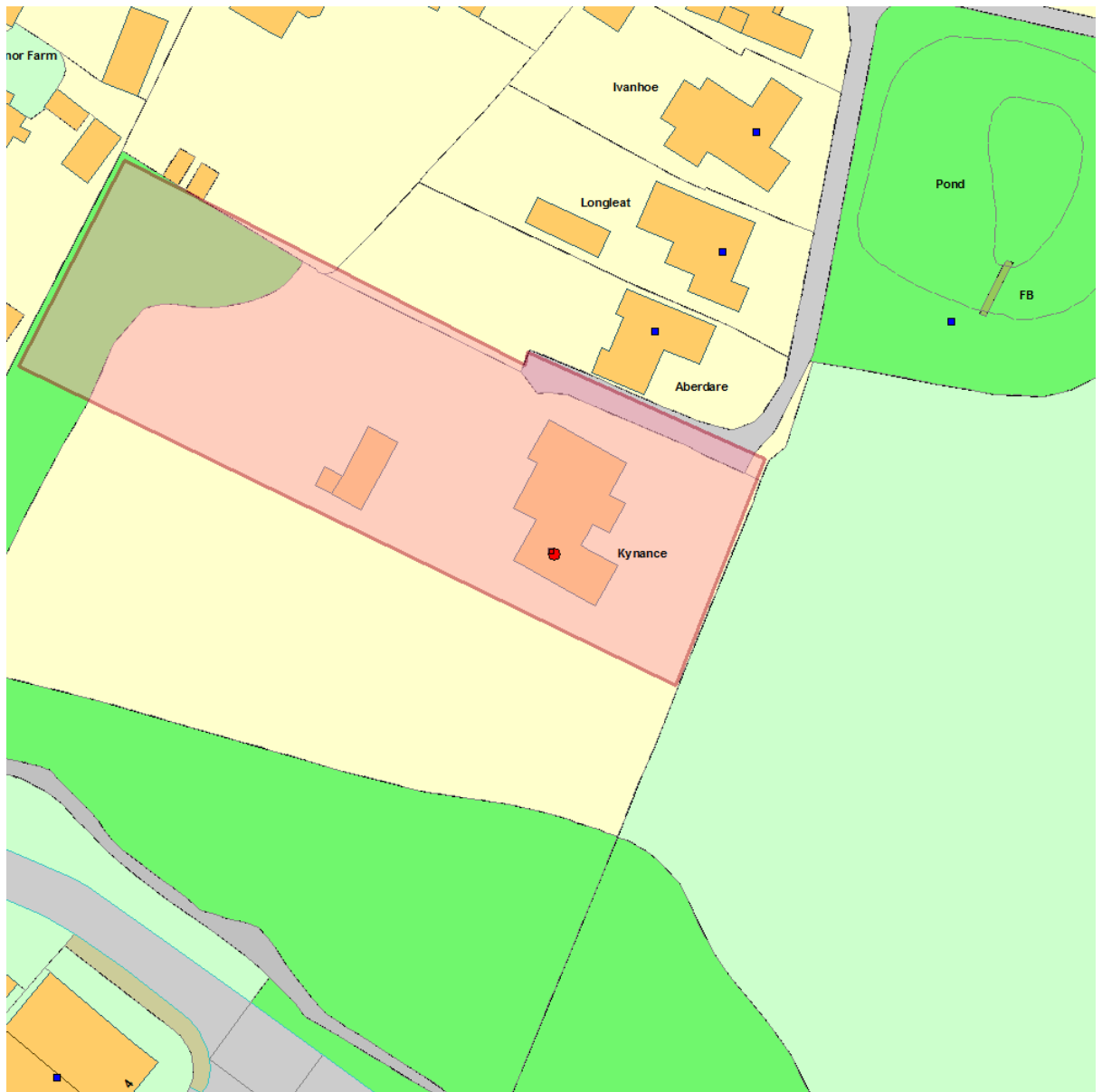


<b>APPLICATION NO:</b> 21/02534/FUL	<b>OFFICER:</b> Mrs Lucy White
<b>DATE REGISTERED:</b> 12th November 2021	<b>DATE OF EXPIRY:</b> 7th January 2022/Agreed EoT 28 <sup>th</sup> March 2022
<b>DATE VALIDATED:</b> 12th November 2021	<b>DATE OF SITE VISIT:</b> 18 <sup>th</sup> January 2022
<b>WARD:</b> Swindon Village	<b>PARISH:</b> Swindon
<b>APPLICANT:</b>	Mr and Mrs Latif
<b>AGENT:</b>	SF Planning Limited
<b>LOCATION:</b>	Kynance Swindon Hall Grounds Church Road
<b>PROPOSAL:</b>	Erection of 1no. dwelling with associated access and landscaping, and replacement outbuilding for the existing dwelling

