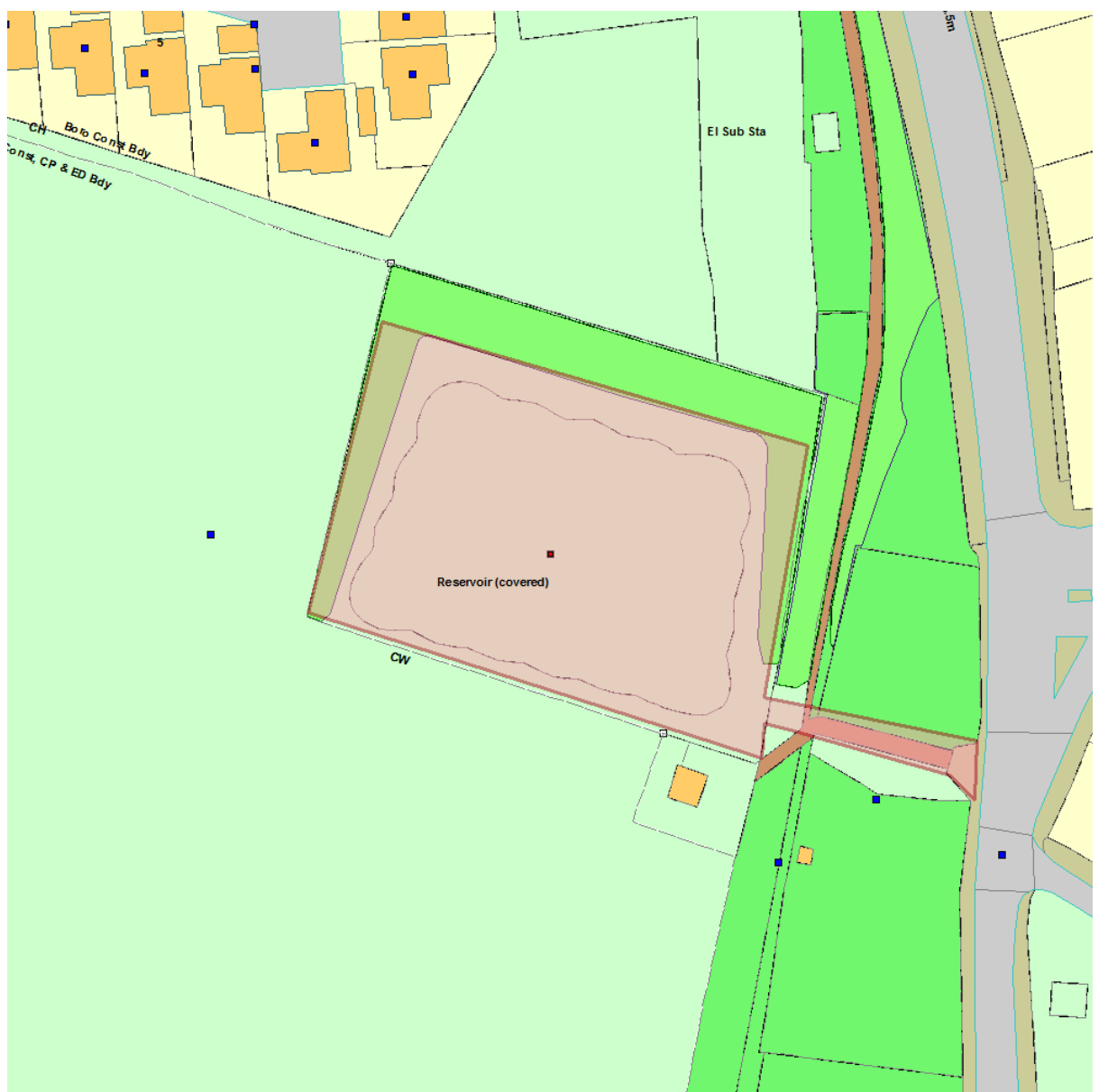


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| APPLICATION NO: 24/00519/FUL | OFFICER: Mr Ben Warren |
| DATE REGISTERED: 22nd March 2024 | DATE OF EXPIRY: EoT 3 rd June 2024 |
| DATE VALIDATED: 22nd March 2024 | DATE OF SITE VISIT: 23.04.24 |
| WARD: Leckhampton | PARISH: Leckhampton With Warden Hill |
| APPLICANT: | Taller Developments Ltd |
| AGENT: | SF Planning Limited |
| LOCATION: | Leckhampton Reservoir Leckhampton Hill Cheltenham |
| PROPOSAL: | Change of use of existing reservoir to single dwelling with associated works, access and landscaping. |

