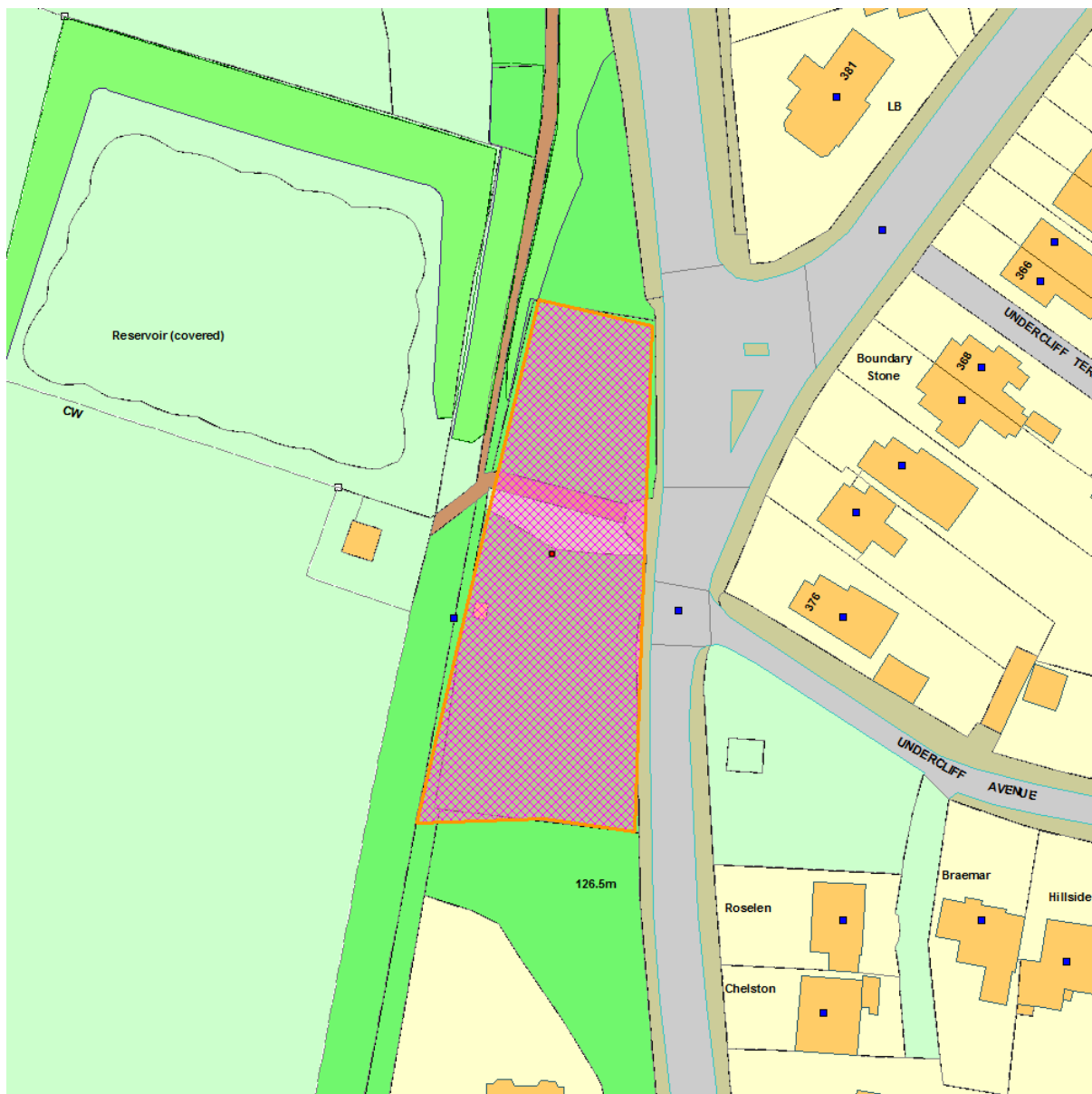


<b>APPLICATION NO:</b> 21/02148/FUL		<b>OFFICER:</b> Mr Ben Warren	
<b>DATE REGISTERED:</b> 28th September 2021		<b>DATE OF EXPIRY:</b> 23rd November 2021	
<b>DATE VALIDATED:</b> 28th September 2021		<b>DATE OF SITE VISIT:</b>	
<b>WARD:</b> Leckhampton		<b>PARISH:</b> Leckhampton With Warden Hill	
<b>APPLICANT:</b>	The Applicant		
<b>AGENT:</b>	SF Planning Limited		
<b>LOCATION:</b>	Land east of Leckhampton Reservoir Leckhampton Hill Cheltenham		
<b>PROPOSAL:</b>	The erection of 2 dwellings		

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located at the foot of Leckhmapton Hill, on the western side, opposite the junction with Old Bath Road. The site is located to the east of the disused reservoir site and is within Cheltenham's Principle Urban Area.
- 1.2 The applicant is seeking planning permission for the erection of two residential dwellings on the site.
- 1.3 The application site was recently granted Permission in Principle (PIP) under application number 20/01620/PIP, which gave consent in principle for the erection of up to 3 dwellings on the site (stage 1). This application now forms stage 2 of the process, which considers the technical and relevant design details of the proposed development.
- 1.4 The application is at planning committee at the request of Councillor Horwood who has raised concerns regarding access and highway safety. An objection has also been received from the Parish Council and Civic Society. Comments relating to the impact of the development on the surrounding landscape have also been acknowledged in these comments.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Airport safeguarding over 15m  
Principal Urban Area

### Relevant Planning History:

**17/02236/PREAPP 21st November 2017 CLO**

Alterations to existing dwelling and possible new additional dwelling

**81/01212/PF 21st May 1981 PER**

Erection of a detached double private car garage

**19/00011/FUL 27th June 2019 REF**

Erection of 2 no. additional dwellings

**19/02199/FUL 24th February 2020 PER**

Erection of 1 no. replacement dwelling and 1 no. additional dwelling (revision to planning application 19/00011/FUL)

**20/01006/CONDIT 16th September 2020 REF**

Variation of Condition 16 on Planning permission 19/02199/FUL - 1.5m high privacy screen for Plot 2 terrace

**20/01014/DISCON 6th January 2021 DISCHA**

Discharge of condition 3 (construction management plan), 4 (construction method statement), 5 (site survey), 6 (surface water drainage scheme), 10 (details of hard and soft landscaping scheme), 11 (new boundary treatments), 12 (hard surfaces), 13 (external materials), 19 (tree protection plan), 21 (details proposed no-dig method), 22 (refuse and recycling), 24 (arboricultural method statement) of planning permission 19/02199/FUL.

