

Planning Committee

Thursday, 20th May, 2021

2.00 - 5.05 pm

Attendees	
Councillors:	Councillor Paul Baker (Vice-Chair), Councillor Garth Barnes (Chair), Councillor Dilys Barrell, Councillor Bernard Fisher, Councillor Stephan Fifield, Councillor Paul McCloskey, Councillor Tony Oliver, Councillor John Payne, Councillor Richard Pineger, Councillor Diggory Seacome and Councillor Simon Wheeler
Officers in Attendance:	Ben Warren (Planning Officer), Daniel O'Neill (Planning Officer), Mike Holmes (Interim Head of Planning), Nick Jonathan (Solicitor) and Lucy White

1. Apologies

There were none.

2. Declarations of Interest

Cllr Barrell declared a non-prejudicial interest in item 5d.

3. Declarations of independent site visits

Cllr Seacome had visited Loweswater Road and Hanna Court and was familiar with Pittville Pump Room.

Cllr Payne had visited all sites.

Cllr McCloskey had visited Villa Nova, Loweswater Road, Hanna Court and was familiar with Pittville Pump Room and the Oakley Farm site.

Cllr Oliver had visited Villa Nova, Loweswater Road and Oakley Farm.

Cllr Barrell had visited Villa Nova, Loweswater Road and was familiar with Hanna Court and Oakley Farm.

Cllr Baker had visited Villa Nova and Loweswater Road.

Cllr Fifield had visited Pittville Pump Room.

Cllr Barnes had visited Loweswater Road and was familiar with Oakley Farm.

4. Minutes of last meeting

The minutes of the last meeting held on 22 April 2021 were approved and signed as a true record.

5. Planning/Listed Building/Conservation Area Consent/Advertisement Applications, Applications for Lawful Development Certificate and Tree related applications – see Main Schedule

6. Villa Nova, Undercliff Terrace, Cheltenham 20/02296/FUL

The Planning Officer presented the report relating to the demolition of existing dwelling, garage and shed and erection of replacement dwelling and additional new dwelling with garaging. The application was before committee at the request of Councillor Horwood, who initially raised concerns regarding access, flooding and land ownership. While some matters had been resolved, the request remained due to his concerns regarding access. An objection was also received from the Parish Council.

Ralph Guilor spoke on behalf of the applicant, explaining that they had bought the site when it was overgrown and in need of significant work, which had made it difficult for surveyors to enter the site. The original intention was to just refurbish Villa Nova but considering the amount of work needed to dispose of asbestos and get it to modern construction standards, it was cheaper to propose a replacement dwelling. The site had planning consent in principle for an additional dwelling, with plans submitted and revised following consultation. Three issues remained to be debated: the flood assessment situation, the width of the lane and the

impact on the AONB. He clarified that because the site was overgrown, it had been difficult to draw boundaries, with vague hand-drawn land registry documents leading to questions over the boundary alignment, though neither affected the proposals. The flood risk assessment had been approved by the Planning Officers.

The ward member, Councillor Martin Horwood, spoke in objection, thanking the applicant and Planning Officer for their work in making significant changes to the application. However, residents had continued to express concerns, which he shared, particularly around flood risk and the possible loss of amenity in the road. Surface water was a particular concern due to the hillside location, as was fluvial flooding, which did not preclude development but required caution. The culverted part of the building under Undercliff Terrace had been flooded the day before the meeting, with the water aiming straight at Villa Nova, with only a crude concrete channel in front of the house to divert this which the application would remove. Ground water was also a concern, and he had seen it rising when he visited the site, and there was no schematic for an sustainable urban drainage system in the application. On the issue of road amenity, he acknowledged that the boundaries had become vague over time but noted that the 1922 and 1927 area plans made it clear that Undercliff Terrace was supposed to observe dead straight lines, which were still there in the shape of the buildings themselves. The applicant's plans would not observe this, and would encroach on the common road area. He advised imposing conditions regarding the flood risk assessment and following the straight lines if the application were to be permitted.

In response to a member question, the Officer clarified that the comments from the architects' panel were made with regard to the original scheme, and that they were not consulted again about the revised plan.

The Officer also responded to member queries regarding flooding, noting that a flooding consultant had produced a full report that raised no objections, although they had initially suggested requiring the submission of a flood scheme. The agent had responded to this proactively and provided all the necessary information. The consultant also visited the site, particularly to look at the position of the watercourse, and did not believe that it had been recently altered. Overall, the consultant was satisfied that the necessary conditions had been met in order to address possible flooding issues, without the need for further information.

