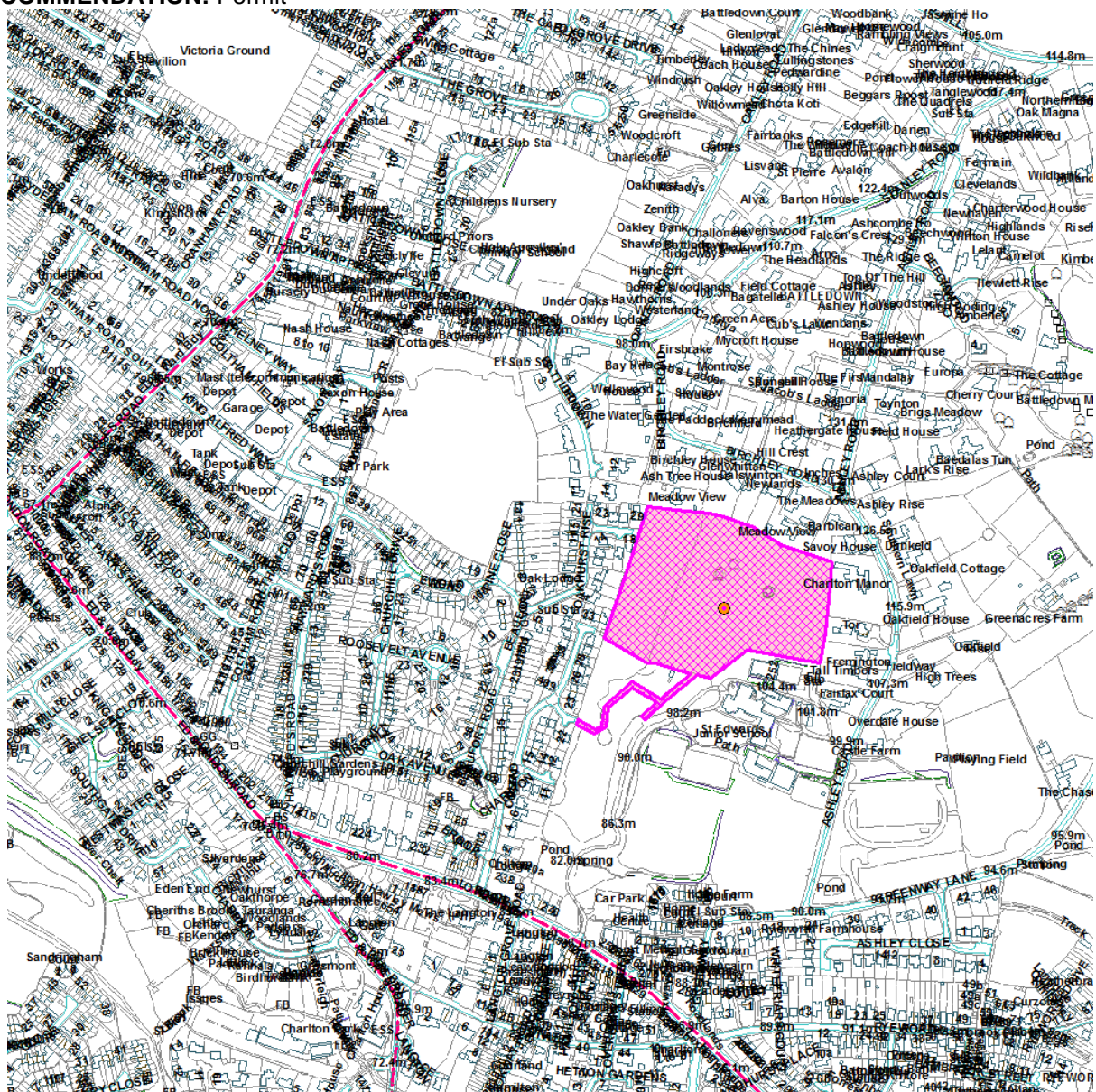


Officer Report

APPLICATION NO: 22/00112/OUT	OFFICER: Mrs Emma Pickernell
DATE REGISTERED: 22nd January 2022	DATE OF EXPIRY: 23rd April 2022
DATE VALIDATED: 22nd January 2022	DATE OF SITE VISIT:
WARD: Battledown	PARISH: Charlton Kings
APPLICANT:	William Morrison (Cheltenham) Limited & Trustees Of...
AGENT:	Frampton Town Planning Ltd
LOCATION:	Land Adjacent To Oakhurst Rise Cheltenham
PROPOSAL:	Outline application for residential development of 25 dwellings - access, layout and scale not reserved for subsequent approval

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is a large, undeveloped parcel of land, approximately 4.3 hectares, located to the east of the borough within the Principal Urban Area (PUA), in an elevated position above the town. The site comprises two fields of grassland separated by a mature hedge and trees, and is largely bound by hedging and trees.
- 1.2 Residential properties in Birchley Road and Ashley Road are located to the north and east of the site, and Oakhurst Rise to the west. St Edwards Preparatory School is located to the south.
- 1.3 The site is heavily constrained due to the presence of a number of protected trees, the sloping nature of the site, the presence of protected wildlife species, the presence of a historic Ice House and its close proximity to listed buildings.
- 1.4 Three previous planning applications for this site have been refused by the Planning Committee for 90, 69 and 43 dwellings respectively. Details of these will be provided later in the report. The most recent application was refused by the planning committee in September 2020, an appeal was made which subsequently dismissed following a public inquiry by notice dated 11th May 2021. The appeal decision is appended to this report.
- 1.5 This application is now seeking outline planning permission for a revised scheme which proposes the erection of 25 dwellings (40% affordable). As with previous applications this current application is seeking approval for the access, layout and scale with matters relating to appearance and landscaping reserved for future consideration, should the principle of developing the site be considered acceptable. Access would be provided via Oakhurst Rise as previously proposed. The proposed housing mix comprises:

1.6 Open Market Units:

3 bed – 5 no.

4/5 bed – 10 no.

Total 15

Affordable Units:

1 bed – 3 no.

2 bed – 4 no.

3 bed – 2 no.

4 bed – 1 no.

Total 10

1.7 The main changes in the layout of the scheme are:

- 18 fewer units
- The removal of the western most cul-de-sac
- The removal of the previously proposed thick tree belt
- The removal of less of the existing central tree belt

- A looser layout in the eastern section of the site, revised layout and revised design strategy
 - Greater areas of open space
- 1.8 Amended plans were received during the course of the application which sought to respond to comments made by officers on a number of issues including layout, trees and highways issues.
- 1.9 The application is before committee at the request of Cllrs Babbage and Savage due to the level of local concern.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Land Allocated for Housing
Principal Urban Area

Relevant Planning History:

16/02127/PREAPP 20th March 2017 CLO

Outline application for residential development

18/01911/PREAPP 26th October 2018 CLO

Outline application for residential development (approximately 68 units)

19/01961/PREAPP 25th October 2019 CLO

Residential development

17/00710/OUT 30th July 2018 REF

Outline application for residential development of 90 dwellings including access, layout and scale, with all other matters reserved for future consideration

17/01736/SCREEN 8th September 2017 ISSUE

Request for a screening opinion under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

17/01778/FUL 5th July 2018 WDN

Provision of a dropped kerb

18/02171/OUT 22nd March 2019 REF

Outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration (revised scheme following refusal of application ref. 17/00710/OUT)

20/00683/OUT 25th September 2020 REF

Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration

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 8 Promoting healthy and safe communities

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
L1 Landscape and Setting
HE1 Buildings of Local Importance and Non-Designated Heritage Assets
HE2 National and Local Archaeological Remains of Importance
BG1 Cotswold Beechwoods Special Area Of Conservation Recreation Pressure
H1 Land Allocated for Housing Development
HD1 Christ College Site B
HD4 Land off Oakhurst Rise
SL1 Safe and Sustainable Living
GI2 Protection and replacement of trees
GI3 Trees and Development
CI2 Sports and open space provision in new residential development

Adopted Joint Core Strategy Policies

SD3 Sustainable Design and Construction
SD4 Design Requirements
SD6 Landscape
SD7 The Cotswolds Area of Outstanding Natural Beauty
SD8 Historic Environment
SD9 Biodiversity and Geodiversity
SD10 Residential Development
SD11 Housing Mix and Standards
SD12 Affordable Housing
SD14 Health and Environmental Quality
INF1 Transport Network
INF2 Flood Risk Management
INF3 Green Infrastructure
INF4 Social and Community Infrastructure

Supplementary Planning Guidance/Documents

Climate Change Supplementary Planning Document 2022

4 CONSULTATIONS

Heritage And Conservation

28th April 2022

Heritage comments 22/00112/OUT - Land Adjacent To Oakhurst Rise, Cheltenham

There is a notable planning history for the development site including similar previous applications. These need to be noted when considering the current application. These are: 17/00710/OUT, an outline application for residential development of 90 dwellings, which was refused; 18/02171/OUT, an outline application for residential development of up to 69 dwellings, which was refused and dismissed at appeal; and 20/00683/OUT, an outline application for 43 dwellings including access, which was refused and dismissed at appeal.

The current proposal, 22/00112/OUT, is an outline application for residential development of 25 dwellings, including access, layout and scale not reserved for subsequent approval. It attempts to overcome the main issues identified by the Inspector in appeal decision APP/B1605/W/20/3261154, following refusal of application 20/00683/OUT at Planning Committee against the officer recommendation of approval.

It should be noted no objection was previously raised over application 20/00683/OUT in conservation terms and the following comments need to be considered in light of this. Careful consideration needs to be given to both the Inspector's appeal decision APP/B1605/W/20/3261154 and comments made on the current application by Historic England.

The heritage assets and settings affected by the proposed works need to be identified.

Ashley Manor is a grade II* listed building, located to the south of the application site. It is described in its list description as one of the finest Regency villas in the Cheltenham area. Its current use is an administration building associated with St. Edward's School. It is located within a planned parkland setting, with a wider rural landscape comprised of open fields and trees as a backdrop to its north. Notably this northern rural landscape is the development site.

Ashley Manor forms part of a group, with a number of other ancillary heritage assets on the school site. These include, the boundary walls and gate to Ashley Manor facing on to London Road, the summerhouse to the southwest of Ashley Manor, a pair of piers at the carriage sweep of the southwest of Ashley Manor, all of which are ancillary structures associated with Ashley Manor within its parkland setting. Each of these structures is separately grade II listed. A noteworthy curtilage listed building to the north of Ashley Manor, outside the planned parkland but within its wider rural landscape, and within the application site, is a former icehouse.

The rural landscape that forms the development site makes an important contribution to the setting as it allows Ashley Manor and the associated listed and unlisted historic structures to be read in its intentionally designed historic landscape context, this being a large Regency villa set in a parkland within a wider rural context. Due to their proximity to the development site, it is considered Ashley Manor, the summerhouse to the southwest of Ashley Manor and a pair of piers at the carriage sweep to the southwest of Ashley Manor, located around the driveway sweep and uppermost section of the driveway, along with the curtilage listed icehouse located to the north of Ashley Manor, would be affected by the development proposal.

Charlton Manor, Ashley Road is also affected by the proposed development proposal. It is a grade II listed detached Victorian house located on the Battledown estate. Charlton Manor shares a boundary with Ashley Manor, specifically the rural landscape that forms the development site, it being located adjacent to its north-eastern corner. Notably the rear of Charlton Manor has been designed to take advantage of views of this rural landscape, including views west over the open field in which the icehouse acts as a focal point.

A number of factors attempt to mitigate the visual impact of the development proposal on these heritage assets. Firstly, the proposed built form has been reduced from previous development proposals and concentrated away from the more sensitive, eastern and southern parts of the development site, allowing a sense of the existing rural landscape to be retained. Secondly, the proposed dwellings within the central area of the site are to be set within the existing sloping topography, resulting in a more modest massing. This is reinforced by the proposed use of flat, green turf roofs, which further alleviate their visual impact. Thirdly, proposed new planting to the north of Ashley Manor will reinforce the parkland setting, soften the proposed development and ensure a sense of the existing rural landscape to be retained. It is also noted enhancement of the former icehouse is proposed, with clearance of scrub and provision of an historical interpretation board, therefore better revealing the heritage significance of the icehouse.

Despite these mitigating measures, the development proposal results in a loss of part of the rural landscape setting and views north from Ashley Manor, including to the icehouse, and views west from Charlton Manor are negatively affected through urban encroachment. This impact is considered to cause a measure of less than substantial harm to the significance of the heritage assets and their settings. This harm has been recognised within the submitted application.

Paragraph 196 of the NPPF requires when less than substantial harm is identified a weighing exercise between the harm to the significance of a designated heritage asset and the public benefits of the proposal take place. The Planning Statement by Framptons recognise the development proposal causes harm to the heritage assets but argue the low level of harm is outweighed by significant public benefits arising from the application proposals. These include the substantial public benefits of the provision of market housing, provision of affordable housing, provision of management plans for existing trees and retained grassland and a biodiversity net gain. A moderate public benefit of employment opportunities (during construction and as a consequence of new homes being occupied). A limited public benefit of improvements to the icehouse through shrub clearance and interpretation. These public benefits are not disputed.

The proposal has been significantly amended from previous applications in an attempt to address their reasons for refusal and the Inspectors appeal decision APP/B1605/W/20/3261154. On balance, it is considered it should not be objected to in heritage terms due to the cumulative impact of the amendments made to reduce the number and location of dwellings, the measures to mitigate their visual impact, the public benefits of the proposal and the restricted harm being caused to limited aspects of the heritage significance of the affected heritage assets and their settings.

While the general principle of the development proposal is considered acceptable in heritage terms there are a number of issues that will need to be carefully considered. The proposed new parkland tree planting in the southern part of the site needs to avoid interrupting the historic views between Ashley Manor and the icehouse. The boundary treatments need to be carefully considered to avoid a jarring relationship between the proposed development and the adjacent rural landscape. It is considered these issues could be dealt with by condition.

Gloucestershire Wildlife Trust

28th January 2022

Thank you for consulting us on the above application. Gloucestershire Wildlife Trust responded on a number of occasions to the previous planning application from the same applicant on this site (Ref 20/00683/OUT). We stand by our previous comments and have nothing further to add.

22nd July 2022

Thank you for consulting us on the above application. Gloucestershire Wildlife Trust has responded on a number of occasions to the previous planning application from the same applicant on this site (Ref 20/00683/OUT) and we stand by our previous comments. This includes the need to manage public access to certain areas of the site. We are concerned that the revised landscape strategy does not show how access is going to be limited to areas of grassland retained for restoration, as had been shown for the previous site layout in the Framework Management Plan. The ability of dog walkers to access this area of the site would impact its restoration and reduces our confidence that a more species rich sward would develop in the retained areas of the LWS. We would expect to see a new plan for protecting this area of the site clearly demonstrated in a LEMP.

Tree Officer

25th February 2022

The CBC Tree Section does not, subject to various clarification and changes, object to this application:

- 1) All significant TPO'd and A class trees (as per BS 5837 (2012) trees are to be retained and indeed the majority of B class trees are also to be retained. It is noted

that trees 3016 and 3017 (ash and sycamore) "B" grade trees are to be removed. This is regrettable and both trees appear to be in reasonable condition (with no sign of ash dieback which other trees on this site are suffering from indicating that the tree may possess a degree of genetic resistance to the problem). There does not seem to be any given reason for their removal. They appear to broadly North West of proposed Plot 20 to the north of the site. The Root Protection Area (RPA) would likely not extend as far as the footprint of this property so would not likely become damaged during any construction process. Their retention would also facilitate screening to/from the large off site property to the north west of plot 20. Please could the Retention and Removal Plan as well as the Tree Protection Plan (TPP) be adapted accordingly.