**21/00020/DISCON 18th January 2021 DISCHA**

Discharge of conditions 7 (design details) and 11 (boundary treatment) of planning permission 19/02199/FUL

**21/00076/AMEND 10th February 2021 PAMEND**

Non material amendment to planning permission 19/02199/FUL - amendments to ground floor fenestration and internal layout

**21/00506/DISCON 4th March 2021 DISCHA**

Discharge of condition 13 (facing/roofing materials) of planning permission 19/02199/FUL

**21/00852/CONDIT 28th May 2021 PER**

Variation of condition 16 on planning permission reference 19/02199/FUL - alterations to privacy screen for roof terrace (plot 2)

**21/01345/DISCON 9th June 2021 DISCHA**

Discharge of condition 5(3) (design details - balustrade and screens) on planning permission reference 21/00852/CONDIT (retrospective)

**21/01784/CONDIT 21st September 2021 PER**

Variation of condition 1 (schedule 1) of planning permission 21/00852/CONDIT to allow amendments to height of Plot 2 dwelling above finished floor levels, alterations to front porch roof of Plot 2 dwelling and alterations to height of rear garden retaining walls of Plots 1 and 2 (part retrospective)

**20/02097/PREAPP 12th February 2021 CLO**

Erection of three dwellings

**20/01620/PIP 28th October 2020 GRANT**

Permission in principle application for the erection of up to 3no. dwellings

### **3. POLICIES AND GUIDANCE**

#### **National Planning Policy Framework (NPPF)**

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 5 Delivering a sufficient supply of homes

Section 9 Promoting sustainable transport

Section 11 Making effective use of land

Section 12 Achieving well-designed places

Section 15 Conserving and enhancing the natural environment

#### **Adopted Cheltenham Plan (CP) Policies**

D1 Design

L1 Landscape and Setting

SL1 Safe and Sustainable Living

GI2 Protection and replacement of trees

GI3 Trees and Development

#### **Adopted Joint Core Strategy (JCS) Policies**

SD3 Sustainable Design and Construction

SD4 Design Requirements

SD6 Landscape

SD7 The Cotswolds Area of Outstanding Natural Beauty

SD9 Biodiversity and Geodiversity

SD10 Residential Development

SD14 Health and Environmental Quality

INF1 Transport Network

INF2 Flood Risk Management

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

Development on garden land and infill sites in Cheltenham (2009)

The Cotswold AONB Management Plan

### **4. CONSULTATIONS**

#### **GCC Highways Planning Liaison Officer - 1st November 2021**

Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 has no objection subject to conditions.

The justification for this decision is provided below.

The site already benefits from Permission in principle for the erection of up to 3no. dwellings ref 20/01620/PIP. On this basis, the Highway Authority would not wish to object to the proposal subject to a condition for electric vehicle charging points in order to promote sustainable modes of transport, and the proposed access be surfaced to bound material in the interest of highway safety.

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

#### Conditions

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 and Manual for Gloucestershire Streets. 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 points shall be of the same specification or a higher specification in terms of charging performance.

Reason: To promote sustainable travel and healthy communities.

Prior to the occupation of the development hereby permitted, the vehicular access shall be laid out and constructed in accordance with the submitted plan drawing no. 21.20.008 PL005 with the area of driveway within at least 5.0m of the carriageway edge of the public road surfaced in bound material, and shall be maintained thereafter.

Reason: In the interest of highway safety.

#### **Tree Officer - 19th October 2021**

There is currently insufficient detail to assess the impact on the retained trees. The topographic survey has trees overlaid onto it and reference is made to a separate tree survey. The details of this survey are not currently available - this should be submitted.

An arb impact assessment should be submitted. As the ground is sloping, attention should be paid to any changes in ground level (see section 5.5.6 h of BS 5837:2012).

A tree protection plan should be submitted.

Until such documents are made available, it will be difficult to properly assess the merits of the landscape plan. All documents should be submitted for approval prior to determination. All documents should conform to BS 5837:2012.

#### **Tree Officer - 7th December 2021**

Much tree removal has already occurred already within this site.

As such, new tree planting is the only way to mitigate for recent tree loss.

MHP Landscape Strategy of August 2021 (drawing no 20093.101) varies from that described within the MHP Nov 2021 Tree Protection Plan and Arb Impact assessment (Drawing no 200093.502 Rev A).

The Landscape strategy describes relatively minor tree/hedge planting (5 field maple and 4 hawthorn and a mixed native hedge) whilst the TPP/AIA includes the planting of 3 wild service trees and 3 oak trees as well as mixed native hedge planting.

Oak trees have a long season in leaf (leaf loss is usually early December). As such these trees will provide screening into/out of the site. However it is considered preferable if some evergreen planting could take place as well as deciduous trees.

These evergreen species could take the form of native Scot's pine with an understory of eg bird cherry, wild service and other ultimately medium sized trees. However the proposed oak would also (ultimately) become landmark trees. Such a planting scenario would still afford long distance views, but a proposed avenue of pine would provide a welcome tree feature landmark seen from Old Bath Rd as well as Leckhampton Rd.