RECOMMENDATION: Permit subject to a 106 Obligation



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to Leckhampton Reservoir, located to the west of Leckhampton Road. The site is located outside Cheltenham's Principle Urban Area (PUA) and is wholly located within the Cotswolds AONB and on designated Green Belt land. However, the land immediately around the reservoir site is not located within the Cotswolds AONB, nor is it in the Green Belt.
- 1.2 The applicant is seeking planning permission for the change of use of the existing reservoir to a single residential dwelling with associated works, access and landscaping.
- 1.3 The application is at planning committee at the request of Councillor Horwood, who raises concerns regarding impact on the AONB and Green Belt, Access and Highway Safety concerns and impact on the existing Public Right of Way (PROW), CHL18. These concerns are also raised in an objection from the Parish Council and a local resident.
- 1.4 An extension of time has been agreed with the applicant in order to allow for a committee decision.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Area of Outstanding Natural Beauty
Airport safeguarding over 15m
Greenbelt

Relevant Planning History:

23/01188/PREAPP 3rd August 2023 CLO
Erection of two dwellings
23/00557/CLEUD 15th June 2023 WDN
Storage and Distribution (Use Class B8)

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 11 Making effective use of land
Section 12 Achieving well-designed places
Section 13 Protecting Green Belt land
Section 14 Meeting the challenge of climate change, flooding and coastal change
Section 15 Conserving and enhancing the natural environment

Adopted Cheltenham Plan Policies

D1 Design
SL1 Safe and Sustainable Living
GI2 Protection and replacement of trees
GI3 Trees and Development
L1 Landscape and Setting

Adopted Joint Core Strategy Policies

SP1 The Need for New Development
SD3 Sustainable Design and Construction
SD4 Design Requirements

SD5 Green Belt
SD6 Landscape
SD7 The Cotswolds Area of Outstanding Natural Beauty
SD9 Biodiversity and Geodiversity
SD10 Residential Development
SD11 Housing Mix and Standards
SD14 Health and Environmental Quality
INF1 Transport Network
INF2 Flood Risk Management
INF3 Green Infrastructure

Supplementary Planning Guidance/Documents

Development on garden land and infill sites in Cheltenham (2009)
Climate Change (2022)
Cotswolds AONB Management Plan 2018 - 2023

4. CONSULTATIONS

See appendix at end of report

5. PUBLICITY AND REPRESENTATIONS

5.1 Letters were sent to 9 neighbouring land users, a site notice was also displayed near to the application site (at the junction with Old Bath Road). 3 letters of objection have been received in response to this neighbour notification process, the concerns have been summarised but are not limited to the following:

- Highway safety
- Impact on AONB and Green Belt
- Impact on PROW
- Loss of privacy
- Design – materials

6. OFFICER COMMENTS

6.1 Determining Issues

6.2 The main considerations in relation to this application are the principle of development, design and layout, the impact of the proposal on neighbouring amenity, impact on the AONB, impact on the Green Belt, impact on the PROW, ecology, parking and highway safety, sustainability, impact on the Beechwoods Special Area of Conservation and Bio-Diversity Net Gain.

6.3 Planning history and site context

6.4 In terms of surrounding context, to the east and south of the site is Leckhampton Hill, to the north is a reasonably new residential development (Leckhampton Views and Leckhampton Rise). Immediately to the east/south-east of the site is land that has recently been granted planning permission for the erection of two contemporary flat roof dwellings under planning reference 21/02148/FUL. Further to the north east, east and south-east is existing residential development, which consists of various forms and styles of building.

- 6.5 The application site consists of an existing reservoir structure with a grassed covering, there are no significant trees located on the application site, but there are a number of trees located in close proximity of the northern and eastern boundaries.
- 6.6 There is no formal planning history for the reservoir site, however, an application for a Certificate of Lawful Existing Use/Development was submitted in April 2023. This application sought to establish the existing use of the site as falling under class B8 (Storage and distribution). A decision was not issued and the application was withdrawn. Following this, the site has been the subject of a recent pre-application enquiry, where the Local Planning Authority (LPA) was asked to provide comments on a scheme for two new dwellings within the reservoir site. In summary, officers' response to this pre-application enquiry considered the principle of development to be acceptable and acknowledged the presumption in favour of sustainable development required by paragraph 11 of the NPPF. However, the response also concluded that the presumption in favour of development could only be engaged, so long as a clear reason for refusing development is not identified. In this instance, this relates to the impact on the AONB and Green Belt.
- 6.7 **Principle**
- 6.8 JCS policy SD10 relates to residential development and advises how housing development and conversions to dwellings will be permitted on previously developed land in the Principal Urban Area (PUA). The application site is located just outside of the PUA and therefore would be contrary to SD10. However, the site is located immediately adjacent to Cheltenham's PUA boundary, is in close proximity to existing residential housing to the north and to the east, with two new dwellings approved on land immediately to the east of the site under planning reference 21/02148/FUL.
- 6.9 The site is considered to be in a sustainable location with easy access to local amenities. Furthermore, the council consider the existing use of the site as a reservoir to fall within the B8 Use class (storage and distribution) and is therefore considered to be 'previously developed land' (PDL). Therefore, whilst the site is located outside of the PUA, in this particular instance, the site is considered to be in a sustainable location and officers do not consider the site to be an isolated site in the open countryside. As such, officers do not consider that the development needs to be considered as a paragraph 80 dwelling.
- 6.10 Notwithstanding the above, Paragraph 11 of the NPPF sets out a 'presumption in favour of sustainable development' and makes clear that development proposals that accord with an up-to-date development plan should be approved without delay.
- 6.11 Where housing policies are out-of-date (including situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites), the NPPF is quite clear that development proposals should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole, or specific NPPF policies provide clear reason for refusal. At the time of considering this application Cheltenham cannot currently demonstrate a 5 year housing land supply, and therefore this presumption in favour of sustainable development is triggered.