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site comprises of a detached, two storey dwelling known as Kynance and part of its associated garden/curtilage. The site lies wholly within Swindon Village Conservation Area and adjacent to Swindon Village recreation ground to the south and Kingsditch industrial estate and Manor Farm to the west. The west and northern boundaries of the site are tree lined and there are a number of large trees and groups of trees located centrally within this part of the existing garden curtilage.
- 1.2 The existing dwelling is modern and of recent construction and located in the north east corner of the plot near to the access road/property entrance. Access to the site is via a single track/private lane accessed from Church Road. This lane currently terminates at Kynance and serves five other dwellings and the grade II listed Swindon Hall. There is a shared driveway between the side of Kynance and its immediate neighbour (Aberdare) which provides vehicular access to garages and outbuildings located at the rear of each dwelling.
- 1.3 The southern parts of the wider garden curtilage of Kynance lie within Flood Zones 2 and 3; Wymans Brook running adjacent to the southern boundary. However, the application site lies outside of Flood Zones 2 and 3.
- 1.4 The only relevant planning history associated with the site relates to the existing dwelling which is a replacement dwelling constructed in 2012 (ref 11/01868/FUL).
- 1.5 The applicant seeks planning permission for the erection of a new detached dwelling with associated vehicular access and landscaping, and the erection of a replacement outbuilding for the existing dwelling.
- 1.6 The scheme has been revised during the course of the application; the height and footprint of the proposed outbuilding for Kynance reduced, the vehicular turning area at the entrance to Kynance amended and shown more clearly, replacement semi-mature tree planting along the northern boundary added, a Norway Spruce tree retained and the turning area/hardsurfacing for the proposed dwelling amended accordingly.
- 1.7 This application is before the Planning Committee at the request of Councillor Bernard Fisher. The level of local interest and the scale of the proposed building within the conservation area are the reasons given for the referral.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Conservation Area  
Parish Boundary  
Principal Urban Area

### Relevant Planning History:

**16/01913/PREAPP 8th May 2017 CLO**  
Erection of 8 no. two storey semi-detached dwelling houses  
**18/01592/PREAPP 10th October 2018 CLO**  
Erection of 5 no dwellings and associated works  
**11/01868/FUL 8th March 2012 PER**  
Erection of a replacement dwelling  
**11/01869/CAC 8th March 2012 GRANT**  
Demolition of existing bungalow  
**15/01128/CACN 29th June 2015 ALL5D**  
Five day notice - remedial surgery to Ash tree  
**15/01211/CACN 10th August 2015 NOOBJ**  
Ash Tree T1 - fell

Horse Chestnut T2 - fell

**21/01194/CACN 19th October 2021 NOOBJ**

T1: Sycamore: Remove. T3: Ash: Remove. G4: Conifers: Remove

**21/02403/CACN 29th October 2021 NOOBJ**

T28: Horse chestnut: Prune branches back by 1.5-2m where it is growing into next doors oak tree, T7: Ash: Remove remaining limb of dual stemmed tree, T17: Sycamore: remove

**21/02793/CACN 21st December 2021 NOOBJ**

T25: Sycamore: Remove.

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

#### **National Planning Policy Framework**

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

Section 15 Conserving and enhancing the natural environment

Section 16 Conserving and enhancing the historic environment

#### **Adopted Cheltenham Plan Policies**

D1 Design

D3 Private Green Space

L1 Safe and Sustainable Living

GI2 Protection and replacement of trees

GI3 Trees and Development

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

SD3 Sustainable Design and Construction

SD4 Design Requirements

SD8 Historic Environment

SD9 Biodiversity and Geodiversity

SD10 Residential Development

SD14 Health and Environmental Quality

INF1 Transport Network

INF2 Flood Risk Management

INF3 Green Infrastructure

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

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

Swindon Village Conservation Area Character Appraisal & Management Plan (February 2007)

### **4. CONSULTATIONS**

#### **Gloucestershire Centre For Environmental Records**

*26th November 2021* - Biodiversity report available to view in documents tab.

#### **Publica Drainage And Flooding**

*26th November 2021* - Comment available to view in documents tab.

## **GCC Highways Planning Liaison Officer**

*20th December 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. The justification for this decision is provided below.

The proposal is not perceived to arise a detrimental impact on the operation and safety of the adjacent network. 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.

The Highway Authority therefore submits a response of no objection.

## **Tree Officer**

*23rd November 2021 –*

The extant application / approval for tree works was clearly created with this development in mind. In total, between both the tree works application and this planning application, around fifteen mature trees are proposed for removal in Conservation Area. The intention to plant new trees to mitigate for this loss of amenity and wildlife value should be evidenced in a landscape plan. As evergreen and deciduous trees are being removed, this should be considered in the design of any such plan.

Reason: to preserve / replace amenity value of trees in Conservation Area as per Policies GI2 and 3 of the Cheltenham Plan.