MHP landscape strategy and also report (para 2.2.9) suggests the planting of field maple at this address. However, on site observations revealed much squirrel related damage to remaining sycamore (maple species). As such, it is anticipated that new field maple will also be seriously damaged by squirrels and never thrive. As such alternative species are recommended.

Please could a revised landscape strategy be submitted and agreed as a part of the application. Such proposed planting should not only reflect the above but also include tree planting proposals to the west of the site.

It would be helpful if a firm decision could be made which reflects previous/current tree felling as well as future (ash tree) felling proposals. It would also be helpful if proposed pruning of T3 retained oak is also described (currently the tree has been suppressed by adjacent ash and as such should the adjacent ash trees be removed the retained oak may benefit from minor formative/cosmetic pruning.

**Tree Officer - 19th January 2022**

The revised Landscape Strategy (MHP Drawing no 20093.101 Rev B) is welcome and indeed the suggestion of the native pine planting should ensure that the views are retained in the longer term (so there should not be undue pressure to remove these pines fronting Leckhampton Road). Other tree suggested planting is also welcome other than the proscribed beech trees.

It is considered that such a beech will grow too large for this setting and will cast heavy shade adjacent. It is likely that owners will want to remove/heavily prune these trees. However that assumes that the local squirrel population will leave the trees alone before they mature. It is more likely that they will damage the trees to such an extent that they will not thrive and will be removed. Please could the suggested tree species for the west of the site be changed to one that will not grow too large nor attract the unwanted attention of squirrels (or deer). More wild service trees (*Sorbus torminalis*), whitebeam (*Sorbus aria*) or bird cherry (*Prunus padus*) are more proportionate as well as not prone to attracting the attention of such pests and are native tree species.

Please could the suggested landscape plan be further amended.

The native hedge planting proposal is welcome.

**Tree Officer - 21st January 2022**

The Revised Landscape plan (Drawing no 20093.101 Rev C) is acceptable. These trees hedges etc need to be retained in perpetuity for the site to remain aesthetically pleasing in the local environment. As such please use any conditions possible to retain them in the longer term.

The Revised Tree protection Plan (Drawing no 20093.502 Rev B) and a Part of MHP Arb Survey, AIA Report and received 21/1/22) is also acceptable. Please could these 2 documents be "Approved Documents" attached to any permission.

Please could a pre-site commencement site meeting to check protective fencing is to spec be attached as a condition to any planning permission to be issued.

**Public Rights Of Way Department - 6th October 2021**

We note there is a submitted DMMO application under 573/11/130(1) for an additional footpath, currently with the Definitive Map Team and acknowledged within the application, our comments therefore relate only to the existing Public Rights of Way.

This application does not appear to affect the nearby public rights of way, ASH42 & CHL18 as long as this route remains unaffected, with no changes with the current access e.g. new Gates etc., we offer no objections.

Please note:

1) No change to the surface of the public right of way can be approved without consultation with the County Council and there must be no interference with the public right of way, either during development or once it has been completed, unless:-

a) The development will temporarily affect the public right of way; then the developer must apply and pay for a temporary closure of the route (preferably providing a suitable alternative route); or

b) If the development will permanently affect the public right of way, then the developer must apply for a diversion of the route by the Planning Authority under the Town and Country Planning Act 1990 as part of the planning application process. No development should take place affecting the route of the path prior to the confirmation of a TCPA path diversion order.

2) Additionally:-

a) There must be no encroachment on the width of the public right of way.

b) No building materials may be stored on the public right of way.

c) Vehicle movements during construction should not unreasonably interfere with the use of the public right of way by walkers, etc., and the developer or applicant is responsible for safeguarding the public use of the way at all times.

d) No additional temporary or permanent barriers (e.g. gates, stiles, wildlife fencing) may be placed across the public right of way and no additional gradients or structures (e.g. steps or bridges) are to be introduced on any existing or proposed public rights of way without the consent of the county council.

It is important to note the Definitive Map is a minimum record of public rights of way and does not preclude the possibility that public rights exist which have not been recorded or that higher rights exist on routes shown as public footpaths and bridleways.

**Architects Panel - 25th November 2021**

Design Concept

The panel had reviewed a previous Pre-app scheme for this site and had supported the principle of development but advised the site was more suited to two detached dwellings rather than three originally proposed. This application has taken the comments on board and is a well considered design proposal.

The scale and character of the contemporary design works well with the steep contours of the site.

## Design Detail

The public right of way that runs down the west edge of the site is very close to the new buildings and the panel questioned whether further consideration is needed to fenestration and boundary landscaping to avoid overlooking/privacy issues that could result in unattractive post development remedial works.

The panel questioned the need for Trespa cladding which can look out of place on buildings so close to the AONB.

The panel acknowledged the application was fully considered in all aspects of design, in particular the detailed drainage proposals which are very welcome.

Recommendation  
Support.

## **Parish Council - 16th November 2021**

Leckhampton with Warden Hill Parish Council (LwWHPC) has significant concerns about this proposal and **STRONGLY OBJECTS** because of:

1. the road access on the downhill side of Leckhampton Road immediately opposite the busy junction with Old Bath Road which we believe to be hazardous.
2. several accidents have been documented by the junction of Leckhampton Road and Old Bath Road including on video: <https://youtu.be/PvZjmcAzMwA>
3. both cars and cyclists often descend the adjacent steep downhill carriageway at speed
4. the proximity of the site to AONB
5. potential compromise of the adjacent PROW (tramway) and its connecting footpath/proposed PROW through the site to Leckhampton Road.

When this application was discussed at a meeting of the Parish Council some expressed the view that due to the road access issue this was one of the most dangerous planning applications ever seen by the Parish Council.

LwWHPC therefore requests that this planning application is considered at full committee rather than being a delegated officer decision.