As the council cannot currently demonstrate a 5 year housing land supply, paragraph 11 d) is applicable to this application. Paragraph 11 d) states that permission should be granted unless:

- i) The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development; or
- ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework.

In this instance the protected areas referred to in 11 d)i) includes the Cotswolds AONB and the Green Belt.

6.12 Given the above, there is no fundamental reason to suggest that the principle of a dwelling on this site would be unacceptable, subject to all other material considerations, which are discussed below.

6.13 Design, layout and landscaping

6.14 Section 12 of the NPPF refers to achieving well designed spaces and states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

6.15 Adopted Cheltenham Plan Policy D1 requires new development to adequately reflect principles of urban and architectural design; and to complement and respect neighbouring development and the character of the locality. Furthermore, JCS policy SD4 relates to design, and identifies considerations to include context and character, legibility and identity, amenity and space.

6.16 Further detail can also be found in Cheltenham's Supplementary Planning Document – Development on Garden Land and Infill Sites. This document sets out various elements that are considered to create the character of an area and includes grain, type of building, location of buildings, plot widths and building lines.

6.17 In this particular instance, the site is unique in terms of its existing reservoir structure and in terms of its setting. Whilst the site is positioned adjacent to existing development, because of its unique qualities it is not possible or necessary for development to reflect the scale, form or pattern of development that surrounds it, and instead a well thought and bespoke approach to the redevelopment of the site is necessary. As such, the usual weight that officers would give to compliance with Cheltenham's SPD on Garden Land and Infill Sites is somewhat different for this particular application.

6.18 Access to the proposed dwelling is shown to be via an existing access road, leading from Leckhampton Hill. This access is also one that serves the two permitted dwellings under ref: 21/02148/FUL on land to the east of the application site. A sloping drive will provide private vehicular and pedestrian access down to the proposed accommodation, which is all on one level, is set within the existing reservoir structure and is therefore at a subterranean level.

6.19 The proposal appears to make good use of the space available. The proposed site layout and floor plans make provision for private outdoor amenity space, landscaped areas, bin and bike storage and parking for at least three cars within a garage.

6.20 As discussed above, the application site is unique and requires a bespoke approach to development. Officers are of the opinion that the scheme proposed is a well thought out development which responds to the site's unique characteristics and constraints. Comments raised by officers in the pre-application response highlighted that careful consideration needed to be given to any above ground structures and the impact this might have on the design and character of the area, as well as the impact on the AONB and Green Belt, which is discussed later in this report. This planning application has

responded to those comments and shows no accommodation or physical building above the top of the existing reservoir walls. The proposal is clearly contemporary, but views of it will be particularly limited due to its design and position within the existing reservoir walls. The proposal includes the addition of green roofs for the building, which officers consider to be fundamental to the schemes contemporary design and its successful integration into the site and its context, this is therefore welcomed.

- 6.21 The proposed palette of materials consists of timber cladding, Corten cladding, shuttered concrete, powder coated aluminium windows doors and rooflight, Cotswold dry stone walling, timber louvre and render. These materials are considered to be wholly appropriate for this modern design approach. In this instance, given the subterranean level of development, officers do not consider further material details to be necessary.
- 6.22 Officers are of the opinion that the scale, form and design of the development is acceptable and results in limited impact on neighbouring development in terms of design and character.
- 6.23 Furthermore, Section 12 of the NPPF relates to achieving well designed and beautiful places. Paragraph 131 states *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development....'* Officers consider this development to accord with section 12 of the NPPF, Cheltenham Plan policy D1 and JCS policy SD14 and represents good high quality and sustainable development.
- 6.24 **Impact on the Cotswolds AONB**
- 6.25 Policy SD6 of the Joint Core Strategy (JCS) seeks development to protect landscape character for its own intrinsic beauty and for its benefits to economic, environmental and social well-being.
- 6.26 Policy SD7 of the JCS states: 'All development proposals in or within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan.'
- 6.27 Furthermore, paragraph 182 of the NPPF states: 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding natural Beauty, which have the highest status of protection in relation to these issues.....The scale and extent of development within all of these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas'.
- 6.28 The Cotswolds Conservation Board have been consulted on this application, their response can be read in the appendix at the end of this report. In this instance the Cotswold Conservation Board have not provided specific comments on the merits of this particular application, but have identified which policies and documents should be given due regard when considering the development.
- 6.29 The application is supported by a Landscape and Visual Impact Assessment (LVIA), this independent assessment concludes *'The effect of the proposal on landscape and views, the AONB in particular, is not considered to result in significant harm. With the suggested mitigation measures the proposal could be accommodated with negligible harm. This is as a result of the small scale of the site in its wider context, the baseline*

