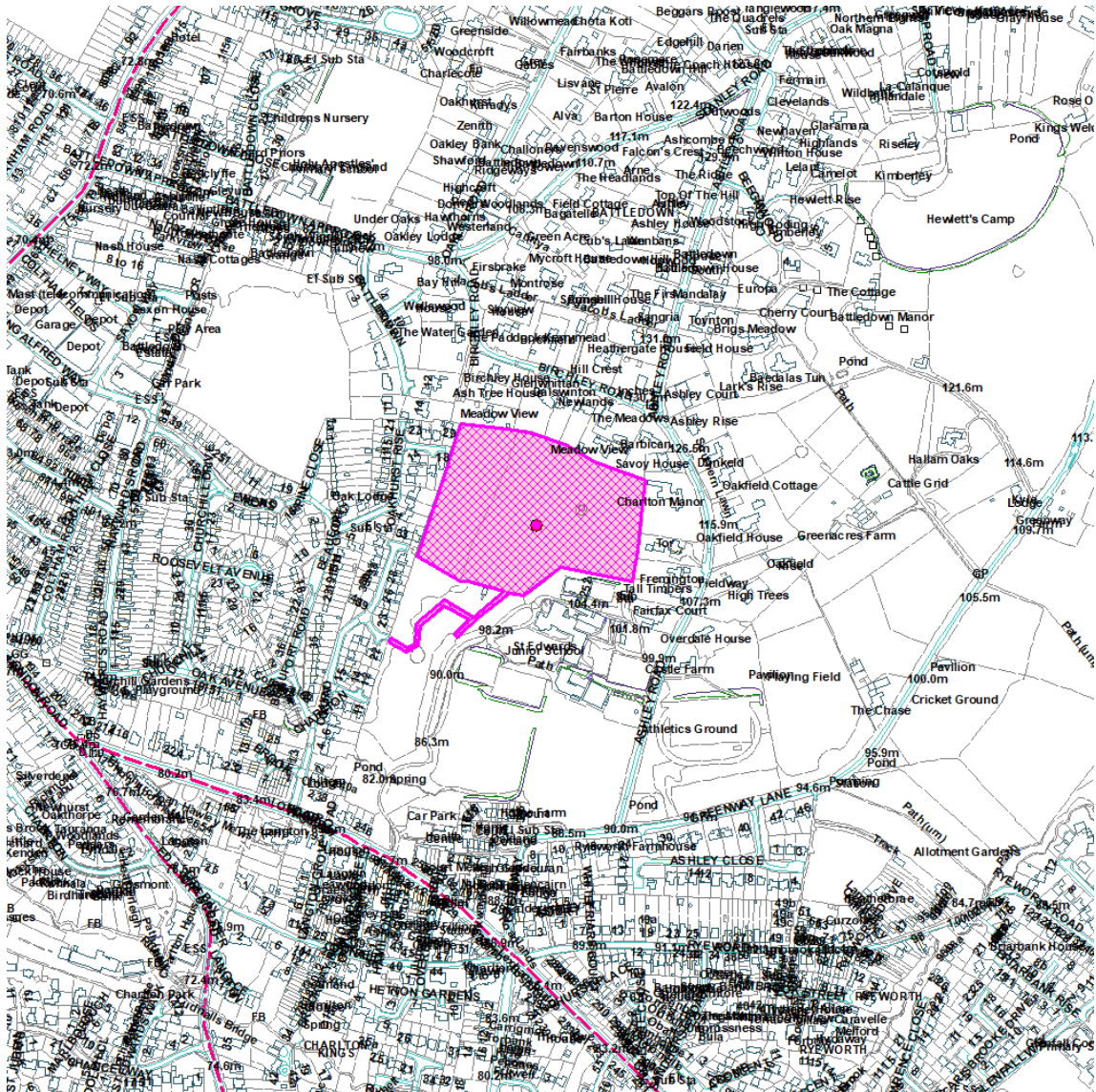


<b>APPLICATION NO:</b> 20/00683/OUT		<b>OFFICER:</b> Mrs Emma Pickernell	
<b>DATE REGISTERED:</b> 29th April 2020		<b>DATE OF EXPIRY:</b> 29th July 2020 Extended by agreement with the applicant to 25 <sup>th</sup> September 2020.	
<b>DATE VALIDATED:</b> 29th April 2020		<b>DATE OF SITE VISIT:</b> 24 <sup>th</sup> June 2020	
<b>WARD:</b> Battledown		<b>PARISH:</b> Charlton Kings	
<b>APPLICANT:</b>	W Morrison (Chelt) Ltd & Trustees Carmelite Charitable Trust		
<b>AGENT:</b>	Frampton Town Planning Ltd		
<b>LOCATION:</b>	Land Adjacent To Oakhurst Rise, Cheltenham		
<b>PROPOSAL:</b>	Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration		

**RECOMMENDATION:** Approval subject to s.106



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is a large, undeveloped parcel of land, approximately 4.3 hectares, located to the east of the borough within the Principal Urban Area (PUA), in an elevated position above the town. The site comprises two fields of grassland separated by a mature hedge and trees, and is largely bound by hedging and trees.
- 1.2 Residential properties in Birchley Road and Ashley Road are located to the north and east of the site, and Oakhurst rise to the west; St Edwards Preparatory School is located to the south.
- 1.3 The site is heavily constrained due to the presence of a number of protected trees; the sloping nature of the site; the presence of protected wildlife species; the presence of an historic Ice House; and its close proximity to listed buildings.
- 1.4 Currently the site forms part of the wider St Edwards Preparatory School site but is owned by The Carmelite Charitable Trust who lease the land to the school.
- 1.5 Two previous planning applications for this site have been refused by the Planning Committee. Application ref 17/00710/OUT was an application for the erection of 90 dwellings and was refused in July 2018. There were 5 reasons for refusal which, to briefly summarise, related to 1) loss of trees, (2) impact on the setting of listed buildings, (3) unacceptable impact on highway network due to access via Oakhurst Rise, (4) Impact on protected species, (5) Impact on landscape character and AONB.
- 1.6 Application ref 18/02171/OUT was an application for up to 69 dwellings. This was refused on 22<sup>nd</sup> March 2019 for the following reasons:

- 1) *The proposed development fails to adequately address the constraints and site specific requirements set out within emerging Cheltenham Plan Policy HD4 which identifies the site as a potential land allocation for housing. Although the Cheltenham Plan is currently under examination and has not yet been formally adopted, and there are significant unresolved objections to the policy, paragraph 48 of the NPPF (2019) does allow the Local Planning Authority to afford some weight to this policy in the emerging plan.*
- 2) *The proposed development would result in the loss of a number of trees within the application site, including a significant TPO'd tree which has some valuable characteristics and features of a veteran tree. The scale of the development on this valuable site would also be likely to result in the deterioration of the retained Veteran trees, which would fail to be outweighed by wholly exceptional reasons.*

*The development would therefore be contrary to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 (c) of the National Planning Policy Framework (2019).*

- 3) *The proposed development would have a significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.*

*The development would therefore be in conflict with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2019).*

- 4) *The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of*

*the site which the application proposes to be relocated as part of the development. Paragraph 175 (a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the relocated sett. The development would have a negative impact upon this valuable habitat of hedgerows and pasture, and biodiversity across the site generally.*

*The proposed development would therefore be contrary to adopted policy SD9 of the Joint Core Strategy (2017), paragraph 175 (a) of the National Planning Policy Framework (2019) and Natural England's Standing Advice.*

- 5) *The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.*

*The proposal would therefore be contrary to saved policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).*

- 1.7 Following the refusal of the planning application an appeal was made to the Planning Inspectorate which was dealt with by Public Inquiry which was held on 20 - 23 August 2019. On 20<sup>th</sup> September 2019 the appeal was dismissed.
- 1.8 Prior to the Inquiry the authority withdrew the fourth and fifth reasons for refusal in relation to ecology and visual impact. The appeal Inspector did not consider that the appeal proposal would cause harm to the appearance and character of the AONB.
- 1.9 The full text of the appeal decision will be provided to members as **appendix 1**, however the 'overall assessment' of the appeal decision is as follows:

*"120. It is established above that the less than substantial harm to designated heritage assets that would be caused by the proposed development carries considerable weight. In my judgement, for the reasons explained above, this harm is of a very significant level and both Listed Buildings whose settings would be harmed are themselves of very high significance. I therefore consider that the less than substantial harm identified amounts to the requisite clear reason to dismiss this appeal, in terms of Framework paragraph 11d(i).*

*121. However, very considerable weight is also to be afforded to the contribution the development would make to the supply of affordable housing in the face of an acute shortage. The contribution to market housing also carries significant weight, in the absence of a current overall five year housing land supply for Cheltenham. These are the net total of benefits identified in favour of the amended proposal now at appeal.*

*122. In my overall judgement, the adverse impact by way of the less than substantial harm to the significance of designated heritage assets in this case would alone outweigh these benefits to housing. I therefore consider that dismissal of the appeal is warranted on that ground with respect to Framework paragraph 11d (ii).*

*123. Moreover, it is also appropriate to take account of the harms I have identified by way of the loss of a protected tree and the degree of long-term risk to those trees to be retained, the potential net loss of biodiversity and the disadvantage due to the less than ideal nature of the highway access to the appeal site. I do not consider that these further adverse effects would, either individually or jointly, outweigh the significant benefits to the supply of affordable and market housing. Nevertheless they do further support the case for dismissal of this appeal.*

*124. Finally, the weight to be ascribed to the benefit to housing supply is fairly to be regarded as being constrained by the prospect that, even if the present proposal is rejected, there is still potential for the site to be development in line with an emerging local plan allocation, albeit for a lesser scheme, as well as by the likelihood that, within the foreseeable future the Cheltenham Plan, currently under examination, will be adopted, with a resultant increase in housing supply for Cheltenham to above five years. These prospects too, although conjectural and not determinative, still militate against the approval of the current proposal.”*

**1.10** This application is now seeking outline planning permission for a revised scheme which proposes the erection of 43 dwellings (40% affordable). As with previous applications this current application is seeking approval for the access, layout, and scale with matters relating to appearance and landscaping reserved for future consideration, should the principle of developing the site be considered acceptable. Access would be via Oakhurst Rise as previously proposed. The proposed housing mix comprises:

4 no. 1 bed maisonettes  
2 no. 2 bed maisonettes  
1 no. 1 bed house  
8 no. 2 bed house  
9 no. 3 bed house  
19 no. 4 bed house

**1.11** The principal changes between the 2018 planning application that was dismissed at appeal and the current proposal are:

- Revised layout of the site
- 26 fewer dwellings
- Revised indicative landscaping and tree planting proposals
- Revised arrangements for relocating badgers

**1.12** In addition to drawings, the application has been accompanied by a number of detailed reports and statements, all of which have been available to view on the Council's website.

**1.13** The Cheltenham Plan, with the site allocated for housing development (HD4) was adopted by the Council on the 20<sup>th</sup> July 2020.

**1.14** The application is at committee at the request of Councillors Harvey, Fisher and Savage.

**1.15** Due to the Covid 19 outbreak a group site visit will not be arranged in respect of this application. Whilst this Authority ordinarily organises a 'planning view' this is by no means essential and is not required by any legislation. Most members of planning committee have visited the site twice when considering previous applications on the site. Photographs and other illustrative will be made available through the officer presentation.

**1.16** Relevant Officers have visited the site on a number of occasions.

## **2 CONSTRAINTS AND RELEVANT PLANNING HISTORY**

### **Constraints:**

Airport Safeguarding over 45m  
Landfill Sites boundary  
Principal Urban Area  
Residents Associations

**Relevant Planning History:**

**CB15569/00**                      **WITHDRAWN**                      **28<sup>th</sup> August 1981**  
Land to the west side of Whitefriars School – Outline application for residential development

**CB15568/01**                      **REFUSED**                      **29<sup>TH</sup> October 1981**  
Land to west side of Whitefriars School – outline application for residential development of 6.5 acres of land including new highway access from London Road – refused on highway grounds

**CB16992/00**                      **REFUSED**                      **25<sup>TH</sup> October 1984**  
Land to west side of Whitefriars School – Outline application for residential development including the construction of new estate roads, footpaths, landscaping and all associated drainage works – refusal reasons related to policy contraventions; loss of tree; surface water drainage; and highway/traffic implications

*Note: Although the above planning history has been included for completeness, given the significant period of time that has since passed, the decisions are not relevant to the determination of this application which must be determined in accordance with the current development plan and national policies.*

**17/01736/SCREEN**                      **ISSUED**                      **8th September 2017**  
Request for a screening opinion under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

**17/00710/OUT**                      **REFUSED**                      **30th July 2018**  
Outline application for residential development of 90 dwellings including access, layout and scale, with all other matters reserved for future consideration

**17/01778/FUL**                      **WITHDRAWN**                      **5th July 2018**  
Provision of a dropped kerb

**18/02171/OUT**                      **REFUSED**                      **22nd March 2019**  
Outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration (revised scheme following refusal of application ref. 17/00710/OUT)

### **3 POLICIES AND GUIDANCE**

**National Planning Policy Framework**

Section 2 Achieving sustainable development

Section 3 Plan-making

Section 4 Decision-making

Section 5 Delivering a sufficient supply of homes

Section 8 Promoting healthy and safe communities

Section 9 Promoting sustainable transport

Section 11 Making effective use of land

Section 12 Achieving well-designed places

Section 14 Meeting the challenge of climate change, flooding and coastal change

Section 15 Conserving and enhancing the natural environment

Section 16 Conserving and enhancing the historic environment

### **Adopted Joint Core Strategy Policies**

SP1 The Need for New Development  
SP2 Distribution of New Development  
SD3 Sustainable Design and Construction  
SD4 Design Requirements  
SD6 Landscape  
SD7 The Cotswolds Area of Outstanding Natural Beauty  
SD8 Historic Environment  
SD9 Biodiversity and Geodiversity  
SD10 Residential Development  
SD11 Housing Mix and Standards  
SD12 Affordable Housing  
SD14 Health and Environmental Quality  
INF1 Transport Network  
INF2 Flood Risk Management  
INF3 Green Infrastructure  
INF6 Infrastructure Delivery  
INF7 Developer Contributions

### **Adopted Cheltenham Plan Policies**

D1 Design  
D3 Private Green Space  
L1 Landscape Setting  
HE1 Buildings of Local Importance and Non-Designated Heritage Assets  
HE2 National and Local Archaeological Remains of Importance  
BG1 Cotswold Beechwoods Special Area of Conservation Recreation Pressure  
H1 Land Allocated for Housing Development  
HD4 Land off Oakhurst Rise  
SL1 Safe and Sustainable Living  
G12 Protection and Replacement of Trees  
G13 Trees and Development  
C11 Securing Community Infrastructure Benefits  
C12 Sports and Open Space Provision in New Residential Development  
C14 Broadband Provision

### **Supplementary Planning Guidance/Documents**

Development on garden land and infill sites in Cheltenham (2009)  
Flooding and sustainable drainage systems (2003)  
Landscaping in new development (2004)  
Planning obligations (2003)  
Planning obligations: transport (2004)  
Play space in residential development (2003)  
Public art (2004)  
Security and crime prevention (2003)  
Sustainable buildings (2003)  
Sustainable developments (2003)  
Travel plans (2003)

## **4 CONSULTATIONS**

### **Social Housing**

*17th June 2020*

See **Appendix 2**

## **Building Control**

*20th May 2020*

The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.

## **Parish Council**

*2nd July 2020*

Further to the CKPC Planning Committee Meeting of 5/11/18, we object to the above application with the following comments:

It is disappointing that except for a reduction in the number of dwellings proposed, this application does little to address any of the Committee's concerns raised about the previous applications for this site.

### **Drainage and Flood Risk:**

The Committee note the concerns raised by the Cheltenham Flood & Drainage Panel and note that again, despite the matter being previously raised, there is no detail as to how the attenuation systems will be maintained in the future. If the drainage and attenuation systems are not maintained then the development would in time become a substantial flood risk to properties downhill of it.

### **Ecology:**

Even if the re-location of the badger sett is successful, this development would convert what is currently the foraging area for the badgers into hard landscaping and gardens. This will bring badgers into conflict with residents, both in terms of accidents with cars and damage to gardens.

There seems to be some confusion between the various documents as to whether or not all the mature trees on the site would be retained or not.

### **Local services:**

There are shortages in capacity in both Primary and Secondary schools in the Parish, with some children unable to gain entry to schools within the Parish.

Similarly, prior to the current exceptional circumstances, there were substantial waiting times to access local GP services.

This proposal will increase demand for these already stretched services.

### **Heritage:**

The development would be detrimental to the setting of both Ashley Manor and Charlton Manor and we note Historic England's continued objection to the development on these grounds.

