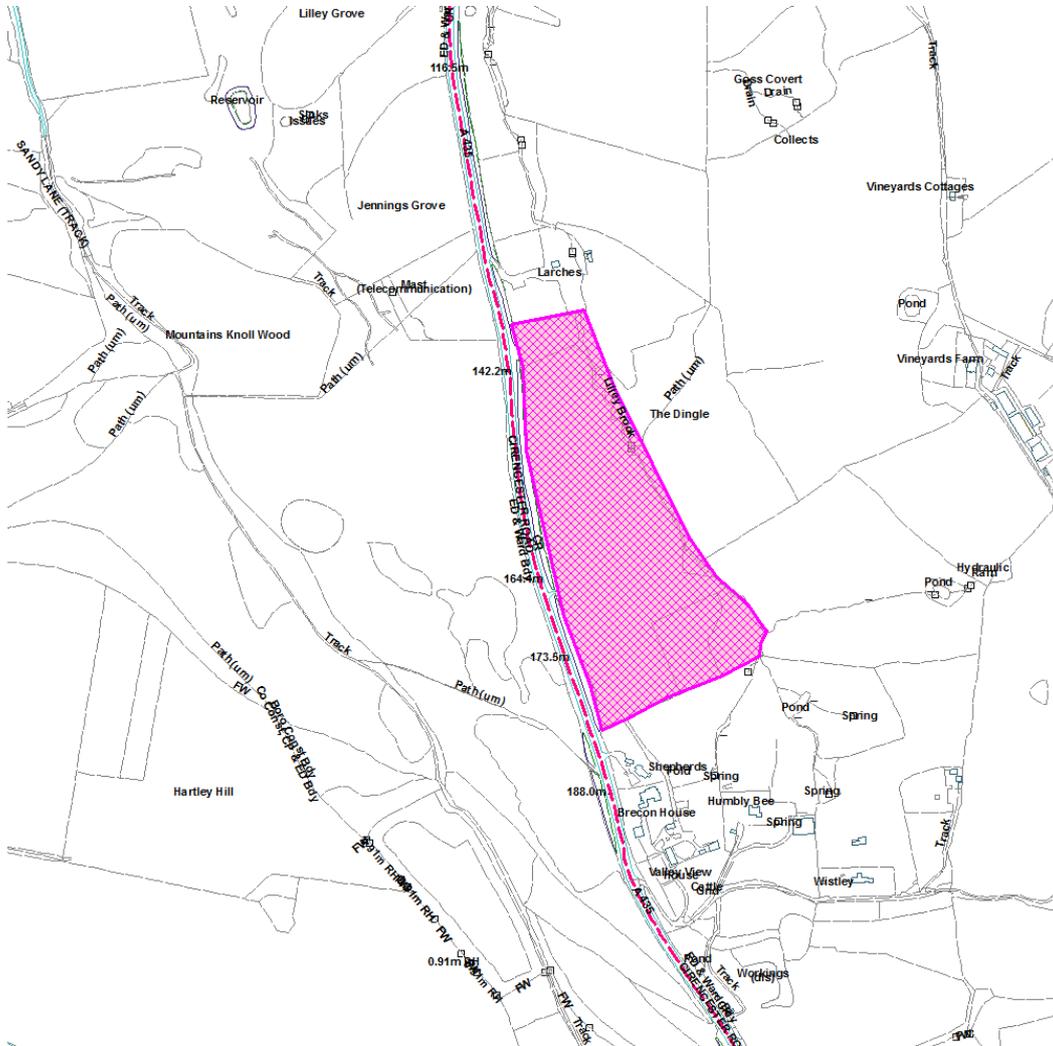


<b>APPLICATION NO:</b> 21/02755/FUL	<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 29th December 2021	<b>DATE OF EXPIRY:</b> 30th March 2022 (extension of time agreed until 23rd May 2022)
<b>DATE VALIDATED:</b> 29th December 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Charlton Kings	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	Mr & Mrs Evans
<b>AGENT:</b>	Evans Jones Ltd
<b>LOCATION:</b>	Brecon House Charlton Hill Cheltenham
<b>PROPOSAL:</b>	Construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site comprises a large parcel of land, some 7.5 hectares, on the eastern side of the A435 Cirencester Road; the land opposite the site to the west forms part of the extensive Lilley Brook Golf Course. A residential property, The Larches is located to the north of the site whilst, to the south, the site is bound by the residential curtilage and associated paddocks and enclosures of Brecon House. To the east, the site is bound by the Lilley Brook, and a copse known as 'The Dingle'.
- 1.2 The site is enclosed on all sides by trees and woodland; with 'The Dingle' to the east and established boundary trees and hedges to the north, south and western boundaries.
- 1.3 Access to the site exists directly from the Cirencester Road via a gated entrance, which is used to allow farm machinery to access the site when required.
- 1.4 The site is located outside of the Principal Urban Area (PUA) within the open countryside, and within the Cotswolds Area of Outstanding Natural Beauty (AONB).
- 1.5 The applicants are proposing the construction of a dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House.
- 1.6 Extensive pre-application discussions have taken place over a number of years prior to the submission of the application.
- 1.7 In addition to the usual plans and elevations, a number of detailed reports have been submitted in support of the application, to include:
  - Planning Statement
  - Design Document
  - Access Statement
  - Landscape and Visual Appraisal
  - Ecological Appraisal
  - Bat Activity Survey
  - Biodiversity Impact Assessment
  - Landscape and Ecology Management Plan Strategy
  - Energy Strategy
  - Lighting Strategy
  - Flood Risk Statement
- 1.8 In accordance with the scheme of delegation, the application is before the planning committee as the application, if granted, *"would be a departure from or would conflict with the development plan/local development framework or other planning policies adopted by the Council."*