status of the site being considered developed in nature and the site being in visual and physical context of an existing residential area'.

- 6.30 Officers duly acknowledge that there will be elevated views of the proposed development, in particular when viewed from higher land on Leckhampton Hill. However, officers consider that the provision of an appropriate landscaping scheme will provide suitable mitigation for the limited impact of the development on the landscape. Whilst a landscape proposal has been submitted, further, more specific details are required, as such, a condition has been suggested.
- 6.31 Officers also consider that any external lighting needs careful consideration in terms of its impact on the landscape, as such a condition has been suggested which requires the submission of any external lighting details prior to their installation.
- 6.32 Given officers comments on the scale, form, design and the siting of the proposed new dwelling, and the proposed landscaping proposals, all of which are discussed above, officers are content that the proposal complies with JCS policies SD6 and SD7, the Cotswolds AONB Management Plan, and relevant sections of the NPPF.

6.33 **Impact on the Green Belt**

- 6.34 Policy SD5 of the JCS relating to Green Belt states: 'To ensure the Green Belt continues to serve its key functions, it will be protected from harmful development. Within its boundaries, development will be restricted to those limited types of development which are deemed appropriate by the NPPF, unless special circumstances can be demonstrated. That is 'whether very special circumstances exist to outweigh the harm automatically caused to the Green Belt by virtue of the development being inappropriate and any other harm actually caused'. This is also reflected in paragraph 152 of the NPPF.
- 6.35 Paragraph 154 of the NPPF states that LPA's should regard the construction of new buildings as inappropriate in the Green Belt. However, some exceptions are listed, this includes; at sub-paragraph g) which states:

'Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

In this instance, the development would be the redevelopment of previously developed land, as such, the consideration is whether the proposed development would have a greater impact on the openness of the Green Belt than the 'existing development'.

- 6.36 It is important to note the site context, whereby the land surrounding the application site is not designated Green Belt land, as such, any impact on the Green Belt is confined to with the site boundary. The designation of this reasonably small site as Green Belt land is somewhat of an anomaly.
- 6.37 Given the nature of the site and its use as a reservoir, there is little in the form of 'development' and no above ground structures. The proposal has been designed to create a dwelling that utilises the existing walls of the reservoir, with very little development above the top of the existing reservoir walls, as such, officers are not of

the view that the proposed development would have any greater impact on the Green Belt than existing, and therefore complies with JCS policy SD5 and the NPPF.

6.38 Impact on neighbouring amenity

6.39 It is necessary to consider the impact of development on neighbouring amenity. JCS Policy SD14 and Cheltenham Plan Policy SL1 state how development should not cause unacceptable harm to the amenity of neighbouring properties. Matters such as a potential loss of light, loss of privacy, loss of outlook, noise disturbances and overbearing impact will therefore be considered.

6.40 One neighbouring land user at number 8 Leckhampton Rise has raised concerns regarding a potential loss of privacy to their property, these concerns have been duly noted. However, given the location of the site, its relationship with neighbouring development and the lack of development above the existing reservoir walls, officers do not consider the proposed development to have any impact on neighbouring amenity in terms of a loss of light, loss of outlook, overbearing impact or loss of privacy. The proposed residential use of the site is also considered to be compatible with surrounding uses and will not result in any unacceptable noise and disturbance.

6.41 In terms of impact on neighbouring amenity, the proposal is considered to be compliant with adopted Cheltenham Plan (2020) policy SL1 and adopted JCS policy SD14.

6.42 Highway considerations

6.43 As already mentioned, the proposed dwelling will utilise the existing access to the site, which is also the same access that will serve the approved dwellings under planning ref: 21/02148/FUL. Concerns have been raised by the local ward councillor, by a local resident and in the Parish Councils objection with regards to the access and highway safety.

6.44 The application has been reviewed by Gloucestershire County Council as the local Highways Authority, their detailed comments can be read in the appendix at the end of this report. No objection has been raised, subject to a number of conditions and suggested informatives.