*15th October 2021* - Leckhampton with Warden Hill Parish Council (LwWHPC) has significant concerns about this proposal and objects to it because of:

The road access on the downhill side of Leckhampton Road immediately opposite the busy junction with Old Bath Road which we believe to be hazardous.

The proximity of the site to AONB

Potential compromise of the adjacent PROW (tramway) and its connecting footpath/proposed PROW through the site to Leckhampton Road.

LwWHPC therefore requests that this planning application is considered at full committee rather than being a delegated officer decision.

## **Publica Drainage And Flooding - 14th October 2021**

Site Geology and Source of Information

Soil - Slowly permeable seasonally wet slightly acid but base-rich loamy and clayey soils  
<https://www.landis.org.uk/soilscapes/>

Bedrock - Lias Group and Inferior Oolite Group - Limestone, Argillaceous Rocks and Subordinate Sandstone, Interbedded Geology of Britain viewer | British Geological Survey (BGS)

Flooding History / EA Flood Zone According to the EA Flood Maps, the proposed development is in flood zone 1. <https://flood-map-for-planning.service.gov.uk/>

1. Surface water flood maps - there is no apparent surface water flood risk to the site according to the Risk of Flooding from Surface Water map.
2. Surface water flow route - there is no apparent surface water flow route through the site.
3. Historic flooding - there is no known history of flooding at the site.
4. Groundwater flooding - the site is in an area at High Risk according to Gloucestershire County Council's Groundwater Management Plan.
5. Within 20m of a watercourse - No

Surface Water Drainage Proposal Soakaway

Other Relevant Information (such as contours and levels of neighbouring plots) Site Area: 0.2 ha

Comments Surface Water Drainage

The geology of the area indicates that soakaways are not likely to be viable on site and an attempted infiltration test confirms this.

Instead, the applicant has identified a public surface water sewer in Leckhampton Road and is proposing to discharge into this. Considering there is no available watercourse nearby, this is acceptable. The discharge rate will be limited to the equivalent greenfield runoff rate for QBar and attenuation provided through the use of permeable paving and underground storage crates for events up to and including the 1 in 100 year plus 40% climate change.

The Drainage Layout, does not appear to show where the flow control will be located. This is important to understand as it may have implications for any future issues with the drainage.

The Drainage Strategy suggests that in events where the rainfall exceeds the design of the drainage, surface water will be directed off site via the access road. However, the driveway of plot 1 appears to be lower (119.900) than the access road (120.03 or 119.95). This means in exceedance events, surface water could flow towards plot 1. Can the applicant clarify this?

More information on the management and maintenance of the drainage network can be provided through a condition.

We would like to see waterbutts/rainwater harvesting being incorporated into the proposed surface water drainage system if possible.

#### RECOMMENDATION

Additional Information Required (Please re-consult when received)

#### SUMMARY REASON FOR RECOMMENDATION

Can the applicant clarify the above points to ensure the drainage layout is consistent with their description of the drainage strategy?

#### **Publica Drainage And Flooding - 9th November 2021**

Surface Water Drainage

The drainage layout has been updated to show the location of the flow control.

The drainage layout also appears to confirm that exceedance flows could be directed towards plot 1. What measures will be put in place to minimise the risk that surface water



from the access road or plot 2 either doesn't reach the property or don't enter the property if flows do reach it?

More information on the maintenance strategy has been provided confirming that the responsibility will lie with the residents. Can the applicant confirm how responsibility for the draining of the access road will be determined as well as the network from SWC5, which is taking surface water from both properties? There is also no mention of the permeable paving, what maintenance requirements does this require?

## RECOMMENDATION

Additional Information Required (Please re-consult when received)

## SUMMARY REASON FOR RECOMMENDATION

Can the applicant clarify the above points?

### **Publica Drainage And Flooding - 30th November 2021**

A detailed surface water drainage strategy has been provided that includes the size, position and construction of the drainage. Infiltration was attempted but was shown not to be effective so discharge will be to the public surface water sewer in Leckhampton Road at a rate restricted to the greenfield runoff rate for QBar. The drainage is shown to accommodate a 1 in 100 year rainfall event as well as climate change. A maintenance strategy has been included and, while maintenance may be difficult due to the underground nature and the low discharge rate, factors to mitigate this have been provided like the use of permeable paving which will manage the water quality. If the maintenance strategy is carried out, the drainage should be effective for its lifetime without putting the proposed property and others elsewhere at increased risk of flooding.

### **Gloucestershire Centre For Environmental Records - 13th October 2021**

Report in documents tab

### **Cheltenham Civic Society - 28th October 2021**

#### OBJECT

This is a very sensitive site on the edge of the AONB. Ideally it would not be developed, but given that permission in principle has been granted, it is important that any development is scrutinised and managed to ensure that it is sympathetic to its surroundings, and is not to the detriment of an important landscape.

The proposed buildings are very prominent. If they followed the contours of the land, rather than being square on, they would sit in the landscape better. Reducing the height of the Plot 2 building, or introducing pitched roofs would help with this.

The Civic Society Planning Forum's concerns include:

- Trees

Most of the mature trees on the site are ash and are likely to succumb to ash dieback (many have already). The replacements proposed are hedgerow trees; hawthorns and field maples. Replacement planting should be mature trees. Whilst we acknowledge the extent of development of the site makes it difficult to accommodate this replacement planting, perhaps permission can be secured for mature trees at the perimeters of the site.

- Public Right of Way

The footpath is the historic tramway, and should be protected, especially from heavy plant during the construction process, as well as ensuring public access and right of way throughout.

-Traffic

We share others' concerns about the road entrance onto a road which is already busy with fast moving traffic coming down the hill, and two nearby junctions. The entrance needs a much wider visibility splay, for vehicles turning out, which could be achieved by moving the boundary wall/ hedge of Plot 2 further from the road. The entrance needs to be 2 cars width at entrance.

