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Planning Committee

15th February 2018

Present:

Members (15)

Councillors Barnes, Chair (GB); Fisher, Vice-Chair (BF); Collins (MC); Colin Hay (CH); Hegenbarth (AH); Hobley (KH); Lillywhite (AL); McCloskey (HM); Nelson (CN); Savage (LS); Seacome (DS); Thornton (PT); Wheeler (SW).

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

Officers

Tracey Crews, Director of Planning (TC)
Martin Chandler, Team Leader, Development Management (MC)
Lucy White, Senior Planning Officer (LW)
Michelle Payne, Senior Planning Officer (MP)
Ben Hawkes, Planning Officer (BH)
Chris Morris, Senior Heritage and Conservation Officer (CM)
Nick Jonathan, Legal Officer (NJ)

1. Apologies

Councillors Baker and Oliver. Councillors Savage and Rowena Hay sent apologies in advance for their late arrival.

2. Declarations of interest

There were none.

3. Declarations of independent site visits

- i. Councillor Fisher – was not on Planning View, so has visited all three sites independently.
- ii. Councillor Paul McCloskey – **17/02447/FUL** St Francis, Park Lane, Prestbury
- iii. Councillor Lillywhite – **17/02436/FUL** 11 Lansdown Walk

4. Public Questions

There were none.

5. Minutes of last meeting

Resolved, that the minutes of the meeting held on 18th January 2018 be approved and signed as a correct record *without* corrections.

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6. Planning applications

Application Number:	17/01644/FUL
Location:	Land at Manor Farm, Manor Road
Proposal:	Residential development of 2 no. bungalows and 6 no. houses, with associated access and landscaping (revised scheme following 14/01823/FUL)
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	6
Update Report:	None

Introduction:

LW introduced this application for eight dwellings on land to the rear of St Lawrence's Church, which seeks revisions to an almost identical scheme permitted in 2015. A similar application was made last year and due to come to Committee until it became clear that land ownership issues concerning the access lane made the application invalid. The main changes are to fenestration, an increase in height, and a reduction in width of the access lane with the inclusion of the pedestrian footpath. In 2016, Ubico started using wider vehicles, which would make roadside collections unsuitable. The applicant has agreed to make a private arrangement with an alternative refuse-collecting service, and has drafted a 106 agreement which has been agreed by all parties. It also secures the land to the north of the site for church-related purposes, or garden/recreational use. The application is at Committee at the request of Councillor Fisher, and the recommendation is to permit.

Public Speaking:

Mr Mark Snape, of Centaur Homes Ltd, in support

Full permission was granted for a similar scheme in 2015, and this revised application only required due to an error on the land ownership certificate submitted by a previous applicant. The revised application alters the access arrangements and the external design. Due to changes in design standards, access had to be amended from a shared surface, approved in 2015, to one including a dedicated pedestrian footpath. Since 2015, Ubico has increased the size of its refuse vehicles, which can no longer access the site. Objections have been raised to the scheme in relation of refuse collection matters; to remedy the situation, and avoid the need for residents to carry their bins the Church Road, where they would block the footpath, a private bin collection service is proposed, funded by residents of the development through a dedicated management company. This has been secured by an S106 agreement, agreed by all parties, which allows the Council to have control over the approval of the private waste collection service prior to occupation of the dwellings, both now and in the future. GCC Highways has not raised any technical objection to the access. The external design alterations are minor in detail, and officers have not raised any objection. Concerns related to ecology have been addressed through the process, and mitigation measures will be provided as part of the scheme, as they were in 2015. In all other respects, the development remains as permitted in 2015.

Councillor Clucas, in objection

As with the previous application at this site, she and local residents have a number of concerns about the scheme. The 2014 officer report included consultee comments from the county ecologist, referring to a number of badger setts in this particular part of Swindon Village. This valid point is reflected in the report, and monitoring and mitigation will encompass all land space. However, this means that it is not possible to look seriously at the historical implications of building on this land, as highlighted by the County Archaeologist. When considering the Swindon Village area, the JCS inspector was aware of

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the importance of the historic context and the conservation area, and the need to maintain a green halo round the village. The Florence Convention, adopted by English law in 2005, protects areas in their historical context and stipulates that development must be in keeping with the locality. The protection of the church and its view from the surrounding area is also an issue of concern. Regarding access, is pleased the management company will look after refuse collection, but this doesn't include fire engines, emergency vehicles, delivery lorries, building lorries. There is a potential danger here which cannot be avoided, not only for residents already living in the area, but also to those moving into the new properties. There may be fire hydrants, but with no proper access for emergency vehicles, sprinklers will be needed in the new properties. To sum up, the history of the site is not addressed; the height of the properties is not addressed; access to emergency and other big vehicles is not addressed; and protection of the view of the church is not addressed, despite the planning inspector acknowledging the importance of this on a previous occasion.