## **Heritage and Conservation**

*10th December 2021 –*

It is important to consider the policy context in which the proposal needs to be determined. The cornerstone of heritage legislation is the Planning (Listed buildings and Conservation Area) Act 1990 of which para 72(1) states in relation to conservation areas, "...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

A core principle of the National Planning Policy Framework 2019 (NPPF) is heritage assets be conserved in a manner appropriate to their significance. Chapter 16, paragraphs 199-208 set out how potential impacts on heritage assets shall be considered. This assessment takes account of the relevant considerations in these paragraphs, including paragraph 197 of the NPPF, which requires the significance of heritage assets to be sustained and enhanced, with paragraph 199 requiring great weight be given to the asset's conservation.

No objection is raised to the development proposal on heritage grounds. The site, and therefore the proposed dwelling, is considered to be sufficiently discreetly located and largely screened from the conservation area and the setting of listed buildings as a result of: its location deep within the existing rear garden curtilage of Kynance; its location behind Kynance and the proposed new outbuilding to serve Kynance (part of this application); the existing modern dwellings along the private lane off Church Road; and by existing trees and vegetation. The proposed dwelling is not considered to have an intrusive presence within the conservation area and the setting of listed buildings.

The proposed works are considered to sustain the designated heritage assets and comply with Section 16 of the Planning (Listed Building and Conservation Area) Act 1990, Chapter

16 of the National Planning Policy Framework and Policy SD8 of the Joint Core Strategy 2017. If consent for the development proposal is granted conditions relating to materials, fenestration, boundary treatments, hard and soft landscaping should be attached to the approval.

### **Architects Panel**

*14th December 2021 –*

#### Design Concept

The panel had no objection to the principle of building a new dwelling in the garden of Kynance which is large enough to accommodate a two storey building comfortably without adverse impact on the existing dwelling or neighbouring properties.

#### Design Detail

The proposed new building has been well designed using traditional materials and construction details. The overall massing of the building and composition of building components is very attractive.

#### Recommendation

Support.

### **Building Control**

*18th November 2021 -* The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

## **5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>13</b>
Total comments received	<b>6</b>
Number of objections	<b>6</b>
Number of supporting	<b>0</b>
General comment	<b>0</b>

- Letters of notification were sent to 13 neighbouring properties. In addition a site notice was posted within the vicinity of the site and an advert placed in the Gloucestershire Echo. A total of 6 representations were received following the publicity and the concerns raised are summarised as follows:
- Unsuitability of existing narrow and winding lane to accommodate the traffic and large vehicles associated with an additional dwelling. Impact on access road during construction phase.
- Proposed turning area insufficient in size and associated drawings unclear
- Overlooking, loss of privacy, light pollution, noise and disturbance, overbearing - impact on amenities of occupiers of neighbouring properties
- Loss of trees, extent of proposed pruning works and replacement tree planting inadequate to prevent overlooking into neighbouring properties. Impact on wildlife.
- Design and scale of proposed dwelling out of keeping with existing residential development within Swindon Hall grounds and adjacent Manor Farm site
- Height of proposed dwelling exceeds Kynance
- Size and scale of proposed replacement outbuilding and its potential residential use

- Proposed parking provision and associated hard surfacing out of scale for a four bed dwelling
- Land levels differ on adjacent plots and drainage scheme unclear in relation to land levels
- Loss of views and visual impact of proposals on neighbouring properties and conservation area
- Reduction in property values of adjacent properties

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

6.2 The key issues are (i) the principle of additional residential development on this site; (ii) the suitability of the plot for sub-division to create an additional dwelling; (iii) the design scale and layout of development and impact on the character and appearance of the conservation area and surrounding existing development; (iv) neighbour amenity; (v) loss and retention of trees and; (vi) highway safety.

### 6.3 Principle and Policy Context

6.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be taken in accordance with the relevant adopted Development Plan unless material considerations dictate otherwise. The proposal must therefore be considered against the relevant policies contained within the Cheltenham Plan (2020) and the Joint Core Strategy (2017); the most relevant policies being D1 and SL1 of the Cheltenham Plan and policies, SD4, SD8, SD10, SD14 and INF1 of the JCS.

6.5 The application site lies within the Principal Urban Area (PUA) of Cheltenham and as such is considered a sustainable location for housing development pursuant to Policy SD10 of the Joint Core Strategy (JCS) which supports the principle of residential development on previously developed land outside of allocated sites and within the PUA. However, garden land is excluded from the (NPPF) definition of previously developed land.

6.6 The application site is considered to be garden land for the purposes of Policy SD10. Whilst this does not preclude new residential development within the curtilage of an existing dwelling, the merits of doing so and the various impacts on the character and appearance of the immediate surrounds, the wider conservation area and amenities of neighbouring properties are important material considerations which require careful consideration.

6.7 Paragraph 11 of the NPPF states '*Plans and decisions should apply a presumption in favour of sustainable development....and for decision making this means approving development proposals that accord with an up-to-date development plan*'. Where policies which are most important for determining the application are out-of-date, the NPPF at paragraph 11(d) advises that planning permission should be granted '*(i) unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*'. This is referred

to as the 'tilted balance' and the government's approach to ensuring delivery of housing nationally.

