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| APPLICATION NO: 22/01441/FUL | | OFFICER: Michelle Payne |
| DATE REGISTERED: 10th August 2022 | | DATE OF EXPIRY: 5th October 2022 (extension of time agreed until 20th February 2023) |
| DATE VALIDATED: 10th August 2022 | | DATE OF SITE VISIT: |
| WARD: Pittville | | PARISH: |
| APPLICANT: | Mr and Mrs Leach | |
| AGENT: | SF Planning Limited | |
| LOCATION: | 10 Selkirk Street Cheltenham Gloucestershire | |
| PROPOSAL: | Erection of 1no. three storey self-build dwelling on land adjacent to 10 Selkirk Street | |

Update to Officer Report

1. OFFICER COMMENTS

- 1.1 Members will recall that this application was deferred from the November planning committee meeting last year to allow for additional information to be provided by the applicant in response to questions raised in advance of the meeting. The original officer report to the committee is appended (Appendix A).
- 1.2 The question specifically related to whether a light test had been carried out on the lounge window serving the basement flat, in the side elevation of the existing building.
- 1.3 In response, the applicant commissioned a Daylight and Sunlight Assessment (Appendix B) carried out by T16 Design, an independent building consultancy specialising in energy and daylight assessment. The report assesses the potential impact in terms of light on five windows within 10 and 10A Selkirk Street, and Larkspur House, Pittville Circus.
- 1.4 In terms of daylight, the results indicate that two of the five windows assessed (the rear window serving the basement flat, 10A Selkirk Street, and the window in the side of Larkspur House) would retain 80% of their current Vertical Sky Component and therefore meet the guidance set out within the BRE Report 'Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (3rd Edition, 2022).
- 1.5 Additional, more detailed analysis was carried out on the windows which fell short of the 80% target, to calculate the No Sky Line. The report sets out that as the lounge/kitchen window at basement level is served by another window to the rear, the room as a whole would retain in excess of 80% of its area within the No Sky Line. As such, this window (and the two above it serving the kitchen and a bedroom in 10 Selkirk Street) meet the BRE guidance and the scheme is therefore compliant.
- 1.6 The report goes on to assess sunlight provision to four of the windows; the BRE guidance stating that only window that face within 90° of due south need to be assessed. The results show that there is some loss of sunlight beyond the BRE guidance, although only to 10 and 10A Selkirk Street. Larkspur House meets the BRE guidance in full by virtue of retaining 25% of annual hours and 5% of winter hours.
- 1.7 Notwithstanding the above, the owner of Larkspur House has subsequently appointed their own Right to Light Consultant whose letter is attached (Appendix C).

Members will note that the letter questions some of the findings in the applicant's submission, and also suggests that additional assessment be undertaken of the amenity space to Larkspur House.

1.8 In response, the applicant's agent has commented:

We have discussed the letter you sent on today with our daylight consultant and would comment as follows;

Firstly, with regard to the ownership/freehold point, the report does not state that it should be afforded less weight, only that it can in the consultants view. It is then up to you as the planning authority to attribute weight in the decision making process.

The second point, regarding sources of information is, as they point out themselves, it's only their opinion on what should be provided in the report. We'd be happy to provide further clarity on this if you think it's necessary.

With reference to the point that the NSL test has only been undertaken for the windows which fail the VSC test, the consultants have undertaken that test for the windows/rooms for which it was possible to obtain reasonably accurate floor plans. The only window which has not been assessed using the NSL test is Window 5, serving Larkspur House, as they were not able to obtain floor plans of that dwelling. This is a perfectly acceptable approach in the consultants experience. Using estimated floor plans is not recommended by the BRE guidance as it introduces the potential for inaccurate results.

With regards the sunlight results, the consultants have not stated anything that is not true. They have made no attempt to present the results as compliant with the guidance, or as anything other than what the results are.

Lastly, with reference to the garden of Larkspur House, the consultants did run the calculations, but there was such minimal impact, they elected not to include it. Nonetheless, they are provided below:

| Amenity Sunlight Hours | | | | |
|------------------------|---------------------------------|---------------------------------|------------|---------------------|
| Garden | Existing Area Receiving 2 Hours | Proposed Area Receiving 2 Hours | % Retained | Meets BRE Guidance? |
| G1 | 80.45 | 76.86 | 95.54% | Yes |

I trust these points answers the queries and do let me know if you need anything further from us.

1.9 Taking all of the above into account, officers remain satisfied that, on balance, the application is one which is acceptable on its planning merits and can be supported.

1.10 Whilst the proposed dwelling would undoubtedly have an impact on the basement window serving no.10A, this window is already significantly compromised, and the additional window to the rear which serves the same room would be largely unaffected by the proposed development.

1.11 With reference to the side windows serving no.10, the property already benefits from an additional window in the rear elevation at ground floor. Moreover, with reference

to the first floor bedroom window, BRE guidance acknowledges that bedrooms need less daylight than living rooms and kitchens.

- 1.12 In addition, the private amenity space to Larkspur House is L-shaped and wraps around the rear of the property, to where the patio and outdoor seating area is located. Only a small portion of the garden would be affected by the proposed dwelling.
- 1.13 A right to light is a civil matter and is separate from the daylight and sunlight considerations undertaken as part of a planning application.
- 1.14 As such, with the above in mind, officers remain satisfied that the proposed development would not result in any adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme, and continue to recommend that planning permission be granted, subject to the following schedule of conditions:

2. SUGGESTED CONDITIONS

- 1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of this decision.

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

- 2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

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

- 3 Prior to the commencement of development (including demolition and site clearance), tree protective fencing to BS 5837:2012 for the Turkish hazel and Lime tree within the adjacent highway verge shall be installed in accordance with a Tree Protection Plan that shall have first been submitted to and approved in writing by the Local Planning Authority. The approved tree protective fencing shall thereafter remain in place until the completion of the construction process.

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

- 4 Prior to the commencement of development (including site clearance), a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

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

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

- vi) specify measures to control the emission of noise, dust and dirt during construction; and
- vii) provide for wheel washing facilities, where necessary.

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

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

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017).

- 6 The following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority:
- a) Windows and doors;
 - b) Fixed external louvres;
 - c) Porch canopy; and
 - d) Solar panels.

Reason: Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020), and adopted policies SD4 and SD8 of the Joint Core Strategy (2017).

- 7 Prior to the implementation of any landscaping, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of all new walls, fences, or other boundary treatments; new hard surfacing of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to include species, size, position and method of planting; and a programme of implementation.

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

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

Reason: In the interests of the 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).

- 8 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-

enacting that order), the upper floor windows in the rear elevation of the dwelling shall at all times be non-opening and glazed with obscure glass to at least Pilkington Level 3 (or equivalent), or fitted with a fixed external louvre in accordance with approved Drawing No. 22.20.006 PL004 F.

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