Member debate:

BF: the Parish Council and Councillor Clucas have both raised the issue of refuse collection; Swindon Hall, a historical house divided into flats, is about 100m up the road and has a similar narrow and restricted access. Ubico provides a smaller vehicle to collect its bins; why can't the same arrangement be made for this new development? If a bin lorry can't turn round at the bottom of the road, and drive out forward, the same will apply to furniture vans and delivery lorries, and this could cause dangerous situations on Church Road. Questions the validity of the highways survey, which completely missed the school bus, and cannot resolve the turning circle. A reduction in the number of dwellings or change in the lay-out is needed, as Ubico vehicles aren't that big compared with other delivery vehicles – much larger ones will need to be able to access the houses at times. Didn't like the design previously; considers it to contravene policy CP7, which requires design of the highest standard – this isn't.

SW: was very much in mind to vote in support of this, as it was permitted last time, and if the business of the dustbin lorries can be addressed, there is no arguing with that. However, Councillor Clucas raised a lot of issues, including badgers - there appears to be nowhere else for them to go ; also furniture vans (as well as ambulances and fire engines) – these are not small Bedford vans, but large vehicles, which will turn up in Church Road and could end up blocking the highway for several hours. This problem isn't addressed by getting a private company to empty the bins; this is just the tip of the iceberg. In view of these additional problems, is struggling to support the proposal.

[Councillor Rowena Hay arrived at this point.]

MC: is also interested in Councillor Clucas's points, and would like more information on the private bin collection. As an ex-delivery driver, can confirm that if a property is difficult to access, drivers will park irresponsibly – they have to deliver in a certain time, regardless of any inconvenience to other road users – and if necessary will drive down narrow road, making a mess of verges etc. There are many potential problems arising from this issue as it stands. Would like to hear officer comments on the refuse collection issue.

CH: will the private refuse collection have to comply with the current recycling arrangements put in place by Ubico and agreed with the rest of the county? Do we have the capability, should we change the arrangements for recycling. To make sure that the private contractor complies with the new requirements? Can officers explain the following: one of the drawings shows a dark line at the top of the road – is this a gate? If so, it shouldn't be there, unless there are exceptional circumstances; gated communities are isolating and wrong.

LW, in response:

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- To BF, the issue regarding the access lane is to do with the width of the access at the junction with Church Lane, not the width of the lane of turning circle. Highways officers were happy with the 2016-17 application, confirming that emergency vehicles and normal delivery vans would be able to reach the site. Regarding removal lorries, companies usually have different-sized vehicles, and it will be up to the occupiers to notify the company in advance about the access issues;
- A recent survey was carried out regarding badgers, and confirmed that a wildlife corridor on the perimeter of the site will allow free movement for badgers. The ecology report suggested a condition which has been included;
- The private refuse collection service will be set up prior to the development, and the scope, method, frequency of collection, receptacles, details of recycling, will all be covered. Details of how the company will set up a contract with the council, with all details, how breaches will be dealt with, ensuring that the Council has all the details if needs from the management company, will be set up prior to occupation;

[Councillor Savage arrived at this point.]

- all recycling will be in accordance with CBC policy, and if this changes in the future, the company will have to adapt;
- is not sure about the gate referred to by CH, but if there is one, it will be removed.

HM: has two points to make. Remembers the previous application in 2015, but as there are some new Members since then, can officers remind Members why the most obvious access from the cul-de-sac hasn't been considered? Regarding badgers, they are nocturnal creatures, and note that Condition 19 refers to hours of operation during the construction phase; can we ensure that these won't affect the nocturnal habits of the badgers?