- 2) Plots 8 + 9 appear to sit incongruously on the very edge of the Veteran Tree Buffer (VTB) of 2 veteran trees (Ts 3026 +3021) as well as the perimeter of the RPA of large oak 3022. As such it is considered that whilst the plot is outside tree protective areas, it is anticipated that there may be premature calls for pruning to adjacent trees so as to increase light/reduce shadow etc. The footprint is so close to the VTB as to make construction of this dwelling very difficult without inappropriate incursion into the VTB. Given the proximity of 2 veteran trees as well as another notable large oak, it is assumed that there are significant subterranean fungal mycelial networks between all three trees and elsewhere on the site. Soil excavation and subsequent build of a dwelling (albeit on piles) and associated road parking etc will likely damage these networks. Please could the plans be adjusted so as to remove these 2 plots (a semi-detached building).
- 3) Despite the FLAC Tree Protection Plan drawing 38-1036-03-1 showing a drain flowing down hill it is unclear how drainage from plots 7,8 + 9 are to be connected to the main sewer. A drainage route must not be created through the green open space to the south of plots 7,8 + 9.
- 4) Plots 22, 23, 24,+ 25 have little or no rear garden. This appears to be designed so that veteran tree 3030 VTB is situated wholly outside the plots. This is welcome and the indicative landscape plan shows native tree, orchard and hedge planting to the rear and will prevent future hard landscaping within this buffer zone.
- 5) The rear gardens of plots 1-6 will also be very small (in some cases less than 5 metres). This is to help ensure there is no incursion into the VTB of T3028. Barrier/deterrent planting and a knee rail is proposed so as to protect this Veteran and delicate tree. Much consideration of what form this deterrent planting should take place. Such planting must not gain any significant height at maturity as this will shade the gardens and dwellings to the north. Bramble, blackthorn, purging buckthorn (*Rhamnus cathartica*) should be included in the detailed planting mix. The proposed knee rail is insufficient to deter/exclude inappropriate access to this delicate tree. It is suggested that a 6ft lockable fence is installed. This will give fortifying defence against unwelcome attention and demonstrate the importance and delicacy of this charming tree. A similar approach should be afforded another vulnerable and veteran tree (ash tree T3021).
- 6) It is known that the site sits on shrinkable clay soil. Given the many potential variable sub-terranean soil profile possibilities, it is not considered practical or realistic to quantify what impact the proposed build and future occupancy of the site will have on the water table and drainage. Existing trees have grown over several hundred years with little interference. However, part of the increased ground protection associated with a VTB is intended so that the rooting environment adjacent remains unchanged. Nevertheless, all foundations of dwellings must be built to take account of the clay soil and the presence of retained high water demanding trees. Future claims of subsidence leading to calls for tree removal will not be welcome.
- 7) The Arb Monitoring proposals as detailed within the FLAC Method Statement/TPP (drawing no 38-1036-03-1) are welcome. Written reports and photographs would be eagerly anticipated demonstrating that dwellings are constructed and landscaping, drainage etc as appropriate. The installation of some of the engineering works

close to the RPA/VTB of trees will be delicate and arb supervision will be necessary. CBC Trees Officers also intend to attend site (unannounced) so as to help ensure that the site construction is proceeding as described.

- 8) The Landscape Strategy outlines indicative proposed planting. The approximate proposed location for new tree planting is appropriate. However, please could further planting be undertaken along the eastern boundary to the "estate"-ie north to south-west of the existing ice house. This will help screen views from the east and create arboricultural interest when travelling west towards plots 14-21. Potentially large sculpted landscape trees (eg Zelkova, pine, cypress, Taxodium, Sequoia) would look dramatic and become landmarks in the wider landscape view. A detailed landscaping scheme showing plant species, size, location, tree planting pit details, details of aftercare and maintenance etc must be submitted and agreed prior to the commencement of any works. A short, medium and long term management plan for the open spaces, proposed orchards etc should also be submitted and agreed. The heads of terms described within the Outline Arb Management Plan described on the FLAC TPP is an appropriate base line heading. This management plan should also take account of the possible/probable demise of on-site ash trees. Replacement planting should be recommended as a part of the management plan. This can be undertaken as a Condition attached to any planning permission. Existing sycamore trees located on the ice house are fully mature and moving into over maturity. It is desirable if replacement planting is undertaken as a part of this proposed scheme.

1st April 2022 -

Welcome response to CBC Trees Officer comment but 3 concerns remain:

- 1) Point 3-the drainage run still appears to flow uphill (north eastward) between trees 3028 and 3021. It is not understood how this can be easily achieved.
- 2) Assuming the scheme receives building Regs approval, an informative should be attached to any planning permission that foundations of properties must be constructed taking account of the apparently shrinkable clay soil. Future claims of subsidence as a result of valuable veteran (or any other) important trees on site.
- 3) The proposed open space land to the east of the site appears to be left almost entirely. Trees officers maintain that the site and the area generally would benefit from potentially very large evergreen/deciduous "landmark" trees such as Zelkova, yew, cypress, oak, pine, western red cedar etc which should tolerate the heavy soil. Such trees should be visible not only locally but also from the Escarpment on the other side of Cheltenham.

5th July 2022

Notwithstanding previous comments, the CBC Tree Section welcomes the amended site plan 16.20.034 PI005 C (dated Dec 2021) which should address a previous concern raised. This new lay out should ensure there are no significant over/underground direct impacts of the proposed development on existing veteran/ancient trees.

- 1) Concerns remain regarding the potential for indirect impact due to shrinkable clay soil and the action of tree roots and it is imperative that building design foundations take account of this potential.
- 2) The heads of terms for the management plan are acceptable and as such this detailed management plan should be submitted and agreed prior to the commencement of any works on site (including tree works). However it is noted (point f) under the Heads of terms of management of veteran trees on the Tree Protection Plan, that a knee rail is recommended for veteran tree crowns. In the case of T3028, this is insufficient and the tree should be further fortified given its vulnerability.
- 3) It is essential that appropriate and regular arb supervision is undertaken by somebody suitable qualified, and experienced

- 4) The June 2022 Arb Report submission including the BS 5837 (2012) survey, Tree Retention and Removal Plan, Tree Protection Plan should be an "approved Document" not a "supporting document" and as such all methods and actions contained within will be a part of any planning permission.

GCC Highways Planning Liaison Officer

31st March 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 be deferred.

The justification for this decision is provided below.

The proposal seeks the outline application for residential development of 25 dwellings at Land Adjacent to Oakhurst Rise Cheltenham Gloucestershire. The application is outline, with access, layout and scale matters which are being sought for approval at this time. A Transport Assessment carried out by Cotswold Transport Planning has been submitted in support of the application. At this time the Highway Authority has a number of concerns in respect of the proposed access and internal layout of the site, and we are therefore seeking the application is deferred to allow the applicant time to provide the required information.

Planning history

17/00710/OUT - Outline application for residential development of 90 dwellings including access, layout and scale, with all other matters reserved for future consideration - Application refused.

18/02171/OUT - Outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration (revised scheme following refusal of application ref. 17/00710/OUT) - Dismissed at appeal following refusal.

20/00683/OUT - Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration - Dismissed at appeal following refusal.

Planning policy context

The development plan includes the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) which was adopted in 2017 and the Cheltenham Plan (CP) which was adopted in July 2020. The CP allocates 9 sites for housing, as set out in Policy H1, which the development site forms part of, specifically policy HD4.

Site location and composition

The application site comprises of an area of grassland located northwest of Charlton Kings; bound to the north, east and west by existing residential development and St Edward's Preparatory School to the south.

Access

The submitted plans indicate that vehicular access to the site will be made via Oakhurst Rise, through a continuation of the existing cul-de-sac. It is noted that the redline boundary of the site does not join the highway at Oakhurst Rise, and therefore the plans do not show all the land required to carry out the development.

Oakhurst Rise has a carriageway width of approximately 5.5m and subject to a sign posted 20mph speed limit. The continuation of carriageway into the site will remain at a width of 5.5m with 2m wide footways on both sides of the carriageway, which is considered an acceptable access solution.

Location

Manual for Streets states that walkable neighbourhoods should include a range of facilities within an 800 metre walking distance, which equates to an approximate 10 minute walking time. However, this is not an upper limit and industry practice considers that 2km is a maximum walking distance door to door. The application site is within an accessible location with easy walking and cycling distances to high quality public transport facilities and services.

Layout

It is recognised that the typography of this site is challenging due to the gradients involved. Having steep sections of highway can present difficulties for pedestrians and cyclists, including disable people. The Department for Transport document Inclusive Mobility came into effect from December 2021, which provides guidance on designing schemes to ensure an inclusive environment. Paragraph 4.3 discuss the requirements in respect of gradients. This includes the requirement that pedestrian routes should include level sections or 'landings' at regular intervals. It further states that level landings should be provided for every 500mm that the route rises. It is therefore required that the applicant considers the requirements contained within Inclusive Mobility and submits revised drawings.

It is noted that the e-bike voucher is still a proposed method of mitigation for the present application to address the topographies of the site for cyclists.

Paragraph 131 of NPPF requires that new streets are tree-lined. The proposed layout does not include this, and therefore revised plans should be secured showing the provision of street trees.

A plan showing the extent of highway which will be offered for adoption should be provided.

From the proposed plans, there seems little merit in providing a pedestrian footway on the northern side of the proposed main street past plot 22. Any pedestrians from the lower portions of the site would likely utilised the southern side of the road when considering likely pedestrian desire lines leaving the site.

It is recommended that changes are made where Road 1 transition to Road 2. It is recommended that Road 1 is squared off to make a turning head, with Road 2 being narrowed. Providing both a visual change and a narrowing of the highway should help to reduce vehicle speeds at the bottom part of the site.

Despite the suggested 15mph design speed for the estate as stated in the Transport Assessment, the Highway Authority is of the view that based on the proposed road layout and available levels of forward visibility in straight sections of the carriageway, speeds are likely to be in excess of 15mph, and 20mph should, in this context, be the aspiring design speed. Furthermore, the Highway Authority sees little merit in the proposed horizontal deflection at the bottom of the site to reduce speeds given the levels of forward visibility available.

The Highway Authority therefore submits a response of deferral until the required information has been provided and considered.

11th July 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 has no objection subject to conditions.

The justification for this decision is provided below. Further to the Highway Authority's recommendation of deferral dated 31st March 2022, extensive discussions have been had with the applicant's agents in order to address the previously expressed concerns in respect of the site layout. In the most recent revised layout plan, two level resting areas have been incorporated to provide with opportunities for pedestrians and cyclists to stop and rest, which is considered an acceptable mitigation to address the needs of disabled users and the guidance set out in the most recent DfT Inclusive Mobility.

A narrowing of the road has been introduced which will incorporate further planting/landscaping and act as a traffic calming feature when agreed at detailed design stage.

No changes are proposed at the turning head adjacent to plot 20 for the reasons set out in the most recent Transport Note issued by the applicant's agent. This, however, does not warrant a recommendation to refuse in accordance with the guidelines set out in paragraph 111 of the National Planning Policy Framework.

On this basis, the Highway Authority would not wish to object to the proposal subject to the following conditions being attached to any permission granted.

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

Conditions

Conformity with Submitted Details

The Development hereby approved shall not be occupied until the access, parking and turning facilities that that individual building to the nearest public highway has been provided as shown on drawing PL005 Rev C.

Reason: To ensure conformity with submitted details.

Bicycle Parking

The Development hereby approved shall not be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The storage area shall be maintained for this purpose thereafter.

Reason: To promote sustainable travel and healthy communities

Electric Vehicle Charging Points (Residential)

Before first occupation, each dwelling hereby approved shall have been fitted with an Electric Vehicle Charging Point (EVCP) that complies with a technical charging performance specification, as agreed in writing by the local planning authority. Each EVCP shall be installed and available for use in accordance with the agreed specification unless replaced or upgraded to an equal or higher specification.

Reason: To promote sustainable travel and healthy communities.

Residential Travel Plan

The Residential Travel Plan hereby approved, dated January 2022 shall be implemented and monitored in accordance with the regime contained within the Plan. In the event of

failing to meet the targets within the Plan a revised Plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of access to and from the site. The Plan thereafter shall be implemented and updated in agreement with the Local Planning Authority and thereafter implemented as amended.

Reason: To reduce vehicle movements and promote sustainable access.

Construction Management Plan

Prior to commencement of the development hereby permitted details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);

Advisory routes for construction traffic;

Any temporary access to the site;

Locations for loading/unloading and storage of plant, waste and construction materials;

Method of preventing mud and dust being carried onto the highway;

Arrangements for turning vehicles;

Arrangements to receive abnormal loads or unusually large vehicles;

Highway Condition survey;

Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.

Informatives

Works on the Public Highway

The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out.

Contact the Highway Authority's Legal Agreements Development Management Team at highwaylegalagreements@gloucestershire.gov.uk allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Council's costs in undertaking the following actions:

Drafting the Agreement

A Monitoring Fee

Approving the highway details

Inspecting the highway works

Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

Highway to be adopted

The development hereby approved includes the construction of new highway. To be considered for adoption and ongoing maintenance at the public expense it must be constructed to the Highway Authority's standards and terms for the phasing of the development. You are advised that you must enter into a highway agreement under Section 38 of the Highways Act 1980. The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980.

Contact the Highway Authority's Legal Agreements Development Management Team at highwaylegalagreements@gloucestershire.gov.uk. You will be required to pay fees to cover the Council's costs in undertaking the following actions:

Drafting the Agreement

Set up costs

Approving the highway details

Inspecting the highway works

You should enter into discussions with statutory undertakers as soon as possible to coordinate the laying of services under any new highways to be adopted by the Highway Authority.

The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

Impact on the highway network during construction

The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at Network&TrafficManagement@gloucestershire.gov.uk before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed. Construction Management Plan (CMP)

It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full, but particularly reference is made to "respecting the community" this says:

Constructors should give utmost consideration to their impact on neighbours and the public

Informing, respecting and showing courtesy to those affected by the work;

Minimising the impact of deliveries, parking and work on the public highway;

Contributing to and supporting the local community and economy; and

Working to create a positive and enduring impression, and promoting the Code.

The CEMP should clearly identify how the principal contractor will engage with the local community; this should be tailored to local circumstances. Contractors should also confirm how they will manage any local concerns and complaints and provide an agreed Service Level Agreement for responding to said issues.

Contractors should ensure that courtesy boards are provided, and information shared with the local community relating to the timing of operations and contact details for the site coordinator in the event of any difficulties. This does not offer any relief to obligations under existing Legislation.

GCC Local Flood Authority (LLFA)

1st February 2022

The application is accompanied with an FRA which includes a drainage strategy. The drainage strategy collects water from impermeable areas of the developed site and attenuates them such that discharge rates can be controlled to mimic greenfield runoff and be discharged to the surface water sewer in Charlton Road. This is a strategy that is acceptable to the LLFA.

Calculations to derive attenuation basin sizes and discharge rates are acceptable to the LLFA. There are still matters of detail that need to be defined but the overall proposal is good, the LLFA therefore has no objection to this proposal.

The proposal includes a description of maintenance requirements for the proposed SuDS scheme but doesn't allocate responsibility for the maintenance.

The LLFA propose the following condition be applied to a consent granted against this application:

Condition:

No building works hereby permitted shall be commenced until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. Provide a full risk assessment for flooding during the groundworks and building phases with mitigation measures specified for identified flood risks; and
- iv. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason:

To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution for the lifetime of the development.

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 e-mail address. Please quote the planning application number in the subject field.

Severn Trent Water Ltd
2nd February 2022

With Reference to the above planning application the company's observations regarding sewerage are as follows.

The submitted drainage plan is in agreement with the Development Enquiry SAP ref 1024221, with foul sewage to discharge to the public foul sewer and surface water is to discharge to the public surface water sewer in Charlton Court Road at 2litres/second.

Based upon these proposals I can confirm we have no objections to the discharge of the drainage related condition.

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contact our Development Services Team (Tel: 0800 707 6600).

I trust you find the above in order, however, if you have any further enquiries then please do not hesitate to contact us.

CK Friends

28th February 2022

It is difficult to know where to start with this application. It gives the impression of having had minor changes to the core design to reduce the number of units (with a subsequent reduction in benefit), but with:

- little to no regard to the detail of the previous inspector's conclusions
- contradiction within core documents (already superseded and redacted, some multiple times)
- failure to follow through on visual changes with any technical revision underpinning the application

The result is a blend of error, contradiction and assertion. One resident commented that they wanted to comment with "moonshine and unicorns". Hard to disagree.

In brief:

- on drainage, changed layout on steep slopes appears to require drainage going up hill. Core design elements are in the wrong place to deliver the claimed function, and (according to engineers with the pre-requisite qualifications) there are basic errors over fall rates, flow rates and viability of a system that still requires a SUDS evaluation to take place against a backdrop of geological reports (the developers' own) that say that the site is not suitable for SUDs. All into a drainage system in Charlton Court Road that residents have long documented as prone to overflow and back up flooding. Is CBC prepared to take on the legal liability for future sewage overflows into existing properties?

- In the ecology 'report', 82% of new hedgerow is claimed to underpin a biodiversity uplift. There don't appear to be any new hedgerows in the documents produced so far? Plus, the heritage report says there will be no screening?