6.45 The development is not considered to result in any unacceptable highway safety implications, is considered to achieve a suitable access, parking provision and appropriate provision of cycle storage facilities. The development therefore accords with JCS policy INF1. Officers consider the suggested highways conditions to be necessary and have therefore been attached.

6.46 At pre-application stage, officers raised a query regarding bin collection and access for bin collection lorries. The application provides a suitable bin collection point for this property which would be in close proximity to the already permitted dwellings on the adjacent site.

6.47 Impact on Public Right of Way (PROW)

6.48 A PROW footpath (CHL18) runs along the eastern boundary of the application site, running generally in a north to south direction, and is positioned between the application site and the approved dwellings on the neighbouring site to the east. Concerns have been raised by the local ward councillor and a local resident with regards to the impact of the development on this existing PROW.

6.49 The PROW team at Gloucestershire County Council (GCC) were consulted on this application and provided detailed comments, which can be read in the appendix at the end of this report. The comments appear to suggest that the application does not

identify the PROW or discuss it in the submission, however, this is not the case, the PROW is discussed at various points throughout the design and access statement. The proposed development will not directly affect the PROW, and the applicant is aware that the PROW cannot be impacted by the construction of the development. The information provided by the PROW officer has been included as an informative.

6.50 **Sustainability**

6.51 JCS policy SD3 requires new development to be designed and constructed to maximise the principles of sustainability. Development proposals are required to demonstrate how they contribute to the aims of sustainability and shall be adaptable to climate change in respect of the design, siting, orientation and function of buildings and outside space.

6.52 Further supporting text which discusses JCS policy SD3 identifies how the design of development should first identify measures to reduce overall energy demand before the use of renewable energy technologies. It is noted that this can be achieved through the choice of building fabric and construction techniques, optimising solar gain, natural lighting and ventilation to reduce the need for heating, cooling and lighting. It also suggests that design measures should seek to use energy more efficiently, such as increasing levels of insulation and improved air-tightness.

6.53 It is also important to note that Cheltenham has adopted a Supplementary Planning Document – Cheltenham Climate Change (adopted June 2022) which is therefore relevant to the considerations of this application. This SPD sets out a strategy for how buildings should respond to the climate change and biodiversity crisis and sets out how applicants can successfully integrate a best practice approach towards climate and biodiversity in their development proposals.

6.54 The application is supported by a sustainability statement which discusses key measures such as energy efficiency, low carbon heat, renewable energy, water, transport and travel, prevention of flooding, ecology and bio-diversity, embodied carbon and waste. In terms of low carbon technologies and renewable energy, the development has been designed to utilise the existing reservoir walls and incorporates a combination of ground source heat pumps and solar panels. An EV Charging point is also proposed and required by building regulations.

6.55 Officers welcome the proposed sustainability measures in this application and consider the development to be compliant with JCS policy SD3 and the newly adopted Climate Change SPD.

6.56 **Ecology**

6.57 The application is supported by a Preliminary Ecological Appraisal, this concludes that *'The habitats on site are common, of low to moderate ecological value. Any impacts as a result of loss/changes to these habitats in terms of their vegetation are considered to be negligible'*, it also identifies that the site provides potential habitat for a range of fauna and that Bats, Badgers, Birds, Reptiles and Amphibians require further consideration/action. In section 4 of the report, recommendations are provided to ensure suitable protection of protected species, officers consider these to be necessary and as such, a condition has been suggested which requires the works to be carried out in accordance with this survey and recommendations.

6.58 With the condition in place, officers are satisfied that the development will not result in any unacceptable impact on protected species and therefore complies with adopted policy SD9 of the Joint Core Strategy (2017)

6.59 **Flooding and drainage**

6.60 The application site is wholly located in flood zone 1 and is therefore not considered to be susceptible to any flood risk, nor is there any reason to suggest that the proposed development would result in any flooding implications, or unacceptable surface water issues for neighbouring development. The development is therefore considered to be acceptable and accords with JCS policy INF2.

6.61 Impacts on Beechwoods Special Area of Conservation (SAC)

6.62 The site is within a zone of influence as set out in the Cotswold Beechwoods SAC Recreation Mitigation Strategy (May 2022) for recreational pressure for the Cotswold Beechwoods SAC, which is afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended).

6.63 Cheltenham plan policy BG1 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. Without appropriate mitigation, the proposed development is likely to have a significant effect on the Cotswold Beechwoods SAC (either alone or in combination with other development) through increased recreational pressure.

6.64 The Council has undertaken an Appropriate Assessment and considers the measures set out in the Mitigation Strategy necessary to provide adequate mitigation to address the impacts of the proposal. With regards to mitigation, the applicant can either enter in to a S106 agreement for a contribution to the measures in that strategy or the applicant can provide their own bespoke strategies to mitigate the impacts the proposed development will cause.