LW, in response:

- the most obvious access is from Manor Court, but there is a ransom strip here and the land is not available. We have to consider the scheme as it is presented;
- regarding hours of operation, can look into this and change the hours, taking the badgers into consideration.

BF: for the record, there is no gate at the top of the site – this is long gone. It is a public footpath, and has to be left open. Is still concerned about Ubico – to turn off Church Road, the vans will have to cross the centre, and there is no way they can do this – they are fixed bed vehicles, not articulated. If Ubico says it is dangerous to swing out, all vehicles will be in the same situation, and accidents are likely to occur. There is a 30mph speed limit along here, and not many people break it – it is a narrow, tight road, with walls on both sides. The proposed arrangement will cause a highway problem and could lead to accidents. The police don't record all the incidents that occur, but there have been cars on their roofs along this stretch, and we don't want to see that repeated. The whole thing needs rethinking.

CN: wheel-washing is normally a standard condition but is sometimes missed. Can we make sure it is included here, and make sure that it is enforced? This condition needs to be in place right at the start – this is when it will be most muddy. It has become quite an issue elsewhere, and if construction vehicles are coming out on the corner, it could be even worse.

LW, in response:

- wheel washing is part of Condition 19, and should be enforced from the start and throughout the remaining stages; planning officers don't routinely check conditions with enforcement officers.

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MJC, in response:

- is not aware of the cases CN is referring to, but there have been cases on conditions not worded quite as they should be. Over the last 18 months, this has been reviewed, and conditions have been run past enforcements officers to make sure they are happy with the working and trigger points. It should be OK here.

Vote on officer recommendation to permit

9 in support

4 in objection

2 abstentions

PERMIT

Application Number: **17/02436/FUL**

Location: **11 Lansdown Walk, Cheltenham**

Proposal: **Creation of a fire escape from second floor bedroom and roof terrace**

View: **Yes**

Officer Recommendation: **Permit**

Committee Decision: **Permit**

Letters of Rep: **4** Update Report: **None**

Introduction:

MP introduced this application, which concerns a newly constructed residence in the conservation area – one of five contemporary developments in 2015. This application proposes a new fire escape and roof terrace, provided in an existing area of inaccessible flat roof, together with the addition of French doors and the building up of the parapet for privacy. It is at Committee at the request of Councillor Mason, and the recommendation is to permit.

Public Speaking:

There was none.

Member debate:

CH: how does what is proposed constitute a fire escape? It doesn't look like one.

BF: what is the fire officer's opinion of it?

MP, in response:

- the application submitted this application following the visit of a fire officer, and can confirm that the proposal meets the current guidelines. The roof terrace will be an additional escape route, with a roll-out portable ladder, which hooks over the front wall and drops down into the courtyard.

AH: is interested in the precedent this could set – someone could say they want a swimming pool and the extra water will help put out a fire!

PM: from past experience, before voting in favour of a rope ladder, would be inclined to test it out – it isn't easy.

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GB: the fire escape ladder is a metal ladder which rolls down the wall. In the event of a fire, it would be up to the individual whether to use it or not.

Vote on officer recommendation to permit

14 in support

1 in objection

PERMIT

Application Number: **17/02447/FUL**

Location: **St Francis, Park Lane, Prestbury**

Proposal: **Demolish existing and construct a new detached dwelling**

View: **Yes**

Officer Recommendation: **Permit**

Committee Decision: **Refuse**

Letters of Rep: **22** Update Report: **Officer update (circulated to Members via email on Wednesday)**

Introduction:

BH described the proposal as above. The current dwelling is not listed, neither is it in a conservation area. It is in the greenbelt, and part of a suggested new conservation area, which is currently the subject of a consultation process. There is an extant planning permission for extensions to the house. Historic England has been consulted regarding the possible listing of the house, but does not consider it worthy of listing, for reasons set out in the report. The application is at Committee at the request of Councillor Payne, in view of the high level of local concern, and the officer recommendation is to permit, subject to conditions.