### **Transport:**

As with all the previous applications, the suggestion that there is easy access to local facilities and bus services by bicycle or on foot is simply nonsense. The severity and length of the climb from the bottom of Charlton Court Road to the entrance to the development (32m of climb over 460m) means that almost all journeys to and from the site would be by private car. The Residential Travel plan simply ignores this obstacle to sustainable transport. The offer of an e-bike to each household is merely a marketing gimmick. If this development has a design life of 100 years, what happens when the e-bike reaches the end of its working life, or if the original property owner moves? The fact is that only extremely dedicated cyclists will cycle to or from this development and people will not walk to local shops if they have a car available.

We understand that the Travel Plan quotes bus timetables from 2018 that no longer run as evidence of access to bus services.

**Community Cohesion:**

As almost all movements to and from the site will be by private car, the site will effectively be socially isolated from the surrounding residential areas, severely restricting Community development and integration with the wider Parish.

**Social Housing:**

While Charlton Kings (as everywhere else) has a shortage of social housing, given the access difficulties other than by private car, social housing tenants without access private cars would be very isolated.

**Local Plan:**

The suggestion (which this Committee strongly disagreed with) in the Local Plan was that the site could possibly accommodate around 25 dwellings, yet this application is for 43, almost double the (disputed) amount suggested.

**Winter Access:**

Residents of Oakhurst Rise have previously reported that in snow and icy conditions it is necessary to leave cars in Charlton Court Road as Oakhurst Rise becomes dangerous and even impassable. As the only access to the development would be Oakhurst Rise, adding the cars from a further 43 households either risking Oakhurst Rise or being abandoned in Charlton Court Road would be foolhardy.

**Existing Residents:**

The existing residents of Oakhurst Rise enjoy the amenity of living on a quiet cul-de-sac. The road becoming a through route for this development will be detrimental to their quality of life. This is especially true of the resident who relies on the Community mini-bus to take her out. The operator of the bus has said they may well not be able to continue providing the service if the development takes place. The bus blocks the end of the cul-de-sac that would form the access to the site while her wheelchair is loaded and unloaded as the road is not wide enough to carry out this operation and maintain a through route. While the impact on residents is reduced with the reduction from 69 to 43 dwellings, it is still unreasonable. Sustainable development is meant to enhance people's quality of life, not degrade it.

**Cheltenham Civic Society**

*4th June 2020*

**OBJECT.**

Before commenting on the merits of the current scheme (see below), the Civic Society Planning Forum agreed that the history of this case was evidence of poor planning.

As noted by the inspector in the appeal decision of 19 August 2019, the site lies within the defined Principal Urban Area of Cheltenham but is not allocated for any form of development. However, neither is the site subject to any policy restriction on development. So, there is no objection to the principle of residential development and some development is inevitable. But the way in which this is being resolved is wrong.

This application is now the third in the past 2 ½ years. Each time the number of new homes proposed has been reduced (91, 68 and now 43). The developer aims to maximise the number approved; the planners and the appeal inspector cut them back. Greater emphasis on placemaking rather than just numbers of dwellings might have been more



constructive on such a sensitive site. A great deal of expenditure has been incurred, and much public anxiety, even anger, has been generated as result.

In our view, some 25 or so homes could be built on part of the site, as the council itself has indicated (Policy HD4 in the emerging local plan). The site also has important environmental values, including veteran trees, wildlife, heritage assets and fine views which should be protected. However, little public benefit is being derived from this at present.

The public interest would best be served if those parts of the site that cannot be developed with housing were to be dedicated as public open space, to be managed in order to retain their environmental qualities.

We conclude that a plan-led approach should have been adopted here rather than an appeal-led one. Once it became clear that there were pressures for development, Cheltenham Borough Council should have worked with the landowners, the developer and the local community to draw up a master plan for the whole site. This should have indicated in broad terms where development would be acceptable and where it would not, and what form it should take. It should have also ensured lasting public and environmental benefits by dedicating most of the site as public open space.

We ask that the Council learn the lessons from this expensive, time-consuming and divisive experience.

As to the current proposal, the architectural quality of the proposed buildings is poor, and they will date badly. Given local concern about the site and its environmental importance we should expect better. On this site, the aim should be an outstanding development, which could relate to the density and style guidelines of the adjacent Battledown estate.

There is no indication in the application of what will happen to the non-developed green area and what the plans are for the management of the green spaces. There is also no mention of energy conservation.

## **Gloucestershire Centre For Environmental Records**

*22nd May 2020*

Biodiversity report received.

## **Gloucestershire Wildlife Trust**

*14th August 2020*

Regarding the proposal for Local Wildlife Site status on land at St Edwards Prep School, Charlton Kings (Site under planning application 20/00683/OUT).

In order to achieve the goal of a balanced and useful Local Sites system, the Gloucestershire Wildlife Sites Partnership uses minimum habitat and species thresholds that fit the unique biodiversity of the county into a wider context, and a set of general criteria based on the DEFRA-recommended version of the Ratcliffe criteria.

The proposed site does meet the criteria set out in the Key Wildlife Sites (now referred to as Local Wildlife Sites [LWS]) handbook (2015), being greater than 0.5 ha (site is approximately 3.5 ha), confirmed as MG1 grassland habitat by NVC survey carried out by Aspect Ecology in July 2019 and Aug 2020 and by Bioscan in July 2019 and recording, through combination of all of the above surveys 22 species from the grassland list. However, MG1 can cover a wide range of grassland condition, from very high grass cover

and few herbs through to much lower grass density and significant herb cover. As it stands at the moment, the proposed site is of borderline LWS quality and the LWS process requires it to be examined by the LWS selection panel to determine whether it should be adopted as a LWS or not. The panel may be unable to convene before the planning application goes to committee.

The site lies within a gap in grassland ecological network connectivity. Enhancement to grassland habitat within this area would benefit the ecological network and with appropriate management the quality of the grassland on this site could be enhanced within a relatively short time. Irrespective of the LWS selection panel decision, it is Gloucestershire Wildlife Trusts view that any development on this site should provide a strong commitment to biodiversity net gain and a strong management and maintenance plan for both the grassland and veteran tree features on the site.

### 2nd September 2020

The Local Wildlife Site (LWS) Selection Panel met on 01/09/2020 to consider the proposal for St Edwards Prep School Meadow to be a LWS.

In addition to me providing secretariat, the LWS Selection Panel consists of a representative from each of the following:

Gloucestershire Naturalists' Society  
Gloucestershire Wildlife Trust  
A Gloucestershire Local Planning Authority

The Panel agreed that the site passes the Gloucestershire Local Wildlife Site Selection Criteria 2015 under point 9. Value for learning - "c. the site is exceptionally well-placed to offer educational opportunities either by its proximity to a school or other place of learning, or its easy accessibility for study of the species and habitats present without causing unacceptable damage or disturbance". The site is part of the land currently leased to the St Edwards Prep School and therefore by its proximity to the school and range of habitats and species on the site, it is exceptionally well placed to provide accessibility for study. Whether the school currently uses the site for nature study or not, is not a decision point as the LWS criteria aim to protect sites to maintain benefit into the future and changes in curriculum or personnel could easily result in change of attitude towards use of the site. LWS may be selected purely on the grounds of excellence for the understanding of biodiversity, even where other criteria are not met.

The Panel also consider that the site may also pass the criteria for MG1 grassland plant species. Two sets of plant species data that were provided for the site by Aspect Ecology (applicant's representative) and Bioscan (Friends of Charlton Kings representative) differ but between them provide a match for 22 species from table H5c of the LWS criteria. Under normal circumstances we would conduct our own independent survey at the correct time of year to decide whether the grassland passes the criteria based on plant species. However due to the timescale associated with the planning application this is not possible.

The site will be recorded on the LWS database as St Edwards Prep School Meadow.

### 2<sup>nd</sup> September 2020

I am writing to provide Gloucestershire Wildlife Trust's (GWT) comments regarding the biodiversity mitigation proposed in application 20/00683/OUT.

The grassland on site has been assessed in the applicant's ecological report as of poor quality semi natural grassland. However, there are as they mention, a number of indicators

of unimproved neutral grassland, a resource for which we only have 1677ha recorded in the county (0.6% of the county by area). Though these indicators are in some cases infrequent in the sward, they and the historic of lack of agricultural improvement of the site, do suggest that if the site were to be more appropriately managed, e.g. appropriately timed annual hay cut and removal of the arisings, the site would be likely to develop to a more unimproved grassland quality.

The ecological report enhancement measure EE2 talks of grassland creation, however, in the response to Friends of Charlton Kings (20\_00683\_OUTECOLOGY\_BRIEFING\_NOTE\_ON\_BEHALF\_OF\_THE\_APPLICANT-1076642.pdf) the consultant clarifies that existing grassland will be retained and enhanced. GWT would endorse the retention of the grassland intact and enhancement of the sward through local provenance seed. The ladies bedstraw is not widespread across the site, being mainly in a couple of large patches to the north west of the ice house. Attempt should be made to preserve this in situ.

The largest area of retained grassland, being retained for school use, will not have public access. This gives greater confidence that under enhancement and correct management a more species rich sward should develop. It should be made clear to residents that this area has no public access and fencing should be such to ensure it is not easy to gain access. Management should consider the requirements of both the enhancement of plant species diversity but also the maintenance of invertebrate species recorded on the site such as chimney-sweeper moth and five spot burnet moth.

The site has been confirmed to pass the Local wildlife Site (LWS) selection criteria by the Gloucestershire LWS selection panel (01/09/2020) on the grounds of Value for Learning, being a good selection of habitats and species exceptionally wellplaced to offer educational opportunities by its proximity to a school. The mitigation plan will enable the continuation of part of the site to meet the same criteria, however, GWT would like to see conditions in place such as a conservation covenant to ensure the undeveloped area of the site is secured for biodiversity in perpetuity.

For areas accessible to residents the outcome of grassland enhancement is of lower confidence as access by dog walkers is likely to result in nutrient enrichment and compaction.

GWT's view that the mitigation and enhancements for the habitats and species recorded on site are adequate to achieve no net loss of biodiversity.

## **Heritage And Conservation**

*7th July 2020*

The relevant legislative and policy context within which the proposal needs to be considered is set out below.

The cornerstone of heritage legislation is the Planning (Listed Buildings and Conservation Area) Act 1990, Section 16(2) which states, "In considering whether to grant listed building consent for any works the local planning authority... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

A core policy of the National Planning Policy Framework 2019 (NPPF) is heritage assets be conserved in a manner appropriate to their significance. Chapter 16, paragraphs 193-196 set out the framework for decision making for applications relating to heritage assets. This assessment takes account of the relevant considerations within these paragraphs.

Local planning authorities are required by paragraph 192 of the NPPF to identify and assess the particular significance of any heritage asset... taking into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. When considering potential impacts of development on the significance of a designated heritage asset Paragraph 193 of the NPPF requires great weight be given to the asset's conservation. If harm to or loss of a heritage assets is identified Paragraph 194 of the NPPF requires clear and convincing justification for it. Paragraph 195 and Paragraph 196 of the NPPF go into detail over the level of clear and convincing justification required. Notably Paragraph 196 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Historic England's Historic Environment Good Practice Advice in Planning: Setting of Heritage Assets (GPA3) December 2017 is also of relevance. The GPA3 provides a framework for the assessment of proposed changes to the setting of a heritage asset. To assess the degree of potential harm to the significance of a heritage asset, it advises a stepped approach, which includes: Identifying which heritage assets and their setting are affected; Assessing of the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated: Assessing the effect of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it; Exploring ways to maximise enhancement and avoid or minimise harm; Making and documenting the decision and monitoring outcomes.

The current application 20/00683/OUT is an outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration. This application is an amendment of application 18/02171/OUT an outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration which was dismissed at appeal, itself an amendment of application 17/00710/OUT, an outline application for residential development of 90 dwellings including access, layout and scale, with all other matters reserved for future consideration which was refused.

A number of heritage assets and their settings are potentially affected by the development proposal, both within and immediately adjacent to the proposal site. Most notable is Ashley Manor. This property has had a number of name changes but will be referred to as Ashley Manor within these comments.

Ashley Manor is a grade II\* listed building and described in its list description as one of the finest Regency villas in the Cheltenham area. Its current use is an administration building associated with St. Edward's School. It is located within a planned parkland setting, with a rural setting comprised of open fields and trees to the north. Notably this northern rural setting is the application site.

Ashley Manor forms a group with a number of other heritage assets on the school site which include, the boundary walls and gate to Ashley Manor facing on to London Road, the summerhouse to the southwest of Ashley Manor, a pair of piers at the carriage sweep of the southwest of Ashley Manor, all of which are ancillary structures associated with Ashley Manor within its parkland setting. Each of these structures is separately grade II listed. A noteworthy curtilage listed building to the north of Ashley Manor, outside the planned parkland but within its rural setting, and within the application site, is a former icehouse.

Charlton Manor, Ashley Road is a notable heritage asset adjacent to the northeast corner of the site. It is a grade II listed Victorian house on the Battledown estate, whose rear boundary directly abuts the site. The rear of this property looks west over rural setting provided by Ashley Manor and has views of the wider landscape.

The heritage concerns previously raised over refused outline applications 17/00710/OUT and 18/02171/OUT have to an extent been addressed by the current application. It is considered there are still issues with the proposal in terms of its impact on the setting of the heritage assets, which result in it causing less than substantial harm. However, on balance, it is considered it should not be objected to in heritage terms due to the amendments made to the number and location of dwellings, the measures introduced to mitigate its visual impact and the associated public benefits. The advice below will address the impact of the development proposal on each affected heritage asset identified.

Concerning Ashley Manor, as stated, historically its curtilage included planned parkland within a wider rural setting, defined by open fields and trees and tree groups. This setting has been compromised by both the school use, which has resulted in a number of unsympathetic extensions and alterations within its parkland setting, and by significant suburban development around its boundary, diminishing its wider rural setting. Despite this the parkland setting, most notable to the south, and it's the rural setting to the north, has survived.

Due to their proximity to the development site, it is considered Ashley Manor, the summerhouse to the southwest of Ashley Manor and a pair of piers at the carriage sweep to the southwest of Ashley Manor, located around the driveway sweep and uppermost section of the driveway, along with the curtilage listed icehouse located to the north of Ashley Manor, are affected by the development proposal.

It is clear from the submitted supporting documents an attempt has been made to design the proposal to minimise its impact on Ashley Manor, it's associated listed and curtilage listed structures and its setting. It achieves this by limiting built form to the north-west of the proposal site and by preserving the existing rural setting to the north of Ashley Manor and a notable 'finger' of land to the southern section of the development site. It also introduces and reinforces extensive landscaping in the form of a 30 metre tree planting band, located between the development proposal and the remaining retained rural setting, in an effort to soften its impact. Notably the visual link between the north elevation of Ashley Manor and the icehouse is preserved within the development proposal, it being retained within its rural setting, with the tree planting serving to reinforce the vista without encroaching upon it.

However, the proposal does result in a loss of part of the wider rural setting and the character of the remaining setting is changed from large open fields to one where the open space is diminished and strong bands of trees become more prominent. It is also acknowledged in the short-term views of the development proposal will be possible from Ashley Manor and its immediate setting, although long-term, when the trees are more mature, a strong tree line will be created obscuring the built form. This impact is considered to cause a measure of less than substantial harm to the significance of a designated heritage assets. This harm will need to be weighed against the public benefits of the proposal.

Charlton Manor, Ashley Road is located to the northeast of the site within the Battledown estate. Battledown was laid out in 1858 with Charlton Manor the first property to be built there in 1864. The estate grew slowly into the late 20th century the area is typically characterised by large houses set back from the road on large plots. The rear boundaries of properties on the Battledown estate, including Charlton Manor, face onto the proposal site.

Charlton Manor has been designed to take advantage of views beyond its rear garden, over both the existing fields, to the icehouse and over the longer views of the wider landscape. As previously noted, the development proposal has attempted to address the concerns over the location of built form by limiting it to the north-west of the site, enclosing it with extensive landscaping in the form of tree planting and by retaining a notable section of the rural setting.

It is again acknowledged short-term views of the development proposal would be possible, although long-term a strong tree line would be created. The impact of the truncated views across the fields as a result of the reduction of the rural setting and the resultant change of character is considered to cause a measure of less than substantial harm to the significance of a designated heritage asset. This harm will need to be weighed against the public benefits of the proposal.

Paragraph 196 of the NPPF requires when less than substantial harm is identified a weighing exercise between the harm to the significance of a designated heritage asset and the public benefits of the proposal take place.

The steps in Historic England's Historic Environment Good Practice Advice in Planning: Setting of Heritage Assets have been demonstrated within the Heritage Impact Assessment by Grover Lewis Associates dated April 2020. The conclusions regarding the impact are similar to those identified within the above comments, where less than substantial harm is identified. The public benefits of the development proposal are identified and a balancing exercise is undertaken within the Planning Statement by Framptons dated April 2020. The public benefits, which are stated as outweighing the great weight that needs to be given to the asset's conservation, are identified as the delivery of market housing and affordable housing to which substantial weight should be given, net gains to biodiversity, the benefits from long term management of mature trees and hedges, the economic benefits arising from employment during the construction period and indirect employment following occupation of the dwellings, improvements to the Ice House and benefits to St Edward's School.

