

APPLICATION NO: 23/00625/FUL		OFFICER: Michelle Payne
DATE REGISTERED: 14th April 2023		DATE OF EXPIRY: 14th July 2023 (extension of time agreed until 22nd December 2023)
DATE VALIDATED: 14th April 2023		DATE OF SITE VISIT:
WARD: St Peters		PARISH:
APPLICANT:	Lane Britton and Jenkins	
AGENT:	Zesta Planning Ltd	
LOCATION:	456 High Street Cheltenham Gloucestershire	
PROPOSAL:	Full planning application for the redevelopment to provide a residential development of 18no. apartments (12no. one bed and 6no. two bed) contained within two blocks, following demolition of an existing commercial building	

RECOMMENDATION: Permit subject to Unilateral Undertaking

Officer Update

1. OFFICER COMMENTS

- 1.1 As Members will be aware, this application appeared on the agenda for the December committee meeting last year but was later withdrawn to allow for issues that had arisen following publication of the agenda to be addressed; principally matters relating to parking.
- 1.2 As noted in the earlier published officer report (attached as an appendix) the application does not propose any car parking, and the County Highways Development Management Team (HDM) were seeking an s106 legal agreement to preclude car ownership or the ability for future occupiers from acquiring a parking permit in Zone 12 (Cheltenham Westend) as this parking permit zone is already oversubscribed.
- 1.3 However, officers were not satisfied that it was appropriate to secure such an obligation through an s106 agreement; and this has since been confirmed by One Legal. Instead, an informative was suggested that highlights the fact that future occupiers of the development would not be eligible for permits.
- 1.4 Notwithstanding the above, in response to the concerns raised by HDM, the applicant has undertaken an additional parking survey which has been reviewed by HDM and their revised response is copied in full below:

GCC Highways Development Management

8th March 2024

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.

Following the County Council's earlier representations concerning the oversubscription of the local resident's parking zone 12, the developer has undertaken a further parking survey. These surveys were undertaken between 9.00pm and 10.00pm on the 10th of January and the table below sets out the availability of parking spaces recorded within the local residents parking zone.

Street	Parking spaces available
Stoneville Street	0
Bloomsbury Road	2
Park Street	4
Devonshire Place	5
Market Street	0
Burton Street	1
New Street	1
Lower High Street	5
Total	18

The County Council's own evening survey on the 4 roads nearest to the site suggest that Bloomsbury Street and Stoneville Street experience very acute parking problems which can cause difficulties with road access width and vehicle turning. Market Street tends to be generally full in the evenings, although it does not have the problems with access and turning issues. Lastly there is a small amount of capacity in Park Place and these findings are supported by the most recent developer survey. The harm arising from the increased demand for parking and inadequate availability of street parking is likely to affect the amenity of residents of the existing properties and give rise to some road safety issues associated with drivers searching for parking spaces and having to reverse in the narrow cul-de-sacs when no space is found.

Using Census data, the developer estimates that the level of parking demand is likely to be 0.5 spaces per unit, i.e. 9 spaces for 18 residential units. Whilst this is not wholly agreed, the level of harm that would arise from the parking demand for these types of "car free" flats is unlikely to warrant refusing planning permission under the National Planning Policy Framework (NPPF) policy. The NPPF states "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*". Conversely there is some merit in supporting car free developments in highly accessible areas, as they tend to be a more sustainable, lower carbon form of development.

Given the anticipated developments at Cavendish House and North Place, the County Council and Cheltenham Council will have to work together to find a joint policy position, so that existing parking zones can be flexibly amended in order for car free developments to be prevented from applying for residents permits. Or alternatively to promote car club provision in existing on-street bays to help provide transport options for new car free developments or existing car free households.

Nevertheless, given this development has the potential to cause some harm, it would be reasonable to seek some mitigation from the developer. The County Council has recommended to the planning authority that the development only proceed with provision of a financial contribution towards amending the residents parking legal order, to preclude residents of the car free flats from applying for residents permits of Zone 12.