- Water run-off

How will water run-off be managed, given the extent of the development of the site?

**Environmental Health - 19th October 2021**

I have assessed the application from an Environmental Health perspective, and have no adverse comment on the application.

Informative

Given the proximity of the highway and road junction, traffic noise will be a significant impact at the site of the proposed dwellings. Design choices are described in the application towards limiting that noise impact.

Given the self-described 'high quality bespoke nature' of the development, in respect of noise control, that aim is likely to be achieved through careful consideration of noise control in materials, glazing and ventilation arrangements. This would be best informed by the following approach:-

A suitably qualified acoustic consultant should identify what (further) measures, if any, may be necessary to ensure that harm to amenity (including habitable rooms and gardens) is unlikely to result. A written report shall detail all measurements taken and results obtained, together with any sound reduction scheme recommended and the calculations and reasoning upon which any such scheme is based.

**Ward Councillors - 17th January 2022**

Letter available to view in documents tab.

**Ward Councillors - 27th January 2022**

Comment available to view in documents tab

**Ward Councillors - 27th January 2022 –**

I'd like to draw the attention of county highways officers and all interested parties to the May 2021 Transport Report by Highways England (now National Highways) produced for the A417 missing link public examination which has just begun. You'll see the map Figure 7-1 on p50 in which the road past the application site, technically the C377 but called Route ID4 on that map and in the report, is projected to increase from a 2015 baseline Annual Average Daily Traffic (AADT) flow of 7000 vehicles a day to 7600 by 2041 under the 'do minimum' (DM) scenario and 11500 - a 51% increase in traffic - under the most likely 'do something' (DS) scenario which includes the preferred Option 30 for the A417 which is now being examined for the final go-ahead.

In the county council's joint Local Impact Report to the examination (with Tewkesbury and Cotswold councils), it asks (para 3.2.15) that National Highways' "should provide more information to demonstrate how the impacts associated with the traffic increase on the local roads network can be mitigated and how these measures would be secured and implemented".

The Transport Report anticipates one of the biggest increases on any minor road in the area on the C377 into Leckhampton, right past the application site in this case. So we can presumably assume that the request by the county council and the other councils for more information and mitigation plans and measures from National Highways will have been

prompted by concerns at the implications of increased traffic flows on this road and the other most seriously affected roads.

I share that concern and fear that is likely to make an already dangerous accident black spot even more dangerous in the near future and only adds weight to the road safety argument for this application to be turned down.

Cllr Martin Horwood  
26 January 2022

## **5. PUBLICITY AND REPRESENTATIONS**

- 5.1 10 letters were sent to neighbouring properties, and a site notice was displayed. A total of 19 letters of representation have been received in response to this neighbour notification process.
- 5.2 Of the comments received, 15 object to the application, the concerns have been summarised but are not limited to the following:
- Highway safety, traffic generation
  - Visual amenity
  - Loss of trees / environmental impact
  - Impact on non-designated Public Right of Way
  - Loss of privacy
  - Design
- 5.3 3 letters of support and one general comment have also been received, the comments relate to:
- Use of infill site, rather than Greenbelt
  - Design
  - Increase in housing stock

## **6. OFFICER COMMENTS**

- 6.1 **Determining Issues**
- 6.2 The main considerations of this application are design and layout, impact on neighbouring amenity, highway safety, flooding/drainage, and the impact on the landscape and site character.
- 6.3 The site and surrounding area has been visited and site photos have been provided in order to enable the assessment of the application.
- 6.4 **The site and its context**
- 6.5 The application site is a parcel of undeveloped land located at the foot of Leckhampton Hill and is directly opposite the junction with Old Bath Road. The site has an existing vehicular access from Leckhampton Road.
- 6.6 The site is located within the Principle Urban Area (PUA) and is situated between the disused reservoir to the West and the highway of Leckhampton Road to the East. The site

is adjacent to, but is not within the AONB and Greenbelt to the west. The constraints of the site include a public footpath that runs along the western boundary of the application site, as well as easements running through the site that relate to the former use of the reservoir site.

6.7 The application site is generally on higher land than that of the adjacent highway, and the site rises steeply from the north to the south. The site until recently was heavily treed, although it is noted that more recently a number of trees have been felled and cleared from the site. An existing stone boundary wall runs the length of the western boundary, parallel with the highway.

6.8 In terms of context, immediately to the west there is no development, to the south are dispersed detached properties accessed from Leckhampton Hill. To the north of the site is a new housing estate (Leckhampton Views/Rise). To the east of the highway is the more densely populated residential areas that include a mix of detached and semi-detached properties on Leckhampton Road and Old Bath Road.

#### 6.9 **Permission in Principle (PIP)**

6.10 The applicant has successfully secured a PIP under application number 20/01620/PIP, which establishes the principle of developing this site for residential dwellings as acceptable. PIP is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development (stage 1) from the technical detail of the development (stage 2).

6.11 The PIP application established that the site was capable of development for up to 3 residential dwellings and therefore PIP was granted. With the principle having been established, the considerations of this application therefore only relate to the relevant design and technical details, which are discussed in later sections of this report.

6.12 Following the successful PIP application, a detailed pre-application was submitted to the LPA for comments on a scheme for 3 detached dwellings. Whilst officers generally supported the proposed design of the dwellings, including the stepped/tiered form, officers suggested that the applicant should consider a reduction in the number of dwellings due to the sensitivities and constraints of the site. In addition, officers also suggested that careful consideration needed to be given to the heights of the dwellings, and further suggested that the upper floor of the dwelling located in the lower section of the site should be removed.

6.13 Whilst PIP has already been granted, officers are also mindful that this application is being considered at a time where Cheltenham cannot currently demonstrate a 5 year housing land supply, therefore paragraph 11 of the NPPF is also relevant. Paragraph 11, sets out a '*presumption in favour of sustainable development*'. Where housing policies are out-of-date (including situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites), the NPPF is quite clear that development proposals should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole, or specific NPPF policies provide clear reason for refusal.