Public Speaking:

Mr William Strachan, neighbour, in objection

Is a resident of Park Lane, and speaks on behalf of the 22 households which have objected to this application. Is also a town planner, with 40 years' experience. It would be completely wrong to accept the report on the hypothetical assumption that the house will be demolished, come what may. The scale and materials are wrong and there is not one reference area, volume, or height in the report. The proposal is materially larger than the existing dwelling, and 140 cubic metres bigger than the fall-back; fails to comply 300 cubic metres. Policy CO7 is blown apart by this, and the proposal is indefensible in terms of both GB2 and the National Planning Policy Framework. It will be the largest house in the smallest plot, two times the footprint of the existing dwelling. The house is situated in the green belt, and a potential conservation area – the council's own conservation officer says it all and is supported by the Civic Society, with concerns not only about the loss of St Francis but also about the design, materials and orientation of the proposed replacement. St Francis may not be a designated heritage asset, but the Conservation Officer has highlighted Paragraph 135 of the NPPF, which states that the effect of an application on the significance of a non-designated heritage asset should be taken into account when determining an application – it is wrong therefore to say that St Francis has no protection. The Architects Panel consider the design to be unsupportable. The scale, materials, and orientation will destroy the character of the area. The report states that the orientation of the proposed dwelling mirrors Crossways, but this is incorrect – it is at right angles to Crossways. Where is the bat

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survey? Where is the ecology report? Urges Members to reject this appalling proposal and save the street.

Mr Mark Le Grand, agent, in support

The proposed development comprises the demolition of St Francis and the construction of a replacement dwelling. Understands that some of the neighbours feel aggrieved by the proposed demolition, but the building isn't listed or in a conservation area, and it is therefore entirely at the owners' discretion to demolish it on receipt of a certificate of lawfulness, which he understands will be issued tomorrow. The applicants want to create a dream family home, and gained permissions for a side and rear extension in 2016 and 2017. However, both of these schemes proved financially unviable, at which point the viability of a new-build scheme started to be considered. The initial design for a three-storey dwelling was prepared and a formal application submitted in August 2017. It received a negative response from both the planning department and local residents and was subsequently withdrawn. A formal pre-application consultation followed, and the new scheme was prepared in strict accordance with planning officers' advice and with local policies. During the design process, specific consideration was given to the final design, by way of size, scale and bulk, to ensure the proposal was sympathetic to the surrounding area, working closely with the planning officers and in accordance with their detailed and constructive advice. Prior to submission of the application, also liaised with a number of local residents, and in particular the owners of Kennan to the west, leading to the removal of the first floor terrace area originally located to the rear. During tonight's consideration of the proposal, would ask Members to remember that Historic England does not consider the building worthy of listing, so this proposal is just to replace one four-bedroomed house with another; that the stone, windows and slates used will all be local; and that although the design may not be to everyone's taste, it is compliant with the Local Plan, Supplementary Planning Guidance, and the NPPF. Is confident the scheme is suitable for the site and locality, and hopes that Members will be mindful to approve.

Councillor Payne, in objection

There is an error on the Planning Portal, which shows Prestbury Parish Council as having 'no objection' – two requests have been made to remove this, but it has not yet happened. Mr Strachan has outlined all the salient points; will now add some detail and context to those concerns. The case officer's report embodies the NPPF principle – a presumption in favour of development – but this should be based on impartial and accurate assessment of the facts. The conservation officer has commented that St Francis and Kennan have historic and architectural interest, and group value with distinct character and appearance. He states that St Francis is one of the most important individual buildings, and the area would have a notably poorer character and appearance without it; this may influence the conservation area designation. Is uncomfortable that CBC, which prides itself on conservation and heritage, should dismiss the demolition of St Francis as 'unfortunately acceptable' – it is no such thing, and the Council must take responsibility for the loss of an architecturally important building. The views of the conservation officer and Architects' Panel are dismissed, and the views of the Civic Society would not have been published had Mr Strachan not insisted the informal notes be made public – clearly an attempt to hide an adverse opinion. Officers take the view that the tests set by the Architects' Panel for the replacements dwelling are set artificially high due to a desire to see the building retained, but there are no tests in the Architects' Panel report and if there were, would it be wrong to seek the best and most suitable design for the location?

