

# Planning Committee

Thursday, 16th June, 2022

6.00 - 7.35 pm

## Attendees

**Councillors:** Councillor Paul Baker (Chair), Councillor Garth Barnes (Vice-Chair), Councillor Glenn Andrews, Councillor Adrian Bamford, Councillor Barbara Clark, Councillor Emma Nelson, Councillor John Payne, Councillor Diggory Seacome, Councillor Simon Wheeler and Councillor Paul McCloskey (Reserve)

**Officers in Attendance:** Claire Donnelly (Planning Officer), Michelle Payne (Senior Planning Officer), Liam Jones (Head of Planning) and Gary Spencer (Legal Officer)

### 1. Apologies

Apologies were received from Councillor Fisher and Councillor Oliver.

### 2. Declarations of Interest

There were none.

### 3. Declarations of independent site visits

Councillor McCloskey had previously visited Brecon House and 37 Market Street.

Cllr Baker advised that he had not been able to visit Brecon House on Planning View and had therefore arranged a separate visit. He was met on site by the agent of whom he asked a number of questions. He was able to view the lay-out of the scheme as Members had seen on view. With hindsight he accepted that he should have discussed viewing the application site with the Head of Planning first for which he apologised.

### 4. Minutes of the last meeting

The minutes of the meeting held on 19<sup>th</sup> May were approved as a true record.

### 5. Planning Applications

#### 6. 21/02755/FUL Brecon House, Charlton Hill

The case officer gave a detailed introduction to the application for the construction of a single dwelling, in the AONB but meeting the requirements of Paragraph 80 of the NPPF. She highlighted the landscaping, design, and reduction in size of the management building, and drew Members' attention to the lack of objection from neighbours, highways and the LLFA. Other consultees considered the proposal to be acceptable, a number of measures were included to improve the ecology of the site, as well as a range of sustainable technology, including solar panels and ground source heat pumps. Taking all economic, social and environmental aspects into consideration, officers were satisfied that the scheme should be supported on balance, for the reasons set out in the report.

She invited Members to take a close look at a scale model on display in the Council Chamber.

### Public Speaking

The agent, speaking in support, apologised for the deferral of this application, which had been requested to ensure the best possible scheme was presented. Following consideration of questions raised, the decision had been taken to omit the home office element of the

estate management building. He said the applicants bought the site 20 years ago, appreciated its beauty and were keen to continue their passionate stewardship of the land with a 'forever house', designed collaboratively by a design team specialist expertise and experience in the design and delivery of Paragraph 80 houses. The scheme delivered a truly exceptional design, providing the opportunity for significant biodiversity gains, including landscaping, forestry and ecology improvements of the site. The architect is highly respected and renowned, and the scheme proposes an energy strategy which significantly exceeds not only current buildings regulation standards but also RIBA energy targets for 2030. The Design Review Panel fully supports the proposal, which meets in full the policy requirements set out in Paragraph 80 of the NPPF. He hoped that Members would permit the proposal, in line with the officer recommendation.

### **Member questions**

In response to Members' questions, the officers confirmed that:

- the applicant had made no revisions to the woodland planting proposal, in response to the ecologist report suggestion that the scheme could include less woodland planting in favour of more grassland, but this could be secured as part of the detailed landscaping plan should Members wish;
- regarding the impact of the foundation design, the agent has carried out a full site investigation, and confirmed that no special foundations need to be incorporated – the scheme was designed to meet the highest standards regarding carbon;
- when designing Paragraph 80 houses, the architect always seeks to use a high percentage of cement-replacement concrete to further reduce unwanted carbon;
- foundation design and detail is usually considered as part of building regulations at construction stage, but a condition regarding foundation detail could be included if the applicant was agreeable;
- the climate emergency SPD to be considered at Council on Monday would serve as guidance rather than policy if agreed, and could only be taken into account once it had been adopted;
- the management building had to be considered as part of the application as submitted, and Members needed to consider the combined impact of the house and management building;
- the number of EV points could be secured through a condition;
- Paragraph 80 houses can be permitted in special circumstances and if they are of exceptional quality and likely to raise design standards in rural areas which would potentially translate to other local buildings. Building in the AONB wouldn't normally be permitted.