Where less than substantial harm has been identified it is considered to be caused to limited aspects of the heritage significance of the affected heritage assets and their settings. The proposal has been significantly amended since the previous proposals to address the reasons for refusal. Notable is the decrease in the number and location of dwellings, and the proposed extensive landscaping measures to reduce and mitigate the visual impact of the development proposal on the heritage assets and their settings. Cumulatively these measures, and the acceptance of the public benefits of the proposal, are considered to result in a proposal that, on balance, should not be objected to in heritage terms.

To accord with Paragraph 196 of the NPPF the case officer will need to carry out a separate exercise to weigh the public benefits of the proposal against the great weight that needs to be given to the conservation of the affected heritage assets.

### **Tree Officer**

*26th May 2020*

The CBC Tree Section does not object to this application.

Whilst the nature of the part of the site proposed to be built upon will change forever and trees are to be removed as a part of the development process, it is proposed to retain most significant trees as well as trees protected by a Tree Preservation Order. There is also a proposal to plant what is planned to become a significant belt of trees to act as a buffer between the school and the proposed development as well as plant many other trees within this site.

All of the high quality category 'A' trees (as per BS5837 (2012)) within the site are shown as being retained and indeed only a 14 meter high ash and a similar sized sycamore are shown as being part of removal plans of 'moderate' or category 'B' trees leaving an overall 90% of total category B tree stock. There are trees of lesser 'low quality' 'C' grade trees to be removed. Such trees have been classified because they are unremarkable, are in

impaired condition or have a primary 'collective value'. Experience has shown on active development sites elsewhere that whilst trees are shown as being retained, situations can arise where trees previously marked for retention have to be removed (for whatever reason). However in this situation, a combination of a particularly robust described tree protection plan combined with arboricultural supervision at appropriate sensitive junctures as well as building development proposals generally being situated well away from trees, it is anticipated that such occasional unplanned collateral damage will be limited. However, much of the success of the development of the site will rely on the 'buy in' by the site supervisor and other site employees during the course of construction. To address this, procedures have been recommended within the submitted tree protection details so that not only site management but also all site operatives will be aware of the importance of trees to this site and the risks involved with non-compliance to all tree protection measures.

Whilst the planting mitigation strategy appears generous, it will take many years (decades) before maturity. However apart from some low quality boundary and mid site hedge self-sown trees, there are very few existing new trees currently succeeding into maturity. This may be as a result of wild deer or other animals eating/destroying all new growth. Proposed landscape strategy includes deer-proof fencing which must be maintained if such native tree planting is to succeed. Much of the area within the site is to be used by St Edward's School in the future and the tranquil nature of this south eastern area should remain. It appears as though this area is to be left undeveloped. This would be a good location to plant new potentially very large 'landmark' trees for the future. It is noted that there are several such trees close to the school-Sequoia, pine, beech etc. It is strongly recommended that similar trees are planted here for the future benefit of the school as well as landmarks for the proposed nearby residents. Please could planting plans be adjusted accordingly.

The majority of existing successfully established new trees are ash. Sadly they have a very uncertain future with the prospects of ash die-back likely to kill most ash trees. Any planning permission to be granted must include details of tree planting pit design for all large trees to be planted, species, size, location, root type, maintenance and watering regime etc to be submitted and agreed. Similarly, all hedgerow and woodland planting as well as succinct details of veteran tree 'buffer' planting must be submitted and agreed prior to the commencement of any on site works. Please note that the nature of the soil in this area is clay and that it is important the clay tolerant species are planted so as to minimise tree establishment difficulty.

The heads of terms for the landscape management plan are acceptable and such a detailed 10 year management plan should be conditioned as a part of any Reserve Matters. The hedge bisecting the site which is chiefly comprised of ash is likely to become somewhat thread-bare if/when the anticipated ash dieback kills such existing ash trees. The retention of the hedge and new planting briefly discussed as not being for amenity and as such selective planting will include deterrent planting (ie spiny/prickly) species. Whatever is planted, it is considered likely that children will find access and begin to play within this hedge line. Consequently it is likely that parts of it may suffer-however such outdoor play is a part of childhood in such a peri-urban situation and it is unrealistic to consider that the hedge line and growth within it will remain completely undisturbed. However the deterrent planting and proposed knee rails around and under the drip lie of veteran trees must be successful. Such trees have an increased heritage and ecological value and their continued survival and prosperity is essential as they continue to mature. Succinct details of such deterrent tree and shrub planting must be submitted as a part of Reserve Matters. Such details must be assessed by CBC Trees and Landscape Design officers prior to discharge.

Tree VT3028 is especially vulnerable to damage and as such it is recommended that a permanent barrier preventing such access is erected around the tree. Such a barrier (metal fence) should not be possible to be climbed over. This will 'frame' the tree highlighting its importance to adjacent householders and users of the open space. Obviously, access

should be possible with padlock and key when absolutely necessary. Such a an appropriate and tasteful metal fence will make it's long term retention more certain.

Again the 'buy-in' by any new residents and owners of the soft landscaping within this site is essential if the overall landscape led design of the site is to succeed. Such activities to be described within a management plan will not likely be cheap to afford by residents (especially as it is noted that there are to be several 'affordable housing' plots). Nevertheless such a 'buy-in' is critical if the site is to successfully retain it's current primary natural features (the veteran trees) as well as the proposed new tree planting. The possibility of covenants enforcing such landscape features on owners should be explored. Similarly Retention of existing and proposed hedgerow' planning conditions should be issued along with any permission to be granted.

All tree planting near to proposed dwellings must be sympathetic in terms of proposed tree size (in maturity) and species. It is unrealistic the consider that new occupants will accept living adjacent to inappropriate trees (taking into account overall future size, tree 'litter', shade, propensity to shed limbs and branches, leaf, fruit and flower drop annually etc) and as such tree planting regimes must take account of this when planting.

The relationship between new properties and such existing retained veteran trees as well as new planting must be harmonious in terms of structural compatibility as well. The site appears to be comprised chiefly of shrinkable clay soil. It is imperative that new dwellings/structures' foundations are constructed in such a manner as to take account of this soil and not suffer from subsidence related damage as a result of tree root water extraction. Such successful subsidence claims inevitably lead to demands for tree removal or heavy pruning (removing much of the amenity of the trees) so as to reduce water demand. Such a situation must not arise in the first instance. Piled foundation structures are mentioned in the Tree Protection Plan but detailed foundation design which takes account of current, and future water demand must be submitted as a part of Reserve Matters.

The proposed 'no-dig' solution to parking adjacent to tree T3015 detailed within the Tree protection Plan is necessary and should be included in Reserve Matters. Drainage connection to the south of the site must not enter into the Root Protection Area of any tree or thrust bore drainage techniques must be a minimum 1 meter below the soil horizon so as to minimise damage to existing trees-all as detailed in the FLAC Tree Protection Plan of 17th April 2020.

Provision for pedestrian and vehicle access into the proposed open spaces is essential so as to facilitate maintenance to the meadow as well as trees. Details of how such access is facilitated should be submitted and agreed.

**GCC Highways Planning Liaison Officer**

*1st July 2020*

See **Appendix 3**

**GCC Local Flood Authority (LLFA)**

*6th May 2020*

Information provided with this application, in the document C21505 Oakhurst Rise, Charlton Kings / FRA Rev M April 2020, adequately describes a feasible strategy for the management of surface water on and from the development site.



The strategy described will require further detail before development commences including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development.

Should permission be granted for this development it should be conditioned as follows:

Condition:

No building works hereby permitted shall be commenced until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall include a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason:

To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution for the lifetime of the development.

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](mailto:suds@gloucestershire.gov.uk) e-mail address. Please quote the planning application number in the subject field.

**Severn Trent Water Ltd**

*5th May 2020*

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- o The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- o The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

### **Charlton Kings Friends**

8th June 2020

See **Appendix 4**

29th July 2020

Review of Submitted Ecological Appraisal on behalf of CK Friends

See **Appendix 5**

### **Sport England**

*1st May 2020*

Thank you for consulting Sport England on the above application.

The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), therefore Sport England has not provided a detailed response in this case, but would wish to give the following advice to aid the assessment of this application.

General guidance and advice can however be found on our website:

[https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning\\_applications](https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning_applications)

If the proposal involves the loss of any sports facility then full consideration should be given to whether the proposal meets Par. 97 of National Planning Policy Framework (NPPF), link below, is in accordance with local policies to protect social infrastructure and any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

If the proposal involves the provision of a new sports facility, then consideration should be given to the recommendations and priorities set out in any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority may have in place. In addition, to ensure they are fit for purpose, such facilities should be designed in accordance with Sport England, or the relevant National Governing Body, design guidance notes:  
<http://sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/>

If the proposal involves the provision of additional housing (then it will generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demand, then new and/or improved sports facilities should be secured and delivered in accordance with any approved local policy for social infrastructure, and priorities set out in any Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

In line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for

new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England's Active Design guidance can be used to help with this when developing or assessing a proposal. Active Design provides ten principles to help ensure the design and layout of development encourages and promotes participation in sport and physical activity.

NPPF Section 8: <https://www.gov.uk/guidance/national-planning-policy-framework/8-promoting-healthy-communities>

PPG Health and wellbeing section: <https://www.gov.uk/guidance/health-and-wellbeing>

Sport England's Active Design Guidance: <https://www.sportengland.org/how-we-can-help/facilities-and-planning/design-and-cost-guidance/active-design>

Please note: this response relates to Sport England's planning function only. It is not associated with our funding role or any grant application/award that may relate to the site.

## **Historic England**

*13th May 2020*

Thank you for your letter of 1st May 2020 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

### Summary

We consider the open green space of the application site to contribute significantly to the setting of the Grade II\* listed Ashley Manor. Historic England objects to the proposed development and considers the quantum, location and screening of the development would result in harm to heritage significance, as defined by its setting.

### Historic England Advice

While we have rehearsed the significance of Ashley Manor and its setting at the time of the 2017 and 2018 applications, we consider it appropriate, as a reminder, to repeat our own assessment of those aspects of setting that contribute to heritage significance.

The villa at St Edwards School, known most recently as Ashley Manor, was built for Nathaniel Hartland (the single most important lender of money to builders in the Pittville development in Cheltenham). Its list description describes it as 'One of the finest villas in the Cheltenham area, its internal plasterwork is a particular feature for its diversity, depth and quality of composition.' The original approach to the house is from London Road to the south; the sinuous tree-lined drive remains largely unaltered. The Grade II listed boundary walls and gate piers (marking the entrance from London Road), and further into the grounds, the Grade II summerhouse and drive piers to the surviving carriage sweep are all remnants of this high-status, grandiose villa-house ensconced within its generous parkland setting. Indeed, the topography of the site is significant; the land rises markedly from south to north, which would have been a conscious motive for siting this 'villa' style dwelling overlooking the town. This 19th century revisiting of ancient Classical-inspired villas was heavily influenced by Andrea Palladio's work of the 16th century. Palladio's villa suburbana (country houses purely for residential or leisure as opposed to agriculture), in particular the Villa Rotunda, gave rise to a vast tradition in villa architecture; these formative dwellings were conceived with a close relationship to their location. Of Villa Rotunda, Palladio wrote 'the site is as pleasant and delightful as can be found; because it is upon a small hill...it is encompassed by the most pleasant risings...and therefore...enjoys the most beautiful views from all sides'. The building rises out of the landscape and so does Ashley Manor in this very nature. So, whilst the principal elevation faces southwards, the siting of this villa, within its extensive, rising grounds is of, arguably, equal significance. Ashley Manor is

designated as Grade II\*, and as such is in the top 8% of listed buildings. Therefore, greater weight should be given to its conservation. The National Planning Policy Framework (NPPF) defines 'conservation' as 'the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance'. We acknowledge that significant modern additions (large school-related buildings, as well as landscape features such as the blue-topped playing surfaces) have eroded the historically isolated setting of Ashley Manor. Notwithstanding, the house (and associated school buildings) remains positioned within the extent of its historical grounds and the application site forms a key green buffer between the villa and later development to the north. The application site is clearly associated, historically, with the villa and that grounds of this extent would be expected with a high-status property.

Following the refusal of applications in 2017 and 2018 for 90 and 69 units respectively, the revised outline application proposes a further reduction in dwelling numbers to 43 units on the site north of Ashley Manor. The area proposed for development is now pushed towards north-western corner of the site and would include a wide planted screen to the south of the proposed built development. This represents a less intensive form of development of the site than the previously schemes. However, we still consider that the severance of the setting of Ashley Manor and the encroachment of development and associated landscaping towards the Grade II\* building is harmful and an unacceptable quantum and form of development.

The most recent refusal (18/02171/OUT) was dismissed at appeal during the period of examination of the Cheltenham Plan, with particular reference to allocation site HD4 (the application site). During inquiry, the Examination Inspector issued post- Hearing advice requiring an amendment to the development boundary in order to safeguard the setting of listed buildings. However, at this time, the Examination Inspector had not agreed the Main Modification for public consultation and the appeal against the refusal of the 2028 application was determined on that basis.

When considering the Planning Inspector's comments in the appeal decision in 2018, the importance of the application site to the setting of the Grade II\* building was reached by taking a range of viewpoints, including those from principal rooms in Ashley Manor. The Inspector stated that there is 'an historic and visual association between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I refer above, I consider that the appeal site, with the Ice House it encompasses, contributes importantly to the historic and current visual setting of both these listed buildings, as designated heritage assets..... Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views (Viewpoint 1 in the Landscape and Visual Assessment.' This enforces our continued view that it is the entire application site which makes an important contribution to the setting of the Grade II\* building and not just the areas closest to it.

In terms of proposed tree planting as means to screen the development and mitigate the visual impact, the Appeal Decision makes comment on the proposed screening along the southern boundary to the site. The Inspector comments that 'by avoiding built development in the southernmost part of the site, the amended layout mitigates to some extent the effect of the proposed development on the setting of the westfacing, former Ashley Manor House and its surrounding associated buildings and carriage drive. However, the proposed introduction of new landscape planting, screening that boundary, would obstruct the relationship of the Manor to this part of its setting.' The revised application has removed the new planting shown along the northern side of this boundary on the dismissed scheme.

However, a significant tree belt is proposed within a few metres of the boundary which would effectively divorce the visual connection between the carriageway approach to the west elevation of Ashley Manor and its open, green setting beyond. This impact may be demonstrated by some additional analysis of the view presented in Plate 7 (in addition to

others) in the Heritage Impact Assessment. We remain very concerned over the visual severance of the open land to the north of Ashley Manor.

We understand that subsequent to the Cheltenham Local Plan Inquiry, the Examination Inspector's report of 17th March 2020 approves the Main Modification for HD4: A minimum of 25 dwellings, subject to masterplanning (in accordance with Policy SD4 of the JCS) which demonstrates that development can be achieved whilst accommodating: A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development. We understand that following the Inspector's Report, the council have yet to formally adopt the Cheltenham Plan at this time. While we acknowledge the emerging housing allocation for this site, it must respect the setting of heritage assets. We do not consider that the current proposals achieve an acceptable level of respect to the setting of heritage assets. We therefore advise that significant adjustments are made to demonstrate how allocation HD4 can be delivered in a way that the setting is not harmed to this extent.

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". When considering the current proposals, in line with Para 189 of the NPPF, the significance of the asset's setting requires consideration. Para 193 states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be.

Para 194 goes on to say that clear and convincing justification is needed if there is loss or harm. When considering development that has been identified to affect setting, Historic England's guidance (Historic Environment Good Practice Advice in Planning - Note 3. The Setting of Heritage Assets) should be referred to.

#### Recommendation

Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 193 and 194. .

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

#### **Battledown Trustees**

*6th June 2020*

On 1st May 2020, you kindly advised that you would be pleased to receive comments concerning the above planning application from the Trustees of the Battledown Estate, having designated us as 'Consultees' on the matter.

This application is yet another attempt to build over a large proportion of the exceptional and irreplaceable meadow-land accessed via the top of Oakhurst Rise, which would bring a multitude of problems and disadvantages to Charlton Kings and the wider Cheltenham

community. The Land directly adjoins the Battledown Estate's southern boundary and so any development thereupon would directly affect a number of properties on the Estate. This application may well be for approximately one third fewer homes than the previous application but the arguments for refusing permission for the scheme remain for the greater part the same as those put forward at the time of the August 2017 application (rejected), the October 2018 scheme (rejected) and the appeal inquiry conducted by an Inspector from HM Planning Inspectorate in August 2019 (dismissed).

