

APPLICATION NO: 24/01520/FUL		OFFICER: Mrs Lucy White
DATE REGISTERED: 19th September 2024		DATE OF EXPIRY: 14th November 2024/Agreed Extension of Time until 10 th February 2025
DATE VALIDATED: 19th September 2024		DATE OF SITE VISIT:
WARD: Up Hatherley		PARISH: Up Hatherley
APPLICANT:	Cheltenham Borough Homes	
AGENT:	MHP Design Ltd	
LOCATION:	Wallace House Windermere Road Hatherley	
PROPOSAL:	Erection of 3no. secure bin stores within curtilage of Wallace House, plus dropped kerb, new internal access paths and screen planting.	

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Wallace House is a large, modern two storey, brick faced building located prominently on a corner plot at the junctions with Windermere Road , Alma Road and Buttermere Close. The building consists of several wings and is sub-divided into a number self-contained flats with a ground floor community hub facility offering health and wellbeing services and social activities. The site is bounded by low hedgerow and there are a number of trees adjacent to the west and east site boundaries. The character of surrounding development is predominantly two storey and residential.
- 1.2 Planning permission is sought for the erection of 3no. secure bin stores within the curtilage of Wallace House, plus dropped kerbs, new internal access paths and screen planting.
- 1.3 This application is before the Planning Committee because the property is owned by Cheltenham Borough Council and managed by Cheltenham Borough Homes.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport safeguarding over 10m
Flood Zone 2
Principal Urban Area

Relevant Planning History:

None

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 2 Achieving sustainable development
Section 4 Decision-making
Section 8 Promoting healthy and safe communities
Section 12 Achieving well-designed places
Section 14 Meeting the challenge of climate change, flooding and coastal change
Section 15 Conserving and enhancing the natural environment

Adopted Cheltenham Plan Policies

D1 Design
SL1 Safe and Sustainable Living

Adopted Joint Core Strategy Policies

SD4 Design Requirements
SD9 Biodiversity and Geodiversity
SD14 Health and Environmental Quality
INF1 Transport Network
INF2 Flood Risk Management

Supplementary Planning Guidance/Documents

Cheltenham Climate Change (2022)

4. CONSULTATIONS

See appendix at end of report

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	28
Total comments received	0
Number of objections	0
Number of supporting	0
General comment	0

- 5.1 Letters were sent to 28 neighbouring properties. No representations were received following the publicity.

6. OFFICER COMMENTS

6.1 Determining Issues

- 6.2 The key issues for consideration are the design and layout of the proposals and their impact on the character and appearance of the street scene and amenities of neighbouring land users. Highway safety implications, soft landscaping proposals and biodiversity net gain matters will also need to be considered.

6.3 Design and layout

- 6.4 Section 12 of the NPPF emphasises the importance of achieving well designed places that are visually attractive and sympathetic to local character and setting. Paragraph 135 requires decisions on planning applications to ensure that new developments “*will function well and add to the overall quality of the area...are visually attractive...are sympathetic to local character...including the surrounding built environment....and create places that are safe, inclusive and accessible...with a high standard of amenity for existing and future users*”. In addition, policy SD4 of the JCS and policy D1 of the Cheltenham Plan require development to be of a high standard of architectural design that positively responds to and respects the character of the locality and should be of a scale, type and materials appropriate to its setting.

- 6.5 The (revised) proposed layout includes 3.no refuse bin enclosures of varying sizes, two adjacent to the west site boundary and one adjacent to the east boundary and fronting Windermere Road. A new ramp access to one bin store, new footpath construction and two potential areas for a dropped kerb are also proposed; one to the rear within the existing car park area and the other on Windermere Road utilising an existing edge of carriageway hard standing. The 3no.bin stores would be enclosed and partially screened by soft landscaping/hedgerow and the existing boundary hedges along the west and east site boundaries in front of the proposed bins stores allowed to grow to a height of 1.8 metres.

- 6.6 The bin stores would be constructed of 2 metre high paladin mesh panels with swing gates for access and finished in a moss green colour. Officers acknowledge that the fencing at a height of 2 metres is relatively high and the top sections of the bin stores would be clearly visible above the proposed hedge screening (once established), However, the area of individual coverage is small, two of the proposed bin stores are set back from the road frontage and new screen planting is proposed around all three stores, thereby lessening the visual impact of the fencing on the street scene. In conclusion, the proposals are not considered to be significantly harmful to the character and appearance of the street scene and the harm not sufficient to warrant refusal of the application. Furthermore, similar proposals for new bin store enclosures have been approved recently on other CBH sites.

- 6.7 The two bin stores located adjacent to the west site boundary would be located within the tree root protection areas (RPAs) of trees within and adjacent to the site. As such, the bin

stores are proposed to be constructed above a cellular system to avoid damage to the RPAs and ground levels would be raised in these locations to accommodate the existing root system.