### **Member debate**

In debate, Members made the following comments:

- flooding was an ongoing issue for Charlton Kings residents, with the culvert fitted 10 years ago now inadequate, and this proposal, covering 7.5h of the escarpment, not likely to improve the current situation, despite the drainage strategy. Flood risk is highlighted in the new climate change SPD, which states that any new development should not increase flood risk on a site, but should work with the natural landscape to reduce the risk of flooding. Natural flood management on the escarpment is the only way to reduce the flood risk in Cheltenham;
- could a condition regarding flood risk be included?
- this application causes a great number of challenges and confusion. There is no doubt that the applicant has put huge resource into the application. The key requirement for a Paragraph 80 dwelling is that it is of exemplary architectural merit, but there don't appear to be any criteria by which to judge this. The building is designed to fit into a space in a valley, and as a consequence, there is compromise. As the Architects Panel points out, there are quite a few unresolved issues in the design. The grainy black and

- white images don't help, but it doesn't appear to be an exemplar building – it looks very utilitarian, on three unconnected levels which don't flow together;
- hundreds of tons of concrete will be used in this building – this will have a negative environmental impact;
  - a Paragraph 80 dwelling is supposed to be a building of exemplar quality, but for this, it would need to be seen. This is hidden – no-one will see it – which makes it contrary to the NPPF;
  - the key to this application is balance – this is one dwelling on a huge site, with several EV points to mitigate the lack of sustainability. Highway safety is always a concern, but is not an issue here. Neither the parish council or local residents have objected. The design is subjective, but it is important to remember that the dwelling is both sustainable, designed with climate change in mind;
  - the building looks alright and will be hidden from view, but will involve a lot of concrete and bricks which will harm the environment. Measures proposed to mitigate this – such as tree-planting – and the inclusion of solar panels and ground source heat pumps is welcomed, but the physical harm the building does to the AONB is not outweighed by the minimal improvements it makes to the environment;
  - this is very much an on-balance recommendation from the officer – there are a lot of positives with this proposal, but also lots of negatives on this biodiverse site which has not changed for hundreds of years. AONB is the highest designation for countryside – nature is under massive threat, and the council can be proud of its good record protecting the AONB. The question is whether this proposal ticks all the boxes for a Paragraph 80 dwelling, and it doesn't appear to: other schemes won't be able to afford similar design and materials to allow it to be called exemplar, and this dwelling will not enhance the beauty and peace of the setting. There are strong policy reasons not to support it, starting with SP6 and SP7;
  - no architecture can beat the beautiful sights, sounds and smells of nature in terms of well-being for hikers, for example, and although the applicants have clearly done their homework and proposed some sensible mitigation, this proposal falls into the carbuncle arena, and cannot be described as outstanding design quality;
  - the field is not actually open to the public, and the dwelling is designed at a low level in the hollow, with landscaping all around. The architect has done a good job of making this 'forever home' as sympathetic to the existing landscape as possible.

The Head of Planning reminded Members that building in the AONB is sometimes permitted, taking into account its impact and the quality of the landscaping – this scheme has been thoroughly appraised, and designed to take account of the site and reduce the building's impact through increased planting. He understood the concerns about the amount of concrete being introduced to the site, but pointed out that this could be a proposal for an agricultural building of the same scale. Officers looked at the proposal carefully, considered the policy position, and concluded that it is acceptable.

In response to a further question, whether a condition could be included to look at natural flood management to limit the risk of flooding to Cheltenham, he said the local flood authority had no objection to the scheme, and it would be difficult to justify the condition.