Policy CO7 is pivotal to this application, relating to replacement buildings in the green belt, and requiring that these should not be more than 15% larger than the original; this proposal is 75% larger. Even factoring in the extensions in the extant permission, the proposal would still be 22% larger than the original. This approach fails, however, as a footnote to CO7 specifically defines 'original' as

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excluding any extensions, built or not. The officer also suggests that the 2015 Town and Country Planning Act provides for more generous allowances, outlined in a notice from the DCLG in March 2016 – but this applies to extensions to existing buildings and not to new builds.

The case officer confirmed that CO7 is the relevant policy here, so why have the provisions of that policy not been adhered to, as in previous cases? It would be untenable for officers to change planning policy on the hoof or adopt a more flexible approach to suit a particular application, as appears to be the case here.

To conclude – in addition to authoritative statutory objections, every single household in Park Lane and some from outside have voiced strong opposition. If the owner wishes to demolish the property, that is his choice, but in that event, residents would want to see a good, modern and sensitive design that compliments and enhances the area, which the present proposal fails to do on so many levels. Urges Members to refuse the application.

Member debate:

CN: can officers clarify a number of points raised by the speakers before Members enter into discussion: firstly the bat survey; secondly, Councillor Payne's insinuation that adverse opinion from the Civic Society and Architects' Panel was deliberately hidden; and thirdly, the increase in size according to policy CO7.

HM: has been on Planning Committee for eight years, and officers will be tired of hearing her say how much she hates to see buildings demolished when there is nothing wrong with them. Has several other points to make here. Has looked at the consultation document for the proposed conservation area in this part of Prestbury; realises that this carries little material weight, but on the first page of that document is a picture of Kennan, the mirror image of the house under consideration tonight. This indicates that it is a building of some importance, and the fact that a new conservation area is being proposed would suggest that the whole area is of historical importance. We therefore need to consider the effect on the area of the loss of this positive building – Policy SC9 of the JCS could be used as a refusal reason here, referring to designated or non-designated heritage assets. Is also concerned about the size of the house and garage on the plot – it leaves no amenity space for a garden.

MC: is on the same page as HM here – what's wrong with the existing house? It looks very nice. Is the application compliant with Policy CO7? The objector said it isn't and quoted dimensions; can officers clarify please. The Civic Society has summed up the application very well – agrees with their comments completely.

PM: also agrees with the Civic Society and the Architects' Panel. Is very sad that a building like this could be lost. Is a substitute Member of the Committee, and tonight is the first time anyone has said that planning permission is irrelevant – that the demolition notice can be granted and the bulldozers move in, regardless of the decision made tonight. This seems bizarre – is there any further explanation? Is very sad at the prospect of this house being demolished, and is minded to vote against the application before Members tonight, but it seems the house could be reduced to rubble anyway.

BF: this is a very difficult decision. The update includes comments from Historic England: the house was built in 1926, and the Arts and Crafts period refers to the last quarter of the 19th century; the architect designed many houses, none of which are listed. It would be wrong not to take note of this

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evaluation of the architectural merit of the building from people who really know. The building isn't locally indexed, but even if it was, it wouldn't be protected; there is a property in Deep Street, Prestbury, which is due for demolition. So as for protecting the original building – it isn't an Arts and Crafts house, but in the Arts and Crafts style; there is nothing worthy of protection. The house could be demolished easily, if that is what the owners want. Demolition rules are very different from planning rules. Doesn't like the proposed building, but the existing one clearly isn't a heritage asset, as confirmed by Historic England. More and more people in Cheltenham are buying an address – this is the realist of 21st century Britain and what the system allows them to do, even though we may not like it. Is minded to ask for a deferral – to get the issues in the report sorted – but doesn't think a refusal is the right way to go.

RH: would like to hear the officers' responses to the earlier questions and take it from there.

KH: is quite surprised at himself, but doesn't think this building should be permitted. The existing house is visually superior to that which is proposed, and its demolition would be a loss to the community. Accepts Historic England's conclusion that the house doesn't tick the necessary boxes for listing – the requirements for this are rightly set extremely high – but that isn't to say that the building doesn't have value or contribute to the heritage scene in that part of Prestbury. The conservation officer's comments are in that vein. Councillor Payne said in his speech that local residents were not necessarily in objection to the principle of knocking the house down, depending on what replaces it, but would urge them to preserve the present house – it is attractive and would be a loss to the community and to the town. Would back HM's suggested refusal reason.