The developer has provided their evidence to the planning officer that their proposed development is not viable and they cannot afford to provide either affordable housing or to fund the changes to the residents parking permit. If the planning officer is mindful to accept this argument, the County Council would have to fund amending the existing parking restrictions themselves. The public purse subsidising this aspect of the development is not something that the County Council support, although it is recognised the County Council does have to deal with the general over subscription in the zone in any event.

The other risk with this approach is that due to the absence of a Section 106 agreement for the contribution, the prospective owners/occupiers would not be aware that they are not able to apply for parking permits. The only other option available would be to include an informative on the planning consent that the development is car free and will be precluded from the Zone 12 residents park scheme. However, it is unlikely that all conveyancing solicitors would make purchasers aware of this informative. Alternatively, if the planning officer does not accept the developers argument that development of the site is not viable, then the alterations to the residents parking legal order could be secured by Grampian Condition.

The remaining issues that do need to be controlled through planning conditions are set out below. The construction management plan is particularly important given the constrained nature of the site and need for loading and unloading of construction materials on the busy approach to the nearby traffic signals.

Planning Conditions

Reinstatement of Redundant Access

The development hereby permitted shall not be occupied until the existing vehicular accesses to the site have been permanently closed in accordance with details to be submitted to and agreed in writing beforehand by the Local Planning Authority.

Reason: In the interests of highway safety.

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

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.

Informative

Car Free Development Informative.

The development site provides no off-street parking provision and no mitigation to offset the impact of the lack of availability of parking in the existing controlled parking zone, which is currently significantly oversubscribed. Accordingly, the County Council consider the consented development to be a car free site and residents will be precluded from applying for residential parking permits in the existing controlled parking zone.

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 184 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 184 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.

- 1.5 Members will note that whilst HDM still consider some mitigation to be necessary, the level of harm that would arise from this car-free development is not severe and as such *"is unlikely to warrant refusing planning permission"*, with reference to paragraph 115 of the NPPF (2023).
- 1.6 HDM also recognise that, notwithstanding this proposal and the lack of a financial contribution towards amending the residents parking legal order, *"the County Council does have to deal with the general over subscription in the zone in any event."*
- 1.7 HDM now also support the use of an informative to highlight the fact that future occupiers of the development would not be eligible for permits, should planning permission be granted.

2. CONCLUSION AND RECOMMENDATION

- 2.1 With the above in mind, and for the reasons set out within the main officer report published in December last year (attached as an appendix), officers remain satisfied that the proposed development would be in accordance with all relevant national and local planning permission and continue to recommend that planning permission be granted subject to the schedule of conditions below, and a Unilateral Undertaking

towards mitigation of any adverse recreational impacts on the Cotswold Beechwoods SAC.

- 2.2 Officers acknowledge that the NPPF has been updated since the publication of the main officer report, and that the paragraph references in the earlier report relate to the previous version of the Framework, but the revisions to the Framework do not materially impact on the conclusions reached in the earlier report.
- 2.3 It is also recognised that a minimum 10% biodiversity net gain (BNG) in all new major developments is now mandatory; however, the requirement only relates to applications submitted on or after 12th February 2024, and is not applicable in this case.

3. SCHEDULE OF 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, other than those works necessary to comply with the requirements of this condition, a Phase 2 ground investigation shall be carried out as per the recommendations at paragraph 6.3 of the Pre-Planning Geo-Environmental Desk Study Report Assessment (Wilson Associates, Report No: 4963, dated March 2022) and the results and any remediation measures shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having regard to adopted policy SD14 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 4 Prior to the commencement of development (including demolition and site clearance), 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 development process and shall include, but not be restricted to:

- i) Provision of parking for vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- ii) Advisory routes for construction traffic;
- iii) Any temporary access to the site;
- iv) Locations for the loading/unloading and storage of plant, waste and construction materials;

- v) Method of preventing mud and dust being carried onto the highway;
- vi) Arrangements for turning vehicles;
- vii) Arrangements to receive abnormal loads or unusually large vehicles;
- viii) Highway condition survey;
- ix) Measures to control the emission of noise, dust and dirt during demolition and construction;
- x) Measures for controlling the use of site lighting whether required for safe working or for security purposes; and
- xi) Methods of communicating the 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, and to prevent any loss of amenity to neighbouring land users, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and policies SD14 and INF1 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 5 Prior to the commencement of development (including demolition and site clearance), a Site Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the development process and shall:

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

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures, having regard to adopted Core Policy WCS2 of the Gloucestershire Waste Core Strategy (2012), and adopted Minerals Local Plan for Gloucestershire Policy SR01.