- 6.8** The Footnote 6 protected areas or assets referred to at 11 (d) (i) above are, in this case, the Swindon Village Conservation Area and listed buildings within the vicinity of the site.
- 6.9** Footnote 7 of paragraph 11 of the NPPF explains further that for applications involving the provision of housing, relevant policies must be considered out of date in situations where the local planning authority cannot demonstrate a five year supply of deliverable housing.
- 6.10** Cheltenham Borough Council is currently unable to demonstrate a five-year supply of housing land and at the time of writing, the latest figure sits at 2.9 years.
- 6.11** The provision of an additional dwelling to alleviate the shortfall (although a small contribution) carries some weight and is a material consideration in the determination of this planning application.
- 6.12** The site is also located within the Principal Urban Area (PUA) and benefits from being in close proximity to a range of services and community facilities, notably the retail offer at Gallagher Retail Park, and there are regular bus services to the town centre from Swindon Village.
- 6.13** In summary, although the site is considered to be a sustainable location for residential development in the context of the NPPF and broadly in the context of Policy SD10, the proposals relate to garden land development. As such, the proposed development must be considered carefully, having regard to the material considerations set out in paragraph 6.2 and below.
- 6.14 Design and layout**
- 6.15** Policy D1 of the Cheltenham Plan requires all new development to adequately reflect the principles of urban and architectural design and to complement and respect neighbouring development and the character of the locality. The policy is consistent with adopted JCS policy SD4 and advice set out within Section 12 of the NPPF.
- 6.16** Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires new development to preserve or enhance the character or appearance of the conservation area in which the site is located. JCS policy SD8 also requires development to make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment.
- 6.17** The NPPF at paragraph 199 requires Local Planning Authorities when considering the impact of a proposed development on the significance of a designated heritage asset, to give great weight to the conservation of the asset. This is irrespective of whether any potential harm equates to substantial harm, total loss or less than substantial harm to its significance. Paragraph 202 of the NPPF states that '*where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use*'.
- 6.18** In addition, the Council's Supplementary Planning Document 'Development on Garden Land and Infill Sites (June 2009)' offers useful and relevant guidance in respect of new residential development on garden land – 'Proposals for development on garden land and other infill sites should be based upon a thorough understanding of the character of the neighbourhood and in particular the street and block within which the site is located' with a '*requirement to complement and respect neighbouring development*' as encompassed by Policy D1 of the Cheltenham Plan and Policy SD4 of the JCS.

- 6.19** The application site comprises of roughly half of the residential curtilage of the existing dwelling (Kynance). Given the size of the application site and position of the existing dwelling on the plot, officers consider that the principle of the subdivision of the original and reduced residential curtilage to provide one additional dwelling, and in the manner proposed, is acceptable. Similarly, officers consider that the size/scale and footprint of the proposed new dwelling could be accommodated satisfactorily within the application site.
- 6.20** Notwithstanding the above, the loss and retention of trees, site levels, the suitability of the proposed access into the site (both via the lane/Church Road and utilising the shared driveway between the two existing houses), the design, appearance and layout of the proposals and their potential impact on the amenities of neighbouring properties and the wider conservation area all require careful consideration.
- 6.21** The existing property (Kynance) is of modern construction and appearance and is considered to have a neutral impact on the character and appearance of the locality and Swindon Village Conservation Area. Although there is some uniformity in appearance of dwellings within the Swindon Hall grounds leading up to the site, there is a wide range of plot sizes, architectural styles and house types generally, within the vicinity of the site and within the wider conservation area. The proposed large, two storey detached dwelling occupying a relatively large plot adjacent to another modern building, would not therefore look wholly out of place within the site context. However and in addition to the proposed access arrangements and any potential impact on neighbour amenity, the success or otherwise of a residential scheme on this site will be dependent largely on the quality of its architectural design, its visual impact, position on the plot and the retention of trees and/or proposed boundary treatment.
- 6.22** The proposals include a two storey, detached dwelling with link detached double garage positioned perpendicular to the existing dwelling and with its front elevation facing north and adjacent to two dwellings, Aberdare and The Little Manor. The proposals also include a replacement multi-purpose outbuilding for Kynance. This building would replace a number of smaller outbuildings and sheds in the same location and would provide a workshop/store, potting shed and studio space.
- 6.23** The new dwelling would benefit from good sized rear and side garden areas and would be accessed via a private driveway leading from the current shared private drive between Aberdare and Kynance. This shared private access arrangement between the two/three properties would presumably continue; with access to Aberdare's rear garage unimpeded by the proposed development.
- 6.24** The proposed dwelling has a simple and traditional form, with a main hipped roof and projecting gable extensions and chimney but equally incorporates some subtle contemporary elements. External facing materials focus on natural products and include natural coursed stone brickwork at ground floor level, silvered timber boarding at upper levels, blue slate roof tiles and black powder coated metal windows. In addition, the proposed oak posts to the extended garage canopy and covered link would add a rural/woodland feel to the design.
- 6.25** It should be noted that the height of the proposed dwelling exceeds that of Kynance, albeit the footprint is not dissimilar to the existing dwelling. However, officers acknowledge that the site is afforded a good level of screening by existing/proposed remaining trees and there are limited views into the site from neighbouring dwellings and from the public realm i.e. the adjacent village park and industrial estate. However, to assist further in understanding the visual impact of the proposals (affecting neighbouring properties and the conservation area), the applicant has provided an extended elevation/cross section drawing showing the proposed and adjacent buildings. This drawing shows the rise and fall of land levels across the site and the resultant gentle stepping up in height of buildings running east-west. It is also noted that land levels drop in a north-south direction within



