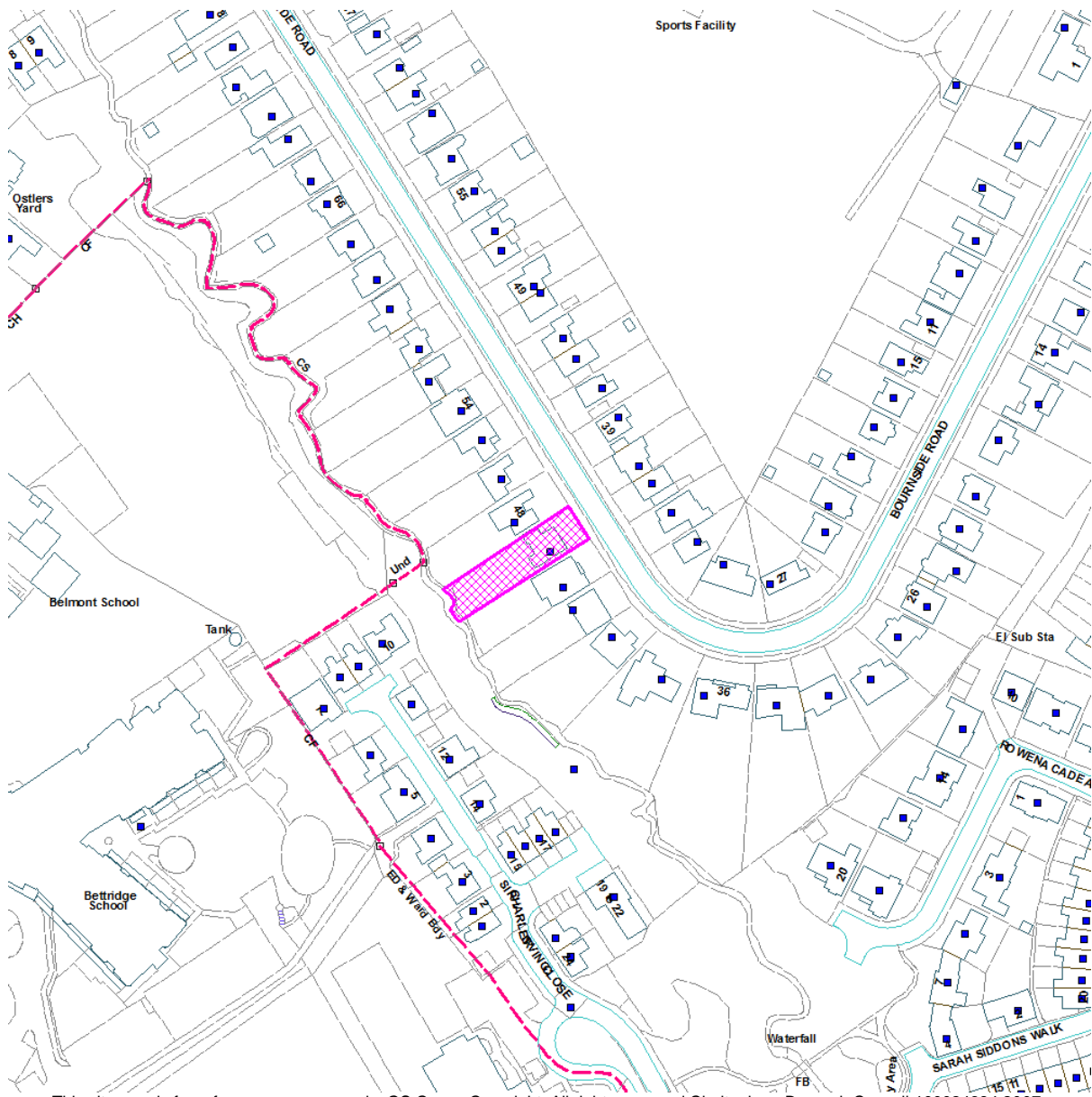


APPLICATION NO: 20/01344/FUL		OFFICER: Mr Ben Warren
DATE REGISTERED: 12th August 2020		DATE OF EXPIRY: 7th October 2020
DATE VALIDATED: 12th August 2020		DATE OF SITE VISIT:
WARD: Park		PARISH:
APPLICANT:	Miss Kathryn Farmer	
AGENT:	Agent	
LOCATION:	46 Bournside Road, Cheltenham, Gloucestershire	
PROPOSAL:	Erection of an outbuilding/garden structure in the rear garden. (Part Retrospective)	

**RECOMMENDATION:** Permit



## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to a detached property located within a residential area on Bournside Road.
- 1.2 The applicant is seeking part retrospective planning permission for the erection of an outbuilding/garden structure located in the rear garden of number 46 Bournside Road.
- 1.3 The application is at Planning Committee at the request of Councillor Harman, who wishes the committee to further consider design and impact on neighbouring amenity.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport safeguarding over 15m  
Airport Safeguarding over 45m  
Flood Zone 2  
Principal Urban Area  
Residents Associations