- 6 Prior to the commencement of development (other than demolition and site clearance), a detailed scheme for the incorporation of water and energy efficiency measures, and renewable or low carbon energy technologies within the development shall be submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details and thereafter so retained.

Reason: To promote sustainable building design, having regard to adopted policy SD3 of the Joint Core Strategy (2017) and the adopted Cheltenham Climate Change SPD (2022). Approval is required upfront because sustainable design is an integral part of the development and its acceptability.

- 7 Prior to the commencement of development, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning

Authority. The scheme shall thereafter be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution, having regard to adopted policies SD14 and 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.

- 8 Prior to any works above ground level, details of the provision made for facilitating the management and recycling of waste generated during occupation of the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include 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. The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures, having regard to adopted Core Policy WCS2 of the Gloucestershire Waste Core Strategy (2012).

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

- 10 The external facing brickwork shall not be carried out unless in accordance with a sample panel which shall have first been constructed on site and approved in writing by the Local Planning Authority. The sample panel shall show the type, size, colour, bond, pointing, coursing, jointing, profile and texture of the facing brickwork, including perforated brickwork. The approved sample panel shall be retained on site and made available for inspection by the Local Planning Authority for the duration of the construction works.

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

- 11 The following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority:
- a) Window system;
 - b) External doors;
 - c) Parapet detail;
 - d) Rainwater goods;
 - e) External vents and flues;

- f) External lighting; and
- g) Cycle store for Block B.

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).

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

All hard and/or soft landscaping works shall be carried out in accordance with the approved details prior to first occupation of 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 30 years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

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).

- 13 The development shall be carried out in accordance with the recommended mitigation measures detailed in Section 7 of the Air Quality Assessment (Air Quality Consultants Ltd, Report No: J10/13186A/10/1/F1, dated April 2022). The mechanical ventilation system shall be installed and operational prior to first occupation of the development.

Reason: To ensure that suitable mitigation measures are installed to protect future residents of the dwellings, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 14 Should piled foundations be proposed on site, prior to any piling activities taking place, a Piling Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall identify the likely impact of piling activities and identify suitable mitigation of those effects.

Reason: To safeguard the amenity of nearby residential 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).

- 15 Prior to first occupation of the development, the existing vehicular accesses to the site shall be permanently closed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, having regard to adopted policy INF1 of the Joint core Strategy (2017).

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

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

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

Reason: In the interests of sustainable waste management and recycling, having regard to adopted Core Policy WCS2 of the Gloucestershire Waste Core Strategy (2012).

- 18 Prior to first occupation of the development, ecological enhancements to include bird nesting and bat roosting boxes shall be installed on the building or within the site in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to preserve and enhance biodiversity, having regard to adopted policy SD9 of the Joint Core Strategy (2017).

- 19 Prior to first occupation of the development, a residential welcome pack promoting sustainable forms of access to the development shall be submitted to and approved in writing by the Local Planning Authority. The approved pack shall thereafter be provided to each resident at the point of the first occupation of each dwelling.

Reason: To reduce vehicle movements and promote sustainable access, having regard adopted policy INF1 of the Joint Core Strategy (2017).

SUGGESTED INFORMATIVES

- 1 The development makes no provision for off-street parking, nor mitigation to offset the impact of the lack of availability of parking in the existing controlled parking zone (Cheltenham Westend Zone 12) which is currently significantly oversubscribed. Accordingly, the County Council consider the consented scheme to be a car-free development and residents will be precluded from applying for residential parking permits in the existing controlled parking zone.
- 2 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 Councils 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.