The Chair moved to the debate, with one member noting that it was a shame that the architects' panel were not asked to consult on the revised design. They also expressed significant concerns about the scheme, particularly for residents living down the hill, and suggested that the application contradicted parts of the Joint Core Strategy which committed to reducing flood risk. He endorsed Councillor Horwood's proposed condition that the flood scheme be approved before any development started. The impact of the development on the AONB was also significant.

A member suggested that the design did not sit well adjacent to the AONB, and that Cheltenham should look after the small areas of outstanding natural beauty that lay within the town. Another member agreed with this assessment and stressed their concerns about the risk to neighbouring properties in the case of flooding. A robust drainage scheme was required to account for the significant amount of vegetation removed.

A member suggested that an extra condition would not be sufficient, and that it would be wiser to defer the item until a full amended plan could be considered.

A member suggested that the flooding consultant should have been invited to the meeting. The Head of Planning clarified that this had not been possible due to a scheduling clash, and that an officer representing Highways was present.

A member asked what the threshold for 'unacceptable flooding' was in the context of the report. The Planning Officer clarified that this was up to the individual flooding consultant, who had reviewed the application and deemed the risk to be acceptable.

A member proposed an amendment to the condition suggesting a change to the wording regarding the drainage works from 'prior to the first occupation of the development' to 'prior to the development commencing'. The Head of Planning suggested the amendment wording did not work as drainage works would be at the commencement of development. He understood however that the member meant before major works started and suggested the wording needed fine tuning. It was proposed to delegate the final wording to the Head of Planning in consultation with the Chairman, Vice Chairman and Legal Officer and the Chair took a vote on this.

For: 11

Against: 0

Abstain: 0

Condition GRANTED unanimously

Based on this a member was happy not to proceed with a deferral. In answer to a final point on land ownership, the Planning Officer confirmed development would be within the red line which denoted the application site and that they were happy with the boundary line as detailed on the Land Registry.

There being no further questions or comments, the Chair moved to vote on the Officer's recommendation to permit the application with the amended condition 7.

For: 8

Against: 3

Abstain: 0

PERMITTED

7. 1 Loweswater Road, Cheltenham 21/00505/COU

The Planning Officer presented the report relating to a change of use of land at the rear of the property at 1 Loweswater Road to extend the garden land and subsequent residential curtilage. The application was at committee at the request of Cllr Oliver due to the impact on the wider locality and any potential future development. The Officer's recommendation was to permit.

The Chair invited public speaker, Mr Rowe, who spoke in opposition to the application. Mr Rowe stated that the site had been designated as a green open space and maintained by the local authority for the past 50 years and quoted National Planning Policy Framework (NPPF) 97 that no existing open space should be built on. He continued that in 2019 Ubico stripped the hedgerow around the perimeter of the site and local residents found out the site had been sold. In 2020 the mature tree on the site was felled and Mr Rowe cited the Forestry Commission saying that mature trees generally required a felling licence and questioned if the authority had requested seeing this. He also quoted Defra Hedgerows regulations in that hedgerows are worthy of protection if they are of wildlife value and he said dormice and slow worms occupied this site and that a biodiversity survey should have been carried out. He pointed out the benefit of urban green spaces, not least from an environmental aspect, and stated there were no planning reasons to support a change of use.

The Chair invited ward member, Councillor Iain Dobie, to speak against the application. Cllr Dobie reported that when the estate was developed small parcels of land were retained to create a pleasant visual buffer between the houses on Loweswater Road and Winton Road and to act as a habitat for wildlife. This was the case until the applicant purchased the land from the developer in 2019 and subsequently a large tree and much hedgerow and greenery were removed. Local residents had reported that the land had not been maintained to a reasonable level since it was purchased and that they very much wanted to retain their

green spaces. They were further concerned that, if approved, this could set a precedent to allow other parcels of land to be purchased and developed resulting in further loss of amenity. Other factors opposing this application were the height of the summer house and fencing; the street light and telegraph pole located on the land which if removed would make for an unsafe environment for local residents; conversion of part of the land to a parking space which would pose a safety issue; and the site being a natural haven for wildlife. Cllr Dobie further pointed out that the applicant had previously submitted two unsuccessful planning applications for this site and that there had been previous enforcement issues. Residents were concerned that approval could facilitate a future application to turn the summer house space into a new property and Cllr Dobie requested that a suitable condition be attached to prevent any future application for a new property being approved. He urged members to reject this application on grounds of unacceptable loss of amenity – SD14 of the JCS and D1 of the Cheltenham Plan.