After further discussion, and in view of several Members' concerns about the additional concrete on site and the proposed landscaping scheme, the case officer confirmed that additional conditions could be added:

- the scope of the landscaping condition could be amended to allow a stronger landscaping scheme, requiring details of all planting and being quite specific about what Members wanted to see;
- a condition requiring whole foundation detail, including the use of materials, to be submitted and agreed.

It was agreed that the Chair and Vice-Chair could liaise with officers and bring back to Committee if necessary.

**Vote on officer recommendation to permit with two additional conditions as outlined, regarding landscaping and foundation details:**

2 in support

7 in objection

1 abstention

**NOT CARRIED**

The Head of Planning asked Members to specify their reasons for refusal. The Chair proposed refusal reasons based on the impact on the AONB, failure to enhance the landscape or setting, not meeting the conditions of NPPF paragraph 80 or 176, and conflicted with JCS policies SD6 and SD7, and possibly policies SD10 and INF1. After further discussion, and in view of no highways objection, INF1 was not taken forward.

**Vote on move to refuse on NPPF 80 and 176, and JCS SD6, SD7 and SD10**

8 in support

2 in objection

**CARRIED - REFUSE**

## **7. 22/00708/FUL 37 Market Street**

The case officer introduced the proposal for first-floor side and single-storey rear extensions to a terraced property in Market Street. A previous similar scheme was refused for lack of sanitary facilities only; it was not refused on design grounds or for the impact on neighbouring amenity. The current proposal is exactly the same at ground floor, but includes an additional shower room between Bedrooms 3 and 4 on the first floor, thus overcoming the previous refusal reason. The recommendation is to grant planning permission.

### **Public Speaking**

The planning agent, speaking in support, thanked the officer for her clear report, and referred back to the previous scheme which was refused due to concern about lack of sanitary facilities. He acknowledged that the internal layout of the house was unusual, and had empathy with that opinion, but the solution was straightforward and the bedrooms had been slightly reduced in size to accommodate an upstairs bathroom. This fully addressed the only refusal reason; in all other aspects the scheme was exactly the same as the previous proposal, which complied with Policy SD14 and was considered acceptable. He asked Members to support the officer recommendation and grant planning permission.

Speaking on behalf of local residents, a neighbour said that discussion of the previous application had focussed largely on lack of facilities, but also noted that 37 Market Street was described as a residential dwelling whereas all neighbours are aware of the reality that this property is owned and let as a house of multiple occupancy (HMO). The plans are misleading in showing the ground floor rooms as living rooms where these are in fact rented as bedrooms. The revised plans have done the bare minimum to address the Committee's concerns, but to increase the rental opportunity of the dwelling to six bedrooms. She urged Members to consider a site visit before making a final decision, to see the impact of this on neighbours. The extensions will result in over-development of the property, which is already extended, resulting in a disproportionately large dwelling. It will mean loss of light to neighbouring properties, in particular the side extension will reduce the gap and therefore the natural light to the kitchen and bathroom of No. 39; it will also result in a loss of privacy to No. 35. She asked that Members consider the council's responsibility under the Human Rights Act which grants people the right to peaceful enjoyment of their homes.

On behalf of his constituents, Councillor Willingham, suggested there were clear planning grounds to refuse this scheme, but if Members were minded to permit, he asked that several conditions should be added. He said the proposal represented over-development, making the dwelling excessively large for the site, contrary to NPPF Paragraph 124c, d and e, and potentially resulting in an 8-person dwelling with only two parking permits. He suggested that the extended property would change the character of the area, was not well designed, and would not be attractive or healthy. It was not a high-quality building, compliant with NPPF Paragraph 126, and the plans show that as much of the floor space as possible is taken up by bedrooms, with no consideration for the living space of future residents and bedrooms too small to be considered liveable, in conflict with JCS Policy SD14 and resulting in health inequality – the number of people and bedrooms being crammed in, with limited bathroom and kitchen space failed to meet requirements. The plan shows eight bedrooms – this would result in low-quality living conditions, with residents having to cook and eat in shifts, and no storage space in the bedrooms, in effect creating a modern-day slum. This was not acceptable to him, his constituents, or anybody who cares about the least well-off in the town.