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Area of Outstanding Natural Beauty  
Parish Boundary  
Smoke Control Order

### **Relevant Planning History:**

**18/02036/FUL**

**WITHDRAWN**

**11th March 2019**

Erection of dwelling, associated access and landscaping

### 3. POLICIES AND GUIDANCE

#### **National Planning Policy Framework 2021 (NPPF)**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 5 Delivering a sufficient supply of homes  
Section 8 Promoting healthy and safe communities  
Section 9 Promoting sustainable transport  
Section 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 2020 (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 2017 (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  
INF3 Green Infrastructure

### 4. CONSULTATION RESPONSES

#### **GCC Local Flood Authority (LLFA)**

***1st February 2022***

All developments over 1 Ha require a flood risk assessment (FRA), this proposal is on a 7.5 Ha site and should therefore be accompanied with an FRA.

Given that the building occupies a very small part of the 7.5 Ha site I would suspect that this could be delivered however there are properties downstream of the development that are at risk of flooding downstream on the Lilley Brook and it is therefore important that these risks are identified and understood such that this development does not increase the risk to properties downstream.

NOTE 1: The Lead Local Flood Authority (LLFA) will consider how any proposed sustainable drainage system can incorporate measures to help protect water quality however pollution control is the responsibility of the Environment Agency.

NOTE 2: Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through [suds@gloucestershire.gov.uk](mailto:suds@gloucestershire.gov.uk) e-mail address. Please quote the planning application number in the subject field.

#### ***21st February 2022 – revised comments***

The Flood Risk Statement dated February 2022 now posted on the planning website addresses the issue previously raised, I have no further objection to the proposal. Details of

how drainage will be managed are complete enough that there will be no need for further drainage conditions to be attached to any permission granted against this application.

NOTE 1: The Lead Local Flood Authority (LLFA) will consider how any proposed sustainable drainage system can incorporate measures to help protect water quality however pollution control is the responsibility of the Environment Agency.

NOTE 2: Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through [suds@gloucestershire.gov.uk](mailto:suds@gloucestershire.gov.uk) e-mail address. Please quote the planning application number in the subject field.

## **GCC Highways Development Management**

***23rd February 2022***

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 recommends that this application is refused.

The justification for this decision is provided below.

The proposal seeks the construction of a paragraph 80 dwelling, estate management building, and associated landscaping, ecology enhancements, access, parking and garaging on land adjacent to Brecon House at Brecon House Charlton Hill Cheltenham Gloucestershire GL53 9NE. A Transport Technical Note has been prepared by Cotswold Transport Planning in support of the application.

The site access is proposed to be made via the A435 Cirencester Road subject to a design speed of 60mph at the vicinity of the site. The A435 is a route of significant importance carrying circa 12000 vehicles (AADT, 5 day average). There is no highway lighting scheme covering these roads, and no personal injury accidents have been recorded in the most recent 5 years.

### **Sustainability**

It is clear that the site is located in a rural community and there would be limitations to the choice of transport modes available for future occupiers. Manual for streets (mfs) states that walkable neighbourhoods are characterised by having a range of facilities within 10 minutes walk, which is approximately 800 metres. However, this is not an upper limit and industry practice considers that 2km is a maximum walking distance door to door. The nearest bus stops are located circa 900m and 670m north and south, respectively. These stops are serviced by no. 51 service to Cheltenham, Cirencester and Swindon. Additional facilities include a supermarket some 1.6km north from the site and the nearest school is located circa 2.2km.

Whilst there is a footway along the western side of the A435, it is limited to 0.8m width. Whilst historical, the limited width invariably excludes wheelchair users which Manual for Streets recommends a minimum footway width of 0.9m for. Furthermore, there are no formal crossings points along the eastern side of the A435 which ultimately will lead to a significant risk of conflict.

When combined the lack of suitable infrastructure with the distances involved, it is clear future users will be heavily, if not entirely, dependent on private vehicles to access every day services and facilities. Furthermore, cycling would also not be seen as an alternative option due to the volume of vehicles along the A435 and its design speed, however more

experienced cyclists would not see this as a barrier. In terms of safe and suitable vehicular access to this site, the proposed arrangements are deemed acceptable and the impact on highway network is also accepted and considered negligible.

Overall, this proposal would be car dominated and fails to address sustainable transport, these matters cannot be mitigated. Tools such as a travel plan cannot address the harm due to the lack of transport choices available to support it.

Therefore, the proposal conflicts with policy INF1 of the Joint Core Strategy 2011 to 2031, policies PD 0.1, and PD 0.4 of the Local Transport Plan 4 and would conflict with the sustainable transport aims of the National Planning Policy Framework contained in paragraphs 110 and 112.