#### 6.14 **Design and layout**

6.15 Section 12 of the NPPF refers to achieving well designed spaces and states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

6.16 Adopted Cheltenham Plan Policy D1 requires new development to adequately reflect principles of urban and architectural design; and to complement and respect neighbouring development and the character of the locality. Furthermore, JCS policy SD4 relates to

design, and identifies considerations to include context and character, legibility and identity, amenity and space.

Further detail can also be found in Cheltenham's Supplementary Planning Document – Development on Garden Land and Infill Sites. This document sets out various elements that are considered to create the character of an area and includes grain, type of building, location of buildings, plot widths and building lines.

- 6.17 Officers are pleased to see that the officer comments provided at pre-application stage have been taken on-board, the scheme shows a reduction in the number of dwellings from 3 to 2, and the top floor of the dwelling in the lower section of the site has been removed.
- 6.18 The proposed layout shows one dwelling in the lower section of the site, providing accommodation over two levels, this includes lower ground floor and ground floor. The second dwelling sits on the higher section of the site, with the existing easement and access to the properties dividing the plots. The dwelling in the higher section provides accommodation over three floors. Whilst officers duly note that the dwellings are of a generous size, they sit comfortably within the plot and will reflect the general pattern of development on this side of Leckhampton Hill, which is generally detached properties sat in reasonably sized plots.
- 6.19 The design of the dwellings is clearly contemporary, the dwellings have a flat roof and tiered form which addresses the sloping nature of the site. Officers consider the design to be high quality with a good use of modern materials, these include Cotswold stone, timber and metal cladding, and render. The Architects Panel have reviewed the application and have provided comments which are in support of the form and general design approach. Officers note the concern regarding the use of 'Trespa Cladding', however there is minimal use of this product and therefore officers do not consider this to be unacceptable in this scheme. A condition requiring the submission material details has been suggested, and therefore will enable officers to carefully consider the material finishes.
- 6.20 Officers consider the proposal represents an acceptable modern and high quality design that will not result in any unacceptable harm to the design or character of its surroundings. Therefore, the application is considered to be compliant with adopted Cheltenham Plan Policy D1 and adopted JCS policy SD4.
- 6.21 Impact on landscape and trees**
- 6.22 The application site has a prominent position at the foot of the Hill, with particularly clear views of the site when travelling west on Old Bath Road. Whilst the site is not within the Cotswolds AONB or within the Greenbelt, the site is located adjacent to land within these designations, therefore any impact on the setting and character of these designations needs to be carefully considered. It is also clear that the site positively contributes to the landscape character of the area, as it is located at a point where the built up area of Cheltenham starts to move in to a more rural environment.
- 6.23 With regards to impact on the AONB, Policy SD7 of the JCS states '*All development proposals in or within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan.*'
- 6.24 In terms of landscape, Policy SD6 of the JCS requires proposals to have regard to the local distinctiveness and historic character of the different landscapes. Developments are required to demonstrate how the development will protect or enhance character and avoid detrimental effects. The policy also requires applications to be supported by a Landscape and Visual Impact Assessment where the LPA consider it is necessary. Similarly, policy L1 of the Cheltenham plan states 'Development will only be permitted where it wouldn't

not harm the setting of Cheltenham including views into or out of areas of acknowledged importance.

- 6.25 Until recently the site contained a number of trees and vegetation. Since the application has been submitted, it is clear that a number of trees and vegetation have been removed. This was noted in comments from local residents and also noted in several consultee comments. The removal of these trees is unfortunate, however, given that none of these trees were protected, their removal did not require consent.
- 6.26 The council's tree officer has reviewed the application, and whilst no objection was raised, officers considered that the proposed landscape and planting scheme was not sufficient to mitigate the loss of the existing trees. In addition, some of the specified tree species were not considered to be appropriate for this site/ground type. The applicant has addressed these comments by providing a revised landscaping plan, this proposes a significant increase in the amount of planting/trees and a change in species, to reflect the tree officer's comments. The applicant has also submitted a Tree Protection Plan (TPP). The council's tree officer has reviewed the submitted information and considers this to now be acceptable.
- 6.27 The application is supported by a detailed Landscape and Visual Appraisal prepared by MHP chartered landscape architects. The Council has instructed its own landscape consultant to review and comment on the application, detailed comments and recommendations have been provided.

The assessment by the landscape consultant was carried out prior to the submission of the latest landscaping strategy. However, their comments conclude that the development would comply with the relevant landscape policies including JCS policy SD6 and SD7, Cheltenham Plan Policy L1 and NPPF paragraph 174 a). Within the conclusion, the comments emphasise that the landscape proposals for this development are particularly important in considering whether the application should be supported, officers agree that a successful landscaping and planting scheme is a significant factor in determining whether the scheme is successful or not. The landscape consultant has suggested various conditions, these align with officer comments regarding the need for a robust landscaping scheme and a maintenance program, as well as tree protection measures for existing trees.

- 6.28 Having considered all of the comments, officers are satisfied that the revised tree protection plan, tree protection measures and the revised landscaping plan is acceptable for this site and will ensure that development does not result in any unacceptable impact on the design or character of the landscape in this location.
- 6.29 Officers consider various conditions to be necessary, this includes compliance with the tree protection measures, implementation of the landscaping plan, and the submission of a landscape maintenance programme. Furthermore, due to the sensitivities of the site in terms of landscape, officers are suggesting the standard 5 year provision within these conditions is increased to 10 years.
- 6.30 Whilst acknowledging that the development will result in visual change for this currently undeveloped site, having sought a revised and more robust landscaping plan and with the suggested conditions attached, officers consider that the proposal will appropriately conserve the character of the surrounding landscape and will sit comfortably in its context, without resulting in any unacceptable harm to the design or character of the locality. The development is therefore considered to accord with JCS policies SD6 and SD7 of the JCS, Policy L1 of the Cheltenham Plan and the NPPF.
- 6.31 Due to the sensitive location of the site, and to ensure the design and character of the landscape is suitably maintained, further conditions are also considered necessary and

have therefore been suggested. These include; the removal of permitted development rights and a restriction on external lighting.