6.65 In this instance, the applicant has opted to enter in to a S106 agreement and make the contribution of £673 per additional dwelling. As such, the application is considered to be acceptable in terms of SAC mitigation.

6.66 Bio-diversity Net Gain

6.67 As of 2nd April 2024, all minor developments for new housing requires a mandatory 10% requirement for Bio-diversity Net Gain. Whilst this application is minor development for one new residential dwelling, the application was submitted well before the BNG requirement came into effect and is therefore exempt. Having said that, the application is supported with a general landscaping proposal and officers have suggested a condition which requires the submission of more specific details.

6.68 Conditions

6.69 Due to the site's sensitive location within the AONB and Green Belt, officers consider that further control is needed on any further development of the site, as such, a condition is suggested which removes permitted development rights for further additions and structures.

6.70 In addition, officers do not consider the use of the flat roof areas of the development or wider landscaped areas outside of the existing reservoir walls to be appropriate for use as residential amenity space due to the risk of associated residential paraphernalia, which could be harmful to the Green Belt and AONB. A further restrictive condition has therefore been suggested.

6.71 Furthermore, officers consider the green roof proposals to be an integral part of the design and its acceptable integration into the landscape in order to minimise its visual impact. As such a condition has been suggested which requires the installation of the green roof in accordance with submitted and approved details.

6.72 Other considerations

6.73 Cheltenham Architects Panel

Cheltenham's Architects Panel (CAP) have reviewed the application and whilst the panel consider the concept to be interesting and exciting, further consideration is suggested with regards to the eastern elevation/boundary of the site and how this may impact on the Leckhampton Hill. Points were also raised regarding '*various changes in levels on the roof which would make the dwelling prominent*'.

Whilst the comments of the CAP have been duly noted, for the reasons discussed in the report above, officers consider the scheme to be acceptable in terms of its form, design and any impact on the wider setting, as such, officers do not consider revisions to be necessary in order to grant planning permission in this instance. The applicant has suggested the 3D models/CGI's will be produced and made available to members ahead of the committee in order to assist with their considerations of the scheme.

6.74 Public Sector Equality 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 planning 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.

7. CONCLUSION AND RECOMMENDATION

- 7.1 Having considered all of the above, Officers duly acknowledge that the site's location would be contrary to JCS policy SD10, due to its position outside of the PUA. However, as already discussed above, as Cheltenham cannot currently demonstrate a 5-year housing land supply, paragraph 11 of the NPPF is applicable to the application. As such, there is a presumption in favour of development and permission should be granted, unless a clear reason for refusing the development has been identified with regards to impact on the protected area, which in this case is the AONB and Green Belt, or any adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits of the scheme. The benefits of the scheme in this instance being the redevelopment of the site and the addition of one further dwelling to Cheltenham's housing stock.
- 7.2 In this instance, with regards to the impact of the development on the AONB and Green Belt, the application is considered to be compliant with policy and therefore no clear reason for refusing the development has been identified. In addition, no adverse impacts that would significantly or demonstrably outweigh the benefits of the scheme have been identified. As such, the tilted balance in favour of sustainable development is engaged and therefore officer recommendation is to permit the application, subject to the conditions set

out in section 8 below. Agreement has been sought in relation to the pre-commencement conditions.

- 7.3 As the S.106 in respect of the Beechwoods SAC mitigation has not yet been completed, the recommendation is to permit the application, subject to the S.106. Members will be updated with the status of the agreement at the committee meeting.

8. CONDITIONS / INFORMATIVES

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

All hard and/or soft landscaping works shall be carried out in accordance with the approved details prior to first occupation of 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. 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, G12 and G13 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.

- 4 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification), no extensions, garages, sheds, outbuildings, walls, fences or other built structures of any kind (other than those forming part of the development hereby permitted) shall be erected without express planning permission.

Reason: Any further extension or alteration requires further consideration to safeguard the amenities of the area, having regard to adopted policies D1 and L1 of the Cheltenham Plan (2020) and adopted policies SD4, SD6 and SD7 of the Joint Core Strategy (2017).

- 5 Only the shaded areas of the site, as depicted on drawing number: 23.20.016-PL014 shall be used as external amenity space. At no time should the flat roof areas of the development, or the areas not shaded be used as a balcony, roof garden or other external amenity space. Access to the flat roof areas and areas outside of the shaded area shall be for maintenance purposes only.

Reason: In the interests of the character and appearance of the area, in particular the AONB and Green Belt, having regard to adopted policies D1 and L1 of the Cheltenham Plan (2020) and adopted policies SD4, SD6 and SD7 of the Joint Core Strategy (2017).

