

Our Ref: 13915

14 December 2018

FTAO Joe Seymour
Cheltenham Borough Council
Municipal Offices Promenade
Cheltenham
Gloucestershire
GL50 9SA

Dear Sir,

Planning Application 18/02097/FUL

**Mixed use development comprising 8 flats (Class C3) on upper floors and a retail unit for flexible use as shop (Class A1) / restaurant, cafe (Class A3) on the ground floor.
At 252 Bath Road, Cheltenham, Gloucestershire**

I write with regard to the above application. Prior to this application being presented at planning committee on 20th December I would herewith provide a brief update to our original planning statement submission.

Please ensure that this update (or if preferred a summary of matters referenced below) is provided to the committee, so it can be considered as part of the application.

The application has been recommended for approval. As you and the committee will be aware a previous scheme was submitted for the site and that was refused by the committee contrary to officer's recommendation. The committee's main concerns related to design, amenity impacts and impact on the conservation area. It is notable that the Cheltenham Architects Panel did **not** support the previous scheme.

Prior to submitting this revised application the scheme was presented to and assessed by the Gloucestershire Design Review Panel (GDRP). The GDRP were supportive of the scheme concluding that ***it was a significant improvement on the previously submitted proposal***. Some minor amendments were suggested, these have been incorporated into the revised scheme.

Following submission of the application the proposals were reviewed as per your standard procedures for consultation by the Cheltenham Architects Panel (CAP). Following initial comments from CAP the design team presented final proposal for comment at the end of November. The Final comments from CAP (14th December) confirm the panels support for the scheme subject of course to the agreement of the finer construction details. The large scale details referenced by CAP can be considered at the condition discharge stage as part of a condition discharge application in the future.

The committee report was compiled prior to publication of the CAP final comments. It is thus essential (mindful of members criticism of the original design) that an appropriate update be provided to members, so they are fully aware of their support for the scheme.

Both the GDRP and CAP support this scheme and are complimentary of the design approach, your Councils Conservation Officer fully supports the proposal. As such, I submit that (as per officer recommendation), the design of the scheme is entirely acceptable.

In comparison with the refused scheme, other design changes have been made including the omission of the "Coach House" (formally proposed within the parking court). This overcomes a significant concern expressed by the planning committee when considering the previous scheme.

Since the previous application was considered there has been a change in circumstances. Your Councils can no longer demonstrate an implementable 5 year supply of housing land.

It has recently been confirmed, and acknowledged within the committee report, that the Council currently has a 4.6 year supply. As such, being that this proposal has an element of housing within it, the tilted balance as provided by paragraph 11 of the National Planning Policy Framework (NPPF) is fully engaged.

It is noted that a tilted balance exercise has not been carried out within the committee report as you have confirmed that it is officer's opinion the scheme is fully compliant with the Development Plan. Nonetheless, for the sake of completeness and given that it is the correct policy test in this instance, I provide the following commentary on the tilted balance.

As a mixed use housing application the most important policies are those in relation to housing supply. As there is no 5 year housing land supply then those policies are out of date. As such any assessment must then be made against paragraph 11 of the NPPF, which states:

"where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the **application of policies in this Framework** that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, **when assessed against the policies in this Framework taken as a whole**"*

Footnote 6 of paragraph 11 clarifies that the policies referred to are those in the NPPF. As the site is within a designated conservation area then footnote 6 must be considered, however to engage footnote 6 there must be a "clear reason" for refusing development. As the Conservation Officer has identified no harm then it is safe to assume that the proposed development is deemed entirely acceptable within the conservation area and thus there are no policy grounds for withholding consent.

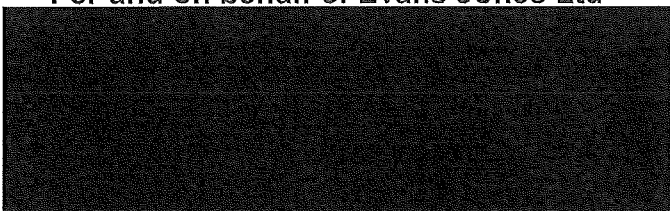
As such we move onto criterion ii which clearly states "when assessed against the policies in this Framework taken as a whole". Thus, notwithstanding the fact that officers consider the proposal will be in full accordance with the development plan it remains appropriate to apply the 'tilted balance' as this increases the duty upon your authority to bring forward sites which will deliver new housing and other economic benefits.

The correct test is thus that **adverse impacts must significantly and demonstrably outweigh the benefits**. No adverse impacts have been identified by officers. The benefits of the scheme are numerous and include the provision of housing in a sustainable location utilising previously developed land. There is also the provision of new modern commercial uses on site, which benefits and supports the local economy. Thus, in line with the tilted balance and the presumption in favour of sustainable development permission should be granted without delay.

This is an important factor for the committee to consider if they are minded to overturn their officers recommendation. Relying on policy/s within the Development Plan alone would be to consider this application without regard to the 'tilted balance' would simply be wrong in law and contrary to clearly stated government policy. In this case there are no policies in the NPPF that would tell against this proposal furthermore there are no adverse impacts which **significantly and demonstrably** outweigh the benefits.

It is hoped that this brief update will be provided to members of the committee to aid them in their consideration of the application. Should you or the committee require any further clarification on the points raised in this letter or in the application as a whole then please do not hesitate to ask.

Yours sincerely
For and on behalf of Evans Jones Ltd



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