SW: disregarding the other arguments, can understand where Historic England draw the line with the listing of this property, but would suggest that it shouldn't be considered in terms of a single building. It contributes to the area as a whole, and is one of a pair, with Kennan. The new building would make Kennan appear out of place; if the applicants build a house more like St Francis, they might as well leave it as it is. On Planning View, wondered who would want to demolish such a lovely building? There may be issues inside which make it unacceptable, but this probably isn't the case – the applicants just want a different building. Will go with the other Members who are minded to refuse – would like to retain the building that is already there.

PT: would be very sad to see St Francis demolished. Is thinking about Spring Lane, where a number of old houses have been demolished to make way for new ones, and this has only recently been developed. In another ten years or so, St Francis could well be listed by Historic England, and the consultation is underway to make this part of Prestbury its own little conservation area. Where do we stand on that? Will it strengthen the refusal reason if the proposed conservation area is taken into account? How far along is the consultation? How soon will it be place? Would it be worth deferring a decision until next month?

MJC, in response:

- will consider PM's question first, as it is important Members understand the situation regarding the possible demolition of the house. This has been a difficult application, and is not being taken lightly by officers in any way. They don't want to see the house demolished but have to consider the prior notice application in a policy context. Was not overly enamoured with the way the speaker referred to the demolition notice being issued tomorrow, which was needlessly inflammatory;
- However, permitted development allows all sorts of things, and demolition is a permitted development right where houses are not protected. The only things the local authority can consider is whether the property can be demolished safely or not; it cannot pass any judgement on a home-owner's intention to demolish their own property. In this case, St Francis is a detached

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property with space around it – so there is no reason for the authority to prevent it being demolished. At Para. 6.5.5, the applicants suggest they will flex their muscles with PD rights, and it therefore has to be a material consideration;

- the council has a set period in which to determine whether or not a building can be safely demolished; if an answer isn't given within that time, the presumption is that this is acceptable;
- officers have discussed this with the agent, and agreed not to issue a decision before the meeting and have therefore held off, but there is no technical reason to withhold consent.

BH, in response:

- to Councillor Payne's comments and CN's question, the comments of the Architects' Panel and Civic Society were circulated to Members the day they were received. The reference in the officer report to the views of the Civic Society was based on dialogue, not a formal discussion. The comments were circulated immediately, once received, and were not withheld;
- regarding the conservation area consultation, this is in progress, as part of the new Local Plan process. Took advice from the conservation policy officer, whose comments are included in the report; the consultation is in very early stages at the moment – at the time the application was submitted, the consultation hadn't started – and this therefore carries very little weight
- if the Local Plan had already been adopted, the situation would be different, but the current position is that the house isn't listed or in a conservation area, and the application must therefore be considered against local policies and the NPPF;
- HM referred to a garage, but the proposal is for the house only; a garage is not part of this scheme;
- The house has been called a non-designated heritage asset – this isn't a description planning officers come across very often, but would expect to see such a building on the local list if it has such value, yet it isn't included. Maybe it should or could have been included; the conservation officer is present to explain this further;
- Regarding the green belt policy and Policy CO7, tried to address this as well as possible, but can see that it could appear like a contradiction. The current policy refers to a percentage increase, but there has been a change in permitted development allowances since the policy was adopted, under the Town and Country Planning Act of 2015 - it used to be quite restrictive regarding percentage increase, but is now more relaxed in terms of what can be considered without planning permission;
- Policy CO7 is correct and still relevant, but we have to take into consideration the NPPF and emerging local plan, which are more concerned with the impact on the openness of the green belt;
- It is evident that from the existing dwelling to what is proposed today is larger than the percentage increase given in CO7, but the extant planning permission has to be taken into account and how much the house could be extended straight away.

MJC, in response:

- it's tricky when the Local Plan policy is out of date with current thinking – our 2006 Local Plan policies refer to the 1995 permitted development order. These don't exist any more; PD rights are a lot more generous than they were in 1995. The key here is what this council is required to do. Our policy is based on dated PD allowances; NPPF advice allows for some degree of judgement - is the replacement material larger than the original dwelling? This is also the advice of the JCS and emerging Local Plan. Material considerations indicate it would be wrong to consider the application only with reference to Policy CO7 as currently stands. Our policy is not in line with current thinking;
- this allows us to make a judgement; the extant permission for extensions to the house is considered acceptable, and the replacement dwelling will not be materially larger. Officers have looked at this carefully, considering both the fall-back position and the green belt policy, and are satisfied with the result;

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- regarding a bat survey, the weekly list of new planning applications is routinely forwarded to the Gloucestershire Centre for Environmental Records (GCER) for screening; they come back with any sitings in the vicinity of particular proposals. These are not published on line, due to their sensitive nature. Will locate the report on this site now.