From the voluminous documentation produced relating to the previous applications and the already considerable documentation submitted for this new application, it is abundantly clear that none of the grounds on which the Trustees previously objected have been adequately addressed. Inaccurate statements contained within the documentation submitted for this application have already been highlighted by other professional and concerned consultees. Nevertheless, for good order's sake, we repeat the Trustees' observations and primary objections to the proposed development herewith :

a) Considerable loss of privacy would be suffered by a number of Estate properties and residents, owing to the proposed positioning and height of the dwellings on the Land immediately adjoining the Estate's southern boundary.

b) There would be noticeable degradation to the environment of the Estate owing to the significant increase in 'noise pollution' which would be generated by the proposed 43 dwellings, once completed.

c) There would be a material and dangerous increase in the risk of flooding for a number of Estate properties located in Birchley and Ashley Roads. In 2007, several Estate houses including some adjoining the proposed development Land, were badly flooded; this situation can only be exacerbated by the proposal to cover such a significant proportion of this Land with concrete, tarmac and buildings which would prejudice the delicate balance of springs, pools and flood-ameliorating water absorption on this land.

d) In common with many other residents in this area of Charlton Kings, all residents on the Battledown Estate would be affected by the material increase in traffic which would inevitably result from the building of these proposed 43 homes, as such a significant increase in traffic would affect many roads in the area, including Sixways Junction, Hales Road, London Road, King Alfred Way and Athelney Way, as well as those narrow roads immediately adjacent to the proposed development site --- and the 'knock-on' effects would severely affect and inconvenience many thousands of local residents in Charlton Kings and the eastern part of Cheltenham. In a nutshell, the local infrastructure and road system is already choked at peak periods and is simply inadequate for the existing traffic (as already acknowledged by Gloucestershire Highways), let alone the critical increase in traffic consequent upon the construction of these additional homes.

e) Furthermore, this proposed development would increase the dangers for both cyclists and pedestrians. Quite apart from the unacceptable gradients and road widths on the residential streets which are designated as Access to the Land, one should also appreciate that the application necessitates severe street gradients within the proposed development site itself. Nowhere in the Applicant's documentation is this defect highlighted as it should be and so we believe this important detrimental aspect, compromising safety, should once again be brought to the attention of the Planning Committee members. Importantly, it should be clear to both CBC Planning Officers and Planning Committee members, that this site and the access thereto is totally unsuitable for wheelchair users and those with some other physical disabilities; this would inevitably mean complete reliance on motor vehicles for any such putative residents.

f) We also object on the grounds that the views of this area of Battledown as seen from the nearby AONB will be permanently blighted, in contravention of national planning regulations

and, in this context, we support the strong objections made by Historic England on similar grounds.

g) It is also worth noting the remarks of HM Planning Inspector written at the time he made his decision to reject the Applicant's Appeal in September 2019, viz. :

83. Be that as it may, the presence of the new built development would still be visible from Charlton Manor and prominent in views available from its important west-facing windows. Distant views would be partly obstructed and, furthermore, the Ice House would be obscured by the intervening dwellings on plots 31-34. The appreciation of the Manor in views from within its setting to the west would be compromised, including for residents and members of the public living in or visiting the proposed dwellings.

84. As in the case of Ashley Manor, I consider that these effects on the visual relationship between the Grade II Charlton Manor and the appeal site would have a very significant adverse impact also upon the setting of this Listed Building. Having regard to the statutory duty under s66 of the PLBCA, the effect of the development on the setting of Charlton Manor also would be contrary to Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.

This new proposal for development has moved housing back by some thirty metres and has increased screening but it is still visible and prominent in views from the important west-facing windows at Charlton Manor, a property located within the Battledown Estate.

h) From the very important perspective of Amenity, we object owing to the permanent and irretrievable degradation of a valuable outdoor sporting facility used regularly by children from all over Cheltenham and, indeed, Gloucestershire, together with the unacceptable additional strain that such a development would place on local GP surgeries and school places -- neither of which are able to meet the demand consequential upon such a noteworthy increase in local housing.

There are many reasons to approve different housing development schemes; however, the Trustees believe that it would be misguided for any Planning Committee to approve a scheme such as this proposal, which would do irreparable harm to the local community and blight the environment of the existing electorate.

A significant majority of Borough Councillors on the Planning Committee have rejected previous applications for building over this meadow-land for very good reasons. This latest application singularly fails to address in a convincing manner many of the grounds for refusing previous applications cited by both Borough Councillors and the Planning Inspectorate and, even worse, perpetuates much of the inaccurate information submitted at the time of those previous applications.

Exactly the same multitude of planning considerations apply to this new application and therefore the Trustees anticipate and request that the same judgements will be made once again, to the clear benefit of the existing local communities in both Charlton Kings and the wider borough of Cheltenham.

**Natural England**

*8th June 2020*

Thank you for your consultation on the above dated 01 May 2020 which was received by Natural England on the same day. We are sorry for the delay replying.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

## SUMMARY OF NATURAL ENGLAND'S ADVICE

### NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>
- damage or destroy the interest features for which the Cotswolds and Commons and Beechwoods Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation options should be secured:

Mitigation as set out in the Council's Habitats Regulations Assessment (HRA) Appropriate Assessment must be secured.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

#### Further advice on mitigation

Natural England concludes from the submitted ecological appraisal and comments from the County Ecologist that the Council intends to rely on the Habitats Regulations Assessment (Including stage 2 - Appropriate Assessment) produced in respect of a previous planning application for the application site - reference 18/02171/OUT. A copy of the HRA from this previous application should be attached to the submitted documents posted on the Council's website.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

The Homeowner Information Pack should present information describing informal recreation opportunities in the following sequence:

- Public space on your doorstep
- A short drive by car or bus
- Further afield – e.g. The Forest of Dean, the Severn Estuary



The proposed HIP leaflet for Hunts Grove, Quedgeley (produced by Crest Nicholson. Gloucester City Council and FPCR) provides a useful example.

#### Sites of Special Scientific Interest (SSSI)

SSSIs with public access also exist closer to the application site than the Cotswold Beechwoods SAC. These include:

- Leckhampton Hill and Charlton Kings Common
- Crickley Hill & Barrow Wake
- Cotswold Commons and Beechwoods

In addition, Cleeve Common lies 4.0Km to the north-west.

Education and awareness raising measures designed to address the recreation theme in relation to the European Site described above should be designed to help avoid disturbance to wildlife and encourage awareness of these sites' sensitivities. Provided this holistic approach is taken we do not anticipate adverse effects on these SSSI's notified features.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

#### Other advice

##### Green infrastructure

Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

Adopted Joint Core Strategy policy INF3 and the JCS Councils' Green Infrastructure Strategy 2014 refer. Emerging Cheltenham Plan policy GI1 may also be relevant.

Consideration should be given to what opportunities exist to integrate green infrastructure delivery with measures that serve to offer alternative walking, running and cycling routes for new residents. Such measures may form part of a package that positively manages additional recreation pressure on local resources, as well as the SSSIs described above..

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

#### **Cheltenham Flood And Drainage Panel**

*26th May 2020*

See **Appendix 6**

## **Environmental Health**

*13th May 2020*

After considering the documentation submitted as part of this proposal there are only very minor issues of concern from an Environmental Health perspective as per the previous revisions of this application. As such I would recommend approval subject to the following condition being attached to any approved permission:

'No development shall take place until a site specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- Arrangements for liaison with the Council's Pollution Control Team.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Procedures for emergency deviation of the agreed working hours.
- Method of prevention of mud being carried onto highway.
- Waste and material storage.
- Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.

## **Gloucestershire Badger Trust**

*27th May 2020*

See **Appendix 7**

## **Section 106 Officer**

*5th June 2020*

See **Appendix 8**

**The Woodland Trust**

*15th June 2020*

See **Appendix 9**

**County Archaeology**

*7th May 2020*

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

I advise that in connection with a previous development proposal on this site a programme of archaeological desk-based assessment, geophysical survey and trial-trenching was undertaken. Reports on the results of these investigations were submitted in support of application 18/02171/OUT.

No significant archaeological remains were observed during the investigations, and on that evidence it is my view that the application site has low potential to contain such remains.

In addition, I note from the current application details that the ice-house will be preserved within open ground, and will remain in situ and undisturbed should the development proceed.

Therefore, I confirm that in my view the proposed development will have no impact on archaeological remains, and I recommend that no further archaeological investigation or recording should be required in connection with this scheme.

**Minerals And Waste Policy Gloucestershire**

*7th May 2020*

All of the details set out within this section are made by officers on behalf of Gloucestershire County Council in its capacity as the Mineral and Waste Planning Authority (MWPA): -

All major planning applications (10 or more dwellings, residential sites of 0.5ha or more and other development in excess of 1,000m<sup>2</sup> or over 1ha) should be accompanied by an appropriately detailed Waste Minimisation Statement (WMS).

The production of a WMS is a specific requirement of the development plan for Gloucestershire as set out under WCS Core Policy 02 - Waste Reduction. It is needed to show how waste arising during the demolition (including site preparation), construction and occupation of development will be minimised and managed, and how recycling during the occupational life of the development will be provided for.

**Recommended action**

Not engaging or providing insufficient information in respect of waste minimisation matters could put at risk the acceptability of proposed development. The failure to address waste minimisation may be a reasonable ground for a decision maker to refuse planning permission. Therefore a Waste Minimisation Statement should be requested.

Conditions recommended by officers on behalf of the MWPA (if advised)

Condition:

No development shall commence until a detailed Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall identify the main waste materials expected to be generated by the development during the construction phase and set out measures for dealing with such materials so as to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy. The detailed Site Waste Management Plan must include: -

- i) Information on the type and amount of waste likely to be generated prior to and during the construction phase;
- ii) Details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation; and
- iii) Details of the measures for ensuring the delivery of waste minimisation during the construction phase.

The Site Waste Management Plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: To ensure the effective implementation of waste minimisation in accordance with Gloucestershire Waste Core Strategy: Core Policy WCS2 - Waste Reduction.

### **County Ecologist**

*2nd June 2020*

Original comments provided – updated on *2<sup>nd</sup> September 2020* - See **Appendix 10**

*8<sup>th</sup> September 2020* - New Ecological Information

You have asked me to comment on new ecological information recently received by the Local Planning Authority in connection with application 20/00683/OUT. The new information is as follows:

- Bioscan letter to you dated 29/07/2020
- Bioscan prepared 'Gloucestershire Key\* Wildlife Site Assessment Sheet'
- Aspect Ecology 'Botanical Survey 2020, Technical Briefing Note TN09: Results of Botanical and NVC Survey' dated 05/08/2020
- Aspect Ecology letter to you dated 10/08/2020
- Gloucestershire Wildlife Trust letter to you, Aspect Ecology and myself dated 07/08/2020 • Gloucestershire Wildlife Trust letter CBC Planning dated 01/09/2020

These documents are of a technical nature and I have considered these in detail. I have also had the opportunity to visit the site on 06/08/2020. I am familiar with Defra's draft Biodiversity Net Gain metric 2.0 and its use in a number of recent planning matters. I also have experience of the selection process for Local Wildlife Sites (I was a member of the Selection Panel when it was last active under the formerly named 'Key' Wildlife Site system).

I have come to the following conclusions.

1. The site was much as I had expected it to be and my advice to you in my memo dated 01/06/2020 does not require revising.
2. After reading all the recent submissions and visiting the site I am inclined to agree more with Aspect Ecology's assessments and assertions than those of Bioscan. Defra's Biodiversity Net Gain Metric 2.0 is not the finished product and has a number of shortcomings. The metric is only a rough guide and is no substitute for full assessment by

professional ecologists. Unfortunately Bioscan's use of the metric includes some errors and their conclusions undervalue the merits of allowing the development.

3. In my opinion there was no convincing ecological case for the meadow to be designated a new Local Wildlife Site. The meadow is poor quality MG1 grassland (Mesotrophic Grassland Type 1 of the National Vegetation Classification) and of low conservation value.
4. The Local Wildlife Site Selection Panel recent decision to designate the site on the basis of its Value for Learning which is most relevant given the location of the adjacent school. A Local Wildlife Site designation does not preclude appropriate development and the Wildlife Trust letters reflects this point. The development provides an opportunity to secure the long-term conservation and enhancement of local biodiversity. A large area of the site would become better managed and provide an improved educational resource for the adjoining school.
5. Compared to previous development schemes for this site (17/00710/OUT & 18/02171/OUT) there will be fewer units and greater retention of habitats and features. There is to be extensive tree/shrub planting, additional new habitat features and improved meadow management. Overall a biodiversity net gain can be secured with appropriate conditions and planning obligations in place as I have previously advised.
6. The development if consented would be compliant with NPPF paragraphs 8, 170, 175 or 180. The proposal avoids significant harm to biodiversity and protects veteran trees. It makes effective use of the land and also provides a mechanism to secure a better more resilient future for biodiversity. Biodiversity improvements have been designed into and around the development. Given policy HD4 of the newly adopted plan [see below], the type and scale of the development appears to me to be appropriate for the location.
7. The development if consented would be compliant with JCS policy SD9. The development provides appropriate mitigation for some unavoidable effects but importantly positively conserves and enhances biodiversity overall which are relevant to the location.
8. The development if consented would be compliant with policy HD4 in the recently adopted Cheltenham Local Plan. The development provides for long-term protection of mature trees and hedgerows on site, better commuting corridors and foraging areas for bats, and is an opportunity to enhance biodiversity overall.

\*Renamed Local Wildlife Sites in January 2019

#### **Contaminated Land Officer**

*20th May 2020*

No adverse comments.

#### **Ancient Trees Forum**

*15th June 2020*

The Ancient Tree Forum (ATF) is a charity which has pioneered the conservation of ancient and veteran trees and their associated habitats such as ancient wood pasture and parkland. The ATF seeks to secure the long-term future of ancient and veteran trees and associated habitats through advocacy of no further avoidable loss, good management, the

development of a succession of future ancient and veteran trees, and seeking to raise awareness and understanding of their value and importance.

The ATF objects to this application because the way veteran trees have been identified means that trees, which should be protected by planning policy and meet the criteria set out by the guidance (National Planning Policy Framework glossary (2018), Standing Advice (2019) and Planning Policy Guidance (2019)), have been wrongly excluded. They are a significant factor in considering this application.

We set out our rationale for identification of ancient and veteran trees in relation to NPPF in Annex 1. In line with the government guidance, it is our view that for a tree to be categorised as a veteran, it should primarily have key decay features (including branch death or hollowing) and such features should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality). NPPF glossary states that a veteran tree does not need to be old enough to be ancient but does not define any specific size or age criteria to be met. However, it is our interpretation of the guidance, that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop.

The ATF therefore interprets the guidance to mean that trees which have the appropriate key decay features and are also mature or ancient should be considered as irreplaceable habitat and are the trees to which the policy in para 175c of the NPPF applies.

We strongly disagree with the categorisation methodology used in the tree survey. The first step of the applicant's tree consultant's methodology is to eliminate trees which do not have a "very large girth" before consideration of veteran characteristics. In our view this step is not justified by NPPF or other government guidance.

It is our view that at least two trees should be re-categorised as irreplaceable veterans and protected from harm by appropriate buffer zones. They are the mature trees numbered T3010 and T3014

The Tree Survey states that T3010 is mature tree and has "Fistulina hepatica fruiting body on root buttress at ground level east. Laetiporus sulphureus on old branch loss wound at 2 metres south. Numerous habitat holes within branch structure indicating heartwood fungal decay is well progressed." Decay or hollowing evidenced by heart-rot decay fungi is a clear criterion for veteran categorisation and the applicant's tree consultant accepts this too. Although it is the view expressed in the tree survey that this tree may not survive long term, there is no indication why it is judged not to be able to survive long-term nor what time period that might be. There is no reference to life expectancy/longevity of the tree in the NPPF and therefore this should be disregarded in categorising a tree as a veteran. The extra protection that a buffer zone would provide, and should be allocated to this tree, would mitigate the possibility of deterioration resulting from development pressures - the very purpose for which it is intended. According to Standing Advice the Buffer Zone should be "at least 15 times larger than the diameter of the tree. The buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter." Due to the proximity of this tree to proposed buildings the Buffer Zone may need to be greater than the minimum to avoid future intervention on the grounds of risk.

Tree number 3014 is recorded as OM/over-mature in the survey. It is recorded as having a stem diameter of 930mms and in the Raven assessment as 148 years old and not of an 'age or size to merit veteran descriptor'. We assume the OM label is a error. However, it is recorded as mature and having "bark wounding after historic lightning strike seen as broad tongue of bark loss from ground level south extending into upper crown structure, exposed and desiccated non-functional heartwood within the affected stem section comprises large volume dead wood Scattered dead wood and smaller distal decline." It

is quite clear from this description and images on the Ancient Tree Inventory that the trunk of this tree is hollowing and has a large volume of deadwood in the trunk. This tree definitely has substantial and long-lasting veteran characteristics which accord with Standing Advice, it is mature and therefore is a veteran tree and should be given proper protection by an appropriate Buffer Zone.