- 6 Prior to the installation of any external lighting, details of the lighting shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area with regard to Cheltenham Plan policies D1, L1 and SL1, adopted JCS policies SD6, SD7, SD9 and SD14, and the Cotswold AONB Management Plan 2018-23.

- 7 The development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on drawing 23.20.016-PL005.

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).

- 8 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).

- 9 The vehicle access hereby approved shall be surfaced in bound materials for the first 6m from the edge of the adopted highway and not have any loose stone or gravel and must be drained.

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).

- 10 Prior to commencement of the development hereby permitted (including site clearance) 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:

- a) 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);
- b) Advisory routes for construction traffic;
- c) Any temporary access to the site;
- d) Locations for loading/unloading and storage of plant, waste and construction materials;
- e) Method of preventing mud and dust being carried onto the highway;
- f) Arrangements for turning vehicles;
- g) Arrangements to receive abnormal loads or unusually large vehicles;
- h) Highway Condition survey;

i) 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, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 11 The development shall be carried out in strict accordance with the recommendations and requirements of the ecological survey report produced by 'All Ecology', LPA ref: 00519.01, submitted with the planning application.

Reason: To safeguard important ecological species, having regard to adopted policy SD9 of the Joint Core Strategy (2017).

- 12 Prior to the first beneficial occupation of the development hereby permitted, the green roofs as shown on the approved plans shall be installed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

The details shall include the type, installation details, final established character, and maintenance details for the proposed green roof.

The green roof shall be installed and thereafter maintained in accordance with the approved details.

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, L1, G12 and G13 of the Cheltenham Plan (2020), and adopted policies SD4, SD5, SD6 and SD7 and INF3 of the Joint Core Strategy (2017).

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

- 2 With regards to the existing nearby public right of way CHL18, the County Council have offered the following information that the applicant should be aware of:

1) No change to the surface of the public right of way can be approved without consultation with the County Council and there must be no interference with the public right of way, either during development or once it has been completed, unless: -

a) The development will temporarily affect the public right of way; then the developer must apply and pay for a temporary closure of the route to us in Public Rights of Way (preferably providing a suitable alternative route); if any utilities are going to cross or run along a PROW then a section 50 license needs be sought and granted - via GCC Streetworks department. Information regarding section 50 Licenses and an application form can be found at: <https://www.gloucestershire.gov.uk/highways/highways-licences-permits-and-permissions/>

b) if the development will permanently affect any public right of way, then the developer must apply for a diversion of the route through the Local Planning Authority, under the Town and Country Planning Act 1990, as part of the planning application process. Absolutely no development should take place affecting the route of the path prior to the confirmation of a TCPA path diversion order through the LPA. The area Public Right of Way Officer should be consulted as part of this process.

2) Additionally:-

a) There must be no encroachment on the width of the public right of way.

b) No building materials may be stored on the public right of way.

c) Vehicle movements during construction should not unreasonably interfere with the use of the public right of way by walkers, etc., and the developer or applicant is responsible for safeguarding the public use of the way at all times.

d) No additional temporary or permanent barriers (e.g. gates, stiles, wildlife fencing) may be placed across the public right of way and no additional gradients or structures (e.g. steps or bridges) are to be introduced on any existing or proposed public rights of way without the consent of the county council.

It is important to note the Definitive Map is a minimum record of public rights of way and does not preclude the possibility that public rights exist which have not been recorded or that higher rights exist on routes shown as public footpaths and bridleways.

3 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

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

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

c) Contributing to and supporting the local community and economy; and

d) 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.

4 Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No

drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Appendix – consultee responses

Architects Panel - 29th April 2024

Design Concept;

The panel agreed the concept was interesting and exciting and overall there was positive response over the boldness of the scheme.

Design Detail:

Although the scheme was generally liked, the principal issue is the connection to the west between the private and public areas. Despite the retention of the drystone wall which forms a definitive boundary between the site and the field; there are concerns the proposals would still be visible, particularly due to the slope. Proposed 3d views and even a 3d model which can be rotated to show the different viewpoints along the path of the field would be beneficial to understand the treatment of this particular elevation fronting the field and the full impact on the AONB.

There was also some concern over the various changes in levels in the roof which would make the dwelling prominent within the setting when viewed from the south, further up the hill. Suggest simplifying this to mimic more closely a more natural grassed area. This could double as amenity space for the dwelling.

The retention of the curved sculpted form of the walls is utilised well and romances the scheme.

Thoughts were that this could perhaps be mimicked in parts of the new elevations and the roof to reflect the reservoir aesthetic.

Recommendation:

Design amendments are required prior to fully supporting the scheme. 3d visuals would allow the panel to fully appraise the visual impact of the scheme, particularly from the AONB.

Parish Council - 25th April 2024

The Parish Council objects to this application and requests it be called in.