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CM, in response:

- there are a number of things here which need clarification. Is not saying that the building should be listed or is listable – it is not, and has no national significance or value;
- the dwelling is in the proposed conservation area, but as already stated, this offers no protection at this stage. If it was, the building would be considered to make a positive contribution, and couldn't be demolished;
- the house does not have any local listing or protection, but could be regarded as a no-designated heritage asset; Paragraph 135 of the NPPF states that a 'balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset';
- in this instance, the scale of harm is the total loss of the house, which is very significant. When measured against the merits of the building, does not consider its demolition to be justified.

CN: will be pleased to have a definitive answer regarding the bat survey, and appreciated MJC's comments about delaying the demolition – a good call in view of this inflammatory move. Thanks for this wise approach. The big point now is the different opinions, and the fact that if this was already a conservation area, officers wouldn't be recommending approval. Looking at the draft Cheltenham Plan, and proposal to make this area a conservation area, the public consultation ends on 9th April; it will then be pulled together and be sent to the Inspector. The main things the Inspector will look at are issues of soundness – he/she won't be making changes to the Local Plan to make it 'better' – that isn't the remit. Would suggest that we should therefore be placing much greater legal weight on the conservation area proposal. Enough has been said to have serious concerns about this application. Definitely won't vote in support of it as it currently stands.

HM: thanks for the explanation of PD rights; it sounds as if an applicant makes an extension under PD rights, then another, they could end up with a house three times the size of the original building. Thanks also to CM for confirming the situation regarding the 'non-designated heritage asset' – this house is one, and JCS Policy SD9 can therefore be used as a refusal reason. Also Local Plan policy CP3(c) – if the application does not conserve the best of the environment – the Civic Society and Architects' Panel both conclude that it does not.

CH: has some questions about the emerging Local Plan and conservation area. If Local Plan was already agreed, and this house was situated in the new conservation area, we would have a lot of control about what goes in its place. The green belt objection is strong, in relation to the increase in size from the original building, but PD rights have changed from their original criteria on percentage. Officers acknowledge that the proposed dwelling will be larger than the extended existing dwelling and that it requires a judgement call as to whether it will harm the green belt. The responsible judgement of officers is that it will not, but for Members, it appears to go beyond what is acceptable. The bat question is still to be answered - if they are in the roof, is that grounds for stopping the demolition? For a number of reasons, officers have said this is an on-balance decision, and it looks as if Members are coming down just the other side; the application should be refused.

PT: Park Lane is a very complete little area; the new dwelling will weather, but it will ruin the look of the whole lane. It is a gentle place, historically interesting. Cannot vote to have this house demolished.

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AL: the proposed building doesn't complement or respect the area. St Francis is prominent in the street, and complements the street scene. Without it, the proposed conservation area will be in question. Without St Francis, Kennan will lose its group value. Paragraph 135 of the NPPF talks about having regard to the scale of harm of the loss of a building – in this case that will be significant. Did the agent say it was not financially viable to extend the four-bedroomed house? Members should make a decision on this application tonight, not defer.

GB: does BF still want to propose deferral?

BF: a lot of his points have been answered but no-one has fully answered the PD question, and a decision on the demolition notice must be made tomorrow – the reality is now. Historic England has stated that the house features two architectural styles – mock Tudor and butterfly plan – and is not an Arts and Crafts building. Is a great fan of Arts and Crafts houses, but this dwelling is not protectable as one, and could technically be demolished without any argument. Considers the merits of what is proposed to be doubtful, a pastiche of the 1970s; Park Lane has some more modern houses, and St Francis is a nice building, but not a 1920s design. A pre-war bungalow has been demolished in Spring Lane, and it is difficult to refuse the proposal tonight as most people are wanting to conserve something which is impossible to conserve if the owners want it demolished. They have paid over £1m for it to knock it down – clearly they want to live in the area but not the house. Will not move to defer. Officers have given a good explanation for their recommendation. Will vote in support

RH: would like to revisit some of MJC's comments with reference to PD rights. Understands that PD rights have been extended, but does the fact that this property is in the green belt have any impact? And did he say that the replacement dwelling must be a better building than the previous one? Is this better? Irrespective of whether it's an Arts and Crafts building or listable, and Historic England's comments, would say two things: the proposed new design is not at all a better replacement, and it is materially larger. Will not support the application.