### **Tree Officer**

***1st February 2022***

It is noted that the plans refer to additional planting but the current proposal lacks detail. Therefore a landscape plan conforming to BS5837 (2012) should be submitted to describe where trees will be planted, species and size of trees.

### **Environmental Health**

***21st February 2022***

I have no comments or objections to this application.

### **Gloucestershire Centre for Environmental Records**

***25th January 2022***

Biodiversity report available to view in documents tab.

### **Building Control**

***18th January 2022***

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

### **Parish Council**

***25th January 2022***

No Objection.

### **Cotswolds Conservation Board**

***9th February 2022***

Thank you for consulting the Cotswolds Conservation Board ('the Board') on this proposed development, which would be located within the Cotswolds National Landscape.

In reaching its planning decision, the local planning authority (LPA) has a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the National Landscape. The Board recommends that, in fulfilling this 'duty of regard', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the following Board publications:

- Cotswolds Area of Outstanding Natural Beauty (AONB) Management Plan 2018-2023;
- Cotswolds AONB Landscape Character Assessment particularly, in this instance, with regards to Landscape Character Type (LCT) 2 Escarpment;
- Cotswolds AONB Landscape Strategy and Guidelines ([link](#)) particularly, in this instance, with regards to LCT 2, including Section 2.2;
- Cotswolds AONB Local Distinctiveness and Landscape Change;

- Cotswolds Conservation Board Position Statements particularly, in this instance, with regards to the Tranquillity Position Statement and with regards to the Dark Skies and Artificial Light Position Statement and its appendices.

Policy SD6 of the Cheltenham, Gloucester and Tewkesbury Joint Core Strategy (JCS) requires development to seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental, and social well-being. This reflects advice in the National Planning Policy Framework that requires policies and decisions to recognise the intrinsic character and beauty of the countryside. Policy SD7 of the JCS follows and states that all development proposals within the setting of the Cotswolds National Landscape 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.

Whilst the applicant's Design & Access Statement and Lighting Assessment states that the proposed lighting will be kept to an absolute minimum so as to ensure no harmful impact to the unlit character of the local landscape, this lighting would introduce a 'lit element' into what would otherwise be a relatively dark night-time landscape.

The Cotswolds AONB Landscape Strategy & Guidelines for LCT 2 (Section 2.2) identifies 'the introduction of lit elements to characteristically dark landscapes' as a potential (adverse) implication for isolated development such as this. The guidelines seek to 'conserve areas of dark skies', with these dark skies being one of the 'special qualities' of the Cotswolds National Landscape. This is particularly important in an area with relatively low levels of light pollution such as this, as indicated in Appendix 1 of the Board's Tranquillity Position Statement, referred to above.

As such, the introduction of any lit elements should be designed to adhere to this guidance and, by extension, with the policies of the Cotswolds AONB Management Plan in particular Policy CE5 (Dark Skies).

Whilst the Board does not wish to raise an objection to the proposal, we would request that, without prejudice, if the local authority is minded to grant planning permission, planning conditions should be imposed which seek to mitigate any adverse impact and ensure that all lighting will be limited to low-level, down-facing lights.

## **Campaign To Protect Rural England** **25th February 2022**

My predecessor wrote to you on 30 October 2018 objecting to planning application 18/02036/FUL seeking permission for a dwelling on this site, an application that was later withdrawn before determination. CPRE now objects to this latest application for broadly similar reasons as set out below:

1. This is a greenfield site in the Cotswolds AONB. As you will be aware, great weight should be given to conserving and enhancing landscape in AONBs which are given the highest status of protection by the NPPF (see paragraph 176). Such protection is confirmed by Policy SD7 of the Joint Core Strategy.
2. The site forms part of what is at present an unspoilt vista across a largely undeveloped valley. It is highly visible from the surrounding area: in particular, it can readily be seen from the Cotswold Way as it passes through the southern end of Charlton Kings Common. Development of the site in the way proposed would damage this highly attractive landscape.
3. The applicant argues that the above considerations should be set aside on the basis of NPPF paragraph 80e. Paragraph 80 starts "Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:". It then goes on to list a set of circumstance which include, at 80e:

- “- the design is of exceptional quality, in that it:
- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”

This argument is misplaced. Paragraph 80 is in the Section 5 of the NPPF which is concerned with housing supply and specifically with rural housing. It is not in Section 15 concerned with Protecting the Natural Environment, including the need to conserve and enhance the AONB (paragraph 176). Paragraph 80 is concerned with development in isolated rural locations and is not intended to override environmental protection designations.

4. We note and accept that, compared with the earlier proposals, considerable improvements have been made to the design, siting and access to the proposed dwelling, reducing its intrusion into the landscape. Nevertheless, notwithstanding the views of The Design Review Panel (which notes that their report “does not constitute professional advice”), the dwelling proposed remains on an extremely grand scale and would be out of keeping with the locality both in terms of size and design. We remain concerned about the visual damage that a building of such an alien and complex design and with such a large footprint would have in this otherwise unspoilt area.

5. We are likewise concerned at the increased level of light pollution that a development on this scale would inevitably generate in what is at present an unlit valley. The Cotswolds AONB is at present one of the least light-polluted areas of the UK.