The development is on green belt/AONB and valued landscape. It is outside the principle urban area. The Council are also concerned about the safety of vehicular access and the protection of industrial archaeology of the site along the footpath.

John Mills Cotswold Conservation Board - 2nd April 2024

In reaching its planning decision, the local planning authority (LPA) has a duty to seek to further the statutory purpose of conserving and enhancing the natural beauty of the National Landscape.³ Further information on this new duty is provided in Appendix 1 below and the Board recommends that, in fulfilling this 'duty to seek to further the purpose', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the following Board publications⁴

:

- Cotswolds National Landscape Management Plan 2023-2025 (link) including policies CE1 Landscape, CE3 Local Distinctiveness and CE5 Dark Skies;
- Cotswolds AONB Landscape Character Assessment (link) in this instance, with regards to Landscape Character Type (LCT) 2 (Escarpment);
- Cotswolds AONB Landscape Strategy and Guidelines (link) particularly, in this instance, with regards to LCT 2 (link), including Section 2.2;
- Cotswolds AONB Local Distinctiveness and Landscape Change (link);
- Cotswolds National Landscape Board Position Statements (link) particularly, in this instance, with regards to the with regards to the Landscape-Led Development Position Statement (link), Tranquillity Position Statement (link) and the Dark Skies and Artificial Light Position Statement (link) and its appendices (link 1, link 2, link 3).

The Board will not be providing a more comprehensive response on this occasion. This does not imply support for, or objection to, the proposed development.

Building Control - 15th April 2024

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

GCC Highways Planning Liaison Officer - 17th April 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.

The site already benefits from Permission in principle for the erection of up to 3no.dwellings which was approved by application 20/01620/PIP. Two dwellings have been approved by application 21/02148/FUL.

This development is for the redevelopment of the reservoir site itself, which then makes up the three dwellings to be served off the existing access point off Leckhampton Hill. On this basis, the Highway Authority would not wish to object to the proposal. The access into this development as been fully debated at the planning committee on the 17 February 2022 and does not therefore need to be revisited at this stage; in summary, I am content with the layout of the development and access details.

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 (Individual)

The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on drawing 23.20.016-PL005.

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

Construction of vehicle access

The vehicle access hereby approved shall be surfaced in bound materials for the first 6m from the edge of the adopted highway and not have any loose stone or gravel and must be drained, details of which shall be submitted to and approved in writing by the LPA.

Reason: In the interests of safety for all users of the highway.

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

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.

No Drainage to Discharge to Highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway.

No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Tree Officer - 12th April 2024

The Trees Section has no objections to this proposal. However, it would be preferable for a suitably detailed landscape scheme to be submitted to show new tree species, size and locations. It would be acceptable for this to be submitted as a condition of any permission granted.

Public Rights Of Way Department - 28th March 2024

The route of Public Right of Way CHL/18 is not shown, or acknowledged in any of the documents, yet runs between the current development and this proposed one, or mention of any mitigation upon it, even though it will be traversed by the intended access route.

This planning application has been forwarded for the attention of the Area Public Rights of Way Officer for further investigation.

They may respond in further detail; however, the following must be strictly observed in all circumstances: -

1) No change to the surface of the public right of way can be approved without consultation with the County Council and there must be no interference with the public right of way, either during development or once it has been completed, unless: -

a) The development will temporarily affect the public right of way; then the developer must apply and pay for a temporary closure of the route to us in Public Rights of Way (preferably providing a suitable alternative route); if any utilities are going to cross or run along a PROW then a section 50 license needs be sought and granted - via GCC Streetworks department. Information regarding section 50 Licences and an application form can be found at: <https://www.gloucestershire.gov.uk/highways/highways-licences-permits-and-permissions/>

b) Important: if the development will permanently affect any public right of way, then the developer must apply for a diversion of the route through the Local Planning Authority, under the Town and Country Planning Act 1990, as part of the planning application process. Absolutely no development should take place affecting the route of the path prior to the confirmation of a TCPA path diversion order through the LPA. The area Public Right of Way Officer should be consulted as part of this process.

2) Additionally:-

a) There must be no encroachment on the width of the public right of way.

b) No building materials may be stored on the public right of way.

c) Vehicle movements during construction should not unreasonably interfere with the use of the public right of way by walkers, etc., and the developer or applicant is responsible for safeguarding the public use of the way at all times.

d) No additional temporary or permanent barriers (e.g. gates, stiles, wildlife fencing) may be placed across the public right of way and no additional gradients or structures (e.g. steps or bridges) are to be introduced on any existing or proposed public rights of way without the consent of the county council.

It is important to note the Definitive Map is a minimum record of public rights of way and does not preclude the possibility that public rights exist which have not been recorded or that higher rights exist on routes shown as public footpaths and bridleways.