Other mature trees on site may also be veteran trees but we do not have enough information on which to confirm their status but the LPA must be assured one way or another. The Ancient Tree Inventory is a citizen science project and has not required surveyors to assess trees according to NPPF as it started in 2005 which is well before the planning policy changes in 2018. The tree records on it however are good indicators of whether trees are ancient or veteran. For example, T3015 is listed as a veteran on the Ancient Tree Inventory and the record states that it has hollowing branches - substantial enough features on such a large tree to be good veteran characteristics. In addition, the Tree Survey, provided with the application, confirms that there are "large dead limbs scattered through the crown". Dead branches are given as a key veteran tree criterion in Standing Advice. It is very likely that this mature oak is a veteran for the purposes of NPPF and therefore should be given the protection of an appropriate buffer zone.

We would strongly recommend that the trees on site are resurveyed to identify whether other veteran trees have been overlooked.

Annex 1: The Ancient Tree Forum's interpretation of the application of National Planning Policy Framework's protection measures for ancient and veteran trees.

The National Planning Policy Framework (NPPF) in England refers to ancient and veteran trees in three places:

1) in Conserving and enhancing the natural environment document, para 175c:

development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;

2) and in Annex 2: Glossary:

Ancient or veteran tree. A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees,...

In terms of applying the NPPF to a development proposal and to relevant trees, the first step must be to identify if a tree is ancient or veteran. The glossary, to be used in this context, describes three characteristics i.e. age, size and condition, which contribute to the stated values of biodiversity, cultural and heritage value of both ancient and veteran trees. There is no guidance on the parameters of age (except that veterans can be younger than ancient trees), or size or the meaning of condition.

In relation to ancient trees, the ATF considers ancient is a life-stage indicated by the chronological age of the trunk, using trunk girth only as a guide. Trees in this ancient life-

stage usually also have well-developed key veteran decay features as a consequence of ageing. It is ATF's view that all ancient trees are exceptional and irreplaceable for their cultural and heritage values, but specifically, for the application of NPPF policy 175c, they all have irreplaceable habitat.

In relation to veteran trees, the NPPF glossary only distinguishes by age those trees that 'are not old enough to be ancient, but are old relative to trees of the same species.' Planning Policy Guidance (2019 and FC & NE Standing Advice (2018) give some further guidance in relation to age (see bold below) and also condition (see underlined below):

PPG: Ancient trees are trees in the ancient stage of their life. Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species.

Standing Advice: A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity

Both of the above documents provide examples of relevant features relating to condition i.e branch death and hollowing. But, neither these nor the NPPF glossary, give guidance or information on the amount, volume or quality of these features. In line with the available guidance, the ATF consider, that a tree to be categorised as a veteran for the application of NPPF policy 175(c) should have key decay features (including branch death or hollowing) which should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality).

For a tree to have developed decay features of branch death or hollowing which could be judged to be irreplaceable habitat, it will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop. Threshold dimensions for veteran characteristics are recommended in the Veteran Trees Initiative: Specialist Survey Method but these may not be appropriate for all species of tree, especially those of a smaller stature (Fay, N. and de Berker, N. (1997): Veteran Trees Initiative: Specialist Survey Method. English Nature, Peterborough, UK). For example, in terms of dead wood in the crown of the tree the unit of value is "each 1m length over 15cm in diameter".

According to the glossary, a veteran tree does not need to be old enough to be ancient. However, it is likely that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in a mature life-stage.

In conclusion

All ancient trees of whatever species or size should receive the level of protection stated in para 175c.

Mature trees, where they have the appropriate key decay features, should be considered as irreplaceable habitat and therefore veterans to which the policy in para 175c of the NPPF applies.

## **5 PUBLICITY AND REPRESENTATIONS**

5.1 On receipt of the application 383 letters were sent out to individual addresses site notices were posted at the entrance to Oakhurst Rise and on London Road, near the entrance to St Edwards School and an advert was published in the Gloucestershire Echo. In response to the



publicity, and at the time of writing, 248 representations have been received, 140 of which were objecting to the scheme and 108 of which are in support.

5.2 The main objections raised in the objections include, but are not limited to:

- Impact on wildlife/protected species
- Loss of trees and hedgerow
- Impact on local road network/inadequate access/gradient
- Access to public transport is not good
- Increased risk of flooding & surface water run-off/subsidence
- Impact on local infrastructure – doctors and schools
- Lack of access to local facilities
- Size and design of dwellings
- Noise and disturbance
- Impact on air quality
- Loss of recreation/school and community use of the site
- Loss of green space
- Impact on landscape
- No need for the development
- Impact on archaeological remains
- No significant change from dismissed appeal

5.3 The comments raised in support of the scheme include, but are not limited to:

- Need for homes
- Need for affordable housing
- Within built up area of Cheltenham
- Opportunity for school
- Biodiversity net gain
- Reduction in flood risk
- Benefit to the local economy
- Complies with planning policies
- Well-designed scheme with plenty of open space

It is worth of note that a number of the letters of support for this application are from properties outside of the District.

## **6 OFFICER COMMENTS**

### **6.1 Determining Issues**

6.1.1 The main considerations when determining this application are considered to be the principle of developing the site for housing; impact on the historic environment; impact on trees and hedgerows; wildlife and biodiversity; access and highway safety; landscape and visual impact; drainage and flooding; design and layout; impact on neighbour amenity; affordable housing and other planning obligations.

### **6.2 Policy background/principle of development**

6.2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is reiterated in paragraph 47 of the NPPF which also reiterates that decisions on planning applications should be made as quickly as possible.

- 6.2.2 Paragraph 11 of the NPPF sets out a “*presumption in favour of sustainable development*” which in decision taking means:
- *“(c)approving development proposals that accord with an up-to-date development plan without delay; or*
  - *(d)Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning 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 the Framework taken as a whole.*
- 6.2.3 The development plan comprises a small number of saved policies of the Cheltenham Borough Local Plan Second Review 2006, the Cheltenham Plan which was adopted in July 2020 and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (JCS).
- 6.2.4 Material considerations include the National Planning Policy Framework (NPPF) and Planning Practice Guide (PPG).
- 6.2.5 Policy HD4 of the newly adopted Cheltenham Plan allocates this site for housing development. The policy outlines the following site specific requirements:
- A minimum of 25 dwellings, subject to masterplanning (in accordance with policy SD4 of the JCS) which demonstrates that the development can be achieved whilst accommodating:
  - Safe, easy and convenient pedestrian and cycle links within the site and to key centres
  - A layout and form that respects the existing urban characteristics of the vicinity
  - A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development
  - Protection to key biodiversity assets and mature trees
  - New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor.
  - Long term protection of mature trees and hedges
  - Any development on the site should secure improvements to the Ice House.
- 6.2.6 By virtue of this policy, the development of the application site for housing must be considered acceptable in principle.

- 6.2.7 It is acknowledged that the policy states a minimum of 25 dwellings, whereas the proposal is for 43 dwellings. There is no conflict in policy given that the number of dwellings is stated as a minimum. There is no reason why the site could not accommodate more, provided the scheme is found to be acceptable, based on the policy framework as outlined above. In section 11 of the NPPF (Making Effective Use of Land), it states that planning policies and decisions should support development that makes efficient use of land. It goes on to say that where there is an existing shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. Given the constraints of the site, the developable area is limited and therefore the density overall is relatively low in any event. As such in the opinion of officers the proposed number of dwellings is acceptable in principle.
- 6.2.8 Also of relevance is the fact that the Council is currently unable to demonstrate a five year housing land supply. At the last calculation the figure stood at 3.7 years. At the time of the appeal for 18/02171/OUT the figure stood at 4.6 years. As such the shortage is more acute than it was in considering the previous application. The current proposal would make a valuable contribution of 43 dwellings and this is a significant benefit of the scheme.
- 6.2.9 In the appeal decision for 18/02171/OUT the Inspector stated that at the time the emerging policy HD4 could be accorded only little weight compared with the policies of the adopted development plan. He said that whilst there was no objection in principle to residential development on the appeal site, the proposal fell to be assessed and determined primarily with respect to the adopted development plan, subject to its consistency with the National Planning Policy Framework.
- 6.2.10 The situation with respect to the development plan has clearly changed in the intervening time period with the Cheltenham Plan having now been adopted. The presumption in favour of sustainable development in the Framework for decision making means: *“approving development proposals that accord with an up-to-date development plan without delay”* and in cases whereby the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites, granting permission unless either paragraph 11(d)(i) or 11(d)(ii) of the Framework as set at 6.2.2 above apply.
- 6.2.11 As mentioned at 1.9 the Inspector dismissed the appeal primarily based on the adverse impact to the significance of designated heritage assets by way of less than substantial harm. He also identified harms in relation to trees, biodiversity and access although he acknowledged that these harms would not collectively or separately have outweighed the benefits of the scheme. Whilst this report will cover all relevant considerations, these are considered to be the most crucial in determining whether previous concerns have been overcome.

### **6.3 Impact on the historic environment**

- 6.3.1 JCS policy SD8 requires both designated and undesignated heritage assets and their settings to be conserved and enhanced as appropriate to their significance, and is consistent with paragraph 192 of the NPPF that advises that in determining planning applications, local planning authorities should take into account:
- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
  - *the positive contribution that conservation or heritage assets can make to sustainable communities including their economic vitality; and*
  - *the desirability of new development making a positive contribution to local character and distinctiveness.*

- 6.3.2 Additionally, Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA), in considering whether to grant planning permission to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. In this case, it is the setting of the listed buildings that must be considered.
- 6.3.3 Framework paragraph 193 gives great weight to the conservation of designated heritage assets (the more important the asset, the greater the weight should be). Paragraph 194 provides that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Further paragraphs 194 – 6 consider harm to designated heritage assets in terms of whether it would be substantial or less than substantial. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.3.4 The significance of a heritage asset is defined to include its archaeological, architectural, artistic or historic interest, derived not only from its presence but its setting, in which it is experienced. The PPG refers to the extent and importance of the setting to the visual relationship between the asset and proposed development. Views of or from an asset will play an important part. The contribution a setting makes to the significance of an asset is not dependant upon public access.
- 6.3.5 There are two listed buildings in close proximity to the application site; Charlton Manor, a grade II listed building located to the northeast of the site within the Battledown estate, and Ashley Manor, a grade II\* listed villa within the school grounds to the southeast. Additionally an historic Ice House is also located within the application site itself. Whilst the site is physically separated from these listed buildings, there are clear views into the site from these heritage assets.
- 6.3.6 Policy HD4 of the Cheltenham Plan contains specific requirements with regards to heritage assets:
- **A layout and form of development that respects the character, significant and setting of heritage assets that may be affected by the development** – This will be discussed further below.
  - **Securing improvements to the Ice House.** - The current proposal would see the Icehouse situated within an area of open land, as opposed to the appeal scheme which saw it surrounded on 3 sides by road and to the south by a footpath and pond. This will ensure it remains legible as a feature within the landscape and visually linked to Ashley Manor. Specific improvements to the Icehouse are proposed including the selective clearance of scrub, whilst retaining the mature trees in order to reveal the mound more clearly. It is also proposed to provide an interpretation board providing information as to the history of the Icehouse.
  - **New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building.** – The plans clearly indicate that this has been achieved through the current layout.
  - **Provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor** – To the rear boundary of Charlton Manor there is over 65m to the nearest part of the development and over 70m to the nearest dwelling. A landscaping belt is provided along the eastern edge of the development which varies in width between 8 – 30m. This is curved to leave an

undeveloped area around the Icehouse and is approximately 30 – 90m from the rear boundary of Charlton Manor.

- 6.3.7 In the appeal decision relating to 18/02171/OUT the Inspector concluded that the harm to the settings of Ashley Manor and Charlton Manor, whilst less than substantial in terms of Framework paragraph 196, was nonetheless significant. With regards to Ashley Manor the Inspector stated that the land has a functional relationship with the manor as farmland (as opposed to managed parkland) and as the site of the Ice House. He also observed that presently direct views are available from Ashley Manor onto the currently mainly open, eastern part of the site, including the Ice House. The site, rising to the north provides a green backdrop to the Manor in distant views. With regards to Charlton Manor, views are available across the site and beyond. He therefore recognised an historic and visual association between the application site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. The application site, including the Ice House contribute to the historic and visual settings of both these designated heritage assets.
- 6.3.8 With regards to Ashley Manor the Inspector found that proposed landscape planting on the southern boundary would obstruct the relationship of the Manor to this part of its setting. Some of the plots of the previous application(27 – 30) would have intervened prominently in views to the north from the Manor House, impeding appreciation of the Ice House and rural backdrop. He concluded that these effects on the visual relationship between the Grade II\* Ashley Manor and the application site would have a very significant adverse impact upon the setting of the Listed Building.
- 6.3.9 With regards to Charlton Manor the main effects identified were the partial obscuration of distant views and the obscuration of the Ice House by intervening dwellings (plots 31 – 34 of the previous application). The Inspectors concluded that views of the manor from within its setting to the west would also have been compromised. As with Ashley Manor it was considered that these effects on the visual relationship between the Grade II Charlton Manor and the application site would have a very significant adverse impact also upon the setting of this Listed Building.
- 6.3.10 The scheme now under consideration has made significant changes to the layout in an attempt to address the issues raised within the appeal decision. Further to the points outline in 6.3.8 above; the proposed landscape planting on the southern boundary has been removed. There are now no buildings proposed in the areas of plots 27 – 30 as previously proposed and a large area of open grassland would be retained north of Ashley Manor, continuing up the site. This has had the effect of vastly improving the visual relationship between Ashley Manor and the site.
- 6.3.11 Similarly with Charlton Manor, the plots mentioned have been removed and there would be a clear view from Charlton Manor towards the Ice House across the retained grassland.
- 6.3.12 The Conservation Officer has provided a thorough assessment of the proposals. The comments acknowledge the changes which have been made in order to address the concerns; limiting built form the north-west of the application site, preserving the existing rural setting to the north of Ashley Manor and a notable finger of land to the southern section of the site. The introduction and reinforcement of extensive landscaping between the development and retained rural setting softens the impact. The visual link to the Ice House is retained, as its rural setting.
- 6.3.13 However it is fully acknowledged that the proposal does result in a loss of part of the wider open backdrop and the character of the remaining setting is changed from large open fields to one where the open space is diminished and strong bands of trees become more prominent. Whilst the proposed landscaping scheme becomes established there may also be views of the proposed dwellings from the listed buildings. The views across the field

from Charlton Manor would be truncated and its open setting reduced. It is therefore considered that there is a measure of less than substantial harm which will need to be weighed against the public benefits of the proposal.

- 6.3.14 The overall planning balance will be considered below, however given the improvements which have been made to the scheme, and the benefits arising, the conservation officer does not object to the proposal.
- 6.3.15 Historic England (HE) has objected to the proposal. They acknowledge that the proposal represents a less intensive form of development than the previous scheme, however they still consider that the severance of the setting of Ashely Manor and the encroachment of development and associated landscaping towards the Grade II\* building is harmful and an unacceptable quantum and form of development. They state that it is their continued view that it is the entire application site which makes an important contribution to the setting of the Grade II\* listed building and not just the areas closest to it.
- 6.3.16 HE acknowledge the allocation of the site for housing through policy HD4 of the Cheltenham Plan but consider the proposal does not achieve an acceptable level of respect to the setting of heritage assets and that significant adjustments need to be made to demonstrate how allocation HD4 can be delivered in a way that the setting is not harmed to this extent.
- 6.3.17 Whilst the concerns of HE are understood, officers disagree with their conclusions. The site is the subject of a housing allocation and in delivering this it is inevitable that the setting of these listed buildings will be changed. The scheme has made some significant changes directly resulting from the specific concerns of the previous appeal inspector and complies with the measures outlined in policy HD4 which were designed to lessen the impact upon the setting of these buildings. Furthermore in the opinion of officers, HE do not acknowledge the public benefits of the scheme which include the delivery of market and affordable housing, net gains to biodiversity, benefits from long term management of mature trees and hedges, economic benefits from employment during construction and indirect employment following occupation and improvements to the ice house.