### **6.32 Impact on neighbouring property**

6.33 It is necessary to consider the impact of development on neighbouring amenity. JCS Policy SD14 and Cheltenham Plan Policy SL1 state how development should not cause unacceptable harm to the amenity of neighbouring properties. Matters such as a potential loss of light, loss of privacy, loss of outlook, noise disturbances and overbearing impact will therefore be considered.

6.34 The only neighbouring property that shares a boundary with the application site is a detached property to the south known as Undercliff. This property is positioned approximately 40 metres from the site boundary and would be approximately 58 metres away from the nearest proposed dwelling located in the southern section of the site. Given this relationship, the proposed development will not result in any unacceptable impact on this property. Other surrounding properties are located on the opposite side of the highway, and whilst the new development would be visible from these neighbouring properties, the development would not result in any harmful impact upon their existing amenity.

6.35 The development is therefore considered to be compliant with adopted Cheltenham Plan policy SL1 and adopted JCS policy SD14 in terms of protecting neighbouring amenity.

### **6.36 Access and highway issues**

6.37 The majority of the concerns raised in the letters of representations received by local residents relate to highway safety concerns, these concerns are also raised in comments from the Parish Council, the Civic Society and from both ward councillors.

6.38 Gloucester County Council's Highways department have reviewed the application and their detailed comments can be read above. As with the PIP application, no objection is raised to the application, however two conditions have been suggested, one relates to the provision of electric vehicle charging points and the other regarding the access layout.

6.39 The conditions suggested by the highways officer are considered necessary and have therefore been attached. With these conditions attached, the proposed development is considered to be compliant with Adopted JCS policy INF1 and will not result in any unacceptable highway safety implications.

6.40 Officers are aware that direct contact from the ward councillors has been made with Gloucestershire Highways in order to further discuss the Highways comments. Various pieces of information/evidence has been submitted and provided to the highways authority for review. The Highways authority have confirmed that they have further reviewed the scheme and the information presented to them, and a further site visit has been undertaken. Their follow up comments have not been received at the time of writing this report, however these will be provided by way of an update, ahead of the committee meeting.

### **6.41 Surface water drainage**

6.42 The application site is not located within flood zone 2 or 3, however due to the sloping nature of the site and its location, the sites development could have an impact on surface water management and drainage. Officers have therefore liaised with the council's flooding consultant, who has reviewed the application and provided detailed comments. The consultant initially requested further detail, which was later received.

6.43 Having reviewed the revised maintenance and drainage strategy, the consultant raises no objection to the application. The development is not considered to result in any unacceptable flooding or surface water run off implications and is therefore considered to be compliant with adopted JCS policy INF2. A condition has been suggested to ensure the development is carried out in accordance with the submitted strategy.

#### 6.44 **Public Rights of Way (PROW)**

6.45 As already acknowledged above, a Public Right of Way runs along the western boundary of the site (ref: ASH42 & CHL18). Whilst the development does not directly affect these in any way, the County Council have been consulted and comments have been received. No objection has been raised, however, important details have been provided for the applicant's information. This has been added by way of an informative (4).

6.46 In addition to the above, the LPA are also aware that there is an alleged Public Right Of Way that is suggested to be crossing the application site. This route is not included on the Definitive Map's held by Gloucestershire County Council (GCC), however the LPA are aware that an application has been made to GCC for this route to be included within the Definitive Maps register. The Definitive Map Modification Order (DMMO) application has not yet been determined by GCC.

6.47 The LPA have liaised with the Council's legal team to understand how the above may affect the planning application process. The Council's legal team have confirmed that the planning application can be processed and determined prior to any decision being made on the DMMO application.

Whilst a decision on the planning application can be made, it is important to note that if the application to add this route to the definitive maps is successful then the development, if approved, would not be able to go ahead as planned, as it is a criminal offence to obstruct a PROW under the Section 137 Highways Act 1980. If the development is approved, and then the PROW is added to the definitive maps, the applicant would be required to apply to the Council under Section 257 of the Town and Country Planning Act 1990 for the path to be diverted, however there is no guarantee this will be successful. Alternatively the applicant would need to submit a revised application to resolve conflict with this PROW. The applicant is aware of this information, however a further informative (2) has been added.

#### 6.48 **Other considerations**

##### 6.49 *Environmental Impact*

Records show that important species have been sighted near the application site in the past, however none of these identified species fall within the protected species category. The loss of existing trees and vegetation is unfortunate for wildlife, however the proposed planting within the landscaping plan will mitigate any environmental loss as a result of the site clearance.

##### 6.50 *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 Having acknowledged that permission in principle has already been granted for up to 3 dwellings on this site, and with the presumption in favour of development that is required under paragraph 11 of the NPPF, for the reasons discussed above, the development is not considered to result in any adverse impacts that would significantly or demonstrably outweigh the benefits of the scheme, which in this case would be a contribution to Cheltenham’s housing stock.
- 7.2 Having considered all of the above, 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 begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 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.

- 3 Prior to the commencement of development (including demolition and site clearance), the Tree Protection measures identified in drawing number 20093.502 B and the mhp Arboricultural survey, impact assessment and protection plan received on 21st January 2022 be installed, inspected and approved in writing by the Local Planning Authority, these measures shall remain in place until the completion of the construction process..

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020). Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 4 All landscaping works shall be carried out in accordance with the approved details (drawing no. 20093.101 C) prior to first occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of 10 years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, GI2, GI3 and L1 of the Cheltenham Plan (2020), and adopted policies SD4, SD6, SD7 and INF3 of the Joint Core Strategy (2017).