### **Relevant Planning History:**

**16/00991/FUL    5th September 2016    PER**

Proposed two storey side extension and single storey rear extension

## 3. POLICIES AND GUIDANCE

### National Planning Policy Framework

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 8 Promoting healthy and safe communities  
Section 11 Making effective use of land  
Section 12 Achieving well-designed places

### Adopted Cheltenham Plan Policies

D1 Design  
SL1 Safe and sustainable living  
GI2 Protection and replacement of trees

### Adopted Joint Core Strategy Policies

SD4 Design Requirements  
SD14 Health and Environmental Quality  
SD9 Biodiversity and Geodiversity

## 4. CONSULTATIONS

### **Environment Agency**

*8th October 2020*

Thank you for referring the above application, which was received on 17 September 2020. We note our Consultation Filter indicates the reason for consultation is development within Flood Zone 2.

Whilst we acknowledge part of the site is located within the floodplain, based on the scale and nature of the proposals, we would refer you to our Flood Risk Standing Advice and the relevant process note for 'minor development', in accordance with our Local Flood Risk Matrix.

We note however, part of the proposed works may be within 8 metres of the top of bank of the Hatherley Brook, which is classified as a Main River at this location.

New development and/or built structures should ordinarily be set at least 8 metres from the top of bank of Main Rivers. This is to assist in operational management and maintenance, to help improve flood flow and conveyance; and in the interest of biodiversity.

At this time we are not providing bespoke comments on developments within 8m of Main Rivers. The fact that we are not providing comments does not mean that there are no easement issues, but we leave this for your Council to consider in the context of any other material considerations, including relevant Local Plan policies.

In addition to obtaining planning permission, any works, in, under, or within 8 metres of the top of the bank of any designated main river require a permit from us under the Environmental Permitting (England and Wales) Regulations 2016. We are not in a position to confirm whether the proposals are likely to obtain a permit and would advise the applicant to contact the Environment Agency at the earliest opportunity for more information and advice to confirm whether a permit is required, what type, and exemptions. The submission of the permit with the planning application may provide you with greater reassurance and assist decision making. The applicant should ring 03708 506506 and ask for the local Partnerships and Strategic Overview Team. For further advice please see: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

Please note the riparian owner is responsible for the maintenance of their length of bank, as appropriate.

I trust the above will assist in your determination of the application.

**Environment Agency - 8th October 2020**

Further to my initial response dated 30 September 2020, and the additional information provided in your email below of the same date, I wish to provide the following further comments:

**Watercourse Easement and Maintenance**

Whilst the decking is located within 8 metres of the top of bank of the Hatherley Brook, which is designated a 'main river', the structure will not impede our ability to access the watercourse as this is not currently possible from this bank due the nature of the historic development, that is, multiple properties backing directly onto the watercourse. Although any works within 8 metres of the top of bank of the brook would require our prior formal permission in the form of a Flood Risk Activity Permit under the Environmental Permitting Regulations, we do not issue these for retrospective works and would default to your authority on this issue under your planning powers in this instance. If this is the case, that is, no supports or alterations to the channel cross section are proposed or have been undertaken, then we would have no further comments to make on this proposal.

The responsibility for the stability and ongoing maintenance of the river bank lies solely with the riparian landowner. Hence, should the works result in future failure of the bank then this will need to be resolved by the property owner, who must apply directly to the Environment Agency for any appropriate permissions, prior to undertaking any works. The applicant should refer to: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or ring 03708 506506 and ask for the local Partnerships and Strategic Overview Team.

We would draw the applicants attention to their legal responsibilities which are set out on the DEFRA website at the following link: <https://www.gov.uk/guidance/owning-a-watercourse>.

The detail contained upon the website does not show the structure encroaching beyond the top of bank of the watercourse into the channel.

Water Management: Abstraction or Impound Water

The applicant should be made aware that if more than 20 cubic metres a day is taken from a surface water source (such as a river, stream or canal), it is likely they will need an abstraction licence from the Environment Agency. Further detail and who to contact can be found via the following link.

<https://www.gov.uk/guidance/water-management-abstract-or-impound-water>

I trust the above additional information will assist in your determination of the application.

**Tree Officer - 22nd September 2020**

The Trees Section does not object to this application. Please could the following informative be added with any permissions given:

Suggested Gutter Cover Informative

It is strongly recommended that suitable leaf guards to cover guttering and down pipes are installed onto external rain drainage pipework so as to reduce the incidence of such blocked pipework as a result of tree related litter-fallen leaves, twigs, fruit etc.

## 5. PUBLICITY AND REPRESENTATIONS

5.1 3 letters were sent to neighbouring properties on two separate occasions, 2 letters of objection have been received from the neighbour at number 46 Bournside Road in response to this neighbour consultation process. The objections raised have been summarised but are not limited to the following:

- Impact on neighbouring amenity, including loss of privacy and visual impact
- Unacceptable scale/height
- Poor design
- Accuracy of plans

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

6.2 The main considerations in relation to this application are design, the impact of the proposal on neighbouring amenity, impact on existing trees and flooding.

6.3 A site visit has been made to the neighbouring property at number 46 Bournside Road. In addition, photos have been provided by the applicant and have been used to fully consider the development.