- The biodiversity net gain calculation is asserted without any evidence. Please can CBC mandate the release of this background data as it was proven to be flawed in previous applications. It is vital to safe decision making on this site.

- GWT stipulated a framework management plan for the retained local wildlife site that was strictly access controlled (humans and dogs). There are no boundaries, and no controlled access. So is the local wildlife site now effectively a park open to all? How is it going to be funded? By 25 private homes, 40% of which are affordable? It simply isn't credible.

- there is no boundary provision between the school (now in new ownership) and the site. A primary school has to have a secure perimeter.

- and the access for the drainage scheme, under notable, if not veteran trees, is assumed with no evidential backing - hardly the "precautionary approach" to biodiversity and mature trees that the inspector highlighted in reviewing HD4 policy provisions.

- The plan for the badgers seems to effectively say that there is no plan, other than to dump them in the middle of a steep clay bank, and on top of the contaminated land at the bottom of the 3 acre field on the eastern side.
- Natural England's standing advice, published Jan 2022, has not been followed. That requires avoidance first; there are at least 8 acres of this site that could be developed at the scale claimed without uprooting an ancient badger colony.
- some of the claims in the ecological report are false. Residents have never conducted population surveys and claims of inveterate and reptile populations having been assessed are simply untrue; residents have conducted presence / absence surveys ONLY. With respect to chimney sweeper moths (and the other 100+ moth species already identified on the site) there is no other grassland of this diversity within the borough, which is why the records of presence are the first in Cheltenham since 1967 and why the site is viewed as important for inveterate populations. How can there be no inveterate survey for a site that has, for 5 years, been put to the planning inspector as unique in the borough for invertebrates? Even the design fails to accommodate the known biodiversity of the site, introducing maximum light pollution for minimum housing.
- the critical part of the local wildlife site designation has been ignored. Yes, the site is important for its value to education, but the listing ALSO states that it is important for the species range and biodiversity present. The JCS policy on ecology requires that all parts of any local wildlife site listing are upheld - they are not.

Friends would be grateful if CBC officers could ensure that:

- documents detailing the conflict between heritage and ecology (namely the boundary treatments and / or planting intention) are published for comment
- some evidence base is required for the assertion of 82% hedgerow uplift; preferably the DEFRA metric calculation documents should be published given these have been contested in previous applications and likely will form part of the harm / benefit assessment this time
- the plan for access control to and maintenance of the local wildlife site is published

CK Friends continue to object to the proposal on grounds of heritage harm, damage to veteran and ancient tree habitats (including those on school land affected by the proposal), and unacceptable biodiversity loss in the context of an ecological and climate emergency.

The local plan is not a tablet of stone; in failing to acknowledge not one but two planning inspectors' views on the detailed constraints of this site, this outline application has to be interpreted being speculative over land value, not any serious attempt to make inroads into Cheltenham's housing challenges.

7th April 2022

Friends of CK response to Mr Goodger's comments of 18th March 2022:

1. Local Wildlife Sites "can" of course be public space. However, this one isn't. Its value for education as a LWS is protected in policy. If it is going to be opened to the public, its status as an LWS is at risk. It has only survived intact because of exceptionally limited human intervention (the presence of roe deer giving birth is hardly typical of the average green space in Cheltenham; but one example of the natural world witnessed by primary school children each year). The grassland range is exceptional within Cheltenham, albeit not yet of a quality of the surrounding SSSI grassland - but policy does more than require protection

of SSSI. Nature can be studied undisturbed at this LWS because of an absence of routine human interaction. This is a point made explicitly (and accepted by the developer) in previous applications. Opening the site up is counter to policy SD9 which states that development within locally designated sites will NOT be permitted where it would have an adverse impact on the criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated. Indeed the appeal inspector noted (para 86): Around 1.2ha located to the south and east of the woodland belt would be retained as a LWS for the use exclusively by the school and not for residents of the development. In this regard, the site's value for learning will be maintained, albeit on a reduced site area than currently enjoyed by the pupils."

This new application has no such protection. be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or for Cheltenham Borough, albeit satisfactorily mitigated

2. The "assumption" that there are valid, non-ecological reasons for building on the parts of the site where the badger setts are located. What are these? There are 10 acres, and only 25 houses. Badgers are noted explicitly in the local plan as important to Cheltenham; this is an ancient sett large enough to be visible on Google Earth. The standing advice, for clarity, states that "Where possible developments should avoid effects on badgers." What are these valid non-ecological reasons that require the standing advice to be overturned?

3. "The high invertebrate species diversity stated by CK Friends is most likely to be due to the high survey effort on the site, rather than it being a particularly important site for invertebrates." I presume as an ecologist Mr Goodger is familiar with the national moth recording scheme, validated by county moth recorders and visualised at <http://www.gloucestershire-butterflies.org.uk/moths/mothmap.html>. St Edwards Field has been the location of 2 amateur moth traps by 2 locals (one July 2021, one August 2021) in 5 years, and one walk over visual inspection by a qualified ecologist looking for day flying moths. It is also studied by primary school children - as befits its status as a local wildlife site, but hardly 'high survey effort'!

During those 3 events, over 100 moth species were recorded, one of which is unique to Cheltenham Borough and has not been otherwise recorded here since the early 1960s (namely the chimney sweeper moth; although the presence of narrow bordered 5 spot burnet is also highly unusual. Both these moths are associated with grassland, not veteran trees). Given the hundreds of people who contribute to moth recording in our vice county, and the fact that moths have been deliberately recorded on this site on just 3 occasions, to claim this any species diversity is a feature of 'over recording' is unsound.

4. Mr Goodger has chosen to partially quote the inspector around veteran trees in rebuttal of the Woodland Trust. What the inspector actually said was "Having viewed the trees on site and reviewed all of the evidence before me, the disputed trees are all mature specimens and have value but would not meet the definition of veteran trees at this current time. I caveat this slightly as I have some reservations about tree 3014, a mature oak tree. As I saw at my visit it displays some veteran characteristics such as decay holes and cavities, deadwood, and exposed heartwood from a lightning strike." She goes on to say "Footnote 58 indicate types of exceptional examples and requires that public benefits should clearly outweigh the loss or deterioration of habitat" In determining the appeal the inspector stated that (para 121): "I consider it appropriate to adopt a precautionary approach in terms of the natural environment resources at the site."

5. A precautionary approach to this development would have assigned a veteran tree buffer to Tree 3014 (never mind the other trees identified by the WT). A precautionary approach would have surveyed invertebrates, given the evidence presented by amateur recording. A precautionary approach would have avoided disturbance to the main badger sett, and identified how to protect the species range (not quality) of the grassland. A precautionary approach would have designed the development with a view to protecting the natural assets identified by locals, and the educational benefit of the site to local nature

enthusiasts, school children across the county, and the other volunteer groups who gain benefit from it, not contesting their input.

The developer has chosen not to do so.

Sport England

26th January 2022

Thank you for consulting Sport England on the above application.

The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), therefore Sport England has not provided a detailed response in this case, but would wish to give the following advice to aid the assessment of this application.

General guidance and advice can however be found on our website:

https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning_applications

If the proposal involves the loss of any sports facility then full consideration should be given to whether the proposal meets Par. 99 of National Planning Policy Framework (NPPF), link below, is in accordance with local policies to protect social infrastructure and any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

If the proposal involves the provision of a new sports facility, then consideration should be given to the recommendations and priorities set out in any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority may have in place. In addition, to ensure they are fit for purpose, such facilities should be designed in accordance with Sport England, or the relevant National Governing Body, design guidance notes:

<http://sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/>

If the proposal involves the provision of additional housing (then it will generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demand, then new and/or improved sports facilities should be secured and delivered in accordance with any approved local policy for social infrastructure, and priorities set out in any Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

In line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England's Active Design guidance can be used to help with this when developing or assessing a proposal. Active Design provides ten principles to help ensure the design and layout of development encourages and promotes participation in sport and physical activity.

NPPF Section 8: <https://www.gov.uk/guidance/national-planning-policy-framework/8-promoting-healthy-communities>

PPG Health and wellbeing section: <https://www.gov.uk/guidance/health-and-wellbeing>

Sport England's Active Design Guidance: <https://www.sportengland.org/how-we-can-help/facilities-and-planning/design-and-cost-guidance/active-design>

Please note: this response relates to Sport England's planning function only. It is not associated with our funding role or any grant application/award that may relate to the site.

Historic England

15th February 2022

Summary

We consider the open green space of the application site to contribute significantly to the setting of the Grade II* listed Ashley Manor. While the proposed development, in its revised form, meets most of the requirements of Policy HD4 of the Cheltenham Plan, Historic England has concerns over the potential impacts of the proposed development of the southern part of the site and requests further assessment of these impacts.

Significance of Heritage Assets.

While we have rehearsed the significance of Ashley Manor for each of the previous applications, we consider it appropriate, as a reminder, to repeat our own assessment of those aspects of setting that contribute to heritage significance.

The villa at St Edwards School, known most recently as Ashley Manor, was built for Nathaniel Hartland (the single most important lender of money to builders in the Pittville development in Cheltenham). Its list description describes it as 'One of the finest villas in the Cheltenham area, its internal plasterwork is a particular feature for its diversity, depth and quality of composition.' The original approach to the house is from London Road to the south; the sinuous tree-lined drive remains largely unaltered. The Grade II listed boundary walls and gate piers (marking the entrance from London Road), and further into the grounds, the Grade II summerhouse and drive piers to the surviving carriage sweep are all remnants of this high-status, grandiose villa-house ensconced within its generous parkland setting. Indeed, the topography of the site is significant; the land rises markedly from south to north, which would have been a conscious motive for siting this 'villa' style dwelling overlooking the town.

This 19th century revisiting of ancient Classical-inspired villas was heavily influenced by Andrea Palladio's work of the 16th century. Palladio's villa suburbana (country houses purely for residential or leisure as opposed to agriculture), in particular the Villa Rotunda, gave rise to a vast tradition in villa architecture; these formative dwellings were conceived with a close relationship to their location. Of Villa Rotunda, Palladio wrote *'the site is as pleasant and delightful as can be found; because it is upon a small hill...it is encompassed by the most pleasant risings...and therefore...enjoys the most beautiful views from all sides'*. The building rises out of the landscape and so does Ashley Manor in this very nature. So, whilst the principal elevation faces southwards, the siting of this villa, within its extensive, rising grounds is of, arguably, equal significance. Ashley Manor is designated as Grade II*, and as such is in the top 8% of listed buildings. Therefore, greater weight should be given to its conservation. The National Planning Policy Framework (NPPF) defines 'conservation' as 'the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance'.

We acknowledge that significant modern additions (large school-related buildings, as well as landscape features such as the blue-topped playing surfaces) have eroded the historically isolated setting of Ashley Manor. Notwithstanding, the house (and associated school buildings) remains positioned within the extent of its historical grounds and the application site forms a key green buffer between the villa and later development to the north. The application site is clearly associated, historically, with the villa and that grounds of this extent would be expected with a high-status property.

Summary of proposals

Following the refusal of applications in 2017, 2018 and 2020 for 90, 69 and 43 units respectively, a further revised outline application has been submitted for 25 units. Pertinent to this application is the Appeal Decision on the refusal of the previous application (ref: APP/B1605/W/20/3261154). The dismissed appeal notes that Policy HD4 of the Cheltenham Plan, for 25 dwellings on the site and adopted in July 2020, forms a clearly defined and detailed baseline against which the appeal was assessed. This policy, subject to a number of modifications, was therefore accepted by the Inspector and the principle of residential development also accepted.

In giving great weight to the conservation of heritage assets and their settings, the Inspector identified harm caused by the previous proposals, specifically noting the visual intrusion of plots 11-32 into the setting of Ashley Manor and the artificial appearance of the proposed tree belt. The Inspector therefore cited less than substantial harm, but dismissed the appeal on the basis that the harm was not outweighed by the public benefits of the scheme.

The revised scheme for 25 units proposes a similar layout to that of the refused scheme to the west of the hedgeline that bisects the site north to south. The proposed use of the site to the east side is less intensive with three large detached units against the northern boundary and smaller grouping closer to the boundary with Ashley Manor, with three large units (one divided into a pair of semi-detached dwellings) with a line of planting proposed as their southern domestic curtilage boundary.

Impact of the Proposed Development

We acknowledge the housing allocation for this site and Policy HD4 which identifies the criteria by which proposals should be developed and considered by the council. In terms of the Site Specific Requirements identified in the policy, we believe that 25 units could be accommodated on the site, if delivered in a manner that meets the following requirements of the HD4 policy:

- A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development.
- New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor.

The revised layout does accord with the criteria set out in the second requirement, notably no development south of a westward line from the northernmost school building. We also welcome the removal of the previously proposed tree screening, as we did not consider that this offered any meaningful or appropriate mitigation against the harm that would be caused as a result of the development. We also acknowledge the change in design approach to the dwellings on the eastern side of the site. By utilising the steep topography of the site and sitting individual buildings into the landscape by creating a more ground-hugging approach to massing and green-roof elements, the visual impact of dwellings in this location is likely to be more recessive and less overtly dominant than previous iterations within the setting of the Grade II* Ashley Manor.

However, the Landscape and Visual Statement does not provide any visual montages indicating the potential impacts of the revised layout on the setting of the Grade II* listed building. We therefore advise that views of the principle approach to the house (from the south) are modelled, so that impacts can be better assessed.

In terms of landscaping of the application site, we note the inclusion of parkland-style tree planting in the southern part of the site, which could filter views of the proposed dwellings

beyond. However, the openness of the site has been established as being important to the setting of the listed building and therefore care should be taken in selecting specimens that will not coalesce into a future shelter belt, as previously proposed. The boundary treatments of units 10-13 would be critical within views from the south and we would want assurance that these, while shown as single species hedges, would not be augmented with suburban forms of fencing (with controls to future management and changes put in place). We defer to your landscape specialist for detailed advice on this matter.

In the event that a further visual impact assessment demonstrates an unacceptable degree of impact and harm to the setting of Ashley Manor, we would advise that further revisions to the layout and position of the 25 units could reduce or remove the harm.

Planning Legislation & Policy Context

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to “have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses”. Section 72 of the act refers to the council’s need to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in the exercise of their duties. When considering the current proposals, in line with Para 194 of the NPPF, the significance of the asset’s setting requires consideration. Para 199 states that in considering the impact of proposed development on significance great weight should be given to the asset’s conservation and that the more important the asset the greater the weight should be. Para 200 goes on to say that clear and convincing justification is needed if there is loss or harm. Historic England’s advice is provided in line with the importance attached to significance and setting with respect to heritage assets as recognised by the Government’s revised National Planning Policy Framework (NPPF) and in guidance, including the Planning Practice Guidance (PPG), and good practice advice notes produced by Historic England on behalf of the Historic Environment Forum (Historic Environment Good Practice Advice in Planning Notes (2015 & 2017)) including in particular The Setting of Heritage Assets (GPA3).

Heritage assets are an irreplaceable resource NPPF 189 and consequently in making your determination your authority will need to ensure you are satisfied you have sufficient information regarding the significance of the heritage assets affected, including any contribution made by their settings to understand the potential impact of the proposal on their significance NPPF 194, and so to inform your own assessment of whether there is conflict between any aspect of the proposal and those assets’ significance and if so how that might be avoided or minimised NPPF 195.

The significance of a heritage asset can be harmed or lost through alteration or destruction of the asset or development within its setting. As heritage assets are irreplaceable, any harm (whether substantial or less than substantial) is to be given great weight, and any harm to, or loss of, the significance of a designated heritage asset (or site of equivalent significance) should require clear and convincing justification.

Recommendation

Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 199 and 200 of the NPPF. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and

Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

4th July 2022

Thank you for your letter of 30 June 2022 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England Advice

The revised layout of the site has omitted units 7, 8 and 9 from the south-eastern part of the site and has reconfigured the units on the northern side of the site. In terms of heritage impacts, the proposed dwellings closest to the GII* building (units 7-10 on the revised plan) remain unaltered and the revised addendum note for the Design and Access statement, and Landscape and Visual Assessment, concludes there to be no changes to the conclusions of impacts identified in these statements.