MJC, in response:

- apologies for lack of information regarding bats. The GCER report records a sighting of a bat 210m from the application site in 1993, and no sightings since then. This is clearly close, but not the application site itself;
- for avoidance of doubt, if Members are minded to approve, a condition requiring a visual inspection can be included;
- if Members are minded to refuse, they can do something similar and include the lack of a bat survey as a refusal reason. This would be a belt and braces approach, but if the applicant goes to appeal, they can submit the additional information at that point. Conditions are used to make an unacceptable development acceptable;
- to RH, regarding PD rights, the green belt doesn't bring extra restrictions on PD. We shouldn't get too distracted by this. Our current Local Plan policy talks about PD rights which no longer exist. The proposed dwelling is materially larger than the building it is replacing;
- as it looks as if a refusal is likely, would like to clarify two key parts of the debate: the conservation area matter, and the question whether the proposed development warrants the demolition on the building, as outlined by CM;
- officers recognise the value of the building but have to consider the case at this particular point in time; the concept of a non-designated heritage asset still has a way to go. Policy CP3 has some relevance here, and the Civic Society's comments neatly encapsulate the issue;
- if Members want to pursue this line, it would not be unreasonable; the Inspector would give little weight to the conservation area argument, but may have more sympathy with the non-designated heritage asset;

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- regarding the green belt, the proposed dwelling is materially larger than the existing building – can include that argument too, though it may have less luck at appeal. It would be worth including both, and the bats.

CH: to clarify, is not sure if refusing planning permission tonight gives protection against the potential demolition, which could be permitted tomorrow. If a bat survey is required, will this have to be postponed? Do the conservation area issues give protection against demolition? Whether this house is or isn't a non-designated heritage asset depends on it not being demolished, and the link between the non-designated heritage asset and the conservation area is important – it would be a material factor in the conservation area. We need to know how these elements work together, before going to the vote.

MJC, in response:

- a decision on the demolition notice needs to be issued tomorrow, and is inclined to say that the building shouldn't be demolished until a bat survey has been carried out. Is not saying the building will be protected – it isn't a straight yes/no answer – but a temporary mitigation. There is no protection from a conservation point of view;

Vote on officer recommendation to permit

0 in support

13 in objection

2 abstentions

NOT CARRIED

GB: will now take a vote on HM's move to refuse. MJC will draft refusal reasons based on Local Policy CP3(c), JCS Policy SD9, a requirement for a bat survey, and the non-designated heritage asset status of the house. With Members' agreement, GB and BF will approve these refusal reasons.

HM: what is suggested is the harm to the non-designated heritage asset – Kennan – if St Francis is demolished. If it is replaced by a new house, Kennan will be harmed.

MJC, in response:

- the issue of the merits of the replacements building have not been discussed. The wording of Policy CP7 – that the building will be contextually inappropriate – can also be added.

CH: can the refusal reasons be circulated to all the Committee, to be sure they are representative of ? This would give more comfort, as BF's comments tonight have been at variance with the views of everyone else.

PT: it will be recorded in the minutes.

BF: has spoken at variance to others during the debate, but did not vote in support of the application.

GB: Members can rely on officers who have listened to all the debate tonight and advised as to which refusal reasons should stand up at appeal. BF and GB can ensure these are OK. Wouldn't want to circulate to all Members, as this will set a precedent. It needs to be sorted out tomorrow; Members can trust GB and BF to do the right thing.

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Vote on HM's move to refuse on CP3(c), JCS Policy SD9, bat survey, and non-designated heritage asset status of the house

14 in support

0 in objection

1 abstention

REFUSED

The meeting ended at 7.55pm.