#### **6.4 Impact on trees and landscaping**

- 6.4.1 Cheltenham Plan policy G12 states that the Council will resist the unnecessary felling of trees on private land. For protected trees the Council require any tree which has to be felled to be replaced where practicable and pruning, where it is necessary to be undertaken so as to minimise harm to the health or appearance of the tree. Cheltenham Plan policy G13 states that development which would cause permanent damage to trees of high value will not be permitted. 'High Value' means a sound and healthy tree with at least 10 years of safe and useful life remaining, which makes a significant contribution to the character or appearance of the locality. These policies are consistent with the aims and objectives of JCS policy INF3 which provides additional advice in respect of green infrastructure.
- 6.4.2 Paragraph 175 (c) of the NPPF advises that planning permission should be refused for development resulting in the loss of ancient or veteran trees *"unless there are wholly exceptional reasons and a suitable compensation strategy exists."*
- 6.4.3 The current application with its revised layout has allowed more trees to be retained than were previously proposed. It was previously proposed that a TPO tree; tree 3014, a mature oak, would be removed. This tree would now be retained. The revised layout also removes all construction from veteran tree buffers and removes all gardens from within veteran tree buffer zones.
- 6.4.4 Some trees would be removed as part of the proposal however all of the high quality category 'A' trees would be retained. One Ash and One sycamore, both of approximately 14m in height would be the only trees within the moderate 'B' category to be removed. 90%

of category B trees would be retained. There are a number of 'low quality' or category C trees to be removed. These are considered to be unremarkable, in impaired condition or have a primary 'collective value'. The Tree Officer has raised no objection to the proposal subject to conditions including tree protection measures, provision of detailed planting plans, details of veteran tree buffer, landscape management plan, details of foundation design.

- 6.4.5 The tree officer suggested that a landmark tree could be provided within the eastern portion of the site. This request was considered in conjunction with the conservation officer, however it was considered that the planting of a large 'feature' tree might interfere with the visual link between the two listed buildings and the ice house and the remainder of the open land in this area.
- 6.4.6 The Woodland Trust (WT) and The Ancient Tree Forum (ATF) have both objected to the proposal on the grounds that some trees have been misclassified and should be classified as veteran trees and therefore given greater protection through increased buffer zones. The applicant's Arboriculturist has provided a response to the representations received. To summarise; they disagree that any tree has been wrongly excluded from the list of those identified as veterans. They use an ancient, veteran and notable tree recognition system known as RAVEN to assist in classifying trees. WT and ATF have questioned the validity of this system. However in the appeal decision for 18/02171/OUT, the Inspector considered that the assessment covered all the trees on the site in the light of the applicable definition of veteran and ancient trees in the glossary of the NPPF which is as follows:

*"A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage."*

- 6.4.7 The applicant's arborist considers that the ATF in their comments rely too heavily on the condition of the tree without considering the age and size, as required by the NPPF definition. Similar comments have been made in response to the WT comments which, they say, misidentifies a number of trees as veteran.
- 6.4.8 It is clear that this is an area in which there is a degree of subjectivity, however the classification system which has been used in this case is the same as that which was found to be appropriate by the Inspector at appeal. Officers are confident that the trees have been correctly classified, having regard for the definition within the NPPF.
- 6.4.9 Reason for Refusal number 2 on the previous refusal reads as follows:

*The proposed development would result in the loss of a number of trees within the application site, including a significant TPO'd tree which has some valuable characteristics and features of a Veteran tree. The scale of the development on this valuable site would also be likely to result in the deterioration of the retained Veteran trees, which would fail to be outweighed by wholly exceptional reasons. The development would therefore be contrary to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017), and paragraph 175(c) of the National Planning Policy Framework (2019).*

- 6.4.10 The Inspector did not dismiss the appeal on the grounds of the impact on trees. At para. 65 he confirmed that he was satisfied that the measures proposed to safeguard the long term welfare of the retained protected and veteran trees from the potential impacts of the proposed built development have a reasonable prospect of success. He did, however state that there was a degree of risk to the longevity of these trees, given the relative density of the proposed development and the additional access and activity in close proximity. This led him to conclude that there was an element of conflict with policies GE6, GE5 and INF3. These concerns added weight to his conclusion that the scheme should be refused

although he made clear that they would not, alone, have outweighed the benefits of the proposal.

- 6.4.11 As mentioned above the TPO tree that would have been removed in the previous application is now retained and the buffer zones for the veteran trees would be kept clear of any development, including being located within domestic curtilages and of any construction work. Therefore it is considered that the risk factors identified by the inspector have been largely overcome, subject to appropriate conditions being attached.
- 6.4.12 Although 'landscaping' is a reserved matter, the application is accompanied by a detailed Landscape Strategy which indicates the provision of high quality landscaping and new tree planting throughout the site.
- 6.4.13 Bearing in mind all of the above, officers are of the view that the proposal now accords with the relevant policy criteria in relation to trees and landscaping as identified above.

## **6.5 Wildlife and biodiversity**

- 6.5.1 JCS policy SD9 and advice set out within the NPPF at Section 15 seeks to ensure that development contributes to, and enhances the natural and local environment; and that important habitats and species are protected. Where developers are unable to avoid harm to biodiversity, mitigation measures should be incorporated into the design of the development.

### Cotswolds Commons and Beechwoods Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC)

- 6.5.2 Policy BG1 of the Cheltenham Plan relates to the Cotswold Beechwood Special Area of Conservation Recreation Pressure. It states that development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site Network and the effects cannot be mitigated. All development within the borough that leads to a net increase in dwellings will be required to mitigate any adverse effects.
- 6.5.3 It is known that residential developments, alone or in combination with other development, have the potential to result in increased recreational pressures. Natural England (NE) advised that without appropriate mitigation the application would have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation and damage or destroy the interest features for which the Cotswold and Commons Beechwoods Site of Special Scientific Interest has been notified.
- 6.5.4 To ensure these harms are not realised the LPA have prepared an 'Appropriate Assessment' (AA), a draft of which was agreed with Natural England. This AA has now been adopted by the LPA. It concluded that, either alone or in combination with other plans and projects, the proposed development would not adversely affect the integrity of the SAC subject to conditions requiring the implementation of further precautionary measures and the provision of a homeowner's information pack.

### Trees and Hedgerows

- 6.5.5 The Hedgerows were resurveyed in April 2020. Hedge 1, to the west of the site is confirmed as still being important using the Hedgerow Regulations methodology. Hedge 2 is not considered to meet the importance test under the regulations. The hedgerows will suffer some degree of loss. The other hedgerows on the site are poorer quality and fragmented already. The proposed landscaping will improve the situation and the connectivity provided by hedgerows will be improved by significant new planting for a range of animal species. The residual impact of the modest tree and hedgerow loss will have little residual impact on biodiversity and a net gain overall.



## Protected Species

6.5.6 Reason for refusal number 4 of the previous decision reads as follows:

*The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of the site which the application proposes to be relocated as part of the development. Paragraph 175(a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the relocated sett. The development would have a negative impact upon this valuable habitat of hedgerows and pasture, and biodiversity across the site generally. The proposed development would therefore be contrary to adopted policy SD9 of the Joint Core Strategy (2017), paragraph 175(a) of the National Planning Policy Framework (2019) and Natural England's Standing Advice.*

The Local Authority did not pursue this reason for refusal at the inquiry.

## Badgers

6.5.7 Badgers and their setts are protected under the Protection of Badgers Act 1992, the purpose of which is to protect the species from persecution.

6.5.8 An updated survey was carried out in April 2020. A previous survey carried out in October 2018 recorded a total of 5 badger setts. The main sett (BS1) had 15 active entrances, a smaller sett (BS5) has two entrances and is also considered to be active. The remaining setts (BS2, 3 & 4) were found to be inactive at the time of the survey. BS3 is in the vicinity of the icehouse and is unaffected by the development, however the remainder; BS1, BS2, BS4 and BS5 are all located at least partly within the proposed development footprint and would therefore be directly impacted by construction. As such it is proposed that these setts be permanently closed to facilitate the proposals.

6.5.9 Sett BS1 would be of high importance to the local Badger population and without mitigation the loss of this sett would significantly negatively affect Badgers within the local area. It is therefore proposed to create an artificial sett within the north east of the site to compensate for the loss of BS1. This is closer to the existing sett than the previously proposed sett. The closure of the existing sett will require a licence from Natural England. Sett BS5 is considered to be of low importance and is not used for breeding activities.

6.5.10 The foraging area for Badgers would be reduced by way of the development however it is considered unlikely that this would have a significant impact on the local badger population.

6.5.11 The ecological report sets out a mitigation strategy along with measures to lessen the impact upon the Badger population. It concludes that these measures will result in the status of the Badger Clan being maintained.

6.5.12 The County Ecologist has reviewed the survey and proposals and state that the revised proposals for mitigating any effect upon and conserving local badgers are acceptable.

6.5.13 Badger Trust Gloucestershire has raised concerns that insufficient attention has been paid to the presence of badgers or to any mitigation strategy should consent be granted for this application.

6.5.14 Paragraph 175 of the NPPF provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated, or as a last resort, compensated for, planning permission should be refused. Given the location of the main

badger sett it has not been possible to avoid it completely, especially bearing in mind the other constraints of the site. Therefore a combination of mitigation and compensation is proposed.

6.5.15 The process of moving the badgers is regulated by Natural England who issue licenses to interfere with setts for development purposes.

6.5.16 Officers are satisfied that the measures proposed are acceptable and given the retained area of grassland as part of this proposal represent an improvement upon previous proposals.

#### Bats

6.5.17 All bat species, their breeding sites and resting places are protected by law as they are European Protected Species. A variety of bat species have been recorded on site and within the wider area.

6.5.18 The proposals will result in a few gaps in existing hedgerows however there is significant reinforcement planting proposed, along with the proposed tree belt which means that the overall impact upon bats would be positive. Conditions will be necessary to ensure the mitigation and enhancement measures outlined in the Ecological Appraisal are provided and to ensure no inappropriate lighting is provided.

#### Birds

6.5.19 Nesting birds are protected by The Wildlife and Countryside Act 1981, and vegetation clearance should take place outside of the bird nesting season March to August, or the vegetation should be surveyed for nesting birds by a suitable qualified ecologist prior to works commencing.

6.5.20 The survey work demonstrates that a good variety of birds are present in the general area and on site mainly utilising the boundary trees and hedgerows. There are much potential nesting sites present but much of this will be retained. A number of mitigation and enhancement measures are proposed. The development would have a short term adverse impact but in the long-term there would be a positive overall outcome.

#### Reptiles

6.5.21 Grass snakes and slow worms are protected by UK law. The surveys which have been carried out on the site have found a low population of reptiles consisting of only very few individual slow worms and grass snakes. The proposed mitigation and enhancement measures in addition to the proposed new landscaping should have a neutral - positive impact overall.

#### Local Wildlife Site

6.5.22 In July 2020 Gloucestershire Wildlife Trust received a request to consider whether the application site might qualify as a local wildlife site (LWS).

6.5.23 Following a site visit and a subsequent meeting of the LWS selection panel on 1<sup>st</sup> September it was decided that the site passed the Gloucestershire Local Wildlife Site Selection Criteria 2015 under point 9. Value for learning – “*c. the site is exceptionally well-placed to offer educational opportunities either by its proximity to a school or other place of learning, or its easy accessibility for study of the species and habitats present without causing unacceptable damage or disturbance*”. The Panel also consider that the site may also pass the criteria for MG1 grassland plant species. Two sets of plant species data that were provided for the site by Aspect Ecology (applicants representative) and Bioscan

(Charlton Kings Friends representative) differ but between them provide a match for 22 species from table H5c of the LWS criteria.

- 6.5.24 Policy SD9 of the JCS states that development within local-designated sites will not be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated.
- 6.5.25 Gloucestershire Wildlife Trust has provided comments on the biodiversity mitigation proposed as part of the application. The site is currently assessed as 'poor quality semi natural grassland.' However it would be possible to raise the quality to 'unimproved grassland' through more appropriate management of the site. There is an area of ladies bedstraw which the GWT suggest should be preserved. The applicant has committed to this. A significant area of grassland is retained through the proposals and this would not be accessible by the general public. There should be management plans in place to ensure that access is restricted, and to secure the proposed enhancements. Subject to these conditions GWT's view is that the mitigation and enhancements for the habitats and species recorded on site are adequate to achieve no net loss of biodiversity. The GWT and County Ecologist both suggest a covenant be placed on the remaining grassland preventing its development in perpetuity. Officers have sought legal advice on this suggestion and have been advised that such a clause would be unenforceable and is also unnecessary given that any development would require planning permission, bringing it into the control of the LPA.

#### Overall impact on Biodiversity

- 6.5.26 A letter submitted by Bioscan, Ecologists acting for Charlton Kings Friends, asserts that the development is not compliant with JCS policy SD9 as it would result in a loss of biodiversity of 31.90%. They offer the view that the revised scheme provides no greater protection of biodiversity on the site than the previous scheme. This is based on their use of the Natural England metric which is currently available in a beta version for consultation.
- 6.5.27 In the appeal decision the Inspector attached little weight to the results of conflicting metric assessments although he did conclude overall that the net effect of the appeal scheme on biodiversity was likely to be either neutral or negative to some degree. However this did not form the main basis of his dismissal of the appeal and states that it would not have outweighed the significant benefits to the supply of affordable and market housing.
- 6.5.28 The applicant's ecologist has responded to Bioscan's assertions. They point out that the revised scheme is considerably reduced with increased areas of greenspace along with improvements to the ecological proposals and therefore the conclusion the scheme provides no greater protection of biodiversity than the previous scheme is inherently flawed. With regards to the use of the matrix they point out that with the measurement of the baseline: a) a more accurate measuring of the site should be used, b) the existing pond has been omitted and should be included, c) scattered scrub has been coded as 'other mixed woodland' in 'moderate condition' whereas this should be assigned to 'scrub' in 'poor' condition. With regards to the post-development inputs to the matrix they point out that: a) it is assumed that all habitats will be lost and recreated whereas the grassland will be retained and enhanced, b) the proposed pond has been omitted and should be included, c) the central hedgerow is ascribed as 'poor' condition where as it should be considered 'good' as it will be controlled by way of a conservation management plan.
- 6.5.29 These changes to the parameters in the metric would result in a biodiversity net gain of 1.47%. The applicant's ecologists say that the metric is known to undervalue woodland creation and therefore they anticipate the net gain would be higher under the final version of the metric when it is released.
- 6.5.30 Officers have sought the advice of the County ecologist on this matter and he has stated that he is more inclined to agree with the applicant's ecologist. He points out that there are

a number of shortcomings in the metric and unfortunately Bioscan's use of the metric includes some errors and their conclusions undervalue the merits of allowing the development.

6.5.31 The County Ecologist offers the following conclusions:

- Compared to previous development schemes for this site (17/00710/OUT & 18/02171/OUT) there will be fewer units and greater retention of habitats and features. There is to be extensive tree/shrub planting, additional new habitat features and improved meadow management. Overall a biodiversity net gain can be secured with appropriate conditions and planning obligations in place as I have previously advised.
- The development if consented would be compliant with NPPF paragraphs 8, 170, 175 or 180. The proposal avoids significant harm to biodiversity and protects veteran trees. It makes effective use of the land and also provides a mechanism to secure a better more resilient future for biodiversity.
- Biodiversity improvements have been designed into and around the development. Given policy HD4 of the newly adopted plan [see below], the type and scale of the development appears to me to be appropriate for the location
- The development if consented would be compliant with JCS policy SD9. The development provides appropriate mitigation for some unavoidable effects but importantly positively conserves and enhances biodiversity overall which are relevant to the location.
- The development if consented would be compliant with policy HD4 in the recently adopted Cheltenham Local Plan. The development provides for long-term protection of mature trees and hedgerows on site, better commuting corridors and foraging areas for bats, and is an opportunity to enhance biodiversity overall.

6.5.32 Officers are therefore satisfied that the proposal has an acceptable impact upon wildlife and biodiversity.

## **6.6 Access and highway safety**

6.6.1 The proposed access is one of the 'fixed' elements of this outline planning application

6.6.2 Adopted JCS policy INF1 advises that planning permission will be granted only where the impacts of the development are not severe. The policy also seeks to ensure that all new development proposals provide safe and efficient access to the highway network; and provide connections to existing walking, cycling and passenger transport networks; and provide connections to existing walking cycling and passenger transport networks, where appropriate. The policy reflects advice set out within Section 9 of the NPPF. It is repeated in Policy HD4 of the Cheltenham Plan which states "*safe, easy and convenient pedestrian and cycle links within the site and to key centres*" as a site specific requirement.