We advised in our previous letter of 11th February 2022 that while the proposed development, in its previously revised form, met most of the requirements of Policy HD4 of the Cheltenham Plan, we still had concerns over the potential impacts of the proposed development of the southern part of the site and requested further assessment of these impacts. We cannot see that any further assessment of visual impacts from key views to the south of the site have been provided. This should indicate the impact of the built form itself and the associated landscaping to provide the boundary treatment to these dwellings. We therefore refer to our previous advice and maintain our concerns over potential impacts that may be identified and may need mitigating through further design and layout.

Planning Legislation & Policy Context

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". Section 72 of the act refers to the council's need to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in the exercise of their duties. When considering the current proposals, in line with Para 194 of the NPPF, the significance of the asset's setting requires consideration. Para 199 states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be. Para 200 goes on to say that clear and convincing justification is needed if there is loss or harm. Historic England's advice is provided in line with the importance attached to significance and setting with respect to heritage assets as recognised by the Government's revised National Planning Policy Framework (NPPF) and in guidance, including the Planning Practice Guidance (PPG), and good practice advice notes produced by Historic England on behalf of the Historic Environment Forum (Historic Environment Good Practice Advice in Planning Notes (2015 & 2017)).

The significance of a heritage asset can be harmed or lost through alteration or destruction of the asset or development within its setting. As heritage assets are irreplaceable, any harm (whether substantial or less than substantial) is to be given great weight, and any harm to, or loss of, the significance of a designated heritage asset (or site of equivalent significance) should require clear and convincing justification.

Recommendation

Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 199 and 200 of the NPPF. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Battledown Trustees

15th February 2022

On 25th January 2022, you kindly advised that you would be pleased to receive comments concerning the above planning application from the Trustees of the Battledown Estate, having designated us as 'Consultees' on the matter.

This application is yet another attempt to build over a large proportion of the exceptional and irreplaceable meadow-land accessed via the top of Oakhurst Rise, which would bring a multitude of problems and permanent disadvantages to Charlton Kings and the wider Cheltenham community. The Land directly adjoins the Battledown Estate's southern boundary and so any development thereupon would directly affect a number of properties on the Estate. This application may well be for some 18 fewer homes than the previous application but the arguments for refusing permission for the scheme remain for the greater part the same as those put forward at the time of the August 2017 application (rejected), the October 2018 scheme (rejected) the appeal inquiry conducted by an Inspector from HM Planning Inspectorate in August 2019 (dismissed) and yet another appeal inquiry conducted by a second, different, Inspector from HM Planning Inspectorate in March 2021 (dismissed).

From the voluminous documentation produced relating to the previous applications and the already considerable documentation submitted for this new application, it is abundantly clear that none of the grounds on which the Trustees previously objected have been adequately addressed. Inaccurate and misleading information contained within the documentation submitted for this application have already been highlighted by other concerned respondent(s). Nevertheless, for good order's sake, we repeat the Trustees' observations and primary objections to the proposed development herewith :

- a) Considerable loss of privacy would be suffered by a number of Estate properties and residents, owing to the proposed positioning and height of the dwellings on the Land immediately adjoining the Estate's southern boundary.
- b) There would be noticeable degradation to the environment of the Estate owing to the significant increase in 'noise pollution' which would be generated by the proposed 25 dwellings, once completed.
- c) There would be a material and dangerous increase in the risk of flooding for a number of Estate properties located in Birchley and Ashley Roads. In 2007, several Estate houses including some adjoining the proposed development Land, were badly flooded; this situation can only be exacerbated by the proposal to cover such a significant proportion of this Land with concrete, tarmac and buildings which would prejudice the delicate balance of springs, pools and flood-ameliorating water absorption on this land.

- d) In common with most, if not all, other residents in this area of Charlton Kings, residents on the Battledown Estate would be affected by the material increase in traffic which would inevitably result from the building of these proposed 25 homes, as such a significant increase in traffic would affect many roads in the area, including Sixways Junction, Hales Road, London Road, King Alfred Way and Athelney Way, as well as those narrow roads immediately adjacent to the proposed development site --- and the 'knock-on' effects would severely affect and inconvenience many thousands of local residents in Charlton Kings and the eastern part of Cheltenham. In a nutshell, the local infrastructure and road system is already choked at peak periods and is simply inadequate for the existing traffic (as already acknowledged by Gloucestershire Highways), let alone the critical increase in traffic consequent upon the construction of these additional homes.
- e) Furthermore, this proposed development would increase the dangers for both cyclists and pedestrians. Quite apart from the unacceptable gradients and road widths on the residential streets which are designated as the proposed Access to the Land, one should also appreciate that the application necessitates severe street gradients within the proposed development site itself. Nowhere in the Applicant's documentation is this defect highlighted as it should be and so we believe this important detrimental aspect, compromising safety, should once again be brought to the attention of the Planning Committee members. Importantly, it should be clear to both CBC Planning Officers and Planning Committee members, that this site and the access thereto is totally unsuitable for wheelchair users and those with some other physical disabilities; this would inevitably mean complete reliance on motor vehicles for any such putative residents.
- f) We also object on the grounds that the views of this area of Battledown as seen from the nearby AONB will be permanently blighted, in contravention of national planning regulations and, in this context, we support the strong objections previously made by Historic England on similar grounds.
- g) From the very important perspective of Amenity, we object owing to the permanent and irretrievable degradation of a valuable outdoor sporting facility which has historically been used regularly by children from all over Cheltenham and, indeed, Gloucestershire, together with the unacceptable additional strain that such a development would place on local GP surgeries and school places -- neither of which are able to meet the demand consequential upon such a noteworthy increase in local housing.

There are many reasons to approve different housing development schemes; however, the Trustees believe that it would be misguided for any Planning Committee to approve a scheme such as this proposal, which would do irreparable harm to the local community and blight the environment of the existing electorate.

A significant majority of Borough Councillors on the Planning Committee have rejected previous applications for building over this meadow-land for very good reasons. This latest application singularly fails to address in a convincing manner many of the grounds for refusing previous applications cited by both Borough Councillors and the Planning Inspectorate and, even worse, perpetuates much of the inaccurate information submitted at the time of those previous applications.

Exactly the same multitude of planning considerations apply to this new application and therefore the Trustees anticipate and request that the same judgements will be made once again, to the clear benefit of the existing local communities in both Charlton Kings and the wider borough of Cheltenham.

6th July 2022

Thank you for your email of 30th June (below) ref the above planning application. As you will note from your files, the Trustees of the Battledown Estate submitted a detailed Objection to the previous plans on 14th February 2022. You may also note that these latest revised plans and the additional information submitted by the applicant substantively fail to address a single one of the grounds for Objection that were submitted to yourselves in February.

The Trustees of the Battledown Estate therefore maintain their Objection to this egregious development proposal on the basis if the many substantial harms it would cause to the Charlton Kings and wider Cheltenham community.

Natural England
8th February 2022

Thank you for your consultation on the above dated 25 January 2022 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**SUMMARY OF NATURAL ENGLAND'S ADVICE
FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED
SITES – HABITATS REGULATIONS ASSESSMENT STAGE 2 – 'APPROPRIATE
ASSESSMENT' REQUIRED**

As submitted, the application could, in combination with other new residential development in the authority area, have potential significant effects on the Cotswold Beechwood Special Area of Conservation (SAC). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

HRA stage 2 Appropriate Assessment of the scheme.

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained.

We set out our advice on the application's relationship with Cotswolds Area of Outstanding Natural Beauty (AONB) below.

Additional Information required - Internationally and nationally designated sites

The application site is within a zone of influence around a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The application site is in close proximity to Cotswold Beechwoods Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as Cotswold Commons and Beechwoods. Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Further information required

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. We draw the Council's attention to recent case law² dealing with the treatment of mitigation measures during the HRA process.

Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you take account of the following information to help undertake an Appropriate Assessment:

- Distance between application site and nearest boundary of SAC
- Route to SAC/mode of transport
- Type of development (E.g. use class C3)
- Alternative recreation resources available – on site and off site
- Education and awareness raising measures – e.g. Suitable information in the form of a Homeowner Information Pack.

Please re-consult us when the Appropriate Assessment is available.

Cotswold Commons and Beechwoods SSSI

Our comments above in relation to the international designations for the site apply similarly to this SSSI. Provided that suitable mitigation is secured in respect of the SAC we do not anticipate adverse effects on this SSSI.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Protected landscapes – Cotswolds Area of Outstanding Natural Beauty (AONB)

The proposed development is for a site within the setting of a nationally designated landscape namely the Cotswolds AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. National Planning Policy Guidance highlights the potential for development within the setting of Areas of Outstanding Natural Beauty to have a material adverse effect on the character and special qualities of an AONB (Guidance-Natural Environment Paragraph: 042 Reference ID: 8-042-20190721). The proposed development's design will need to minimise its impact on the setting of the AONB and should have regard to the Cotswold Conservation Board's design guidance accordingly.

Your decision should be guided by paragraphs 174 and 176 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies. We also advise that you consult the Cotswolds Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

15th September 2022

SUMMARY OF NATURAL ENGLAND'S ADVICE NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would, in combination with residential [and tourist related] development in the wider area:

- i (i) have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.
- ii (ii) damage or destroy the interest features for which the Cotswolds Commons and Beechwoods Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable the following mitigation options should be secured:

- Homeowner Information Packs providing information on recreation including both opportunities for visits in the area and the sensitivities of local and designated sites.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites and advice on other natural environment issues is set out below.

Further advice on mitigation

Policy SD9 'biodiversity geodiversity' of the adopted Gloucester, Cheltenham and Tewkesbury JCS and Cheltenham policy BG1 refer. Most recently a visitor survey of the SAC has been published indicating a 15.4km zone from within which visitors travel to the site, most often by private car. Work has been commissioned by the collaborating Local Planning Authorities to identify suitable mitigation measures within the zone. Until those measures have been identified and agreed we advise that the following should be considered in an HRA when determining applications for residential development within the zone of influence:

- Distance between application site and nearest boundary of SAC
- Route to SAC/mode of transport
- Type of development (E.g. use class C3)
- Alternative recreation resources available – on site and off site
- Education and awareness raising measures – e.g. Suitable information in the form of a Homeowner Information Pack.

Natural England notes that a shadow HRA has been undertaken and an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

The appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

Cotswold Commons and Beechwoods SSSI- No objection

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Other advice

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We would not expect to provide further advice on the discharge of planning conditions or obligations attached to any planning permission.

Environmental Health

1st February 2022

I have reviewed this application and have no objection in principal, however I would request that should consent for this development be granted a condition is attached to require the preparation of a plan to control the impact of noise and dust from the works of construction, in order to safeguard the amenity of nearby residential property.

Section 106 Officer - Tina McCausland

16th February 2022

Comment available to view in documents tab.

The Woodland Trust

7th March 2022

Objection – deterioration of veteran trees

As the UK's leading woodland conservation charity, the Woodland Trust aims to protect native woods, trees and their wildlife for the future. We own over 1,000 sites across the UK, covering over 30,000 hectares and we have over 500,000 members and supporters. We are an evidence-led organisation, using existing policy and expertise to assess the impacts of development on ancient woodland and ancient and veteran trees. Planning responses submitted by the Trust are based on a review of the information provided as part of the application to the determining authority, though in this case our experts have also had the opportunity to assess the trees on the site.

Deterioration of Veteran Trees

The Trust objects to this planning application on the basis of the deterioration of a number of veteran trees. There are numerous ancient and veteran trees on site that have been identified on the Trust's Ancient Tree Inventory (ATI), with many of these also recognised by the applicant. We note that there continues to be some disagreement between the Trust and the applicant as to which trees should be afforded veteran status, and as such we consider a number of trees on site have not been afforded appropriate protection. These trees are as follows:

Tree no.	ATI no.	Species	ATI Categorisation	Grid Reference
3010	167742	Pedunculate oak	Veteran	SO96588216 54
3014	167746	Pedunculate oak	Veteran	SO96520216 28
3015	167745	Pedunculate oak	Veteran	SO96531216 39
3022	167756	Pedunculate oak	Veteran	SO96440215 58
3027	167751	Pedunculate oak	Veteran	SO96396216 05

We have commented on previous iterations of this application and note changes to this application have resulted in greater protections for trees we have previously held concerns for. While we welcome these changes, we remain concerned for the above trees and their long-term retention and vitality.

Veteran Trees

Natural England's standing advice for veteran trees states that they "*can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks or other areas. They are often found outside ancient woodlands. They are also irreplaceable habitats. A veteran tree may not be very old, but it has significant decay features, such as branch death and hollowing. These features contribute to its exceptional biodiversity, cultural and heritage value.*"

As acknowledged already, there are a number of trees within this site that are listed on the Ancient Tree Inventory (ATI), most of which are classified as veteran, though some are recognised as ancient. As there has historically been some disagreement between ourselves and the applicants regarding the designation of trees, we consider it may be helpful for the Trust to revisit its approach to classifying veteran trees. The below information follows wording that has previously been provided to the Council in our responses to previous applications for this site.

Planning Policy Guidance (PPG) for the 'Natural environment', which is intended to clarify and interpret the NPPF, and was updated on 21st July 2019, states1: "*Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species.*"

The veteran features that characterise older trees are not necessarily a product of a tree's age or size as they also develop as a result of a tree's life or environment. The PPG highlighted above emphasises that the key characteristics of size, age or condition are considered separately. We do not believe this is taken into account in the applicant's

'RAVEN' system² on account of the requirement for such trees to have a 'very large size' before they can be further assessed for veteran features.

A key function of the term 'veteran' is to capture trees that have exceptional habitat value as well as those with cultural and heritage value. The term is not a true ecological grouping, and serves to help us to identify trees which are important for biodiversity in their own right, and as part of a wider assemblage; veteran trees are important for the accumulation of features that are unable to be replicated within our lifetime. Identifying and evaluating veteran features requires the application of knowledge, experience and judgement. We acknowledge that government definitions do not provide precise, measurable parameters against which to easily recognise veteran trees. However, Natural England's standing advice, planning policy guidance, and expert reference texts do provide clear instruction that tree girth should not be used as the main qualifier for veteran classification.

A particular example of this is tree T3014, an oak tree that has not been identified as a veteran tree by the applicants and so a Veteran Tree Buffer (VTB) zone has not been applied to this tree. We had the opportunity to assess this tree in August 2019. At that time, we noted a number of veteran features despite the tree girth not reaching a very large size. This oak tree features a historic lightning strike, exposed heartwood, decay cavities, evidence of invertebrate use and presence of fungal fruiting bodies (please see Appendix 1 for further details and images).

Planning Policy

The National Planning Policy Framework, paragraph 180, states: "*When determining planning applications, local planning authorities should apply the following principles: c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁶³ and a suitable compensation strategy exists;*"

Footnote 63, defines exceptional reasons as follows: "*For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.*"

Impacts on Veteran Trees

It is essential that veteran trees are protected as part of new development and that their loss and deterioration is avoided. We recognise that the applicant has resolved to avoid the loss of veteran or notable trees on site, though we still hold concerns regarding the deterioration of some veteran trees. Where veteran trees have been recognised by the applicant, we acknowledge that due consideration has been given to ensure these trees are protected in line with Natural England and Forestry Commission's standing advice.

The trees we remain concerned about are recorded on the ATI as veteran specimens though have not been recognised as such by the applicant and therefore only afforded RPAs in line with BS 5837 guidelines and not the aforementioned standing advice. We maintain that these trees should be recognised as veteran and afforded buffer zones in line with standing advice, which states: "*For ancient or veteran trees (including those on the woodland boundary), the buffer zone should be at least 15 times larger than the diameter of the tree. The buffer zone should be 5 metres from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter. This will create a minimum root protection area.*"

The protection of these trees and the need to afford them appropriate buffer zones is paramount. While we acknowledge that ourselves and the applicant do not agree on the veteran status of some of these trees, we encourage the Council to adopt a precautionary approach to the protection of the trees and ensure that they are sufficiently protected and buffered so as to prevent future issues arising as a result of infrastructure being sited within

their RPAs. We would continue to ask that buildings, roads and footpaths are excluded from the RPAs of these trees (calculated using the 15 times diameter) and that where gardens encroach on the RPA, the Council considers enforcing a removal of permitted development rights from these properties to prevent the placement of patios or sheds within the RPAs.

By not allowing for future growth and space needs of these trees and only affording them RPAs in line with the BS 5837 guidelines, we consider that it is likely these trees will come under pressure for removal or excessive management in the future. Our concerns regarding the increased risk posed by veteran and mature trees when brought into a more public setting are supported by the guidance within David Lonsdale's 'Ancient and other Veteran Trees: Further Guidance on Management' (2013), which states in paragraph 3.5.2.1 "...avoid creating new or increased targets: as happens for example following the construction of facilities (e.g. car parks or buildings) which will bring people or property into a high risk zone. Not only does this create targets, it also harms trees and therefore makes them more hazardous".