- 5 Prior to the implementation of the landscaping strategy as detailed in drawing number 20093.101 C, a Landscape Management Plan based on the Landscape Strategy drawing shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall comprise of a drawing and document that covers:
- a. Aims and objectives of the scheme
  - b. A plan with annotations showing the soft landscape, hard landscape, 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. A work and maintenance schedule for 10 years and arrangements for beyond this time;
  - e. Monitoring and remedial or contingency measures;

The scheme shall be implemented as approved by the Local Planning Authority.

Reason: To conserve and enhance the landscape value of the land and in accordance with JCS policies D1, GI2, GI3 and L1 of the Cheltenham Plan (2020), and adopted policies SD4, SD6, SD7 and INF3 of the Joint Core Strategy (2017).

- 6 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 and Manual for Gloucestershire Streets. 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 points shall be of the same specification or a higher specification in terms of charging performance.

Reason: To prioritise movement by sustainable transport modes, having regard to adopted policy SD4 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework (2019).

- 7 Prior to the occupation of the development hereby permitted, the vehicular access shall be laid out and constructed in accordance with the submitted plan drawing no. 21.20.008 PL005 with the area of driveway within at least 5.0m of the carriageway edge of the public road surfaced in bound material, and shall be maintained thereafter.

Reason: In the interests of highway safety, in accordance with adopted JCS policy INF1.

- 8 Prior to the commencement of development, including any works of demolition or site clearance, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

The approved method statement shall be adhered to throughout the development process and shall, where necessary:

- i) specify the type and number of vehicles expected during the construction of the development;
- ii) allocate space for the parking of vehicles for site operatives and visitors;
- iii) allocate space for the loading and unloading of plant and materials;
- iv) allocate space for the storage of plant and materials used in constructing the development;
- v) specify the intended hours of construction;
- vi) specify measures to control the emission of noise, dust and dirt during construction;

- vii) provide for wheel washing facilities; and
- viii) specify the access points to be used and maintained during the construction phase.

Reason: To minimise disruption on the public highway and to adjacent land users, and accommodate the efficient delivery of goods and supplies during the course of the construction works, having regard to adopted policy INF1 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable highway impact during construction.

- 9 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 with or without modification), no extensions, garages, sheds, outbuildings, walls, fences or other built structures of any kind (other than those forming part of the development hereby permitted) shall be erected without express planning permission.

Reason: Any further extension or alteration requires further consideration to safeguard the amenities of the area and to conserve the landscape value of the land, in accordance with JCS policies D1, GI2, GI3 and L1 of the Cheltenham Plan (2020), and adopted policies SD4, SD6, SD7 and INF3 of the Joint Core Strategy (2017).

- 10 The works shall be carried out in accordance with the information and measures contained within the Drainage and Maintenance strategy received on 18th November 2021.

Reason: To ensure the proper provision for surface water drainage and/ or to ensure flooding is not exacerbated in the locality (The Cheltenham Strategic Flood Risk Assessment, National Planning Policy Framework and Planning Practice Guidance). If the scope of surface water drainage is not agreed before works commence, it could affect either the approved layout or completed works, in accordance with adopted JCS policy INF2.

- 11 Prior to the installation of any external lighting, details of the lighting shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area with regard to Cheltenham Plan policies D1, L1 and SL1, adopted JCS policies SD6, SD7, SD9 and SD14, and the Cotswold AONB Management Plan 2018-23.

- 12 No external facing materials shall be applied unless in accordance with:  
a) a written specification of the materials; and  
b) photos of the physical sample(s) of the materials.  
The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

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).

## **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 Local Planning Authority (LPA) are aware that there is an alleged Public Right Of Way (PROW) that is suggested to be crossing the application site. This route is not included on the Definitive Map's held by Gloucestershire County Council (GCC), however the LPA are aware that an application has been made to GCC for this route to be included within the Definitive Maps register. The Definitive Map Modification Order (DMMO) application to add this route has not yet been determined by GCC.

The applicant should be aware that if the PROW is established, it is a criminal offence to obstruct the PROW under the Section 137 Highways Act 1980. In order to be able to complete the development as proposed, the applicant would be required to apply to the Council under Section 257 of the Town and Country Planning Act 1990 for the path to be diverted. The applicant should be aware that there is no guarantee that an application for a diversion will be successful.

- 3 Given the proximity of the highway and road junction, traffic noise will be a significant impact at the site of the proposed dwellings. The applicant should therefore give careful consideration to noise control through their choice of materials, glazing and ventilation arrangements.
- 4 With regards to the existing nearby public rights of way, ASH42 & CHL18, the County Council have offered the following information that the applicant should be aware of:

- 1) No change to the surface of the public right of way can be approved without consultation with the County Council and there must be no interference with the public right of way, either during development or once it has been completed, unless:-

- a) The development will temporarily affect the public right of way; then the developer must apply and pay for a temporary closure of the route (preferably providing a suitable alternative route); or

- b) If the development will permanently affect the public right of way, then the developer must apply for a diversion of the route by the Planning Authority under the Town and Country Planning Act 1990 as part of the planning application process. No development should take place affecting the route of the path prior to the confirmation of a TCPA path diversion order.

- 2)

- a) There must be no encroachment on the width of the public right of way.

- b) No building materials may be stored on the public right of way.

- c) Vehicle movements during construction should not unreasonably interfere with the use of the public right of way by walkers, etc., and the developer or applicant is responsible for safeguarding the public use of the way at all times.

- d) No additional temporary or permanent barriers (e.g. gates, stiles, wildlife fencing) may be placed across the public right of way and no additional gradients or structures

(e.g. steps or bridges) are to be introduced on any existing or proposed public rights of way without the consent of the county council.