In response to member questions the Officer confirmed that:

- The application was only for extending the garden land and not for permission for a summer house to be built and also clarified that the applicant owned the garden land and wanted to extend it with their existing garden or residential curtilage.
- The applicant needed permission as the land was not classed as residential curtilage and this was required to include it as part of their land on the Land Registry.
- It was normal to have a TPO on trees to prevent them being removed and confirmed that this tree did have a TPO until 2003 when it was revoked, but that the Officer was not entirely sure why this happened.
- The summer house was part of the application, but the applicant had not provided details of this or for the fencing, so permitted development rights were removed and included as part of the condition.
- The applicant could still install a fence up to 1m under permitted development rights, but larger than that would need planning permission.
- A member asked if people actually understood that he owned the land and what was the land actually used for now. The Officer replied that the applicant did own the land and bought it in 2019 and land registry documents confirmed this, and that whether the community and local residents could use it now could be a civil matter.

There being no further questions, the Chair moved to debate and the following comments were made by members:

- When the estate was built, the site was clearly a local amenity to provide screening and green space to local residents which they really valued. This was one of several pockets of land on the estate that the developers kept as green space and did not sell, until this applicant was allowed to buy this in 2019 and which has given rise to this unfortunate situation.
- Concerns were expressed that, if approved, this could lead to further development which could not be allowed in the future.
- Have had enforcement issues with the applicant in the past trying to maximise his development and removing part of a publicly owned hedge and not replacing it, as well as applications to build in this space.
- Want to retain this as open space for residents and a site visit had confirmed the importance of this land and why it was left as open space and use of amenity.
- Agreed residents could not actually go on this piece of land, but it offered space, nature, biodiversity and greenery within a tarmacked concrete environment.
- Strongly against this application and the report did not represent the policies of the Council nor the NPPF or JCS which want us to protect and respect open spaces. Strong policies in the NPPF oppose the application.
- Should not be removing things that were put into the development plan in the first place, when layout and landscaping were considered at that stage.

- It was a small landscape feature but it offered an oasis of greenery that supported biodiversity and had environment value and it should not be lost or have a fence put round it.
- Green infra structure in local estates highlighted in local plan plus the Council was spending money putting green spaces into the high street.
- Strongly oppose and move refusal.
- SD14 relevant to this application, trying to keep environment cleaner and greener, so is contrary to this. Support refusal.
- Need to consider other pockets of green space in housing estates owned by developers, so this did not open up the flood gates for further purchases by residents. Should consider acquiring ownership of these pockets of land to prevent this happening in future and a condition should be put on future green spaces within developments.
- In favour of refusal but concern expressed about the uncontrolled use of the land, in that if refused the applicant could still go ahead and put fencing around so local residents would still loose facility of green open space and amenity.
- Applicant could put up a fence up to 1m, so residents could still see the view, but clearly the applicant was not keen on wildlife as the plan was marked indicating astro-turf in that space.
- In reply to a further question the Officer confirmed that dormice and slow worm had not been recorded, as they may not have been seen on that day, and as such could not be taken into account.

A member proposed refusal on the grounds of NPPF 127b,d, re achieving well designed places; NPPF 97a,b,c, re preserving open spaces; Local Plan habitats 10-22, Local Plan green infra-structure 16.3; environmental values 16.6, 16.7; JCS INF 3 Green infra-structure 5.4.1, 5.4.3.

The Chair moved to the vote, in the first instance on the Officer's recommendation to permit.

FOR : 0
 AGAINST : 11
 ABSTAIN : 0

Against unanimously

The Chair referred to the refusal reasons already cited and moved to vote in favour of refusal of the application. The Officer would work with the Chair and Vice Chair on finalising the reasons for refusal.

FOR : 11
 AGAINST : 0
 ABSTAIN : 0

Agreed unanimously

APPLICATION REFUSED

8. Pittville Pump Room, East Approach Drive, Cheltenham 21/00579/LBC

The Planning Officer presented the report relating to the replacement of six cracked and unsafe floor slabs under the colonnade of the Grade II listed building Pittville Pump Room. The application was before committee due to the property being owned by Cheltenham Borough Council.