Conclusion

Veteran trees are irreplaceable habitats. Any development resulting in deterioration of veteran trees must be redesigned to ensure their full protection and avoidance of adverse impact.

The Woodland Trust objects to this application on the basis of adverse impact and deterioration of five veteran trees listed on the ATI. The incursions into the buffer zones of these trees is likely to result in their long-term degradation and could result in their future loss. As such, we consider this application contravenes national planning policy and government guidance designed to protect veteran trees.

County Archaeology

16th February 2022

Thank you for consulting the archaeology department concerning this planning application. I wish to make the following observations regarding the archaeological implications of this scheme.

I advise that in connection with a previous development proposal on this site a programme of archaeological desk-based assessment, geophysical survey and trial-trenching was undertaken. No significant archaeological remains were observed during these investigations. The evidence from the archaeological investigations therefore indicate a low potential for significant archaeological remains to be impacted by the proposed development. In addition, the location of the historic ice-house in the eastern portion of the application site will be preserved within open ground, as identified in the heritage impact assessment.

For the reasons stated above I recommend that no further archaeological investigation or recording should be required in connection with this scheme.

I have no further observations.

20th July 2022

Thank you for consulting the archaeology department on the revised plans. The revised details do not alter my previous comments on this application and I have no further observations to make.

Minerals And Waste Policy Gloucestershire

9th February 2022

Comment available to view in documents tab – summary – further information required

9th September 2022 –Comment available to view in documents tab – Summary – no objection

Building Control

30th June 2022

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

Parish Council

21st July 2022

Objection (18/07/22):

It is with regret that the Committee notes that this revision of the application does little to address the objections from the meeting of 07/02/22 (see below).

In particular, we repeat:

'The access to the site is simply not conducive to access on foot or bicycle. With a view to access to local services, the climb from the bottom of Charlton Court Road to the entrance to the site is 33m, an average gradient of 7% for 475m. At its steepest the gradient is over 12%, or almost 1 in 8. These figures do not include the climb from the bottom of Charlton Court Road to the local facilities at Sixways, or the changes in level within the site.

The result of the severity of the climbs means that the site will be accessed almost entirely by private car. The lack of movement other than by car will inhibit social integration with the wider Charlton Kings community and any resident of the development without access to a private car will be very socially isolated. Both in terms of transport and social inclusion, this proposal does not represent Sustainable Development, regardless of the somewhat wishful statements in the Transport Assessment.'

Policy HD4 of the Cheltenham Local Plan states a site specific requirement of 'safe, easy and convenient pedestrian and cycle links within the site and to key centres'. Similarly, Joint Core Strategy Policy SD4, cl. vii states a development should: 'Ensure accessibility to local services for pedestrians and cyclists and those using public transport'. This proposal, with the severe gradients and climbs as detailed above, manifestly fails to provide such pedestrian and cycle links.

We note that the design flaws, as detailed below, in both the foul and surface water drainage, have not been addressed.

Similarly, the site's status as a Local Wildlife site and the future conflict with badgers' foraging remain unaddressed.

There is intense pressure on local school places, with some parishioners being unable to get places in the local schools. The Junior School has previously been expanded from a 2 to 3 form entry, but the common areas have not expanded, so there is limited possibility to add further places.

We note and echo the concerns of the GCC Minerals & Waste Planning Authority and Historic England.

7th July 2022

While the reduced number of dwellings will reduce the level of loss of amenity for the residents of Oakhurst Rise, this application does nothing to address the other concerns raised in previous applications for this site.

It is disappointing that while the number of dwellings has reduced, the footprint of the development and its impact on wildlife / bio-diversity remains very similar.

One of the justifications in favour of the earlier proposals was the provision of affordable / social housing. This proposal causes almost the same level of harm, but with less balancing affordable housing provision. Given the complexities of engineering this site, it is questionable as to how much affordable housing will be able to be provided.

The formal adoption of the site as a Local Wildlife Site highlights the bio-diversity of the site that was not recognised when the site was labelled as possibly being suitable for development in the Local Plan. Similarly, Cheltenham's declaration of a Climate Emergency and resultant commitment to maintain bio-diversity, after the production of the Local Plan, also revises the suitability of the site's inclusion in the Plan.

Large parts of the foraging grounds of the badgers will still become hardened public areas and private gardens. This will lead to collisions with vehicles and damage to residents' gardens. The areas of the site outside the development remain open to all. The increase in domestic animals being able to roam these areas can only be detrimental to wildlife and so further reduce bio-diversity.

The access to the site is simply not conducive to access on foot or bicycle. With a view to access to local services, the climb from the bottom of Charlton Court Road to the entrance to the site is 33m, an average gradient of 7% for 475m. At its steepest the gradient is over 12%, or almost 1 in 8. These figures do not include the climb from the bottom of Charlton Court Road to the local facilities at Sixways, or the changes in level within the site.

The result of the severity of the climbs means that the site will be accessed almost entirely by private car. The lack of movement other than by car will inhibit social integration with the wider Charlton Kings community and any resident of the development without access to a private car will be very socially isolated. Both in terms of transport and social inclusion, this proposal does not represent Sustainable Development, regardless of the somewhat wishful statements in the Transport Assessment.

As has been previously reported, in freezing conditions residents of Oakhurst Rise have been compelled to leave cars in Charlton Court Road as the access becomes too hazardous. Adding the cars from a further 25 dwellings in these circumstances can only add to the difficulties.

It would be useful for members of CBC's Planning Committee to walk or cycle to the site entrance from Sixways, to assess at first hand how impractical such transport choices would be for day-to-day access to local facilities.

The developer's offer of an e-bike voucher to the first occupiers is nothing more than a marketing gimmick, other than to acknowledge that the access to the site is not conducive to walking or cycling. If the houses have a design life of say 100 years, who will replace the ebikes when they wear out? What will happen when the properties change hands? If the ebikes are to remain with the property what will happen when the new owners are not the same height / size as the original occupier?

The drainage design has major flaws that are listed below. Notwithstanding these flaws, the drainage scheme does highlight that an ongoing maintenance regime will be needed to maintain the surface water systems. The Committee can find no mention of how and by whom the maintenance is to be carried out. In the absence of a maintenance regime, even a correctly designed attenuation scheme will, in time fail, resulting in surface water running over ground to properties downhill of the site.

Drainage Scheme design issues:

The discharge of water to the pond at a gradient of 1 in 11 will be likely to cause the pond to scour and such scoured material will be carried downstream into the drainage system. The discharge from the pond to a catchpit at a gradient of 1 in 5 be likely to stir up settled silt in the catch pit during periods of high flow, rather than settle out the silt. The silt will settle in the attenuation chamber once the incoming flow exceeds the discharge rate controlled by the hydro-brake valve (2.0L/s). There does not appear to be any means of de-silting the attenuation chamber, meaning that over time it will provide less and less attenuation.

The Aqua-swirl treatment manhole should be upstream of the attenuation chamber. By being downstream of the hydro-brake valve it will serve little purpose, as the silt it is designed to intercept will already have been deposited in the attenuation chamber.

While a building regulations matter, it should be pointed out that gradients on the proposed foul drainage (as steep as 1 in 5) far exceed what is recommended in the Building Regulations (1 in 40) and could be expected to result in the separation of liquid and solids and resultant blocking of sewers.

John Mills Cotswold Conservation Board

30th June 2022

Thank you for consulting the Board on the additional information submitted by the applicant in connection with the above application.

Having reviewed the information submitted (including the Landscape and Visual Addendum Note from MHP, dated 15 June 2022) and the amendments proposed, the Board agree with MHP's conclusion that the revisions give rise to no concerns from a landscape and visual perspective and as such the Board's view remains that the proposal would not result in a significant adverse impact upon the landscape and scenic beauty of the National Landscape.

Accordingly, the Board does not object to this application.

Social Housing

22nd March 2022

Comments attached as appendix 2

Joint Waste Team

28th January 2022 - See comment available to view in documents tab.

30th June 2022 - Comment available to view in documents tab.

Architects Panel

14th March 2022

Design Concept Previous applications for residential developments on this site have been refused essentially because they were deemed to be over-development. This application is only for 25 dwellings instead of the 43 dwellings previously proposed. As a result the scheme is much improved, providing more open space around properties and less impact on heritage buildings and their setting.

Design Detail Although the application is outline only, the scheme includes suggested plans and elevations of proposed house types, which are designed to respond to the sloping contours of the site.

The panel felt that the housing mix and the distribution of dwellings on the site had been carefully considered, taking on board the various comments made at the previous appeal.

In many ways this is a landscape led design proposal which is to be commended.

Recommendation Support

4. PUBLICITY AND REPRESENTATIONS

- 4.1** The application was publicised by way of letters to over 500 properties who are neighbours of the site or have commented previously. Site notices and notices in the Echo were also posted. The consultation exercise was repeated upon receipt of revised plans.
- 4.2** Approximately 150 representations have been received. Approximately 100 of these are in objection to the proposal and 50 are in support. The main points raised can be summarised as follows:

In objection:

- Impact upon wildlife/badgers/protected species/Local Wildlife Site
- Impact on trees
- Increased traffic
- Unsuitable access
- Increased pollution & impact on air quality
- Unsustainable/Incompatible with net zero ambition/Climate emergency
- Flooding/Drainage
- Light Pollution
- Impact on local services
- Impact on heritage assets
- Impact on landscape
- Impact on residential amenity – privacy/light/overshadowing
- Dwellings too tall in context of bungalows on Oakhurst Rise
- Question whether affordable housing will be affordable
- Site should not have been allocated for housing

In support:

- Provision of affordable housing
- Benefit to local economy

- Funding for schools
- Well designed scheme
- Site is allocated for housing

5. OFFICER COMMENTS

5.1 Background

5.2 As mentioned above there is a significant amount of planning history at this site. The key planning applications are detailed below. These applications were all in outline, for residential development with the same point of access via Oakhurst Rise.

5.3 17/00710/OUT

5.4 This application was for the erection of 90 dwellings and was refused in July 2018. There were 5 reasons for refusal which, to briefly summarise related to (1) loss of trees, (2) Impact on the setting of listed buildings, (3) unacceptable impact on highway networks due to access from Oakhurst Rise, (4) Impact on protected species, (5) impact on landscape character and AONB.

5.5 18/02171/OUT

5.6 This application was for up to 69 dwellings and was refused in March 2019. There were 5 reasons for refusal which, to briefly summarise related to (1) conflict with site specific requirements of emerging policy HD4, (2) loss of trees, (3) impact on setting of listed buildings, (4) Impact of protected species, notably Badgers, (5) impact on landscape character and AONB.

5.7 Following the refusal of the planning application an appeal was made which was dealt with by Public Inquiry. Prior to the inquiry the authority withdrew the fourth and fifth reasons for refusal in relation to ecology and visual impact.

5.8 The appeal was subsequently dismissed.

5.9 20/00683/OUT

5.10 This application was for 43 dwellings and was refused in September 2020. There was one reason for refusal which read as follows:

1. The proposed development would have a significant impact on the setting of nearby listed buildings. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.

Policy HD 4 of the Adopted Cheltenham Plan suggests a minimum of 25 dwellings can be accommodated on this site subject to a list of criteria. The proposal for 43 dwellings against the policy requirement of 25 has led to a layout which does not respect the character, significance and setting of heritage assets. The proposal is therefore in conflict with Policy HD4 of the adopted Cheltenham Plan.

The development would also be in conflict with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2019).

- 5.11** Following the refusal of the planning application a further appeal was made which was dealt with by public inquiry. The appeal was subsequently dismissed.
- 5.12** The appeal decision has been provided in full to members, however the main issues arising will be briefly summarised. The Inspector identified the main issues to be
- (a) The effect of the proposed development upon the setting of Ashley Manor and icehouse (Grade II* Listed) and Charlton Manor (Grade II Listed) including whether the harm is outweighed by the public benefits; and,
 - (b) The effect of the proposed development upon the natural environment.

5.13 Inspector's findings on Heritage

- 5.14** On the matter of heritage; the inspector states that the appeal site contributes to the setting of the heritage assets, making a positive contribution to their significance, in addition to their architectural and historic interest. She considered that the harm would arise from the introduction of built form into the currently open setting and backdrop of Ashley Manor. Similarly, for Charlton Manor, the development would be visible beyond the Icehouse and proposed tree belt, impeding views and urbanising the currently open aspect and setting. Plots 17 – 21 and 22 – 21 would be located closest to the ice house and would have the greatest visibility from this heritage asset. She also considered that whilst the tree belt would assist in mitigating the effect through clear separation of development and maintained grassland, it would have a somewhat artificial appearance in the landscape. She was of the view that there would be moderate harm to Ashley Manor and Charlton Manor. She also found a slight/negligible harm to Glen Whittan, a non-designated heritage asset to the north of the site.

5.15 Inspector's findings on the Natural Environment

- 5.16** In respect of the Natural Environment the Inspector said *"the appeal site represents a multi-faceted ecosystem which includes mature and veteran trees, hedgerows and grassland. Fauna includes badgers, a bat roost and reptiles. It is designated as a LWS."*
- 5.17** The appeal decision gives a detailed view on the various classifications of trees which does not need to be repeated here. On the issue of veteran trees she concludes *"veteran trees are irreplaceable habitats. Even with a detailed veteran tree management plan (secured by condition) and wider tree protection measures, I cannot be sure, given encroachments into the standing advice buffer zone, that the development would not result in deterioration of these highly important trees." ... "some of the RPAs of protected but non-veteran trees would also be affected by the development. Tree 3014 would have its RPA breached by a small part of a garden and fence of plot 30. A parking bay to serve plot 29 would traverse this for oak tree 3015. Oak trees 3032 and 3033 would also have the drainage running in between them." ... "overall, in terms of arboricultural effects, I consider that the development would cause unacceptable harm to retained protected and veteran trees."*
- 5.18** On badgers the Inspector concluded the proposal would have a harmful effect because the retained sett BS4 would be in an area accessible to residents of the development and the overall foraging areas would be reduced.
- 5.19** On the Local Wildlife Site (LWS) designation, the Inspector considered that the site's value for learning would be maintained, albeit on a reduced site area than currently enjoyed by the pupils.
- 5.20** Bats and reptiles were considered to be adequately protected.

5.21 The Inspector acknowledged the interrelationship of various ecological elements including the badger setts, buffer zones, grassland etc. However she considered that the outstanding matters could be dealt with by condition with management being secured in the UU. She was unable to conclude on what level of Biodiversity Net Gain would be achieved. Subject to conditions the scheme would not adversely affect the integrity of the Cotswold Beechwoods SAC.

5.22 On the matter of the Natural Environment the Inspector concluded as follows:

5.23 *"In considering the effects in the round, and mindful of the weight to be given to irreplaceable habitats, I consider it appropriate to adopt a precautionary approach in terms of the natural environment resources at the site."..."Overall, I thus consider that overall the development would conflict with CP HD4 in terms of trees and biodiversity, along with CP policies G112 and G113 and JCS Policy SD9 (in terms of its overarching protections of biodiversity and geodiversity and paragraphs 170 and 175 of the Framework. As an allocated site where avoidance of effects is unrealistic, I consider this may form a wholly exceptional reason under paragraph 175 (c)."*

5.24 Inspectors findings on the planning balance

5.25 In considering the planning benefits the Inspector referred to the fact that the Council cannot currently demonstrate a 5 year housing land supply, with the figure at the time of the inquiry being around 3.7 years. The Inspector considered the delivery of housing to be a substantial benefit. The delivery of affordable housing against an accumulated shortfall of 1,015 affordable homes against the requirement of the 2015 SHMA was also considered to be of substantial weight, as was the delivery of 4 self-build plots.