6.6.3 Planning application 17/00710/OUT (the scheme for 90 dwellings) was refused for the following reason (amongst others):

*The proposed access via Oakhurst Rise would have an unacceptable impact on the local highway network, and the amenity of local residents. Additionally, the steep incline within the cul-de-sac would fail to encourage the use of sustainable modes of transport and would likely result in a reliance on the use of private motor vehicles. Alternative potential vehicular access routes do not appear to have been fully explored. The access would therefore be at odds with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 108 - 110 of the National Planning Policy Framework (2018).*

- 6.6.4 The subsequent application (18/02172/OUT – 69 dwellings) was not refused specifically on highway grounds. In the appeal decision the Inspector did consider access and traffic. He acknowledged that there were no technical objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility or existing traffic flows. He was satisfied that an increase in traffic flow would not have a significant impact on the wider highway network. He did however express a view that the access route was ‘tortuous’ and ‘far from ideal’. Whilst he did not dismiss the appeal on grounds of access and stated that this concern either alone, or in combination with some other issues would not outweigh the benefits of the scheme, he did find that they supported his overall conclusion that the appeal should be dismissed.
- 6.6.5 The proposal has been assessed by the Local Highways Authority who have provided detailed comments which are provided in full. To briefly summarise, they conclude that the access, via Oakhurst Rise, is acceptable, as is the internal layout within the site. They acknowledge the gradient of the site and that it will be necessary to consider this when formulating detailed road design, however there are earthwork techniques which can be adopted to adequately deal with this. The parking provision shown on the indicative drawing is acceptable and cycle parking can be secured via condition. A non-motorised user’s assessment was undertaken which identified deficiencies in the surroundings walking/cycling network and routes to destinations which should be improved for non-motorised user’s accessibility, safety, comfort and convenience. Some improvements to pedestrian crossings are required and a condition is suggested to secure these improvements. The trip generation and impact on surrounding networks is reduced from previous applications and is considered to be acceptable. A Travel Plan will be prepared with the aim of increasing the use of public transport, car sharing, walking and cycling. The Highway Authority conclude that no objection should be raised subject to conditions.
- 6.6.6 Officers are content that the highways and access arrangements are successful; whilst members did not refuse the most recent application on these grounds, it is clear that the reduction in number of dwellings proposed on the site will lessen the impact further and the indicative plans show a scheme which would achieve the aims of JCS policy INF1 and Cheltenham Plan policy HD4.

## **6.7 Landscape and visual impact**

- 6.7.1 JCS policy SD6 advises that all development proposals must consider the landscape and visual sensitivity of the area in which they are located or which they may affect. As previously noted, the application site is not located within the Green Belt or Cotswold Area of Outstanding Natural Beauty, but does sit in an elevated position above the town.
- 6.7.2 As part of the consideration of previous applications and pre-application proposals, an independent landscape appraisal was undertaken by a chartered landscape architect at the request of the LPA. In their appraisal, the landscape architect identified the site’s topography and notable slope as a key landscape feature, and highlighted that, whilst it is not designated landscape, its elevated position affords views out across the town and provides the backdrop to a number of large properties within the Battledown Estate. Based on the information available to him at that time, the landscape consultant did not consider the site to be ‘valued landscape’ in terms of paragraph 170 of the NPPF which seeks to protect and enhance valued landscapes.
- 6.7.3 The NPPF does not define what is meant by ‘valued landscape’ but there is relevant case law on this subject. In this instance, officers do not consider that the site should be considered ‘valued landscape’ for the purposes of paragraph 170. Whilst the landscape clearly has a value attached to it, particularly by local residents, it is not considered to have any intrinsic features that specifically set it aside from other areas of non-designated landscape.

6.7.4 The previous application on this site (18/02171/OUT) was refused for the following reason:

*The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB. The proposal would therefore be contrary to saved policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).*

6.7.5 The Local Authority did not pursue this reason for refusal at the inquiry. However the Inspector did comment on visual impact stating that he did not consider that the appeal proposal would cause harm to the appearance and character of the nearby Cotswold AONB.

6.7.6 The current proposal results in the retention of a large area of open grassland, additional landscaping and increased landscaping. As such officer are confident that the proposal has an acceptable visual impact within the landscape.

## **6.8 Drainage and flooding**

6.8.1 Adopted JCS policy INF2 and Section 14 of the NPPF seeks to ensure that new development is not inappropriately located in areas at high risk of flooding, and to ensure that development does not increase flood risk elsewhere and, where possible, contributes to a reduction in existing flood risk.

6.8.2 The application site located in Flood Zone 1 and is therefore assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). Additionally, the Environment Agency's Flood Risk Map below identifies the entire site as being at a 'very low' flood risk from surface water flooding, although it does identify some areas in close proximity to the site that are at a higher risk of surface water flooding. The LLFA also acknowledged in previous comments that there are significant surface water accumulations, and recorded incidents of flooding in the lower reaches of this catchment. It is therefore important to ensure that appropriate measures are provided to safely manage the flood risks arising from the increased run off from the development.

6.8.3 The application has been accompanied by a detailed Flood Risk Assessment (FRA) and drainage strategy which have been reviewed by the County Council, as the Lead Local Flood Authority (LLFA) responsible for managing the risk of flooding from surface water, groundwater and ordinary watercourses. The level of detail submitted to date is appropriate for an outline planning application.

6.8.4 The LLFA are satisfied that the information which accompanies this outline application "adequately describes a feasible strategy for the management of surface water on and from the development site" and raises no objection subject to a condition which requires additional detail, including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development, to be submitted and agreed at a later stage.

6.8.5 A representation has been received from the Cheltenham Flood and Drainage Panel which is critical of the submitted Flood Risk Assessment. This representation has been discussed with the LLFA who have provided the following response:

*Planning application 20/00683/OUT is an outline planning application with all matters reserved, as such I believe that the information provided through the FRA and drainage strategy is adequate at this stage in the planning process. Detailed drainage design can be conditioned and as requested in my response.*

*The comments from the group referring to themselves as Cheltenham Flood and Drainage Panel are proposal that we would expect to see addressed in the application for discharge of the condition requested. Many of the points will not be able to be addressed at this stage and it would be unreasonable to expect them to be answered for an outline permission.*

*In fact the level of detail for an outline proposal is quite comprehensive and there is certainly enough information to indicate that the site can be safely developed and surface water managed without putting the site or areas outside the site at increased risk of flooding. The proposal includes detail of where surface water will go, at what rates and how it can be controlled within the space available in the developed site to achieve that objective.*

- 6.8.6 None of the 2 preceding applications were refused on flooding and drainage grounds. The Inspector touched on it within the appeal decision stating there was insufficient evidence to show that a detailed scheme could not be satisfactorily drained.
- 6.8.7 Therefore officers are confident that the scheme is acceptable on flooding and drainage grounds.

## **6.9 Design and layout**

- 6.9.1 Layout and scale, together with the proposed access arrangements are 'fixed' elements of the scheme; however appearance is reserved for future consideration (as is landscaping).
- 6.9.2 JCS policies SD3 and SD4 set out the design requirements for new development proposals. These policies seek to ensure that development proposals are designed and constructed so as to maximise the principles of sustainability, and to ensure that all new development responds positively to, and respects the character of, the site and its surroundings. The policies are consistent with advice set out within Section 12 of the NPPF which emphasizes at paragraph 124 that "Good design is a key aspect of sustainable development..."
- 6.9.3 Additionally, JCS policy SD11 highlights the need to ensure that new housing developments provide an appropriate mix of housing to meet the local needs.
- 6.9.4 Policy HD4 of the Cheltenham Plan includes as site specific requirements; a layout and form that respects the existing urban characteristics of the vicinity; and a layout and form of development that respects the character, significance and setting of heritage assets which may be affected by the development.
- 6.9.5 The appeal scheme was not refused on design and layout grounds and the Inspector did not specifically touch on them, other than in respect of how they relate to the main issues. However the form of development now proposed has changed significantly since the previous submission with the most obvious change being the retention of a large area of open grassland in the south and western parts of the site and the provision of a significant landscaped belt between this area and the proposed development. The main route through the site is similar to the appeal application however due to the reduced developed area there are now three cul-de-sacs leading off this, rather than linked roads.
- 6.9.6 The appeal scheme included a number of small apartment blocks with associated car parks. The current scheme proposes primarily houses, mostly detached, semi-detached or in short terraces of 3 dwellings, with a small number maisonettes. No parking courts are proposed with the parking all proposed on, or very near to the associated dwelling. This results in a layout which more closely reflects the grain and layout of the adjoining residential areas. It is regrettable that the scheme does not include a wider variety of housing types. In terms of urban design, cul-de-sacs are not always the most successful form of development as they do not encourage connectivity and permeability across the site, although the constraints of the site mean this is unavoidable. However it is considered

that overall the proposal would result in a high quality residential environment, benefitting from generous landscaping and providing well laid out, comfortable homes.

- 6.9.7 A building scale plan has been provided which shows that most of the dwelling (27) would be 2 storeys with the remainder (16) being 2.5 storeys. 'Appearance' is a reserved matter and as such the design of individual houses is not known at this stage. However indicative plans have been provided which give an idea of how the houses could look. The indicative drawings of the 2.5 storey dwellings show a room in the roof served by velux windows. The final design would be the subject of a reserved matters application. However officers are confident that the scale of buildings proposed is appropriate for the site.

## **6.10 Neighbour amenity**

- 6.10.1 Policies SD14 of the JCS and SL1 of the Cheltenham Plan require that development does not cause unacceptable harm to the amenity of adjoining land users and living conditions in the locality.
- 6.10.2 Whilst it is acknowledged that outlook from some neighbouring properties would undoubtedly be altered by the development, officers are satisfied that the proposed layout would not result in any overbearing effect, nor loss of privacy or outlook; all properties achieve the minimum 10.5 metres distance to site boundaries. Additionally, the topography of the site, distances to boundaries, and general arrangement of the housing would not result in any significant impact on daylight or sunlight.

## **6.11 Affordable housing and other planning obligations**

### Affordable Housing

- 6.11.1 Cheltenham Borough Council, together with the other JCS authorities, adopted the Community Infrastructure Levy (CIL) in October 2018, and introduced charging on 1st January 2019. This development would be liable for CIL.
- 6.11.2 CIL is now the tool to help local authorities to deliver infrastructure to support new development in the area, and is a tariff-style charge which is calculated per square metre of new development. In Cheltenham, the CIL rate for residential developments of between 11 and 449 dwellings is £200 per m<sup>2</sup>; however, there are some exceptions, for example, those parts of a development which are to be used as social housing, and selfbuild housing.
- 6.11.3 CIL sits alongside S106 agreements, which are still used to secure site-specific obligations which are needed to make a development acceptable in planning terms, particularly affordable housing.
- 6.11.4 Adopted JCS policy SD12 is the relevant policy for the provision of affordable housing in new developments. In Cheltenham, outside of Strategic Allocation sites, a minimum of 40% affordable housing is sought on sites of 11 dwellings or more. Where possible, the policy requires the affordable housing to seamlessly integrated and distributed throughout the development. The proposed scheme is compliant with the requirements of the policy.
- 6.11.5 The proposal has been the subject of discussion with the Council's Housing Strategy and Enabling Officer and the affordable housing now proposed is as a result of these negotiations. The comments of the Officer are provided in full.
- 6.11.6 The scheme delivers 18 affordable housing units (42%) and is therefore considered to be policy compliant. The mix of affordable dwellings on this site would be as follows:



42%	Social Rent	Affordable Rent (Capped at LHA levels)	Shared Ownership	Total	%
1b2p Ground Floor Maisonette M4(2) Cat 2 (50m <sup>2</sup> )-	2	0	0	2	28%
1b2p Upper Floor Maisonette (50m <sup>2</sup> )	2	0	0	2	
1b2p House M4(2) Cat 2 (50m <sup>2</sup> )	1	0	0	1	
2b4p GF Maisonette, M4(2) Cat 2, 71m <sup>2</sup>	0	1	0	1	44%
2b4p Upper Floor Maisonette, 71m <sup>2</sup>	0	1	0	1	
2b4p House, M4(2) Cat 2, 79m <sup>2</sup>	0	3	0	3	
2b4p House (67m <sup>2</sup> )	0	0	3	3	
3b5p House (82m <sup>2</sup> )	0	1	2	3	22%
3b6p House (95m <sup>2</sup> )	0	1	0	1	
4b7p House (108m <sup>2</sup> )-	1	0	0	1	6%
Total:	13		5	18	100%
	72%		28%		

6.11.7 The mix of dwellings proposed here is more reflective of Cheltenham's affordable housing needs than previously proposed dwelling mixed. A number of flats were originally proposed and they have been replaced with maisonettes and a house which allowed tenants to have their own front door, fostering a sense of belonging and community that is fundamental to creating a strong and sustainable community.

6.11.8 The layout was amended to ensure the affordable housing was better distributed around the site and to ensure that every affordable home has access to private outdoor space.

6.11.9 The provision of these affordable homes is a significant benefit of the proposal. As of May 2020, Cheltenham Borough had 2,190 households waiting for affordable housing on the Council's housing register. The affordable dwellings proposed here would go some way to addressing this need.

6.11.10 The affordable housing provision would be secured through a s.106 agreement.

#### S.106 agreement.

6.11.11 A request for an education contribution has been received from the County Council for contributions towards education as follows:

- **Primary** – Holy Apostles C of E primary school and/or primary places in the Charlton Kings Primary Planning Area - **£241,305.09**
- **Secondary** – Cheltenham Secondary Planning Area – **£250,743.48**
- **Libraries** - **£38,428.00**

6.11.12 This has been agreed by the applicant and would be secured through a legal obligation, either by the County Council entering an agreement with the applicant or the applicant meeting the requirement through a unilateral undertaking.

6.11.13 In addition to the above a s.106 agreement with the Borough Council will secure the provision of a Landscape and Ecological Management Plan. It will also provide for the establishment of a management company and a management regime for the retained grassland, including limiting access, in line with the request from Gloucestershire Wildlife Trust. This s.106 agreement will also provide for the provision of the affordable housing as detailed above.

## **6.12 Other Matters**

### Environmental Impact Assessment (EIA)

6.12.1 The Local Planning Authority was originally requested, in August 2017, to adopt a screening opinion to determine whether the proposed development on this site would constitute 'EIA' development, under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017; i.e. determine whether the project is of a type listed in Schedule 1 or Schedule 2 of the Regulations.

6.12.2 The proposed development is not Schedule 1 development. Additionally, whilst the development is listed in column 1 of Schedule 2 of the 2017 Regulations (Part 10 Infrastructure Projects, (b) Urban development projects), the proposed development does not exceed the following thresholds set out in column 2 of the Schedule:

- (i) the development does not include more than 1 hectare of urban development which is not residential development;
- (ii) the development does not include more than 150 dwellings;
- (iii) the overall area of the development does not exceed 5 hectares.

6.12.3 Additionally, the site is not located within a "sensitive area" as defined by Regulation 2(1). Therefore, the proposed development is not Schedule 2 development and an EIA is not required.

## **7 Planning Balance**

7.1 In planning applications such as this the Planning Authority must exercise its judgement and consider potentially conflicting issues to decide whether planning permission should be granted. This 'balancing exercise' is at the heart of the planning process.

7.2 The principle of the proposal is acceptable as the site is allocated for housing within the Cheltenham Plan. The consideration of the proposal above has identified harms and benefits of allowing the proposal which must be weighed up in the 'planning balance'. As explained at para. 6.2.10 above this balance must be 'tilted', due to the lack of a 5 year housing land supply.

7.3 The benefits of the scheme are considered to be:

- Provision of market housing

- Provision of affordable housing
- Net gain in biodiversity including management of retained grassland.
- Economic benefits including jobs during construction and benefits to local economy from future residents using local goods and services.
- Long term management of mature trees and hedgerows

Substantial weight should be given to the delivery of market and affordable housing. The remainder of the benefits identified should be given moderate weight in the balancing exercise.

7.4 The harms arising from the scheme are considered to be:

- The loss of 2 mature trees
- The impact on the setting of two designated heritage assets

Great weight should be given to the conservation of heritage assets. The proposal results in less than substantial harm to its significance, although as detailed above this harm is considered to be significantly reduced when compared to the appeal scheme. The loss of the mature trees is regrettable and this consideration carries moderate weight in the balancing exercise, however mitigation is proposed and no protected or category A trees are to be removed.

7.5 The other harms which were identified by the Inspector in the appeal decision are considered to have been overcome through amendments to the scheme or enhanced protection or mitigation.

7.6 In the appeal, the Inspector concluded that the harm to heritage assets outweighed the benefits of the scheme, identified by him as the provision of market and social housing. The harm to heritage assets has significantly reduced through the revised scheme and the shortfall in provision of affordable and market housing has worsened in the meantime to significantly below a 5 year supply (3.7 years at latest calculation). Therefore Officers conclude that in balancing the key issues, the benefits of the proposal outweigh the harms. Therefore, in accordance with para 11 (d) of the NPPF, planning permission should be approved.

## **8. Public Sector Equalities Duty (PSED)**

8.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED. In this instance the affordable homes specifically will be required to be accessible and adaptable, making it suitable for a range of potential occupants.

In the context of the above PSED duties, this proposal is considered to be acceptable.

## 9 CONCLUSION AND RECOMMENDATION

9.1 This site has a history of refused applications. The most recent application was the subject of an appeal and the Inspectors decision is a material consideration.

9.2 Since the appeal was determined the Cheltenham Plan has been adopted which allocates the site for housing. Members will be aware that decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

9.3 The current scheme has sought to respond to the requirements of the newly adopted policy and to respond to the comments and observations made by the Inspector in his decision. This has led to a number of changes to the proposal as outlined above including the reduction in number of houses, reduction in developed area, retention of open space, introduction of additional landscaping in indicative plans, improvements to biodiversity protection and mitigation and greater retention and protection of trees.

