusal, essentially protecting the Authority's ability to enter into an agreement if the applicant had proceeded to appeal rather than resubmitting. Work is progressing with the necessary legal agreement now so there is no need to refuse the proposal on this ground either.

6.4 Flooding considerations

6.4.1 Members will recall that this issue was discussed at length at the previous committee meeting with a representative of the LLFA in attendance to answer specific concerns. The minutes of the previous meeting are appended to this report.

6.4.2 The previous application was not refused on flooding matters and this has to play an important bearing in the assessment of this application. Members will be aware that it can constitute unreasonable behaviour to introduce new refusal reasons for an identical application unless the authority can clearly demonstrate a material change in circumstances. That said, given the strength of feeling on the matter, the issue has again been heavily scrutinised.

6.4.3 The LLFA remain satisfied with the proposal, and whilst the absolute specifics of the SUDs scheme have not been fully resolved, this is entirely appropriate for a scheme of this nature; indeed the vast majority of SUDs schemes are fully worked up post the determination of a planning application.

- 6.4.4** Importantly, the concept is considered to be entirely appropriate and is fully endorsed by the LLFA. The LLFA is acutely aware of the surface water run-off situation in this part of the borough and have required a lot from the applicant in terms of justifying their proposals.
- 6.4.5** When considering flooding issues, there are probably two key issues to explore: 1) the SUDs scheme itself, 2) how to secure its implementation, given previous concerns in relation to suggested conditions by the LLFA.
- 6.4.6** Members may also recall that there was some debate previously in relation to the requirements of local plan policy. This report will also consider this matter.
- 6.4.7** What does the SUDs scheme consist of?
- 6.4.8** The scheme consists of a bund to the western boundary of the application site to contain run-off, a swale to the northern boundary to collect run-off and an attenuation pond to store water and then release it into the existing water course to the north of the site at a controlled rate via an outlet.
- 6.4.9** Members will be aware that a SUDs scheme is designed to mimic natural drainage and is often used in an urban capacity to reduce surface water run-off. The existing situation already provides a green field and natural drainage and allows for a better infiltration rate than hardstanding. That said, no one denies that run-off at this point in the town is fast because of its location at the foot of the Cotswold scarp.
- 6.4.10** In light of this, the LLFA have worked hard with the applicant to ensure that the SUDs scheme is as effective as possible and this has been done in two ways. Firstly, the applicant has accepted the LLFAs argument that due to the nature of the proposed development, and the likely soil compaction, this infiltration rate may reduce meaning surface water will run-off the site more quickly. The SUDs scheme has therefore been designed with lower infiltration rates in mind to ensure that its capacity is suitable. Furthermore, the applicant has built in additional storage capacity of the attenuation pond, providing a further 20% beyond what is technically required.
- 6.4.11** Officers remain satisfied that the SUDs scheme being proposed as a result of this application is robust and will deliver a betterment to the current surface water run off rate.
- 6.4.12** There has been some debate in relation to the integrity of the flood risk assessment that has accompanied the application as it refers to a catchment area of the West Midlands rather than the South West but given the concessions in relation to infiltration rates and increases in capacity, officers consider that this point has been suitably addressed.
- 6.4.13** How to secure its implementation
- 6.4.14** The LLFA have recommended the following condition if planning permission is granted:
- 6.4.15** *Development shall not begin until drainage design details of the proposed bund, swale, basin, control device, connecting channel and outfall structure have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be completed in accordance with the approved details before the development is first brought into use/occupied.*
- Reason: To ensure the development is provided with a satisfactory means of drainage and thereby preventing the risk of flooding. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality.*
- 6.4.16** This is a standard approach to the delivery of SUDs schemes as it ensures that the detailed specifics of a scheme are fully agreed prior to the commencement of development. This

approach is taken because the detailed design of a scheme is a costly exercise and developers, understandably, require a degree of confidence before they commit to such technical costs. It is a practice that takes place nationwide.

6.4.17 The condition secures all of the technical details and will be agreed with the LLFA before this authority gives the go-ahead.

6.4.18 Beyond simple implementation though, other questions have been raised of the scheme, one of which relates to the impact on surface water run-off during construction.

6.4.19 Mindful of recent flash-flood events in the town which may have been contributed to by construction sites, officers consider this to be an understandable concern and have discussed this matter with the applicant. In response, the applicant proposes to implement the SUDs scheme as essentially the first phase of the development. This will require the importation of some material (to build the bund etc.) but this is considered to be important difference between what members are considering on this occasion, and what they considered last time. This phasing would be secured by a suitably worded condition.

6.4.20 Another concern relates to what may happen if the scheme gets blocked and therefore potentially fails. This matter has been discussed with the LLFA who have suggested that a maintenance condition should also be attached should permission be granted. Ultimately, if the outlet does get blocked, this is the land-owners responsibility but if nothing else, a maintenance condition flags up the importance of this issue.

6.4.21 Summary

6.4.22 Officers understand the strength of feeling of neighbouring residents and are taking the flooding implications of this scheme very seriously. The proposals have been scrutinised and are considered to go above and beyond what is realistically and technically expected of the development. Capacity of the attenuation pond exceeds what the evidence suggests it needs to (by 20%) and the scheme has been designed with lower infiltration rates despite what superficially will remain a green field post development.

6.4.23 The SUDs scheme is entirely compliant with local plan policy.

6.5 Other considerations

6.5.1 There was some discussion at the previous meeting (and it has been raised again during the consultation exercise) regarding the material that will be used for the development and whether this authority are the correct determining authority. Officers stand by the advice that was previously given in the original report. Cheltenham Borough Council is the correct determining authority, so long as the development is implemented and completed in the manner proposed. It is for this reason that a Section 106 is necessary. In terms of the nature of the material and where it comes from, there are numerous permitting regimes that the applicant will need to comply with. To ensure that we know what is being proposed, it is recommended that a condition is used to secure the submission of a Material Management Plan that will detail the specification of the material being used.

6.5.2 The committee also discussed the merits of a geological survey although they did not require this through the decision that it arrived at. That said, again, it is a relevant matter but one that can satisfactorily be dealt with by way of condition. The applicant has confirmed that the detailed design work for a scheme of this nature is typically undertaking post approval. This work will consist of construction controls and testing requirements to ensure that material is placed in a stable manner. Officers recommend that should planning permission be granted, a condition requiring this information to be submitted prior to the

commencement of development would be entirely reasonable; it would most likely form part of a more detailed Material Management Plan referenced above.

7. CONCLUSION AND RECOMMENDATION

- 7.1** To conclude, following the refusal of the previous application, the applicant has provided the necessary information to overcome the two technical refusal reasons. Beyond that though, they have also reengaged with officers to discuss the SUDs scheme in greater detail and have committed to delivering this aspect of the proposal first. The SUDs scheme is suitable for the development proposed and the LLFA are entirely comfortable with it. It exceeds its technical requirements and whilst the specific details are to be agreed post-decision, the concept is fully compliant with local plan policy.
- 7.2** The development, once complete, will have neutral impact on the AONB as the site will be restored to a landscaped form and in all other respects, the development was found to be acceptable last time the committee considered the proposal. Nothing has changed to suggest that different conclusions should be arrived at.
- 7.3** It is recommended that planning permission be granted subject to a Section 106 agreement to secure the completion of the development and the suggested conditions.