5.26 She finally concludes that: *"Nevertheless, harm to heritage assets and irreplaceable habitats are afforded significant weight in statute and by the Framework. I accept that, on the face of it, finding against a housing scheme on a very recently allocated site is perhaps somewhat unusual, particularly as the housing figure contained within Policy HD4 is expressed as a minimum. However, based upon the detailed policy context set out in HD4 and my findings above, I consider that, on balance, these matters plus the other harms identified, are determinative. The harm would not be outweighed by the public benefits I have identified, even where they are deemed to be substantial. Therefore, there is conflict with the development plan and the Framework provides a clear reason for refusing the development proposed...For the reasons given above and having taken into account all other matters raised, I therefore conclude that the appeal should be dismissed.*

6. Determining Issues

6.1 The key issue is considered to be whether the proposal overcomes the Inspectors concerns about the proposal but also whether the proposal is acceptable in respect of all the relevant material considerations. The main issues are therefore (i) principle, (ii) Heritage impacts, (iii) ecology and biodiversity, (iv) trees, hedgerows and landscaping, (v) design and layout, (vi) Access and highway issues, (vii) impact on neighbouring property (viii) sustainability, (ix) landscape impact, (x) waste and recycling, (xi) drainage and flooding, (xii) affordable housing and (xiii) other planning considerations.

6.2 Principle

6.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material planning considerations indicate otherwise. This is reiterated in paragraph 47 of the NPPF which also reiterates that decisions on planning applications should be made as quickly as possible.

- 6.4** Paragraph 11 of the NPPF sets out a “presumption in favour of sustainable development” which in decision taking 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 planning permission 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 the Framework taken as a whole
- 6.5** The development plan comprises a small number of saved policies of the Cheltenham Borough Local Plan Second Review 2006, the Cheltenham Plan which was adopted in July 2020 and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (JCS).
- 6.6** Material considerations include the National Planning Policy Framework (NPPF) and Planning Practice Guide (PPG).
- 6.7** Policy HD4 of the adopted Cheltenham Plan allocates this site for housing development. The policy outlines the following site specific requirements:
- A minimum of 25 dwellings, subject to masterplanning (in accordance with policy SD4 of the JCS) which demonstrates that the development can be achieved whilst accommodating:
 - Safe, easy and convenient pedestrian and cycle links within the site and to key centres
 - A layout and form that respects the existing urban characteristics of the vicinity
 - A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development
 - Protection to key biodiversity assets and mature trees
 - New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor.
 - Long term protection of mature trees and hedges
 - Any development on the site should secure improvements to the Ice House.
- 6.8** By virtue of this policy itself the development of the application site for housing must be considered acceptable in principle.
- 6.9** The Council is currently unable to demonstrate a five year housing land supply. At the time of the last 2 inquiries the figure stood at 3.7 years and 4.6 years and the housing

supply situation is worsening at present. The contribution of 25 dwellings towards this shortfall is a significant benefit of the scheme.

6.10 Heritage impacts

6.11 JCS policy SD8 requires both designated and undesignated heritage assets and their settings to be conserved and enhanced as appropriate to their significance, and is consistent with paragraph 197 of the NPPF that advises that in determining planning applications, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation or heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

6.12 Additionally, Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA), in considering whether to grant planning permission to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. In this case, it is the setting of the listed buildings that must be considered.

6.13 Framework paragraph 199 gives great weight to the conservation of designated heritage assets (the more important the asset, the greater the weight should be). Paragraph 200 provides that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Further paragraphs 201 – 202 consider harm to designated heritage assets in terms of whether it would be substantial or less than substantial. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Paragraph 203 refers to non-designated heritage assets.

6.14 The significance of a heritage asset is defined to include its archaeological, architectural, artistic or historic interest, derived not only from its presence but its setting, in which it is experienced. The PPG refers to the extent and importance of the setting to the visual relationship between the asset and proposed development. Views of or from an asset will play an important part. The contribution a setting makes to the significance of an asset is not dependant upon public access.

6.15 There are two listed buildings in close proximity to the application site; Charlton Manor, a grade II listed building located to the northeast of the site within the Battledown estate, and Ashely Manor, a grade II* listed villa within the school grounds to the southeast. Additionally an historic Ice House is also located within the application site itself; the Inspector in the most recent appeal decision deemed this to be a curtilage listed structure. Whilst the site is physically separated from these listed buildings, there are clear views into the site from these heritage assets. Glen Whittan to the north west of the site is a non-designated heritage asset.

6.16 Policy HD4 of the Cheltenham Plan contains 4 specific requirements with regards to heritage assets as detailed above.

1. Securing improvements to the ice house

The application proposes the enhancement of the ice house comprising the clearance of scrub and the provision of an historical interpretation board. This is considered to constitute sufficient improvement to comply with this element of the policy and can be secured by condition.

2. New housing should be located away from the setting of the west elevation of Ashley Manor. No development south of a straight line westwards to the rear of the northernmost school building.

The proposed development complies with these requirements.

3. Undeveloped, landscaping buffer for 30m west of the rear boundary of Charlton Manor.

The nearest development is over 70m from the rear boundary of Charlton Manor. The intervening area would largely be retained grassland with a new area of native copse towards the north of the site.

4. Layout and form that respects character, significance and setting of heritage assets.

This has been the main area of discussion in previous applications in relation to the heritage issues and will be discussed in more detail below.

- 6.17** In response to the Inspectors concerns on heritage, summarised above; the applicant has sought to amend the scheme. This includes more space around the ice house and the removal of the wide tree belt buffer and its replacement with a more natural style of landscaping which results in more open space adjacent to the heritage assets. The form of dwellings proposed in the south eastern part of the site is of a lower density and looser grain. Submitted cross sections demonstrate how the buildings on this part of the site would follow the land contours and green roofs would be provided. The resulting view towards the proposed development from the two listed buildings would be a much more organic and less suburban form of development, thereby reducing the impact.
- 6.18** The Council's conservation officer has commented on the proposals and his comments are provided in full. He acknowledges that the proposal will still result in a loss of part of the rural landscape setting and views from Ashley Manor and Charlton Manor would be negatively affected through urban encroachment. This encroachment would cause a measure of less than substantial harm to the significance of the heritage assets and their settings. The NPPF requires that in such circumstances the level of harm to the significance of the listed building must be weighed against the public benefits of the proposal.
- 6.19** The submitted material from the applicant acknowledges that the proposal causes harm to the heritage assets but argues that this is at a low level and that the harm is outweighed by significant public benefits. The conservation officer does not dispute this and considers that the proposal is acceptable in heritage terms, subject to detail on boundary treatments and landscaping.
- 6.20** It is acknowledged that Historic England have objected to the proposal and have suggested that visual montages are prepared indicating the potential impacts of the revised layout on the setting of Ashley Manor (Grade II*), thereby modelling views of the principle approach to the house from the south.
- 6.21** This has been discussed with the applicant. They consider that the submitted information has enabled the LPA, with specialist heritage advice to form a sound judgement as to the impact of the proposal upon the significance of Ashley Manor and Charlton Manor. They say that the Council's Heritage Adviser has been able to reach a professional judgement on the impact of the proposal with particular reference to the significance of Ashley Manor

with the drawings as submitted. He has concluded that the development should not be objected to in heritage terms due to *'the cumulative impact of the amendments made to reduce the number and location of dwellings, the measures to mitigate their visual impact, the public benefits of the proposal and the restricted harm being caused to limited aspects of the heritage significance of the affected heritage assets and their settings'*. In this context the applicant is of the view that the preparation of visual images, which can be open to different interpretations is not necessary to enable the application to be determined.

6.22 In summary, the proposal accords with the requirements of policy HD4 in relation to heritage assets, is considered to overcome the concerns of the Inspector and has the support of the conservation officer. It is unfortunate that the scheme does not have the support of Historic England, however Officers are satisfied that overall, the scheme is acceptable in terms of heritage impacts.

6.23 Ecology and biodiversity

6.24 JCS policy SD9 and advice set out within the NPPF at Section 15 seeks to ensure that development contributes to, and enhances the natural and local environment; 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.

6.25 The Council's ecological advisor has been consulted on the proposals and raised some initial queries which have been responded to by the applicant. They are now satisfied with the proposals from an ecology perspective, subject to conditions, and their views are incorporated into the comments below.

Cotswolds Commons and Beechwoods Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC)

6.26 Policy BG1 of the Cheltenham Plan relates to the Cotswold Beechwoods Special Area of Conservation (SAC) – Recreation Pressure. It states that development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site Network and the effects cannot be mitigated. All development within the Borough that leads to a net increase in dwellings will be required to mitigate any adverse effects.

6.27 It is known that residential developments, alone or in combination with other development, have the potential to result in increased recreational pressures. Natural England (NE) advised that without appropriate mitigation the application would have an adverse effect on the integrity of the Cotswold Beechwoods SAC and damage or destroy the interest features for which the SSSI has been notified.

6.28 To ensure these harms are not realised the LPA have adopted an 'Appropriate Assessment' based on a Habitats Regulations Assessment (HRA) carried out on behalf of the applicant and agreed with NE, upon receipt of a revised version which met their requirements. The HRA concluded that the proposed development had the potential to affect the integrity of the SAC through increased recreational pressure, however this could be mitigated by an appropriate condition requiring the provision of a Homeowners Information Pack. NE have agreed with this approach.

Protected Species

6.29 The planning application has been accompanied by updates to the Ecological Appraisal submitted with the previous scheme. Additional surveys have been carried out including a detailed botanical survey of the grassland, an update Phase 1 Habitat Survey, update Badger Survey and Reptile Survey.

- 6.30** Bats – A single bat roost was identified in Tree T3018 occupied by a single Common Pipistrelle Bat. Tree T3027 was noted to provide a roosting opportunity for bats. These trees are both retained in the proposals.

Bat activity was recorded at the western and central hedgerows but not at exceptional levels, being at or below that typically expected for a site in this location.

The situation with regards bats has not changed significantly since the previous ecology work and the appeal. The Inspector was satisfied that measures such as lighting control and bat boxes could be secured by condition and that bats could be adequately protected.

- 6.31** Amphibians – Overall the site is not considered to be of value to amphibians. It supports suitable terrestrial habitats for Great Crested Newts although it is unlikely they would be present due to the partial isolation of the site and absence of known suitable water bodies on the site.
- 6.32** Reptiles – Low populations of Slow-worms and Grass Snakes are known to be present on site. The Inspector was satisfied that these habitats could be adequately protected via an ecological management plan which can be secured by condition.
- 6.33** Birds – A variety of birds have been recorded at the site, including birds of conservation concern. However the ecological appraisal states that the species recorded largely remain relatively common and widespread.
- 6.34** Badgers - The primary concern of the Inspector in relation to protected species was in relation to Badgers, mainly on the grounds that the retained sett BS4 would be in an area accessible to residents of the development and the overall foraging areas would be reduced.

The latest Badger mitigation proposals show that Sett BS2 that was originally to be removed, will now be retained, and a second artificial sett will be provided. They also show an increased area of the site being retained as suitable foraging habitat for badgers, including Badger Sett Protection Areas around retained Setts BS2, BS3 and BS4, and the two new artificial setts. 0.63 ha of the site would be developed (excluding private gardens) and 84% of the site would remain undeveloped (compared to around 70% previously).

It is considered that these measures adequately address the Inspector's concerns in relation to Badgers.

Trees

- 6.35** The Inspector considered that the development would cause unacceptable harm to retained protected and veteran trees.
- 6.36** The Inspector noted that two of the veteran trees, Trees 3007 and 3021 had been classified as 'relic trees' by the applicant and were given smaller buffer zones (base on the standard Root Protection Area (RPA) compares to the veteran trees on site).
- 6.37** The Tree Protection Plan (TPP) submitted with the current application shows that the two trees in question would now have a Veteran Tree Buffer. As such under the current proposals all 8 veteran trees would have a Veteran Tree Buffer. These trees are 3007, 3018, 3021, 3026, 3028, 3030, 3031 and 3037 (off-site).
- 6.38** It is acknowledged that the Woodland Trust maintain their objections to the proposals based on their view that trees 3010, 2014, 3015, 3022 and 3027 are also veteran trees and should be afforded the veteran tree buffer. In respect of these trees the Inspector stated: *"Having viewed the trees on site and reviewed all the evidence before me, the*

disputed trees are all mature specimens and have value but would not meet the definition of veteran trees at this current time.”

- 6.39** The Inspector noted that the RPAs of two protected but non-veteran trees (3014 and 3015) would be encroached upon by the development. The TPP submitted with this application shows that no development would take place within the RPAs of any of these trees, or any of the mature trees which are to be retained.
- 6.40** Therefore the majority of the Inspectors comments in relation to the trees have been overcome by the revised plans. It is noted that drainage still runs between trees 3032 and 3033. The TPP notes that it is proposed to use trenchless techniques for this element of the proposals.
- 6.41** The LPA Trees Officer is generally supportive of the proposal subject to points of clarification which can be addressed through conditions.

Local Wildlife Site

- 6.42** The application site was designated as a Gloucestershire Local Wildlife Site in September 2020 because *“the site is exceptionally well-placed to offer educational opportunities either by its proximity to a school or other place of learning, or its easy accessibility for study of the species and habitats present without causing unacceptable damage or disturbance”*
- 6.43** Policy SD9 (5) of the JCS states that *“Development within locally designated sites will not be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated.*
- 6.44** The proposal will result in the reduction of the open area but a scheme of enhancement to the grass-land would improve the quality of the bio-diversity within the retained area. A s.106 has been prepared which limits access to the retained grassland by the general public and requires the submission of a biodiversity management plan which will address the following:
1. The intentions for long terms ownership and protection,
 2. Protection prior to and during nearby construction work,
 3. Enhancement of the flora and fauna
 4. Short and long term management
 5. The enhancement of the education potential
 6. The funding of the above in both the short, medium and long term
- 6.45** These obligations are the same as those which were included in the s.106 prepared at the time of the public inquiry. The Inspector considered that this was an appropriate approach and concluded *“...I can be satisfied that its value for learning would, on balance, be likely to be maintained in spite of a reduction in site area.”*
- 6.46** The reduction in the size of the LWS is considered to be off-set by the enhancements, bearing in mind the reasoning behind the designation. As such it is considered that the proposal complied with policy SD9 (5).

Biodiversity net gain

- 6.47** The Environment Act 2021 requires that by Autumn 2023 all development will be required to deliver a mandatory 10% Biodiversity Net Gain (BNG). There is no mandatory requirement in Cheltenham at present however the NPPF encourages new development to maximise opportunities for biodiversity through incorporation of enhancement measures. The developer has sought to make a positive contribution towards the broad objectives of national conservation priorities and local Biodiversity Action Plan.
- 6.48** The Inspector stated that she could not be certain as to what level of gain would be and that it could not be accurately quantified at the time of the inquiry. An ecologist working on behalf of CK Friends returned very different results that the applicant's ecologist.
- 6.49** The updated plans submitted by the applicant show increased retention and enhancement of habitats. An updated biodiversity Net Gain assessment has been submitted using the new version of the Defra Biodiversity Metric (metric 3.0). This shows a habitat net gain of 11.10% and a hedgerow net gain of 83.3%.
- 6.50** Given the enhancements that are proposed, the additional landscaping and vegetation which is to be retained and provided in comparison with the previous scheme, officers are satisfied that the proposal maximises opportunities for enhancement on the site.
- 6.51** Overall it is considered that the application responds to the points raised by the inspector at the appeal and the proposal is considered to be acceptable in terms of ecology and biodiversity.
- 6.52 Design and layout**
- 6.53** Layout and scale, together with the proposed access arrangements are 'fixed' elements of the scheme; however appearance is reserved for future consideration (as is landscaping).
- 6.54** JCS policies SD3 and SD4 set out the design requirements for new development proposals. These policies seek to ensure that development proposals are designed and constructed so as to maximise the principles of sustainability, and to ensure that all new development responds positively to, and respects the character of the site and its surroundings. The policies are consistent with advice set out within Section 12 of the NPPF which emphasizes at paragraph 126 that "*Good design is a key aspect of sustainable development*".
- 6.55** Additionally, JCS policy SD11 highlights the need to ensure that new housing developments provide an appropriate mix of housing to meet the local needs.
- 6.56** Policy HD4 of the Cheltenham Plan includes as site specific requirements; a layout and form that respects the existing urban characteristics of the vicinity' and a layout and form of development that respects the character, significance and setting of heritage assets which may be affected by the development.
- 6.57** The previous application was not refused on design and layout grounds, however the layout has changed significantly in order to allow more trees to be retained, provide greater buffers where necessary, to create more space around the Ice house and to reduce the impact on the setting of heritage assets.
- 6.58** The part of the site closest to the access into the site off Oakhurst Rise in the north western part of the site comprises a mixture of maisonettes, detached and semi-detached dwellings. Upon submission this part of the site included a cul-de-sac extending south from the main road through. This was deleted from the scheme which has created an improved layout. Whilst detailed plans are not available for these dwellings the plans indicate that there is sufficient space to successfully accommodate these units. The general form and layout of this part of the site reflects the general layout and density of dwellings within Oakhurst Rise.