A member pointed out that Pittville Pump Room was a Grade I listed building and asked that this be corrected.

In response to a member question, the Officer clarified that the slabs had been broken as a result of the works carried out to the building, with the machinery used having caused damage to the slabs.

There being no further questions or comments, the Chair moved to vote on the Officer's recommendation to grant approval.

For : 11
Against : 0
Abstain : 0

GRANTED unanimously

9. Hanna Court, St Georges Place, Cheltenham 21/00683/FUL

The Planning Officer presented the report relating to the installation of secure pedestrian and vehicular access gates at the entrance into Hanna Court. The application was before committee as Cheltenham Borough Council was the land owner and Cheltenham Borough Homes the applicant.

In response to member questions, the Officer stated as regards to access and turning, that Highways had reviewed it and not raised any concerns and that the development would be installed with access controls, so residents would have a fob, it would not be manual, and likewise deliveries would have access to a control panel to buzz. The Officer also confirmed there was a pedestrian gate access and in reply to a further question on waste disposal / collection, he stated he could not exactly comment, but assumed Cheltenham Borough Homes had considered those issues.

There being no further questions or comments, the Chair moved to vote on the Officer's recommendation to permit.

For : 11
Against : 0
Abstain : 0

PERMITTED unanimously

9. Oakley Farm, Priors Road, Cheltenham 20/01069/OUT

The Senior Planning Officer presented the report relating to the outline application for the development of up to 250 residential dwellings and associated infrastructure at Oakley Farm, Priors Road with approval sought for the proposed means of access to the site from Harp Hill. The site covers an area of approximately 14.9ha and lies wholly within the Cotswold Area of Outstanding Natural Beauty (AONB).

The application had been referred to Committee for determination following requests from several councillors due to the level of public interest, the scale and significance of the proposals and resultant harm to the AONB. However an appeal against the Council's non-determination of the application was lodged by the applicant on 14 April 2021.

Members were therefore being asked to consider the Officer's recommendation and putative reasons for refusal had they been determining the application in order to advise the Secretary of State of the Council's views. Members were reminded that the Council was not the determining authority for this application.

The Chair invited public speaker, Mrs Gregson, to speak in objection to the application on behalf of the Friends of Oakley Farm Pastures Slopes. Mrs Gregson pointed out the Oakley Farm site was in the AONB and thus afforded the highest protection in planning terms and was not in the Development Plan. She said Cheltenham like many other planning authorities, was struggling to meet its 5 year housing land supply and this speculative

application was founded on that shortfall. However new housing developments were in the pipeline and the temporary shortage of housing land should not be recovered by non-strategic speculative proposals such as this. She suggested that the applicant might claim that because Cheltenham cannot provide a 5 year housing land supply, exceptional circumstances exist to allow development in the AONB. However she stated that Cheltenham's situation was not exceptional as some 30% of local planning authorities had a supply shortfall. She stated that conserving and enhancing landscape and the scenic beauty of the AONB was of major importance when considering development within the AONB and that the overall landscape and visual effects of the proposal would result in significant loss of protected sloping pastures. There was also the significant impact the development would have on the heritage assets of Hewlett's reservoir. She informed members that over 370 objections from local people had been received as well as from professional consultants. The proposal was not in the public's interest and she urged members to support the Officer's recommendation.

The Chair invited Councillor Babbage, ward councillor, to speak in objection to the application. Cllr Babbage commended the Officer on the very thorough and detailed report. He stated he could not improve upon the comprehensive set of refusal reasons or better set out the strength of local concern about this scheme from the hundreds of objections from local residents. He referred to the comments just made by the Friends of Oakley Farm and the strong planning reasons to refuse the scheme. He highlighted a couple of the reasons for refusal, the first one being the AONB, which should have the highest level of protection under planning law, the same as a national park. Secondly were the highways issues and the very critical highways report, which cited the danger of the road junction and the severe impact this development would have on surrounding roads, streets and junctions. For the reasons set out in the Officer's report and by local residents, he urged members to endorse the refusal reasons for this application in order to protect this sensitive site in the town.

A Member raised concerns about the junction at London Road and Greenway Lane which he considered to be a junction most impacted by this scheme and which was not covered in the report.

The Planning Officer confirmed that this junction had been assessed as part of the Transport Assessment submitted with the application and asked the Highways Development Team Leader from Gloucestershire County Council, who was present at the meeting, to speak further on this.