6. Great store is placed in application on the accompanying environmental and ecological enhancements proposed at the site. Should the will to do so be as strong as the project documents maintain, there is no reason why these enhancements could not be carried out on their own merit as they are in no way dependent on the construction of a new residence at the site.

Cheltenham Borough Council has a history of robustly resisting speculative proposals for development in the Cotswolds AONB. CPRE strongly urges the Borough Council to refuse this planning application.

**Natural England**  
**2nd February 2022**  
See Appendix A

**Architects Panel**  
**18th March 2022**  
See Appendix B

**Wild Service (acting as Council’s Specialist Ecological Advisor)**  
**24th February 2022**  
See Appendix C

**13th April 2022 – additional comment**

We are satisfied with the response from the applicant's agent regarding ecology. They have clarified that there are no ponds within 250m of the development site. We therefore agree that no further assessment of ponds for great crested newts is required. Their comments regarding securing the CEMP, LEMP and BNG by planning condition are agreeable.

**Ryder Landscape (acting as Council’s Specialist Landscape Advisor)**  
**21st March 2022**  
See Appendix D

## 5. PUBLICITY AND REPRESENTATIONS

- 5.1 A letter of notification was sent to the residential property to the north of the site. In addition, a site notice was posted and an advert published in the Gloucestershire Echo. No representations have been received in response to the publicity.

## 6. OFFICER COMMENTS

### 6.1 Determining issues

6.1.1 The main considerations in determining this application are the principle of development; design and layout; landscape impact/AONB; access and highway matters; drainage and flood risk; ecological impacts; sustainability and climate change; and amenity.

### 6.2 Principle

6.2.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

6.2.2 The development plan comprises saved policies of the Cheltenham Borough Local Plan Second Review 2006 (CBLP); adopted policies of the Cheltenham Plan 2020 (CP); and adopted policies of the Tewkesbury, Gloucester and Cheltenham Joint Core Strategy 2017 (JCS).

6.2.3 Paragraph 11 of the National Planning Policy Framework 2021 (NPPF) sets out a presumption in favour of sustainable development which in decision making means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
  - i) *the application of policies in this Framework that protect areas or assets of particular importance [in this instance the AONB] 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.*

6.2.4 NPPF paragraph 12 goes on to state that

*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan...permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*

6.2.5 As it currently stands, the Council is unable to demonstrate a five year supply of deliverable housing sites, the latest figure being 2.9 years, and therefore the housing policies are out-of-date. As such, whilst the proposed development would be contrary to JCS policy SD10 as the site is located outside of the PUA, within the AONB, the policy is out of date and can only be given weight according to its consistency with the NPPF.

6.2.6 This application recognises that the development plan policies generally restrict the erection of new dwellings in the open countryside, but argues that the proposed dwelling would meet the requirements of paragraph 80(e) of the NPPF which states that decisions on planning applications should avoid the development of isolated homes in the countryside unless:

*e) the design is of exceptional quality, in that it:*

- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

6.2.7 It is this aspect of the proposal, together with other material considerations, that will be discussed in the report below.

### 6.3 Design and layout

6.3.1 Section 12 of the NPPF places great emphasis on the need to secure high quality, beautiful and sustainable buildings and that good design is a key aspect of sustainable development. In determining planning applications, paragraph 134 states that significant weight should be given to:

*a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or*

*b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*

6.3.2 JCS policy SD4 and CP policy D1 set out the local design requirements for new development; policy SD4 requiring all proposals to “*respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and...be of a scale, type, density and materials appropriate to the site and its setting*”.

6.3.3 With reference to the abovementioned NPPF paragraph 80 (see para 6.2.6) the application has been accompanied by an Architectural Design Document (DD) and the conclusions of The Design Review Panel undertaken prior to submission of the application (Appendix E). The Design Review Panel (DRP) is an organisation that provides impartial expert advice to applicants and local authorities on design issues in relation to important new development schemes; and comprises a wide range of independent, multi-disciplinary, built environment professionals, including architects, urban designers, landscape architects, conservation specialists, ecology and sustainability experts, and arboriculturalists. The DRP visited the site as part of the review process at pre-application stage.

6.3.4 Paragraph 133 of the NPPF advises that when assessing applications for development, local planning authorities should have regard to the recommendations made by design review panels.

6.3.5 The DD sets out that the applicant’s brief was “*to design a house set within the meadow that would meet the tests of NPPF Paragraph 80 and crucially which would also significantly enhance the immediate setting, bringing them closer to the landscape and nature that they love*” in a more sustainable and contemporary house without having to move away.

6.3.6 The proposed development comprises two separate buildings; the dwelling itself and an Estate Management building.

6.3.7 The proposed dwelling has been designed to respond to the shape of the hollow on the site, with accommodation arranged over three floors; the floors are identified as 'Prospect', 'Arrival', and 'Refuge' in the supporting documentation.

6.3.8 The Planning Statement at paragraphs 3.3 – 3.5 explains that 'Prospect' will be located higher up in the hollow and will contain the main living areas and the master bedroom, addressing the Lilley Brook and The Dingle. 'Refuge' will be located *"in the quietest and deepest part of the hollow, to provide an area of peaceful shelter"* and will include the snug, library and additional bedrooms. These two areas, which both offer distinct architectural experiences, will be linked via the circular, centrally located, 'Arrival' core.