the site and but, at the northern edge are slightly higher than the garden level of The Little Manor.

- 6.26** Concerns were initially raised regarding the height and footprint of the proposed outbuilding for Kynance and its visual impact within the site. Following discussions with the applicant the size and scale of the outbuilding was altered so that the building reads clearly as an ancillary building within the curtilage.
- 6.27** Overall, the visual impact of the proposals is minimised and although the new dwelling would be seen from some neighbouring properties, this change in outlook is not considered to be significantly harmful and not sufficient to withhold planning permission. The potential impacts on neighbour amenity are discussed in more detail below.
- 6.28** Similarly, as mentioned above, there would be very limited views of the proposed dwelling from the public realm and as such the proposals should not harm the character and appearance of the wider conservation area. The Conservation Officer (CO) has commented on the scheme and considers the proposed dwelling to be sufficiently discreetly located and largely screened from the conservation area and the setting of nearby listed buildings. The CO points out the location of the new dwelling deep within the existing rear garden curtilage of Kynance and behind Kynance and the proposed new outbuilding. He also points to the existing modern dwellings along the private lane off Church Road and the existing trees and vegetation. The proposed dwelling should not therefore have an intrusive presence within the conservation area and the setting of listed buildings.
- 6.29** The building has been designed so that its main living areas face south. Consequently, window openings to habitable rooms at first floor on the north elevation have been kept to a minimum (two bedrooms). The applicant also states in the Design and Access Statement (DAS) states that *'the positioning of the proposed house and garage has been carefully planned around root protection zones, in close collaboration with the arboriculturalist, in order to preserve the wooded character of the northern corner of the site – the concept is for a new low-lying house sitting amongst the trees... partially concealed by mature trees on the northern boundary and seen against a backdrop of mature trees along the western boundary..'* The loss and retention of trees in relation to the proposed development is discussed at paragraph 6.49 below.
- 6.30** The Architects Panel is supportive of the scheme and considers the site large enough to accommodate a two storey building comfortably without adverse impact on the existing dwelling or neighbouring properties. They feel that the proposed new building has been well designed using traditional materials and construction details and the overall massing of the building and composition of building components is very attractive.
- 6.31** In light of all the above considerations, the design, scale and layout of the proposals are considered acceptable and, with the use of appropriate facing materials, should achieve a high standard of architectural design and preserve the character and appearance of the conservation area. As such, the proposals adhere with the objectives of Policy D1 of the Cheltenham Plan and policies SD4 and SD8 of the JCS.

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

- 6.33** Policy SL1 of the Cheltenham Plan states that development will only be permitted where it will not cause unacceptable harm to the amenity of adjoining land owners or the locality. These requirements are reiterated in adopted JCS policy SD14. In addition, NPPF paragraph 130 highlights the need to secure a high standard of amenity for existing and future users.
- 6.34** Similarly, the Council's 'Development on garden land and infill sites Supplementary Planning Guidance' (SPD) states that in considering the impact of garden land or other

infill proposals on the amenities of existing and new residents, the issues that will be considered include; light restriction, loss of privacy/ overlooking and overbearing impact due to the bulk/ proximity of buildings.