- 6.59** Moving east the road leads through the existing tree-belt to two further semi-detached dwellings. The main road then curves down to the south and east to serve a total of 9 dwellings. 4 of these would be large 4/5 bed dwellings. Indicative plans have been provided which demonstrate the types of dwellings which could be provided in this area. They would be formed such there would be a lower ground floor and ground floor within the dwelling presenting as single storey from the street. The upper floor would be set back when viewed from the south and the dwellings would have green roofs. This approach is considered demonstrate an understanding of the site in terms of levels and landscape, as well as the outlook from adjacent listed buildings. The remaining 5 plots within this part of the site also have had indicative plans provided. This follow a similar theme and palette to those mentioned above however are more modestly scaled 3 bed dwellings with terraces providing the amenity space. The rear boundary would be landscaped negating the need for excessive amounts of fencing in this area.
- 6.60** A further drive serving 4 dwellings would lead to the north of the site where it is proposed to provide 4 semi-detached dwellings. Indicative plans have not been provided for these dwellings however the cross section suggests that these would also be flat roof dwellings with green roofs.
- 6.61** Overall the proposed design and layout is considered to respond positively to the constraints of the site, and respects the urban characteristics of the vicinity, taking into account of the variety in housing forms surrounding the site.
- 6.62** As mentioned ‘appearance’ is a reserved matter however the layout is considered to be acceptable and the indicative plans which have been submitted give confidence that high quality dwellings will be provided within this framework.
- 6.63 Access and highway issues**
- 6.64** The proposed access is one of the ‘fixed’ elements of this outline planning application.
- 6.65** Adopted policy JCS INF1 advises that planning permission will be granted only where the impacts of the development are not severe. The policy also seeks to ensure that all new development proposals provide safe and efficient access to the highway network; and provide connections to existing walking, cycling and passenger transport networks; and provide connections to existing walking cycling and passenger transport networks, where appropriate. The policy reflects advice set out within Section 9 of the NPPF. It is repeated in Policy HD4 of the Cheltenham Plan which states “*safe, easy and convenient pedestrian and cycle links within the site and to key centres*” as a site specific requirement.
- 6.66** Planning application 17/00710/OUT (90 dwellings) was refused for a highway reason however none of the subsequent applications have been refused on highway grounds.
- 6.67** In the recent appeal decision (20/00683/OUT) the Inspector addressed highway safety in response to significant local objection which had been received. Below is an extract on this matter from the appeal decision:

123. Maximising sustainable transport options is one of the main objectives of the Framework and this includes providing for high quality walking and cycling networks. Oakhurst Rise, as its name suggests, has a relatively steep gradient leading east to the appeal site which then continues to rise to the existing mature hedgerow running through the site.

124. I accept that the gradients involved are slightly below cycle design guidance¹³ but the site is an allocation in a residential area where many developments are located at a gradient. CKFR6 consider a design approach could be adopted and attest that it isn’t beyond modern technology, however no such examples were given as to what this might be or how it might address this issue.

125. The topographies involved will require a degree of physical fitness from both pedestrians and cyclists, but it would not be insurmountable. Having visited the road, I saw several cyclists and pedestrians, including with pushchairs. which demonstrates that the local topography does not overly limit such activities. I also note the offer of an e-bike voucher as part of the travel pack by way of mitigation.

126. Significant local objection has also been generated in terms of highway safety concerns from local residents, including those who live on Oakhurst Rise, and the surrounding network which will be utilised by the new residents of the development. This included a mock coroner's report written following the fictional death of a family from a traffic collision. This was a highly unusual form of evidence, but it does demonstrate the level of concern locally.

127. While I would not go as far as the previous Inspector who described the access route as 'tortuous,' it is certainly an indirect access owing to the one way system in place around Oak Avenue/Churchill Drive/Beaufort Road, and the presence of on street parking.

128. Oakhurst Rose would be changed to a new through-route and there would be additional flows but having reviewed the evidence, I consider that would not be harmful in terms of highways effects. The highways authority cites no objections to the scheme on technical highway grounds in terms of flows, junctions, visibility, capacity or other which is a matter of considerable importance. The methodological approach taken is an industry standard commonly used to assess housing applications. Highways issues would have also been considered as part of the local plan process which led to the allocation of the site.

129. Records do not indicate incidences of conflict between pedestrians, cyclists and motorised vehicles in the vicinity. That is not to say that such incidences have not occurred, but there is little evidence to support such claims. The one-way system and local conditions also act as traffic calming measures. Construction traffic would also be dealt with by condition in order to minimise those time-limited effects.

130. Overall, while I appreciate the local concern, I am satisfied that there would be no highway safety implications arising from the proposed development that could warrant finding unacceptable harm, subject to conditions. The development would accord with Policy HD4 in this regard.

- 6.68** The current proposal is for a reduced number of dwellings and as such the impact is reduced further in relation to the scheme considered by the Inspector.
- 6.69** In response to initial submission the Highway Authority requested that some changes be made to the layout in response to The Department for Transport document Inclusive Mobility which can into effect from December 2021. Para 4.3 of the document discusses requirements in respect of gradients. This includes the requirement that pedestrian routes should include level sections or 'landings' at regular intervals. It further states that level landings should be provided for every 500mm that the route rises.
- 6.70** Revised plans were received in response to this which includes two level resting areas to provide opportunities for pedestrians and cyclists to stop and rest. The Highway Authority consider this to be acceptable mitigation to address the need of disabled users and the guidance set out in the document mentioned above.
- 6.71** Revisions have also been made to address comments made in relation to tree planting, highway layout and turning areas. The Highway Authority now advise that they have no objection to the scheme subject to conditions relating to conformity with submitted details, Bicycle Parking, Electric Vehicle Charging Points, Travel Plan and Construction Management Plan.

6.72 The previous application was not refused on highway grounds, however in any event the Inspector found the application to be acceptable in this regard. The current proposal is for a fewer number of units and the scheme has been improved in terms of accessibility. The proposal now has the support of the Highway Authority. As such Officers conclude that the current proposal is acceptable in terms of highways and access.

6.73 The Inspector considered an issue in relation to a resident of Oakhurst Rise who requires accessible transport to access medical care and respite facilities which they felt would be impacted upon by the proposals. Whilst acknowledging the personal circumstances of the resident she concluded that the situation should be manageable and that other options would likely be available.

6.74 Impact on neighbouring property

6.75 Policies SD14 of the JCS and SL1 of the Cheltenham Plan require that development does not cause unacceptable harm to the amenity of adjoining land users and living conditions in the locality.

6.76 None of the previous applications have been refused on amenity grounds.

6.77 Whilst it is acknowledged that the outlook from some neighbouring properties would undoubtedly be altered by the development, officers are satisfied that the proposed layout would not result in any overbearing impact.

6.78 The properties to the west of the application site, 29 and 18 Oakhurst Rise would have properties adjacent to the eastern boundaries. Whilst the plans received are indicative in terms of design they suggest there would be a gap between the side boundary and the buildings of at least 7m. Through reserved matters the placement of windows etc can be considered, however the plans indicate that an acceptable level of light, privacy and outlook can be maintained for these properties.

6.79 Some of the properties to the north would have new properties adjacent to their southern boundaries. These are Meadow View, Newlands and Dalswinton which are accessed from Birchley Road. The plans indicate that these properties would have gardens of over 11m in length for the majority with single storey rear additions potentially bringing this to nearer 9m. This complies with the Council's Supplementary Planning Guidance and means that the gardens of these properties would be overlooked to an unacceptable degree. Window-to-window distances are all well in excess of those required by the guidance and as such there would be no unacceptable loss of privacy or light to these properties.

6.80 All other neighbours to the application site would have open space or landscaped areas adjacent to their boundaries which would result in no loss of residential amenity.

6.81 As such the application is considered to be acceptable on amenity grounds.

6.82 Sustainability

6.83 Policy SD3 of the JCS relates to sustainable design and construction. It states that proposals must demonstrate how they contribute to the aims of sustainability. Development will be expected to be adaptable to climate change and will be expected to incorporate the principles of waste minimisation. Major planning applications must be submitted with an Energy Statement.

6.84 In 2019 Cheltenham Borough Council declared a climate emergency with an aim to be a carbon neutral town by 2030. In 2022 the Council adopted a Climate Change SPD.

6.85 The applicant has provided a position statement confirming their response to the Climate Change SPD which has been adopted since the submission of the application. This confirms that the scheme will incorporate the following measures

- The majority of the properties have a south facing elevation and all are dual aspect
- Pitched roofs will be provided with solar panels and the flat roofs will be sedum
- Double glazing units
- Dwellings will be constructed to at least Building Regulations for thermal efficiency. The target space heating demand of 15 – 20 KWh/m²/yr will be achieved
- Mechanical ventilation will be installed
- None of the dwellings will be connected to the gas grid
- Each dwelling will have an installed operational air source heat pump prior to first occupation.
- Plots 1- 6 and 20 – 25 will have solar panels installed and operational prior to first occupation to achieve 120 KWh/m²/year.
- Voucher for E-bike of up to £750 per dwelling
- ECVPs for each dwelling
- Rain water drainage strategy which takes into account a 40% allowance for climate change.
- The scheme achieves bio-diversity net gain of +15.37% for habitats and +81.25% for hedgerows.

6.86 A number of other measures which could be incorporated into the scheme can be addressed at reserved matters stage. A condition securing the provision and retention of the features outlined above is recommended.

6.87 Overall these provisions represent a good response to the asks of the SPD and will ensure that the proposal reduces carbon output and provides a sustainable development.

6.88 Landscape Impact

6.89 JCS policy SD6 advises that all development proposals must consider the landscape and visual sensitivity of the area in which they are located or which they may affect. The application site is not located within the Green Belt or Cotswold Area of Outstanding Natural Beauty, but does occupy an elevated position above the town.

6.90 As part of the consideration of previous applications and pre-application proposals an independent landscape appraisal was undertaken by a chartered landscape architect at the request of the LPA. In their appraisal, the landscape architect identified the site's topography and notable slope as a key landscape feature, and highlighted that, whilst it is not designated landscape, its elevated position affords views out across the town and provides the backdrop to a number of large properties within the Battledown Estate. Based on the information available to him at that time, the landscape consultant did not consider the site to be 'valued landscape' in terms of paragraph 174 of the NPPF which seeks to protect and enhance valued landscapes.

- 6.91** The NPPF does not define what is meant by 'valued landscape' but there is relevant case law on this subject. In this instance, officers do not consider that the site should be considered 'valued landscape' for the purposes of paragraph 174. Whilst the landscape clearly has a value attached to it, particularly by local residents, it is not considered to have any intrinsic features that specifically set it aside from other areas of non-designated landscape.
- 6.92** The recent appeal did not consider landscape impact and it was not a reason for refusal. The Inspector for the earlier appeal (18/02171/OUT) did comment briefly on landscape stating that he did not consider that the appeal proposal would cause harm to the AONB.
- 6.93** The current proposals retain a large area of open grassland and officers are confident that the proposal has an acceptable visual impact within the landscape.

6.94 Waste and recycling

- 6.95** Policy SD3 (3) of the JCS states that all development will be expected to incorporate the principles of waste minimisation and reuse. Planning applications for major development must be accompanied by a waste minimisation statement which demonstrates how any waste arising during the demolition, construction and subsequent occupation of the development will be minimised and sustainably managed.
- 6.96** Gloucestershire Waste Core Strategy (Adopted 2012) sets out how the Council will address the issue of planning for waste management in the County in the period of 2012 to 2027.
- 6.97** Following on from an initial comment from the minerals and waste authority (County Council) the applicant has submitted a waste minimisation statement which has been agreed by the authority.
- 6.98** The statement sets out a strategy, which for construction phase includes segregation, storage, transporting, minimising, recycling, disposal, monitoring of waste. During the operation phase, each plot will have an area allocated for waste,, colour coded bins will be provided by the Council. There are publically available recycling banks within reasonable proximity to the site.
- 6.99** As such in terms of waste and recycling the scheme is considered to be acceptable.

6.100 Drainage and Flooding

- 6.101** Adopted JCS policy INF2 and Section 14 of the NPPF seeks to ensure that new development is not inappropriately located in areas at high risk of flooding, and to ensure that development does not increase flood risk elsewhere and, where possible contributes to a reduction in existing flood risk.
- 6.102** The application site is located in Flood Zone 1 and is therefore assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (,0.1%). Additionally, the Environment Agency's Flood Risk Map identifies the entire site as being at a 'very low' flood risk from surface water flooding, although it does identify some areas in close proximity to the site that area at a higher risk of surface water flooding.
- 6.103** The application is accompanied by a Flood Risk Assessment which includes a drainage strategy. The strategy collects water from impermeable areas of the developed site and attenuates them such that discharge rates can be controlled to mimic greenfield run-off and be discharged to the surface water sewer in Charlton Road.
- 6.104** The LLFA confirm that this strategy is acceptable. The calculations to derive attenuation basin sizes and discharge rates are acceptable to the LLFA. The LLFA acknowledge that

there area matters of detail which need to be defined but state that overall the proposal is good and therefore they do not object. A detailed condition is recommended which will require the submission of further detail including the management and maintenance of the system.

6.105 Severn Trent Water have also confirmed that they are content with the strategy to discharge surface water into the sewer at Charlton Court Road.

6.106 On the basis of the professional advice given by officers whose remit is within these areas and based on reports prepared by similarly qualified professionals, officers are confident that the proposal will not contribute to flood risk and provides for satisfactory surface water drainage.

6.107 Affordable Housing and other Planning Obligations

6.108 Affordable Housing

6.109 The application provides 40% (10) affordable homes of a type and tenure which has been agreed with the Housing Enabling Officer. This has been incorporated into a s.106 agreement which is nearing completion with the applicant.

6.110 This provides for the following:

- 40% of the overall number of dwellings shall be Affordable Housing units and first homes. This shall be in the following proportions:

Tenure type/bedroom size (40% AH)	Social Rent	Affordable Rent (Capped at LHA)	First Homes (30% discount on Open Market Value)	Total	% for each bedroom size
1b2p Ground Floor Maisonnette, M4(2), 50m ²	1	0	0	1	30%
1b2p Upper Floor Maisonnette, 50m ²	1	0	0	1	
1b2p House, M4(2), 58m ²	1	0	0	1	
2b4p Ground Floor Maisonnette, M4(2), 70m ²	0	1	0	1	40%
2b4p Upper Floor Maisonnette, M4(2), 70m ²	0	1	0	1	
2b4p House, M4(2) 79m ²	0	1	0	1	
2b4p House, 79m ²	0	0	1	1	
3b5p House, 93m ²	0	0	2	2	20%
4b7p House, 115m ²	1	0	0	1	10%
	4	3	3	10	
TOTALS:	40%	30%	30%		100%

- A clustering strategy shall be submitted (that provided with the application is acceptable)
- The design shall be indistinguishable from the open market units
- Affordable housing units to be transferred to an affordable housing provider
- Submission of marketing plan and lettings plan
- Detailed specification for the homes including delivery and occupation.

6.111 Open Space

6.112 There is a requirement within the s.106 for the submission of a detailed specification for the laying out and maintenance of the open space to be provided on the site.

6.113 Local Wildlife Area (LWA)

6.114 There is a requirement within the s.106 to submit details of intention of long term ownership, enhancement of educational potential and funding of the above in short, medium and long term. It also confirms that this will be fenced off from general public access.

6.115 There is also a requirement for the submission of a Biodiversity Management Plan which will set out the following matters in relation to the LWA:

- Intentions for long term ownership and protection
- Protection prior to and during any nearby construction work
- Enhancement of flora and fauna
- Short and long term management
- Enhancement of educational potential
- Funding of the above in both the short, medium and long term.

6.116 Finally the s.106 provides for the submission of a Landscape and Ecological Management Plan (LEMP) which will include the following:

- Details of future funding for maintenance and improvement of all works referred to in the LEMP
- Details of future funding and maintenance of the artificial badger sett and the pond
- Details of future funding for foul and surface water drainage infrastructure
- Funding to the Management Body to ensure it can carry out works required by the LEMP
- Arrangements in the case of bankruptcy
- Explanation given to every occupier in relation to the LEMP, how it works and how it will be paid for.