6.3.9 The Planning Statement goes on to recognise the need to limit and delineate areas to be utilised for domestic purposes. In this case, the formal areas of outdoor space will be restricted to the grassed roof area above Refuge and the more formal area created on top of the circular (Arrival) core, allowing outdoor space directly accessible from the main living accommodation located on the upper level.

6.3.10 The palette of external materials proposed includes Sweet Chestnut cladding, Cotswold stone, Brown copper, Bronze metal window frames, frameless glass balustrading, and Meadow green roof. The DD stating that *"The proposed muted and earthy palette will settle the building into its wooded setting whilst the green roof of 'refuge' will seamlessly blend into the wider meadow."*

6.3.11 The Estate Management Building would be located to the north of the site and would be finished in a similar palette of external materials with a brown roof. This estate building will accommodate the solar kiln and log store, a tractor and machinery store, a working yard, an office, and guest parking. The building will have a dual function in providing a home office for the applicants and accommodating the machinery and apparatus required to maintain the site.

6.3.12 The DRP in their assessment of the proposed development, stated that:

*the landscape led multidisciplinary approach has resulted in a sustainable and robust proposal. Therefore overall, it is considered that the scheme is a well-developed proposal of the highest architectural standards, representing a truly outstanding design, which also promotes high levels of sustainability. It is also considered that the proposals have demonstrated that they would significantly enhance the immediate setting and are sensitive to the defining characteristics of the local area. Furthermore, it is considered that, subject to a commitment to disseminate learning outcomes, the proposal will help to raise the standards of design more generally in rural areas. Therefore, it is considered the proposals have met the criteria set out in paragraph 80 (e) of the NPPF.*

6.3.13 The DRP were also supportive of the proposed siting of the building, having visited the site, noting the intricacies of the site typography and the uniqueness of the hollow in which the dwelling would be sited. The panel also felt the ecological/biodiversity enhancements, were extremely thorough and well considered, and would further contribute towards the significant enhancement of the immediate setting. In addition, the panel commended the Energy Strategy that includes consideration of embodied carbon, and contributes to demonstrating the highest standards of architecture.

6.3.14 The helpful suggestions/recommendations made by the DRP in their response have been addressed in the current submission.

6.3.15 Notwithstanding the support from the DRP, the Cheltenham Architects Panel (CAP), do not support the proposed development, as they do not feel the scheme meets the high bar set by paragraph 80(e); albeit they acknowledge that whether the scheme meets the high standards required is a subjective matter. At the very least,:

*CAP found the ideas behind the scheme and some of the architectural spaces proposed to be visually exciting and agreed the proposal was a unique design solution that would set it apart from other buildings in the county. Had the dwelling not been located in the AONB the panel could have warmly supported such a radical design approach.*

6.3.16 These comments suggest that from a purely architectural point of view, the scheme is of a high quality. CAP go on to state that they “believe that such a design approach may be suitable for other rural areas but not on this site in the AONB” because of its large scale and impact on the landscape. However, as this report goes on to discuss, the Council’s specialist Landscape Advisor supports the proposal. In addition, it is understood that CAP have not had the benefit of a site visit.

6.3.17 CAP later go on to suggest that the architectural detailing and layout of the house is unresolved, (and that of the Estate Management Building) but this would appear to be at odds with the earlier comments whereby they support the radical design approach, in itself.

6.3.18 The full response received from CAP is appended in full and, whilst the comments have been duly noted, officers do not share their views.

6.3.19 The dwelling has been designed by Hawkes Architecture, who have secured planning permission for more than 20 dwellings across the country, promoted as paragraph 80 dwellings (and formerly paragraph 79, 55 and PPS7). Moreover, the design has evolved over the past few years in response to initial reviews by the Southwest Design Review Panel, and more recently The Design Review Panel.

#### 6.4 Landscape impact/AONB

6.4.1 JCS policy SD6 requires all new development to seek to protect landscape character; have regard to the local distinctiveness and historic character of the landscape; and to consider the landscape and visual sensitivity of the area in which they are located or may affect. Proposal should also provide for appropriate mitigation and enhancement measures. This requirement is reiterated in CP policy L1.

6.4.2 JCS policy SD7 specifically relates to development within the AONB and requires proposals “to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities” and be consistent with policies set out in the Cotswolds AONB Management Plan (CMP). Paragraph 176 of the NPPF requires ‘great weight’ to be given to conserving and enhancing landscape and scenic beauty within the AONB.

6.4.3 Relevant CMP policies include CE1 and CE3. These policies requires development proposals be compatible with and reinforce local distinctiveness, and have regard to the scenic quality of the location and its setting; and to ensure that views – including those into and out of the AONB – and visual amenity are conserved and enhanced. In addition, policy CE5 seeks to minimise and avoid light pollution in order to conserve the dark skies of the AONB.

6.4.4 The application has been accompanied by a Landscape and Visual Appraisal (LVA) and a Landscape and Ecology Management Plan Strategy (LEMP) both of which have been reviewed, in conjunction with the other documents that support the application, by Ryder Landscape Consultants (RL) acting as the Council’s specialist Landscape Advisor; their full response can be found at Appendix D.