- 6.35** A number of local residents have raised concerns regarding overlooking, loss of privacy, outlook and views, noise and disturbance. These concerns are understood and have been considered very carefully and this has included a site visit to view the application site from The Little Manor.
- 6.36** The nearest affected residential properties are Aberdare to the east and The Little Manor to the north. Officers consider the key potential amenity impacts to be overlooking, loss of privacy and a change in visual outlook.
- 6.37** Four of the six proposed first floor north facing windows serve non habitable rooms/areas (bathrooms and landing) and therefore could be obscurely glazed; this detail secured by a suitably worded condition. The two remaining windows in the north elevation serve bedrooms. The front elevation (excluding the garage) would face the rear of The Little Manor and would be set back some 19-21.5 metres from the northern site boundary and approximately 61 metres from the principal rear elevation of The Little Manor (46 metres to the side wing rear). These separation distances accord with and exceed the recommended distances set out in Note 2 of Policy D1 of the Cheltenham Plan; which are a 21 metre distance between clear facing windows and 10.5 metre distance to the boundary with a neighbouring property. The corresponding separation distances (measured at an angle) to the rear of Aberdare are approximately 20-22 metres and 52-61 metres. Again these distances exceed policy recommendations.
- 6.38** It is acknowledged that trees within the site would be need to be removed to facilitate the construction of the new dwelling; consent having already been granted for the removal of some of these trees. However, as discussed below, the applicant has agreed to amend the tree removal and landscaping proposals and retain one of a group of 3no. Norway Spruce trees and plant two semi-mature trees adjacent to the north boundary wall. Although this would not wholly replace the screening and tree outlook that the neighbouring properties currently benefit from, it would assist in filtering views in the short term and provide adequate screening of the new dwelling in the medium/long term. It is also worth noting that the upper elevations of the proposed dwelling would be faced with timber boarding. This should soften the appearance of the building when viewed from neighbouring properties, particularly once the timber has weathered.
- 6.39** The potential impact of the proposed access driveways between Kynance and Aberdare and into the site have also been considered very carefully in terms of noise and disturbance affecting both existing and neighbouring properties. There are windows in the ground floor side elevation of Aberdare; the side elevation abutting the driveway. Conversely, the windows in the side elevation of Kynance are set back from the driveway and appear to be obscure glazed openings to a garage and utility room. This driveway is currently a shared access for the two existing properties. Despite the proximity of the access to both existing properties, the proposed increase in use of the existing driveway and new extended private driveway, should not result in any significant harm in terms of noise and disturbance. Furthermore, no concerns regarding this matter have been raised by the adjacent property, Aberdare.
- 6.40** In addition, appropriate hard surfacing materials (e.g. bound resin/paving) for the driveway and hard surfacing areas within the site could be secured by planning condition.
- 6.41** In light of the above considerations, the proposals are compliant with policies SL1 of the Cheltenham Plan, policy SD14 of the JCS and paragraph 130 of the NPPF.
- 6.42 Access and highway issues**

- 6.43** Paragraph 109 of the NPPF states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
- 6.44** Policy INF1 of the JCS reiterates the stance of the NPPF and states that proposals should ensure that safe and efficient access to the highway network is provided for all transport modes.
- 6.45** The application site is accessed via a private road from Church Road with rear access into the site via the shared driveway between Kynance and Aberdare property. The road leading to the application site currently serves Swindon Hall and 5 dwellings, including Kynance, which is the last of the properties within this cul-de-sac. The road is narrow along the majority of its length with limited passing places and a right angle bend.
- 6.46** The Highway Authority (HA) has considered the proposals very carefully and reviewed the Transport Technical Note submitted with the application. The HA concludes that the proposals would not result in a detrimental impact on the operation and safety of the adjacent highway network. Nor would there be an unacceptable impact on highway safety or a severe impact on traffic congestion. As such the HA consider there to be no justifiable grounds on which an objection could be maintained.

#### **6.47 Sustainability**

- 6.48** The application details (DAS) include intended measures to achieve a reduction in carbon emissions that exceed the current requirements of Part L of the Building Regulations. The various opportunities for sustainability features are set out in full within the DAS.

#### **6.49 Other considerations**

##### **6.50 Trees**

- 6.51** The proposed layout would necessitate the removal of several trees and tree groups within the site and along the site boundaries (G4, T25, T26, T29, T17 and T7, as shown on Drawing No 2985-002G). There are no tree works proposed on garden land outside of the application site (blue line area). Approval had previously been granted for the removal of trees T7, T17, T26, T29 and G4 and other tree works as part of recent applications 21/01194/CACN and 21/02403/CACN. Replacement tree planting was secured through these consents and is also indicated on submitted drawings for the current planning application.
- 6.52** An Arboricultural Impact Assessment and Tree Survey have also been submitted and reviewed by the Council's Trees officer.
- 6.53** The Trees officer points out that in total, between both the previous tree works applications and the current planning application, around fifteen mature trees are proposed for removal from the property (Kynance). The Trees officer requires the planting of new trees to mitigate for this loss of amenity and wildlife value and this should be evidenced in a landscape plan and should include both evergreen and deciduous trees.
- 6.54** Following further discussions with the applicant, an amended site layout plan was submitted which includes details of replacement tree planting. The revised scheme includes the planting of two semi-mature trees along the northern site boundary wall and the retention of a Norway Spruce tree (T27), which was originally proposed to be removed. Although not of high amenity value, this tree is considered the only Spruce tree within this group worthy of long term retention and its presence on site should assist in enhancing the woodland setting of the proposed dwelling and screening the development from neighbouring properties.

**6.55** The detail of the planting/landscaping scheme (species, size, location etc.) can be adequately secured by planning condition, as set out below. Any future proposed landscaping scheme would also need to achieve Biodiversity Net Gain.

**6.56** Drainage

**6.57** The whole of the application site is in Flood Zone 1 on the Environmental Agency's Flood Map and therefore at low risk to flooding. The southern part of the existing residential curtilage (but outside of the application site) lies within Flood Zones 2/3, with Wymans Brook running adjacent to the southern boundary. However, the proposed development will not be within 20m of a watercourse and therefore no further Flood Risk Assessment is required.