The GCC Highways Officer informed members that the junction had been assessed and reported on in the original transport assessment. That concluded that approximately 14% of vehicle movements from this site would come into this junction and that supporting modelling information suggested that there was still spare capacity within that junction. This was caveated by the fact that the assessment year was a younger year than we would normally expect to see and thus the assessment was probably underplayed. Also, given that the site was not part of the current development plan, usually a strategic model would be used that would consider wider assigned trips. Consequently the analysis was not as full as it should be, therefore we have cited in our representation a severe impact on the highway network because the full tools were not proposed.

A Member expressed his concern about the Highways Officer's comments if they were based on historic numbers and questioned which year the assessment was made. Given the nature of the Sixways junction with a school and a new development, he felt that this junction was the most seriously impacted by this scheme and with a lack of up to date data, he felt this was a weak response and the junction critical.

The Head of Planning responded to members' questions on the relevance of the tilted balance in relation to the AONB and the fact the Council had not got a 5 year supply of housing land. He explained that exceptions were areas of AONB and major developments.

Thus it was of relevance and it would have an impact on 5 year housing supply but it was an outline application and consideration was needed of the timeline from now to house build, which would be the latter part of the 5 year period.

The Planning Officer answered a Member question relating to the lack of s106 agreements in place and confirmed that given the refusal status of the application these agreements had not been completed. The reasons for refusal relating to lack of s106 agreements would likely drop off as the appeal progressed.

A Member commented that if at appeal outline permission is granted, the time limit for implementing the approval would be 3 years. However, the principle of the proposed development would already be agreed so developers could sit on it for 10 years.

With regard to questions on flooding, the Planning Officer commented that the Local Lead Flood Authority had no concerns with the submitted drainage strategy there would be no on-site or off site flood risk; the site was located in Flood Risk zone 1, with no water course running through the site. A detailed drainage scheme would be submitted and considered at reserved matters stage.

In reply to a question about the number of cars being allowed to exit from the Oakley Grange site onto Harp Hill and Greenway Lane, the Highways Officer stated that the Oakley Grange application was considered many years ago now and had gone through many planning regime changes. He advised the committee not to place too much weight on this now, but to consider the capacity at the junction in terms of network delay and queuing and the implications of that. Concerns about the Sixways junction had already been raised by the Highway Authority in that it had been underestimated in the appraisal being put forward.

The Chair moved to debate and reminded members that it was down for refusal so there was no need to argue against that if they were in agreement.

A Member had a couple of concerns about the list of reasons for refusal as outlined in the report. On the first line of reason No.2, he suggested omitting the word 'major' from the line 'constitute major development within the Cotswold area of AONB', thus stating that no development within the AONB is acceptable. Also in the next paragraph 'proposed construction of 250 houses', he suggested leaving the number out altogether so as not to give the developer the opportunity to reduce the number and resubmit to committee.

The Chair introduced Legal Officer Jeremy Paterson, who would be taking the case forward and representing the Council at the Inquiry. Mr Paterson expressed concern over re-wording the reason for refusal, as suggested, in terms of prohibiting all development within the Cotswold AONB. He explained that when the Council made these decisions, policy reasons had to be provided and in this case, the relevant policies were SP2 and SD10 as set out in reason for refusal 1. These had to be stated so the appellant was clear as to why the application had been refused.

The Member commented that he did not disagree but stressed that in terms of impact on the AONB, the harm to the AONB ought to outweigh the benefits of the proposal. In this location, because it is in the AONB, the applicant will be unable to show any benefits, regardless of numbers of houses proposed.

The Chair acknowledged the Member's concerns but told Members that the committee had to trust the views and expertise of its Legal Officers.

A Member proposed moving to the vote. He said the application was contrary to the local plan, to the JCS and the NPPF. He added it was a great report that could not be added to and he moved to accept the report and the refusal reasons.

The Chair agreed there was nothing extra to add to the report and that they had excellent officers supporting the committee in the way forward. There being no further Officer

comments, the Chair moved to vote on the Officer's recommendation and putative reasons for refusal.

FOR : 11
AGAINST : 0
ABSTAIN : 0

AGREED unanimously for refusal

10. Appeal Updates

A member asked when the committee would be able to debate the Oakhurst Rise series of appeals. The Head of Planning stated there was no date at the moment as the appeal decision could still be challenged, but that he would be happy to have such a meeting about this outside of committee at the relevant time.

11. Any other items the Chairman determines urgent and requires a decision

There were none.

Chairman