6.4.5 In terms of landscape effect, RL considers the proposals to be *“sufficiently in keeping with the surrounding landscape to not significantly alter the existing rural character, settlement form and in particular this deeply incised part of the Cotswolds National Landscape”* and that the building will not appear incongruous in this location as there are buildings of a similar size in the local landscape. They are also satisfied that the illustrative landscape mitigation appears to be appropriate and in keeping with the local landscape. They go on to say that, as a result of the quantum of new tree and hedge planting and the simplicity of the external realm proposals, they *“consider that the landscape character of this part of the AONB escarpment would be conserved and on establishment of the mitigation planting would receive a Minor, Positive and Permanent change.”*

6.4.6 With regard to views, RL have considered views from Cirencester Road, the Cotswold Way, and views from the wider Cotswold Way. From the Cirencester Road, only a fleeting view down the site access to the Estate Management building will be available; the existing roadside planting screens open views of the site even in winter. In addition, there are no notable views from the Cotswolds Way despite the suggestion otherwise by the Campaign to Protect Rural England (CPRE); where long views to the site may be available on clear days from somewhere along the route, RL consider any visual impact *“to be in keeping with other dispersed, bespoke properties that are in view from time to time from this path.”* From the west around Leckhampton Hill and Charlton Kings Common, views would also be limited, RL commenting that *“The low density of housing proposed and the simple treatment of the associated external realm means the unique and nationally important escarpment landscape will be conserved. The heavily folded and incised nature of the local topography assists in restricting visibility to the Site.”* Overall, RL consider the proposals to be fully compliant with relevant landscape policies; and that any residual concerns can be adequately dealt with by condition.

6.4.7 The Cotswolds Conservation Board (CCB) have also commented on the proposal, and raise no objection subject to conditions *“to mitigate any adverse impact and ensure that all lighting will be limited to low-level, down-facing lights”*.

6.4.8 As such, whilst it is acknowledged that the CPRE raise objection to the proposed development (see Section 4), officers are satisfied that the proposal will not result in any harmful landscape impact given the support from both the CCB and RL.

## 6.5 Access and highway matters

6.4.1 Adopted JCS policy INF1 requires all development proposals to provide safe and efficient access to the highway network for all transport modes; and provide connections where appropriate, to existing walking, cycling and passenger transport networks to ensure that credible travel choices are provided by sustainable modes. The policy states that planning permission will only be granted where the impacts of the development are not considered to be severe. The policy generally reflects the advice set out within the NPPF at Section 9.

6.4.2 The proposed development has been assessed by the Highways Development Management Team (HDM) at the County Council, as the Highway Authority acting in its role as Statutory Consultee, and their full comments can be read in Section 4 above.

### *Accessibility*

6.4.3 The site is located some distance from the village of Charlton Kings, which lies at the foot of the hill, and would not actively encourage walking or cycling. In addition, the nearest bus stops are located some distance away. As such, it is likely that future occupiers of the dwelling would be largely dependent on the use of a car to access day to day facilities and services; and HDM recommend that the application be refused for this reason.

6.4.4 However, given that this is a dwelling promoted under paragraph 80(e) of the NPPF, i.e. an isolated home within the countryside, the HDM recommendation is to be expected, and must be weighed against the scheme as a whole.

#### *Highway safety*

6.4.5 From a highway safety perspective, HDM consider the proposed access arrangements and resultant impact on the highway network to be acceptable; with any impact being deemed negligible. The application proposes a new vehicular access point, to the north of the existing field access gate. The new access has been designed to allow to vehicles to pass at the site simultaneously, and adequate visibility can be achieved.

### 6.6 Drainage and flooding

6.6.1 Adopted JCS plan policy INF2 advises that development proposals must avoid areas at risk of flooding, and must not increase the level of risk to the safety of occupiers of a site, the local community or the wider environment either on the site or elsewhere. Additionally, where possible, the policy requires new development to contribute to a reduction in existing flood risk; and to incorporate Sustainable Drainage Systems (SuDS) where appropriate.

6.6.2 The site is located within Flood Zone 1 which is at the lowest risk of flooding; however, a Flood Risk Assessment (FRA) has been submitted during the course of the application, at the request of the Lead Local Flood Authority (LLFA), to ensure that the development could be delivered without risk to properties downstream of the site.

6.6.3 Having reviewed the submitted FRA, the LLFA are satisfied that it provides adequate information and they do not object to the proposal. They also confirm that the level of detail provided is sufficient to avoid the need for any additional drainage conditions.

### 6.7 Ecological impacts

#### *Protected species*

6.7.1 JCS policy SD9 seeks to ensure that all development, wherever possible, makes a positive contribution to biodiversity and geodiversity, and that important habitats and species are protected. Where developers are unable to avoid harm to biodiversity, mitigation measures should be incorporated into the design of the development. The policy reflects the advice set out within the NPPF at paragraph 180.