If Members were still minded to permit, he asked that two conditions be attached – one for detailed refuse and recycling arrangements to be agreed before the start – green boxes and bins on terraced streets need to be managed - and cycle parking provision, in view of the limited number of parking permits per dwelling. Both these conditions would be necessary, reasonable and proportionate to protect the amenity of the local area, but having heard his own and his constituent's objection, he hoped Members would agree that there were clear planning reasons in the NPPF and JCS to refuse the proposal.

### **Member questions**

In response to Members' questions, officers confirmed that:

- the new facility would comprise a shower, toilet and basin;
- if people are living at the property, it is classed as a residential property, regardless of whether it is a family home or an HMO; as an HMO, it should be registered and is subject to different rules and regulations, mostly related to environmental health, and residents with concerns should contact the environmental health team who will take relevant action;
- the application must be determined on the basis of the plans presented – as an extension to a residential dwelling;
- as the application was only refused on one ground last time – lack of sanitation – if Members are looking to add additional grounds, they will need good reasons to how the situation has changed since the last time it was considered – an appeal inspector would require such evidence, and there would be a risk of costs against the council without it;

The Head of Planning confirmed that up to six unrelated people could occupy the house without the need for planning permission, and an application to use it as an HMO would only be needed for seven or more residents. A licence would also be required for this through a separate process, which would control matters regarding the adequacy of facilities, sanitary facilities, bedroom size etc. All Members were being asked to consider was whether the previous refusal reason – lack of sanitation – had been overcome. They clearly had concerns about amenity, impact on local residents etc, but if there were no clear planning grounds for refusal, a subsequent appeal would probably succeed.

### **Member debate**

Councillor Barnes noted the concern about this proposal, but also that the Committee was limited in what it could approve or reject. The house wasn't visited on Planning View for various reasons, and viewing it in context would have been helpful. He suggested deferring a decision until Members had the opportunity to visit the site and understand the context of

the building. The Chair pointed out that this revised application only made internal changes, and arguments about over-development couldn't be resurrected.

In the absence of any further comment, the Chair moved to the vote.

**Vote on officer recommendation to permit**

2 in support

7 in objection

1 abstention

**REFUSE**

A Member said by voting to refuse, Members had put themselves in a difficult position, and denied themselves the opportunity to visit the site. He was uncomfortable with this, as he could not see that there were any reasons to refuse the application at present. The Chair noted that all Members seemed to have concerns about the proposal, and many of them were new to Planning Committee, not present when the previous application was decided. He suggested revoking the refusal, and proposed deferral to allow Members to visit the site.

**Vote on Cllr Baker's move to defer, pending site visit**

9 in support

1 abstention

**DEFER**

The Chair confirmed that a site visit would be organised, and a request to view the site from the neighbouring property was noted.

**8. 22/00634/FUL 52 Queens Road**

The case officer introduced the application for a rear dormer in a mid-terraced property in the Central Conservation Area. This had been reduced in size to address officer concerns, and the key considerations were design, impact on the conservation area, and impact in neighbouring amenity. The recommendation was to permit, with standard conditions, and the application was at Committee because the applicant works for the council.

There were no public speakers for this item.

**Member questions**

In response to Members' questions, the case officer confirmed that:

- the dormer window looked straight down the applicant's garden, and would not result in direct overlooking of the neighbour's garden;
- dormer windows in a conservation area are not allowed without planning permission – they are not classed as permitted development; the new SPD does not override this.

There was no Member debate.

**Vote on officer recommendation to permit**

9 in support – unanimous

**PERMIT**

**9. Appeal Update**

Appeals information had been circulated, including recent decision notices, which the Chair said were well worth reading.

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

There were none.

Chair

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