9.4 As outlined above the Inspector's primary reason for dismissing the appeal was the impact on heritage assets. It is acknowledged that despite significant changes to the proposal, some harm has still been identified, although the heritage specialists differ as to how significant this harm is resulting in differing recommendations.

9.5 The Inspector identified other areas of concern although he stated that they would not, either alone, or collectively have outweighed the benefits of the scheme.

- **Loss of protected tree and risk to those retained** – The protected tree is now to be retained and protection measures improved
- **Potential net loss of biodiversity** – The current scheme has been found to result in no net loss of biodiversity
- **Nature of highway access** – The access is unchanged although the proposal would generate less traffic than previous applications.

9.6 Policy HD4 in the recently sets out a number of site specific requirements. The above analysis shows that these are all achieved through the current proposal. As such, according to the NPPF the proposal should be approved without delay. Further, as the Council is unable to demonstrate a five year supply of housing paragraph 11(d) of the NPPF remains relevant and permission is to be granted unless either paragraph 11(d)(i) or 11(d)(ii) applies. It is not considered that there are any clear reasons for refusing permission under paragraph 11(d)(i) or that there would be adverse impacts that would significantly and demonstrably outweigh the benefits. As such it is concluded that planning permission should be granted.

9.7 The recommendation is to permit the application subject to the signing of a s.106 agreement.

## 10 CONDITIONS / INFORMATIVES

- 1 The outline planning permission hereby granted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Application(s) for approval of the reserved matters (appearance and landscaping) must be made not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 The outline planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 4 The application for approval of landscaping as a reserved matter shall include full details of the surface water drainage proposals; and the information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage works shall thereafter be implemented strictly in accordance with approved details, prior to the commencement of any building works above ground level.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, and to minimise the risk of pollution for the lifetime of the development, in accordance with adopted policy INF2 of the Joint Core Strategy (2017). The detailed surface water drainage proposals are required at reserved matters stage as they form an inherent part of the landscaping proposals.

- 5 No works shall commence on site on the development hereby permitted until details of highway improvements consisting of the installation of a connecting section of footway (2m wide) with tactile dropped crossing point between Beaufort Road and Ewens Road (north side), extension to the footway (2m wide) and dropped kerb tactile crossing point across Charlton Court Road, and a bus shelter to serve Bus Stop ID: glodtwmt located on Beaufort Road have been submitted to and approved in writing by the Local Planning Authority and no occupation/opening to the public shall occur until the approved works have been completed and are open to the public.

Reason: To ensure that safe and suitable access to the site can be achieved for all users and that the priority is first given to pedestrian and cycle movements, both within

the scheme and with neighbouring areas; and secondly, so far as possible, to facilitating access to high quality public transport, in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 6 Prior to commencement of the development hereby permitted details of a construction management plan or construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- Routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles; and
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: To minimise disruption on the public highway and adjacent land users and to accommodate the efficient delivery of goods and supplies during the course of the construction works in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework. Approval is required upfront because without proper mitigation the construction works could have an unacceptable highway impact.

- 7 No development shall commence until a detailed Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall identify the main waste materials expected to be generated by the development during the construction phase and set out measures for dealing with such materials so as to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy. The detailed Site Waste Management Plan must include: -

- i) Information on the type and amount of waste likely to be generated prior to and during the construction phase;
- ii) Details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation; and
- iii) Details of the measures for ensuring the delivery of waste minimisation during the construction phase.

The Site Waste Management Plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: To ensure the effective implementation of waste minimisation in accordance with Gloucestershire Waste Core Strategy: Core Policy WCS2 - Waste Reduction.

- 8 No building or use hereby permitted shall be occupied or use commenced until the means of access for vehicles, pedestrians and/or cyclists have been constructed and completed in accordance with the approved plans.

Reason: To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the scope for conflict between traffic and cyclists and

pedestrians, and to establish and maintain a strong sense of place to create attractive and comfortable places to live, work and visit in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108, 110 and 127 of the National Planning Policy Framework.

- 9 No building or use hereby permitted shall be occupied or use commenced until the car/vehicle parking area and turning space associated with each building within the development (including garages and car ports where proposed) shown on the approved plans PL005 Rev B and SK25 Revision: F has been completed and thereafter the area shall be kept free of obstruction and available for the parking of vehicles associated with the development.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 10 The development hereby permitted shall not be occupied until cycle storage facilities for a minimum of 2 no. bicycles per dwelling have been made available for use and those facilities shall be maintained for the duration of the development.

Reason: To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 11 Prior to occupation or use commenced, evidence that the pre-occupation elements of the approved Travel Plan have been put in place shall be prepared, submitted to and approved in writing by the Local Planning Authority.

The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan to the satisfaction of Local Planning Authority unless agreed in writing by the Local Planning Authority.

Reason: The development will generate a significant amount of movement; and to ensure that the appropriate opportunities to promote sustainable transport modes are taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 111 of the National Planning Policy Framework.

- 12 The individual vehicular accesses hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2 metres back along each edge of the access, measured from the carriageway edge, extending at an angle of 45 degrees to the footway, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level and shall be maintained as such for the duration of the development.

Reason: To reduce potential highway impact by ensuring that adequate visibility is provided and maintained and to ensure that a safe, secure and attractive layout which minimises the scope for conflicts between pedestrians, cyclists and vehicles is provided in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 13 The development hereby permitted shall not be first occupied until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. The electric

vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

Reason: To ensure that the development incorporates facilitates for charging plug-in and other ultra-low emission vehicles in accordance with paragraph 110 of the National Planning Policy Framework.

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property and ancillary domestic storage without the grant of further specific planning permission from the Local Planning Authority.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 15 Prior to the commencement of the development hereby permitted including ground works and vegetation clearance a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. Any modifications to the approved details for example as a result of requirements of a protected species license must be submitted to and agreed in writing by the Planning Authority. The CEMP shall include final details of the following items:

Ecology:

- (i) Outline Mitigation Strategy based on Section 4.6 of the Confidential Badger Appendix by Aspect Ecology dated April 2020.
- (ii) Other Mitigation Measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees), MM3 (update Preliminary [tree] Roost Assessment), MM4 (Bat Survey and Soft-felling of Trees), MM5 (Re-installation of any affected Retained Bat Boxes), MM7 (Wild Mammal Construction Safeguards), MM8 (Habitat Manipulation/Destructive Search for Reptiles & Amphibians) and MM9 (Timing of Works to avoid Nesting Birds) based on the Ecological Appraisal by Aspect Ecology dated April 2020.
- (iii) Adherence to the Tree Protection Plan incorporating arboricultural methods (iv) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) and other responsible persons plus lines of communication

Other Items:

- (iv) Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- (v) Arrangements for liaison with the Council's Pollution Control Team.
- (vi) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites which shall be used to minimise noise disturbance from construction works.
- (vii) Procedures for emergency deviation of the agreed working hours.



- (viii) Waste and material storage.
- (ix) Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
- (x) Measures for controlling the use of site lighting whether required for safe working or for security purposes.

Reason: To protect the local environment including its landscape and biodiversity value, to ensure that adequate mitigation/compensation measures are provided in order to safeguard protected species, and to reduce any potential impact on local residents, in accordance with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policies SD9 and SD14 of the Joint Core Strategy (2017) and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This information is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species and the amenity of adjoining land users at the beginning of construction.

- 16 Notwithstanding previously submitted details, prior to the commencement of development, drainage plans for the disposal of foul water shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage shall be implemented in accordance with the approved details prior to first occupation of the development

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution in accordance with adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront as any works on site could have implications for drainage, flood risk and water quality in the locality.

- 17 Prior to the commencement of development, a Lighting Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on mitigation measure MM6 (Sensitive Lighting) within the Ecological Appraisal by Aspect Ecology dated April 2020, and shall include the following details:

- (a) the position, height and type of all lighting;
- (b) the intensity of lighting and spread of light as a lux contour plan;
- (c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux; and
- (d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

The approved scheme shall be implemented for the duration of the development and thereafter maintained in accordance with the manufacturer's recommendations and scheme details.

Reason: To provide adequate safeguards for protected species on the site, and to ensure that foraging and commuting of bats is not discouraged at this location, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 18 Prior to the commencement of development, plans showing the existing and proposed ground levels and slab levels of the proposed and adjacent buildings shall be submitted

to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented strictly in accordance with the agreed details.

Reason: To ensure a satisfactory relationship between the proposed development and adjacent buildings and land, having regard to saved policies SL1 and D1 of the Cheltenham Plan (2020) and adopted policies SD4 and SD14 of the Joint Core Strategy (2017). Approval is required upfront to allow the impact of the development to be accurately assessed.

- 19 Prior to the commencement of development, a method statement for the building foundation design, which takes account of existing soil types and adjacent trees so as to prevent future subsidence to new buildings and demands for the removal or heavy pruning of retained trees, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GI2 and GI3 of the Cheltenham Plan (2020), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 20 Prior to the commencement of the development a Landscape and Ecological Management Scheme based on the Landscape Strategy drawing 19216.101 revision D dated 14-04-20, Proposed New Tree Planting Management Plan - Head of Terms and the Ecological Appraisal dated April 2020 (Ecological Enhancements EE1 to EE8 inclusive) shall be submitted to and approved by the Planning Authority. The scheme shall comprise of a drawing and document that covers:

- (a) Aims and objectives of the scheme including conservation of protected and priority species and a net gain for biodiversity appropriate green infrastructure;
- (b) A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;
- (c) Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;
- (d) Provision for educational but not public access;
- (e) A work and maintenance schedule for 5 years and arrangements for beyond this time;
- (f) Monitoring and remedial or contingency measures;
- (g) Organisation or personnel responsible for implementation of the scheme;
- (h) Issue of a homeowner's information pack on local recreational opportunities and the sensitivity of the Cotswolds Beechwoods SAC.
- (i) Measures to achieve the retention and enhancement of the Ladies Bedstraw population within the site.

The Scheme shall also include details of the legal and funding mechanisms by which the long-term implementation of the scheme will be secured by the developer with the management body responsible for its delivery. The scheme shall be implemented as approved by the Planning Authority.

Reason: To conserve and enhance the landscape and biodiversity value of the land and in accordance with JCS policies SD6 and SD9, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.

- 21 Prior to the commencement of any above ground works, a scheme for the provision of fire hydrants (served by mains water supply) shall submitted to and approved in writing

by the Local Planning Authority. No dwelling shall be occupied until the hydrant serving that property has been provided.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with adopted policy INF6 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework.

- 22 Notwithstanding the submitted details, prior to the commencement of any building works above ground level, details of a scheme for the provision and future maintenance of multi-functional green infrastructure to include areas of informal play shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development.

Reason: To ensure that the development makes a positive contribution towards green infrastructure and provides opportunities for play and recreation in accordance with adopted policies INF3 and INF6 of the Joint Core Strategy (2017) and paragraphs 69 and 109 of the National Planning Policy Framework.

- 23 Notwithstanding previously submitted details, prior to the commencement of any building works above ground level, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the number and location of all new trees and hedges to be planted; their species, size, spacing/density of hedges, root types, tree pit details (including details of introduced soil amelioration plans); and protection from deer and other predators as well as protection for the street trees from vehicles etc. The scheme shall also include: a. a short, medium and long term management for all trees to be planted; b. details of the restoration and remedial surgery to parts of the existing hedge to be retained; c. details of the proposed pond to the south of the site; and d. wild flower strips in the public open spaces. All hard landscaping works shall be carried out in accordance with the approved details prior to first occupation of the development unless otherwise agreed in writing by the Local Planning Authority. All soft landscaping shall be carried out in the first planting and seeding season following completion of the development or first occupation of the development (whichever is sooner). Any trees which within a period of 5 years, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of the same size or species unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area in accordance with saved policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017). Approval is required upfront because the landscaping is an integral part of the development and its acceptability.

- 24 All works including paths, parking areas and other forms of hard landscaping that fall within Root Protection Areas (RPAs) of the retained trees shall be constructed using a no-dig method as per the submitted drawings. Prior to the commencement of development, full details of the proposed no-dig method shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented strictly in accordance with the details so approved.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 25 No trees, shrubs or hedges within the site which are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed, without the prior written permission from the Local Planning Authority. Any retained trees, shrubs or hedges removed without such permission, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted, shall be replaced with trees, shrubs or hedge plants of a similar size and species during the next planting season unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework.

- 26 The development shall be implemented in accordance with the Tree Protection Plan drawing 38-1036.03-A dated 17.04.20 which incorporates arboricultural methods and supervision details. All protective structures installed shall be maintained until construction work has been completed. No materials, soils, or equipment shall be stored under the canopy of any retained tree or hedgerow within the application site.

Reason: To prevent unnecessary loss of amenity and biodiversity value of trees and shrubs to be retained in accordance with Policies GI2 and GI3 of the Cheltenham Plan (2020), ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175.

- 27 No tree and/or hedge clearance shall be carried out during bird nesting season (1st March to 31st August inclusive) unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has first been submitted to and approved in writing by the Local Planning Authority. Any such scheme shall be implemented in accordance with the approved details.

Reason: To provide adequate safeguards for protected species on the site in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraph 118 of the National Planning Policy Framework.

- 28 No construction works and/or ancillary operations which are audible at the site boundary shall be carried out on site outside the following hours:

Monday to Friday - 8am to 6pm  
Saturday - 8am to 1pm

There shall be no working on Sundays or Public or Bank Holidays. Deliveries to, and removal of plant, equipment, machinery and waste from, the site shall only take place within the permitted hours detailed above.

Reason: To ensure that any impact on the amenity of the occupiers of adjacent dwellings is minimised and controlled in accordance with saved policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 29 No external facing or roofing materials shall be applied unless in accordance with: a) a detailed written specification of the materials; and b) physical samples of the materials. The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy D1 of the Cheltenham Plan (2020),

adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 30 No boundary treatments, including boundary walls, fences or other means of enclosure shall be constructed unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the approved details prior to first occupation of the development hereby permitted.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy D1 of the Cheltenham Plan (2020), adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 31 Prior to first occupation of the development, details of a Homeowner's Information Pack resource providing information on recreation resources in the locality shall be submitted to and approved in writing by the Local Planning Authority. The pack should reference:

- Alternative local recreation opportunities (off site), e.g. website information for Cotswolds AONB and recreation 'offer' <https://www.cotswoldsaonb.org.uk/visiting-and-exploring/>
- Relevant adopted Cheltenham, Gloucester and Tewkesbury JCS policy (e.g. INF3 green infrastructure) and supporting text (e.g. 5.4.6 re. Green Infrastructure strategy 'vision') and Policy BG1 of the Cheltenham Plan 2020.

Each dwelling shall be provided with an approved Homeowner Information Pack on occupation.

Reason: To ensure that appropriate measures to mitigate for any adverse effects to the Cotswold Beechwoods SAC that could potentially occur as a result of the proposal, are suitably addressed in accordance with adopted policy SD9 of the Joint Core Strategy (2017), policy BG1 of the Cheltenham Plan 2020 and paragraphs 175, 176 and 180 of the National Planning Policy Framework.

- 32 Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have first been submitted to and approved in writing by the Local Planning Authority. The storage facilities shall thereafter be retained for that purpose.

Reason: In the interests of sustainable waste management and recycling, having regard to Policy W36 of the Gloucestershire Waste Local Plan.

- 33 Prior to first occupation of the development, leaf guards for the guttering and down pipes of the dwellings shall be installed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority, and shall be maintained as such thereafter.

Reason: To reduce levels of tree-related inconvenience experienced by residents during the occupancy of the development.

## **INFORMATIVES**

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise

when dealing with a planning application with the aim of fostering the delivery of sustainable development.

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

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

- 2 The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out.

Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk) allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Council's costs in undertaking the following actions:

- i. Drafting the Agreement
- ii. A Monitoring Fee
- iii. Approving the highway details
- iv. Inspecting the highway works

Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

- 3 The development hereby approved includes the construction of new highway. To be considered for adoption and ongoing maintenance at the public expense it must be constructed to the Highway Authority's standards and terms for the phasing of the development. You are advised that you must enter into a highway agreement under Section 38 of the Highways Act 1980. The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980.

Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk). You will be required to pay fees to cover the Council's cost's in undertaking the following actions:

- I. Drafting the Agreement
- II. Set up costs
- III. Approving the highway details
- IV. Inspecting the highway works

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You should enter into discussions with statutory undertakers as soon as possible to coordinate the laying of services under any new highways to be adopted by the Highway Authority.

The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a

Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

- 4 The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at [Network&TrafficManagement@gloucestershire.gov.uk](mailto:Network&TrafficManagement@gloucestershire.gov.uk) before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.
- 5 The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.