6.7.2 The application is accompanied by an Ecological Appraisal, a Biodiversity Impact Assessment, and Bat Activity Survey which have been reviewed by Wild Service (the Ecological Consultancy for the Gloucestershire Wildlife Trust) acting as the Council's specialist Ecological Advisor (WS). They have also reviewed the Illustrative Masterplan and LEMP, and their detailed response is attached at Appendix C.

6.7.3 Some five trees were identified as having features potentially suitable for roosting bats, and the bat activity surveys recorded at least nine bat species foraging or commuting across the site; however no important commuting routes were identified. Additionally no evidence of badgers was found, although they are likely to be forage on the site. The site does however have the potential to provide suitable habitat for dormice, and may support brown hares. Birds are also likely to nest in the hedgerows, trees and woodland.

6.7.4 WS suggest that there is potential to impact on foraging/commuting bats due to the construction and operational phase lighting schemes; and that the proposals for lighting that minimises light spill are important and should be implemented. There would be minimal to no impacts on any other species but the precautionary mitigation proposed for badgers and other species during construction is appropriate. WS welcome the proposals for bird boxes, including owl boxes, and other wildlife features.

6.7.5 Following clarification from the applicant's agent, confirming that there are no ponds within 250m of the development site, WS are satisfied that no further assessment for great crested newts is required.

#### *Biodiversity Net Gain (BNG)*

6.7.6 A number of habitat creation and mitigation measures are proposed which include new woodland, hedgerow, shrub and tree planting; new ponds and swales; enhanced management of retained habitats; and enhancement works to the stream and streamside habitats. WS advise that these measures would not only compensate the habitat losses but would significantly improve the site for ecology. This is demonstrated in the submitted Biodiversity Impact Assessment, which indicates a net percentage change of 70% for habitats, 79% for hedgerows, and 29% for the stream.

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

6.7.7 Natural England (NE) have also been consulted on the application. In their response, they suggest that the new dwelling, in combination with other new residential developments in the area, could result in increased recreational disturbance on The Cotswolds Beechwoods Special Area of Conservation (SAC) and that appropriate mitigation should be secured; however, officers do not consider that any mitigation is required in this instance given the scale of the development. This view is shared by WS who consider that any additional recreational disturbance on the SAC would be negligible.

### 6.8 Sustainability and climate change

6.8.1 NPPF paragraph 154(b) states that new development should be planned for in ways that *"can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards"*.

6.8.2 JCS policy SD3 also requires development proposals to be designed and constructed in such a way as to maximise the principles of sustainability, and to:

- demonstrate how they contribute to the aims of sustainability by increasing energy efficiency, minimising waste and avoiding the unnecessary pollution of air, harm to the water environment, and contamination of land or interference in other natural systems. In doing so, proposals...will be expected to meet national standards;
- be adaptable to climate change in respect of the design, layout, siting, orientation and function of both buildings and associated external spaces; and
- incorporate principles of waste minimisation and re-use.

6.8.3 The policy seeks to address Strategic Objective 6 of the JCS which requires new developments to *"Make the fullest contribution possible to the mitigation of, and adaptation to, climate change and the transition to a low-carbon economy"*; and NPPF paragraph 8(c) which sets out that, from an environmental objective, opportunities should be taken to mitigate and adapt to climate change, including moving to a low carbon economy.

6.8.4 In this regard, the application has been accompanied by a Renewable Energy Strategy Report. The report sets out that the original proposal saw heat demands met by an onsite supply of biomass, with the biomass boiler housed in the Estate Management building; but that further discussions prompted by queries raised by the Design Review Panel led to some challenges and concerns being highlighted. The Solar Kiln innovation is currently untested, and the speed at which it will dry logs to acceptable levels, particularly in the winter months, is not known. It was therefore recognised that it was not possible to fully rely on this technology at this scale without full testing. The project will however provide

a valuable opportunity to test Solar Kiln technology and monitor its effectiveness and capacity through the seasons.

6.8.5 A revised strategy has therefore been developed that includes the following range of technologies, that have been deemed most suitable for this site:

- Mechanical Ventilation and Heat Recovery
- Ground Source Heat Pump with Borehole Collectors
- Infrared Radiant Heating
- Solar PV Array
- Battery Storage
- Use of A+++ rated appliances and socket controllers
- Smart Electric Vehicle Charging

## 6.9 Amenity

6.9.1 Adopted CP policy SL1 states that development will only be permitted where it will not cause unacceptable harm to the amenity of adjoining land users and living conditions in the locality. CP paragraph 14.4 advising that:

*In assessing the impacts of a development including any potential harm, the Council will have regard to matters including loss of daylight; loss of outlook; loss of privacy; and potential disturbance from noise, smells, dust, fumes, vibration, glare from artificial lighting, hours of operation, and traffic / travel patterns.*

6.9.2 Adopted JCS policy SD14 reiterates this advice and also seeks to ensure high quality developments that “*protect and seek to improve environmental quality*”. In addition, paragraph 130 of the NPPF highlights the need to ensure that developments achieve a high standard of amenity for both existing and future users.

6.9.3 In this instance, given the nature of the site and the proposal, there are no amenity concerns arising from the proposed development.

## 6.10 Other considerations

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

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

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

6.10.2 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.