**6.58** A detailed surface water drainage and maintenance strategy has been submitted and reviewed by the Council's drainage officer. No concerns have been raised and condition has been added to secure the implementation of the approved drainage and maintenance strategy.

**6.59** Ecology

**6.60** Given the nature of the site and the ecological implications of the proposed development, an Ecological Appraisal and Great Crested Newt eDNA Analysis accompany the application. The eDNA analysis focusses on a survey of the pond within the Swindon Hall grounds. The survey was carried out to determine whether a population assessment was required to inform a mitigation strategy should they be present.

**6.61** The Ecological Appraisal concludes that the majority of the site is covered in poor quality semi-improved grassland and any remaining habitats could be easily replaced. Similarly, any loss or change to habitats is considered to be negligible and the existing outbuildings were found to have negligible potential for roosting bats.

**6.62** The eDNA results were negative for the presence of GCNs and no precautionary measures are recommended other than to cease works should GCNs be discovered on site during construction works.

**6.63** Both documents have been reviewed by the Council's Ecology advisor. Overall, the advised habitat enhancements and recommended protective/precautionary measures are considered acceptable. The eDNA analysis has been carried out appropriately and the results of the survey noted. A condition is suggested below which requires the development to be carried out in accordance with the recommendations of the Ecological Survey and a subsequent detailed report/method statement to be submitted and approved by the LPA.

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

**6.65** 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.

**6.66** 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.

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

## **7. CONCLUSION AND RECOMMENDATION**

**7.1** The development plan currently in force is out of date due to a shortfall in the five-year supply of housing land. The proposal has therefore been assessed against the guidance contained within the NPPF. Paragraph 11 of the NPPF applies a presumption in favour of sustainable development unless:-

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole.

**7.2** The application site is in a sustainable location and would provide for one additional residential unit. This application has therefore been considered carefully within the context of Policies SD10, SD8, SD4 and SD14 of the JCS, relevant Local Plan policy and guidance set out in the Council's SPD.

**7.3** In carrying out an objective assessment of the proposals (in line with NPPF paragraph 11d), officers have had to balance any potential adverse impacts of the proposals on the character of the site and wider conservation area, the amenities of occupiers of neighbouring dwellings and highway safety implications, against the small but positive contribution the proposal could make towards the Council's housing land supply and any economic or social benefits that the scheme might bring.

**7.4** The design, scale and layout of the proposals are considered acceptable and, with the use of appropriate facing materials, should achieve a high standard of architectural design and preserve the character and appearance of the conservation area. It is regrettable that a number of trees would be lost to accommodate the proposed development. However, appropriate proposed replacement tree planting would mitigate the loss. The impact on the amenities of the two adjacent dwellings has been considered very carefully and additional boundary screening proposed. Officers conclude that there are no significant amenity or highway safety concerns arising from the proposed development.

**7.5** Notwithstanding the above, the benefits of the proposals in terms of contributing to the Council's Housing Land Supply shortfall are considered to outweigh any adverse impacts that would arise from allowing the proposed development. The recommendation is therefore to grant planning permission subject to the following conditions; the pre-commencement conditions having been agreed with the applicant.

## **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 The development shall be carried out in strict accordance with the recommendations and requirements of the All Ecology Ecological Appraisal and Great Crested Newt eDNA Analysis dated October 2021 submitted with the planning application.

Reason: To safeguard important ecological species, having regard to adopted policy SD9 of the Joint Core Strategy (2017).

- 4 Prior to first occupation of the development, the proposed means of vehicular access shall be constructed in accordance with the approved plans and thereafter retained as such at all times.

Reason: To ensure a safe and suitable access to the development is provided and maintained in the interests of highway safety, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 5 Notwithstanding the approved plans, the entrance gates shall at all times be set back a minimum of 5.0m from the edge of the carriageway and shall be hung so that they only open inwards into the site.

Reason: To ensure that the highway is not obstructed in the interests of highway safety, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 6 Prior to first occupation of the development, parking and turning facilities shall be provided in accordance with the approved plans. Such areas shall not be used for any purpose other than the parking and turning of vehicles and shall remain free of obstruction for such use at all times.

Reason: To ensure the adequate provision of car parking within the site in the interests of highway safety, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 7 The proposed electric vehicle charging points shall be installed and made available for use in accordance with Drawing No 2985-003 prior to first occupation of the dwelling hereby approved. The electric vehicle charging points shall 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: In the interests of sustainable development and the reduction of carbon emissions.

- 8 Prior to first occupation of the development, secure covered cycle storage shall be provided in accordance with the approved plans. The cycle storage shall thereafter be retained available for such use in accordance with the approved plans at all times.

Reason: To ensure the adequate provision and availability of cycle parking, so as to ensure that opportunities for sustainable transport modes have been taken up, having regard adopted policy INF1 of the Joint Core Strategy (2017).