6.117 Education, Libraries and Travel Plan

6.118 There is a separate s.106 agreement with Gloucestershire County Council in respect of Education, Libraries and the Travel Plan. This provides for the following:

- **Primary Education** - £126,660.38 for the provision of 8.47 primary school places at the Charlton Kings, Whaddon, Hatherley/Leckhampton, Swindon Road or Hesters Way Primary Planning Area
- **Secondary Education(11 – 16 year)** - £72,226.88 for the provision of 3.74 secondary school places at Balcarras School and /or the Cheltenham Secondary Planning Area.

- **Secondary Education (16 – 18 years)** - £30,099.69 for the provision of 1.32 secondary school places at the Cheltenham Secondary Planning Area
- **Libraries** - £4,900 towards a project that will increase stock provision including the reconfiguration of the Charlton Kings Library to accommodate additional furniture/fittings
- **Travel Plan** – Provision of £750 voucher per dwelling towards the provision or purchase of e-bikes.

6.119 In the recent appeal the Inspector agreed that the management of the LWS could be secured by the submitted unilateral undertaking. The terms of the new s.106 are the same as the agreed UU and therefore adequately deal with management, funding and future maintenance of open space, biodiversity management generally and the Local Wildlife Site.

6.120 The package of s.106 obligations ensure that the development provides a policy-compliant level of affordable housing, mitigates its impact upon local services and provides the legal framework for securing the on-going management and maintenance to achieve the bio-diversity gains etc. This is in accordance with the requirements of Section 122 of the Community Infrastructure Levy Regulations 2010 in terms of being necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development.

6.121 Other considerations

6.122 Public Sector Equalities Duty (PSED)

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

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

Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this application the planning authority has taken into consideration the requirements of the PSED.

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

6.123 Objections from CK Friends, Battledown Trustees and Parish Council

6.124 It is acknowledged that there are still concerns regarding the proposal from the above mentioned groups. These relates primarily to the following issues:

- Concerns about accessibility and traffic
- Impact on AONB
- Pressure on school places

- Impact on Wildlife/biodiversity/errors in documents
- Flaws in drainage design/Flooding
- Impact on neighbour amenity
- Loss of sporting facility
- Heritage Harm
- Impact on Trees

6.125 Whilst there are still concerns in these areas, officers have sought advice from relevant specialists and consultees which has sought to respond to the concerns which have been highlighted above. A number of these are areas which previous Inspectors have been satisfied are acceptable.

7. CONCLUSION AND RECOMMENDATION

- 7.1** The application site is allocated for housing in the Cheltenham Plan, as such the principle of development is supported by policy HD4. The NPPF makes it clear that when development accords with an up-to-date development plan it should be approved without delay. The Inspector for the previous scheme had concerns around the natural environment, primarily focussed around trees and badgers and also in terms of heritage. In this sense she found conflict with policy HD4 and therefore dismissed the appeal.
- 7.2** The proposal includes revisions compared with the previous application which address the areas of concern which were raised. Officers are now confident that the proposal complied fully with policy HD4 and all other relevant policies of the plan.
- 7.3** Of further relevance is policy 11d of the NPPF which states that when development plans are out of date planning permission should be granted unless there are clear reasons for not doing so. In this instance the Local Authority cannot demonstrate a 5 year housing land supply and as such the housing policy is out of date.
- 7.4** The provision of 25 dwelling including 10 affordable dwellings is a significant benefit of the scheme.
- 7.5** It is acknowledged that there is still an objection to the proposal from Historic England and whilst this is a material planning consideration officers have received contradictory comments from the CBC conservation officer. The site is allocated and as such it will be development and there will inevitably be some impact upon the setting the listed buildings which border the site. Whilst the experts may disagree about the precise level of harm it is clear to officers that the harm is significantly reduced from that brought about by the appeal proposal.
- 7.6** In weighing up the benefits and harms officers are of the view that the benefits outweigh the harms and as such the application is recommended for approval. There are no clear reasons for refusing the development.

8. CONDITIONS / INFORMATIVES

- 1 The outline planning permission hereby granted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 This permission grants consent for 25 dwellings.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 Application(s) for approval of the reserved matters (landscaping and appearance) must be made not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 4 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.

- 5 No building works hereby permitted shall be commenced until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. The surface water drainage works shall thereafter be implemented strictly in accordance with approved details, prior to the commencement of any building works above ground level. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- provide information about the design storm period and intensity; the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- include a timetable for its implementation; and
- provide a full risk assessment for flooding during the groundworks and building phases with mitigation measures specified for identified flood risks; and
- provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure sustainable drainage of the development, having regard to adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront because the design of the drainage is an integral part of the development and its acceptability.

- 6 No building construction shall take place until details of highway improvements consisting of the installation of a connecting section of footway (2m wide) with tactile dropped crossing point between Beaufort Road and Ewens Road (north side), extension to the footway (2m wide) and dropped kerb tactile crossing point across Charlton Court Road, and a bus shelter to serve Bus Stop ID: glodtwmt located on Beaufort Road have been submitted to, and approved in writing by, the Local Planning Authority and no occupation/opening to the public shall occur until the approved works have been completed.

Reason: To encourage sustainable travel patterns and mitigate negative transport impacts arising from the development, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 7 Prior to commencement of the development, details of a Construction Management Plan or Construction Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Plan/Statement shall be adhered to throughout the construction period. The Plan/Statement shall include but not be restricted to:

parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);

- routes for construction traffic;
- the installation of lighting during the construction period;
- locations for loading/unloading and storage of plant, waste and construction materials;
- method of preventing mud and dust being carried onto the highway;
- arrangements for turning vehicles;
- arrangements to receive abnormal loads or unusually large vehicles; and
- methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: To safeguard the amenity of adjacent properties and the general locality, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the use could have an unacceptable environmental impact on the area.

- 8 No below or above ground development shall commence until a detailed site waste management plan or equivalent for the period of construction has been submitted to and approved in writing by the local planning authority. The detailed site waste management plan must identify:

- the specific types and amount of waste materials forecast to be generated from the development during site preparation and construction phases; and
 - the specific measures will be employed for dealing with this material so as to:
 - i. minimise its creation;
 - ii. maximise the amount of re-use and recycling on-site;
 - iii. maximise the amount of off-site recycling of any wastes that are unusable on-site;
- and
- iv. reduce the overall amount of waste sent to landfill. In addition, the detailed site waste management plan must also set out the proposed proportions of recycled content that will be used in construction materials.

The detailed site waste management plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: In accordance with Gloucestershire Waste Local Plan Policy W36 relating to waste minimisation.

- 9 No above-ground development shall commence until full details of the provision made for facilitating the management and recycling of waste generated during occupation have been submitted to and approved in writing by the local planning authority. This must include details of the appropriate and adequate space and infrastructure to allow for the separate storage of recyclable waste materials. The management of waste during occupation must be aligned with the principles of the waste hierarchy and not prejudice the local collection authority's ability to meet its waste management targets.

All details shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: In the interests of sustainable waste management and recycling, having regard to Policy W36 of the Gloucestershire Waste Local Plan. Approval is required upfront because the design of the refuse and recycling storage is an integral part of the development and its acceptability.

- 10 No building shall be occupied until the means of access for vehicles, pedestrians and/or cyclists have been constructed and completed in accordance with the approved plans.

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).

- 11 No building shall be occupied until the car/vehicle parking area and turning space associated with each building within the development (including garages and car ports where proposed) shown on the approved plans Dwg No. PL005 Rev C and Dwg No. 21-0737 SK04 Rev D has been completed and thereafter the area shall be kept free of obstruction and available for the parking of vehicles associated with the development.

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).

- 12 Prior to the occupation of each dwelling, secure and accessible cycle parking shall be provided in accordance with details which are first to be submitted, to and approved in writing by, the Local Planning Authority. Thereafter the approved cycle parking shall be kept available for the parking of bicycles.

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).

- 13 Prior to occupation, evidence that the pre-occupation elements of the approved Travel Plan Issue 01 (January 2022) have been put in place shall be prepared, submitted to and approved in writing by, the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan to the satisfaction of Local Planning Authority unless agreed in writing by the Local Planning Authority.

Reason: To encourage sustainable travel patterns and mitigate negative transport impacts arising from the development, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 14 The individual vehicular accesses hereby permitted shall not be brought into use until any roadside frontage boundaries have been set back to provide visibility splays extending from a point 2 metres back along each edge of the access, measured from the carriageway edge, extending at an angle of 45 degrees to the footway, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level and shall be maintained as such for the duration of the development.

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).

- 15 An electric vehicle charging point shall be installed prior to the first occupation of each dwelling. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

Reason: To promote sustainable travel and healthy communities.

- 16 The garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property and ancillary domestic storage without the grant of further specific planning permission from the Local Planning Authority.

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).

- 17 Prior to the commencement of the development hereby permitted including ground works and vegetation clearance a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. Any modifications to the approved details for example as a result of requirements of a protected species licence must be submitted to and agreed in writing by the Local Planning Authority. The CEMP shall include final details of the following items:

Ecology:

- i. Outline Mitigation Strategy based on Section 4.3 of the Confidential Badger Report V002 by Pearce Environment Ltd dated August 2021.
- ii. Other Mitigation Measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees), MM3 (update Preliminary [tree] Roost Assessment), MM4 (Bat Survey and Soft-felling of Trees), MM5 (Re-installation of any affected Retained Bat Boxes), MM7 (Wild Mammal Construction Safeguards), MM8 (Habitat Manipulation/Destructive Search for Reptiles & Amphibians) and MM9 (Timing of Works to avoid Nesting Birds) based on Section 5 of the Technical Briefing Note TN26: Addendum to Ecological Appraisal by Aspect Ecology, dated January 2022, and the Ecological Appraisal by Aspect Ecology, dated April 2020.
- iii. Adherence to the Tree Protection Plan Dwg No. 38-1936 03 J incorporating arboricultural methods.
- iv. A Method Statement for the installation of the artificial badger sett and any associated works, and the restoration of the ground following the completion of the works.
- v. A Method Statement for the installation of foul and surface water drainage infrastructure and the restoration of the ground following the completion of the works.
- vi. A Method Statement for the formation of the pond and the restoration of the ground following the completion of the works.
- vii. Procedures for enabling communication between local residents and the site developer including arrangements for complaint management.

Other Items:

- viii. Arrangements for liaison with the Council's Pollution Control Team.

ix. Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites which shall be used to minimise noise disturbance from construction works.

x. Procedures for emergency deviation of the agreed working hours.

xi. Waste and material storage:

- Information on the type and amount of waste likely to be generated prior to and during the construction phase;

- Details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation; and

- Details of the measures for ensuring the delivery of waste minimisation during the construction phase. The Site Waste Management Plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation

xii. Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.

xiii. Measures for controlling the use of site lighting whether required for safe working or for security purposes.

Reason: To protect the local environment including its landscape and biodiversity value, to ensure that adequate mitigation/compensation measures are provided in order to safeguard protected species, and to reduce any potential impact on local residents, in accordance with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policies SD9 and SD14 of the Joint Core Strategy (2017) and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This information is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species and the amenity of adjoining land users at the beginning of construction.

18 Prior to the commencement of development, full details for the disposal of foul water shall be submitted to, and approved in writing by, the Local Planning Authority.

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

19 No external lighting shall be installed (excepting during construction as controlled by Condition 7) unless details have been submitted to and approved in writing by the LPA. The details shall include:

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 so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux; and

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 be implemented for the duration of the development and thereafter maintained in accordance with the manufacturer's recommendations and scheme details.

Reason: To provide adequate safeguards for protected species on the site, and to ensure that foraging and commuting of bats is not discouraged at this location, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 20 Prior to the commencement of development, plans showing the existing and proposed ground levels and slab levels for the proposed buildings shall be submitted to, and approved in writing by, the Local Planning Authority. 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.

- 21 Prior to the commencement of any above ground works, a method statement for the building foundation design, which takes account of existing soil types and adjacent trees so as to prevent future subsidence to new buildings and demands for the removal or heavy pruning of retained trees, shall be submitted to, and approved in writing by, the Local Planning Authority. Foundation design shall be undertaken in accordance with the approved details.

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 submission of landscaping details required by Condition 3 shall be accompanied by a Landscape and Ecological Management Plan (LEMP) based on the Landscape Strategy drawing 21320.101 Rev G; Dwg No. 38-1936 02 D Tree Survey and Retention Plan dated December 2021; the Veteran Tree Management information on Tree Protection Plan Dwg No. 38-1936 03 J ; Technical Briefing Note TN26: Addendum to Ecological Appraisal by Aspect Ecology, dated January 2022, and the Ecological Appraisal by Aspect Ecology, dated April 2020 (Ecological Enhancements EE1 to EE8 inclusive), and shall be submitted to, and approved by, the Planning Authority. The scheme shall comprise of a drawing and document that covers:

- a. Aims and objectives of the scheme including conservation of protected and priority species and achieving a net gain for biodiversity of not less than 10%;
- b. A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;
- c. Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;
- d. Details of the restoration and remedial surgery to parts of the existing hedge to be retained;
- e. A work and maintenance schedule for 5 years and arrangements for beyond this time;
- f. Monitoring and remedial or contingency measures;
- g. Measures to achieve the retention and enhancement of the Ladies Bedstraw population within the site.

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

Reason: To conserve and enhance the landscape and biodiversity value of the land and in accordance with JCS policies SD6 and SD9, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175. 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.

- 23 Prior to the commencement of any above ground works, a scheme for the provision of fire hydrants (served by mains water supply) shall submitted to and approved in writing

by the Local Planning Authority. No dwelling shall be occupied until the hydrant serving that property has been provided.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with adopted policy INF6 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework.

- 24 All works including paths, parking areas and drainage runs that fall within Root Protection Areas (RPAs) of the retained trees shall be constructed using a no-dig method as referred to on the Tree Protection Plan (Dwg No. 38-1936 03J). Prior to the commencement of development, full details of the proposed no-dig method shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented strictly in accordance with the details so approved.

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.

- 25 No trees, shrubs or hedges within the site which are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed, without the prior written permission from the Local Planning Authority. Any retained trees, shrubs or hedges removed without such permission, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted, shall be replaced with trees, shrubs or hedge plants of a similar size and species during the next planting season unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, GI2 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.

- 26 The development shall be implemented in accordance with the Tree Protection Plan drawing 38-1936 03 J, which incorporates arboricultural methods and supervision details. All protective structures installed shall be maintained until construction work has been completed. No materials, soils, or equipment shall be stored under the canopy of any retained tree or hedgerow within the application site.

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.

- 27 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. Any such scheme shall be implemented in accordance with the approved details.

Reason: To provide adequate safeguards for protected species on the site in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraph 118 of the National Planning Policy Framework.

- 28 No construction works and/or ancillary operations which are audible at the site boundary shall be carried out on site outside the following hours:
- Monday to Friday - 8am to 6pm

- Saturday - 8am to 1pm

There shall be no working on Sundays or Public or Bank Holidays. Deliveries to, and removal of plant, equipment, machinery and waste from, the site shall only take place within the permitted hours detailed above.

Reason: To ensure that any impact on the amenity of the occupiers of adjacent dwellings is minimised and controlled in accordance with saved policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 29 Prior to first occupation of the development, details of a Homeowner's Information Pack resource providing information on recreation resources in the locality shall be submitted to and approved in writing by the Local Planning Authority. The pack should reference:
- Alternative local recreation opportunities (off site), e.g. website information for Cotswolds AONB' <https://www.cotswoldsaonb.org.uk/visiting-and-exploring/>
 - Relevant adopted Cheltenham, Gloucester and Tewkesbury JCS policy (e.g. INF3 green infrastructure) and supporting text (e.g. 5.4.6 re. Green Infrastructure strategy 'vision') and Policy BG1 of the Cheltenham Plan 2020.
- Each household shall be provided with an approved Homeowner Information Pack on occupation.

Reason: To ensure that appropriate measures to mitigate for any adverse effects to the Cotswold Beechwoods SAC that could potentially occur as a result of the proposal, are suitably addressed in accordance with adopted policy SD9 of the Joint Core Strategy (2017), policy BG1 of the Cheltenham Plan 2020 and paragraphs 175, 176 and 180 of the National Planning Policy Framework.

- 30 Prior to the construction of any dwelling, details of a programme of investigation and interpretation of the former ice house shall be submitted to and approved by the Local Planning Authority. The scheme shall be implemented prior to the occupation of the 20th dwelling.

Reason: To ensure that the development secures improvements to the Ice House in accordance with policy HD4 of the Cheltenham Plan 2020.