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

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 As noted in the above report, the proposed development would be in conflict with JCS policy SD10 as it would be located outside of the Principal Urban Area within the Cotswolds AONB; albeit, the policy is out of date due to the lack of a five year supply of housing land. The proposed development would also conflict with JCS policy INF1 in that the site is not considered to be sustainably located.
- 7.3 However, notwithstanding the concerns raised by the Architects Panel, it is considered that the proposed development complies with the criteria set out in paragraph 80(e) of the NPPF, in that the design would be truly outstanding; would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. The proposal has been subject to a positive review by the Design Review Panel, whose recommendations, as per paragraph 133 of the NPPF, must be taken into account in the assessment of the application.
- 7.4 The landscape impacts of the development have also been assessed by Ryder Landscape (the Council's specialist Landscape Advisor) who consider the proposals to be fully compliant with relevant landscape policies. In addition, the Cotswolds Conservation Board raise no objection to the principle of the development.
- 7.5 The application has also been reviewed by Wild Service (the Council's specialist Ecology Advisor) and the ecological impacts of the proposed development have been found to be acceptable. The application proposes a number of measures that would significantly improve the site for ecology, as demonstrated in the submitted Biodiversity Impact Assessment, which indicates a net percentage change of 70% for habitats, 79% for hedgerows, and 29% for the stream.
- 7.6 Officers are also satisfied that the proposed development would not cause harm to highway safety or the amenities of neighbours. In addition, the LLFA raise no objection.
- 7.7 With all of the above in mind, taking into account the economic, social, and environmental aspects of the application, officers are satisfied that, on balance, the application is one that should be supported.
- 7.8 The officer recommendation therefore is to grant planning permission subject to the following schedule of conditions:

## **8. CONDITIONS**

- 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, a Construction Method Statement or Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

The approved plan/statement shall be adhered to throughout the construction process and shall include, but not be restricted to:

- i) Provision of parking for vehicles of site operatives and visitors;
- ii) Any temporary access to the phase;
- iii) Locations for the loading/unloading and storage of plant, waste and construction materials;
- iv) Measures to control the emission of noise, dust and dirt during construction;
- v) Method of preventing mud and dust being carried onto the highway;
- vi) Arrangements for turning vehicles; and
- vii) Arrangements to receive abnormal loads or unusually large vehicles.

Reason: In the interests of the safe operation of the adopted highway during the construction phase of the development, having regard to adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 110 and 112 of the National Planning Policy Framework (2021). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 4 Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include mitigation measures that apply to the site clearance and construction phase of the development, with detailed Method Statements. This should include precautionary mitigation measures for amphibians and reptiles, in the form of Reasonable Avoidance Measures (RAMs). The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure the protection of biodiversity on the site during construction, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, and paragraphs 8, 174 and 180 of the National Planning Policy Framework (2021). This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities. Approval is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species at the beginning of construction.

- 5 Prior to the commencement of development, a Lighting Scheme covering both the construction and operational phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- (a) the position, height and type of all lighting;
- (b) the intensity of lighting and spread of light as a lux contour plan;
- (c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats
- (d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

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

Reason: To provide adequate safeguards for protected species on the site, ensure that foraging and commuting of bats is not discouraged at this location, and to conserve the dark skies of the AONB, having regard to adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework 2021, Section 40 of the Natural Environment and Rural Communities Act 2006, and policy CE5 of the Cotswolds AONB Management Plan 2018-2023.

Approval is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species at the beginning of construction.

- 6 Prior to the commencement of development, 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; finished ground levels; 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.

All hard and/or soft landscaping works shall be carried out in accordance with the approved details prior to first occupation of the development unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five 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 landscape character of the area, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017). Approval is required upfront because the landscaping is an integral part of the development and its acceptability.

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

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with adopted policy D1 of the Cheltenham Plan (2020), and adopted policy SD4 of the Joint Core Strategy (2017).

- 8 Prior to first occupation of the development, the proposed means of vehicular access from the adopted highway shall be constructed in accordance with approved Drawing No. CTP-16-478-SK01-E 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) and paragraphs 110 and 112 of the National Planning Policy Framework 2021.

- 9 Prior to first occupation of the development, an updated Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The updated LEMP shall expand on the mitigation and enhancement measures, including long-term management and monitoring activities (covering a period of 30 years, as proposed) and shall include:

- a) plans showing locations and extent of all habitats and wildlife features;
- b) a timetable of activities;
- c) details of a person and/or organisation responsible for the implementation of the plan; and the method by which the protection of retained, enhanced and created habitats will be secured.

The extent and location of removed, retained and newly created habitats presented in the updated LEMP should match that set out in the Biodiversity Impact Assessment (BIA). The LEMP should also demonstrate that the Biodiversity Net Gain proposed in the BIA has been achieved.

The approved plan shall therefore be implemented in accordance with the approved details.

Reason: To ensure the protection and enhancement of the landscape and biodiversity value of the site, having regard to adopted policies SD6, SD7 and SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 8, 174 and 180 of the National Planning Policy Framework (2021) and Section 40 of the Natural Environment and Rural Communities Act.

- 10 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 preserve the landscape character of the area, having regard to adopted policies D1 and L1 of the Cheltenham Plan (2020) and adopted policies SD4, SD6 and SD7 of the Joint Core Strategy (2017).