- 9 Notwithstanding the submitted details, prior to the implementation of any landscaping, full details of a hard and/or soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify all walls, fences, trees, hedgerows and other planting which are to be retained, and provide details of all new walls, fences, or other boundary treatments; new hard surfacing of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to include [species, size, position and method of planting of all

new trees and shrubs]; and a programme of implementation. The scheme shall also demonstrate a Biodiversity Net Gain.

All hard and/or soft landscaping works shall be carried out in accordance with the approved details 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. All hard landscape works shall be permanently retained in accordance with the approved details [delete if not appropriate].

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, G12 and G13 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.

- 10 Prior to the implementation of any hard surfaces within the site, including driveways, parking and turning areas, footways and patios, details shall be submitted to and approved in writing by the Local Planning Authority. All new hard surfacing areas shall be permeable or drain to a permeable area and shall be carried out in accordance with the approved details prior to first occupation of any part of the development.

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).

- 11 Prior to the commencement of development, the following information shall be submitted to and approved in writing by the Local Planning Authority:

(a) a full site survey showing:

- i) the datum used to calibrate the site levels;
- ii) levels along all site boundaries at regular intervals;
- iii) levels across the site at regular intervals;
- iv) finished floor levels or other datum of adjacent buildings; and
- v) cross section drawings clearly showing existing ground levels in relationship with the finished floor and eaves levels of adjacent buildings

(b) full details showing:

- i) the proposed finished floor level of all buildings and ground levels including hard surfaces; and
- ii) cross section drawings showing the proposed finished floor and eaves levels of all buildings and ground levels including hard surfaces.

The development shall thereafter be implemented strictly in accordance with the agreed details.

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

- 12 No external facing or roofing materials shall be applied unless in accordance with:
- a) a written specification of the materials; and/or

b) 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).

- 13 The design and profile of all new windows (including cills, heads and reveals, materials, finish and colour) shall be carried out in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority prior to their installation. The details shall be accompanied by elevations and section drawings to a minimum scale of 1:5. The windows shall thereafter be retained in accordance with the approved details at all times.

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).

- 14 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order 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, having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020) and adopted policies SD4 and SD14 of the Joint Core Strategy (2017).

- 15 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order), the first floor bathroom, ensuite and landing windows shall at all times be glazed with obscure glass to at least Pilkington Level 3 (or equivalent).

Reason: To safeguard the amenities of adjacent properties, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 16 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 additional windows, doors and openings shall be formed in the without express planning permission.

Reason: Any further openings require detailed consideration to safeguard the privacy of adjacent properties, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 17 All drainage works, including the future maintenance of the drainage scheme, shall be carried out in accordance with the approved surface water drainage strategy and drainage maintenance strategy (reference: 'davidson walsh' Drainage & Maintenance Strategy 21088; November 2021; Rev A).

Reason: To ensure sustainable drainage of the development, having regard to adopted policy INF2 of the Joint Core Strategy (2017).



- 18 Following the removal of the trees as permitted by this decision, the trees shall be replaced in accordance with approved Drawing No 2985-002G unless first agreed otherwise by the Local Planning Authority. Prior to any tree planting a planting specification to include [species, size, position and method of planting of all new trees; and a programme of implementation and maintenance (covering a minimum 5 year period) shall be submitted to and approved in writing by the Local Planning Authority. The replacement trees shall be planted during the planting season current at the time of felling (end October - end March) or during the next immediately available planting season. The trees shall be maintained for 5 years after planting and should they be removed, die, be severely damaged or become seriously diseased within 10 years after first planting they shall be replaced with another tree as originally required to be planted by this condition.

Reason: In the interests of visual amenity, having regard to adopted policy GI2 of the Cheltenham Plan (2020).

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

Reason: To safeguard important existing trees and hedgerow in the interests of visual amenity and to safeguard important ecological species and their habitat, having regard to adopted policy GI2 of the Cheltenham Plan (2020) and adopted policy SD9 of the Joint Core Strategy (2017)..

- 20 Prior to the commencement of development, full details of the proposed no-dig method for works within the tree Root Protection Area(s) shall be submitted to and approved in writing by the Local Planning Authority and the development shall be implemented strictly in accordance with the approved details. All paths, parking areas and other forms of hard landscaping that fall within the tree Root Protection Area(s) shall be constructed using a no-dig method.

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.

- 21 No fires shall be lit within 5m of the tree Root Protection Area(s) and no materials that will contaminate the soil such as cement or diesel shall be discharged within 10m of the tree stem. Existing ground levels shall remain the same within the Root Protection Area(s) and no building materials or surplus soil shall be stored therein. No trenches for services or drains shall be sited within the crown spread of any trees to be retained.

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).

- 22 The development hereby approved shall not be carried out unless in accordance with the approved Tree Protection Plan (TPP). The protective measures specified within the TPP 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).

- 23 Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with the approved plans and shall be retained as such thereafter.

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

- 24 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.

## **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 scale, design and landscaping/tree planting, in the interests of local amenities.

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