### 6.4 The site and its context

6.5 The rear garden of the application site and neighbouring sites slope away from the main dwellings and down towards Hatherley Brook which runs at the bottom of these gardens. The area of land to which this development relates is a lower section of rear garden associated with number 48 Bournside Road.

6.6 At the time of the site visit, a large section of the structure had been erected but was not completed to the extent of the plans originally submitted at the start of this application process.

#### **6.7 Principle and design**

6.8 The development is for an outdoor timber structure that consists of a raised platform area with covered roof and supporting timbers, the built structure includes a metal corrugated sheet roof covering. Officers consider the principle of a structure in the proposed location to be acceptable.

6.9 Initially, the plans proposed to retain the structure as currently built but also to further extend the footprint by adding an additional section which would project towards the existing properties. Whilst officers considered the principle of a structure to be acceptable, officers did not consider the proposed plans to further extend the footprint to be acceptable. Furthermore, the use of a metal corrugated roof covering was also considered to be inappropriate in terms of design.

6.10 Negotiations took place with the applicant and revised plans were submitted for consideration. The revised plans show a large section of platform removed and therefore permission is now being sought to retain the size of the structure as already built (4.2m x 4.8m). In addition, the metal corrugated roof covering is to be removed and a green/sedum roof is proposed to be installed.

6.11 Officers acknowledge that the structure is reasonably generous in its overall height, however in its revised form the footprint is now considered to be of an acceptable overall size and would not be dissimilar in size to that of other outbuildings or structures found in residential gardens.

6.12 The removal of the metal corrugated roof is a positive amendment to the application and the further proposal of a green/sedum roof is a welcomed addition. The new green roof will soften any perceived visual impact of the structure and will reflect the green nature of the established trees and vegetation located to the rear of the site.

6.13 It is noted that sails/canopies have been added to the structure; however these wouldn't require planning permission and therefore cannot be controlled.

6.14 As amended, the structure is considered to be of an acceptable overall scale and form and will sit comfortably within the plot. Furthermore, the structure is considered to be of an appropriate design and is not considered to result in any unacceptable visual impact or unacceptable harm to the design or character of the surrounding area.

6.15 The proposal is therefore considered to be compliant with the requirements of the Adopted Cheltenham Plan (2020) policy D1 and adopted JCS policy SD4.

#### **6.16 Impact on neighbouring property**

6.17 Officers have duly noted the concerns raised by the neighbouring land user, whose concerns relate to size, design, visual impact and a loss of privacy. Having now secured revised plans, officers consider that many of these issues have been addressed, the footprint has been reduced which in turn reduces its visual impact. The removal of the metal roof covering and its replacement with a green/sedum roof will improve the overall design and will also reduce any perceived visual impact.

6.18 With regards to privacy, offices acknowledge that the proposal results in a raised platform, however its position at the bottom of the sloping site means that this floor level is significantly lower than the floor level of the existing dwellings and will therefore not result in any unacceptable loss of privacy at any habitable room in any of the surrounding properties. With regards to the privacy of neighbouring gardens, the height of the boundary fence directly adjacent to the platform and the distance away from the boundary with number 48 means that the privacy of these gardens are appropriately maintained.

6.19 The proposal is therefore considered to be compliant with Adopted Cheltenham Plan (2020) policy SL1 and adopted JCS policy SD14 which requires development to protect the existing amenity of neighbouring land users and the locality.

#### **6.20 Trees**

6.21 The Council's tree officer has been consulted on this application and raises no objection to this development. An informative has been suggested however is not considered necessary for this application. The proposal is compliant with Adopted Cheltenham Plan Policy G12.

#### **6.22 Flooding**

6.23 Due to the proximity of the structure to the Hatherly Brook watercourse, the Environment Agency was consulted on this application, their detailed comments can be read above. No objection is raised to the application but further information has been provided, this has been forwarded on to the applicant for their information.

6.24 The development does not obstruct the watercourse and will not result in any flood risk implications and is therefore considered to be acceptable on flooding grounds.

### **Other considerations**

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

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

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 Two conditions are considered necessary in order to support this application, one requires the removal of the corrugated metal roof within three months of a decision and the second requires the installation of the green/sedum roof in the next available planting season.
- 7.2 Having negotiated revised plans and details and with the suggested conditions attached, officer recommendation is to permit the application, subject to the conditions set out below;

## **8. CONDITIONS / INFORMATIVES**

- 1 The 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.

- 2 Within 3 months of the date of this decision, the metal corrugated roof covering currently installed on the outbuilding shall be removed.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017).

- 3 In the first planting season following the date of the decision, a green/sedum roof shall be installed, as per the revised plans received on 1st October 2020 and Sedum Roof Details received on 8th October 2020.

Any of the green/sedum roof which, within a period of five years from the date of planting/installation, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season.

Reason: In the interests of the character and appearance of the area, having regard to adopted 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.

## **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, the authority sought revisions to reduce the scale of the development and amendments to the design;

Following these negotiations, the application now constitutes sustainable development and has therefore been approved in a timely manner.