6.8 The Council's Trees officer has reviewed the proposals and following the submission of a suitable Tree Protection Plan, raises no further concerns. The TO's comments are set out in full at the end of the report.

6.9 Given the separation distances from the building elevations and windows, there are no neighbour/occupier amenity concerns.

6.10 In light of the above considerations, the proposed development adheres to the objectives of Policies D1, SL1 and GI3 of the Cheltenham Plan and policies SD4 and SD14 of the Joint Core Strategy.

6.11 Access and highway issues

6.12 The Highways Development Management team, acting as local highway authority (HA) raise no objection to the proposed development. The bin storage areas proposed do not directly restrict the public highway or any means of access currently available by foot or vehicle. Similarly, the HA has no comment in relation to the proposed dropped kerbs.

6.13 Sustainability

6.14 NPPF paragraph 161 states that:

'The planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure'

6.15 Policy SD3 of the JCS requires all new development to be designed to contribute to the aims of sustainability by increasing energy efficiency and minimising waste and air pollution. Development proposals are also required to be adaptable to climate change in respect of the design, layout, siting, orientation and function of buildings. Similarly, Policy INF5 of the JCS sets out that proposals for the generation of energy from renewable resources or low carbon energy development will be supported.

6.16 The Cheltenham Climate Change SPD (adopted June 2022), sets out a strategy for decarbonising buildings over the next decade. For all new development there is an opportunity to improve the environmental performance of buildings through the inclusion of technologies and features such as photovoltaics, heat recovery, permeable (or minimal) hard surfaces and renewable and appropriately sourced materials, for example.

6.17 Unfortunately, the applicant has not provided a Sustainability Statement/Checklist but given the nature and scale of development proposed and the potential significant gains in the biodiversity of this site, the lack of any other direct response to the SPD is considered acceptable.

6.18 Other considerations

6.19 Ecology/Biodiversity Net Gain

6.20 Policy SD9 of the JCS seeks the protection and enhancement of ecological networks and across the JCS area, improved community access and for new development to contribute

positively to biodiversity and geodiversity whilst linking with wider networks of green infrastructure.

6.21 A minimum 10% biodiversity net gain (BNG) is now mandatory for non-major developments; albeit there are some exemptions.

6.22 The Council's ecologist (EO) was consulted on the application and confirms that the mandatory 10% Biodiversity Net Gain (BNG) requirement is applicable to the proposed development. As such, the applicant provided an updated small sites biodiversity metric and BNG Assessment report. The revised BNG calculations demonstrate a 129% gain in habitat units and a net gain in hedgerow units, as none are currently present on the affected parts of the site. The EO considers that all previous comments are addressed and a net gain over 10% is achievable for this site.

6.23 A Biodiversity Gain Plan will be required under the mandatory BNG condition to maintain a moderate condition of the site's biodiversity/grassland.

6.24 A Habitat Management and Monitoring Plan (HMMP), in accordance with the approved Biodiversity Gain Plan, should also be submitted for approval. This would update the submitted LEMP in terms of a 30 year habitat monitoring scheme.

6.25 The EO recommended conditions are attached and re-worded where necessary.

6.26 Public Sector Equality Duty (PSED)

6.27 As set out in the Equality 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.

6.28 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.

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

7. CONCLUSION AND RECOMMENDATION

7.1 For the reasons outlined within the report, the officer recommendation is to grant planning permission, subject to the following conditions and informatives. The mandatory BNG informative would also be added to the decision notice.

7.2 The applicant has agreed to the terms of the pre-commencement conditions.

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 The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan and including:

- (a) a non-technical summary;
 - (b) the roles and responsibilities of the people or organisation(s) delivering the [HMMP];
 - (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - (e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,
- has been submitted to, and approved in writing by, the local planning authority.

Notice in writing shall be given to the Council when the:

- (f) [HMMP] has been implemented; and
- (g) habitat creation and enhancement works as set out in the [HMMP] have been completed.

No operations shall take place until:

- (h) the habitat creation and enhancement works set out in the approved [HMMP] have been completed; and
- (i) a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by the Local Planning Authority.

The created and/or enhanced habitat specified in the approved [HMMP] shall be managed and maintained in accordance with the approved [HMMP].

Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved [HMMP].

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 and having regard to adopted Policy SD9 of the Joint Core Strategy (2017).

- 4 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.

- 5 The development hereby approved shall not be carried out unless in accordance with the approved Tree Protection Plan (TPP). The protective measures specified within the TPP shall 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).

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.

Consultations Appendix

Tree Officer 1

20th September 2024 - It would benefit the applicant to submit proposed tree protective measures to reduce the risk of inappropriate storage / spillage etc within the RPAs of retained trees.

Reason: to protect the amenity value of trees in the Borough as per Policies GI2 and GI3 of the Cheltenham Plan.

Tree Officer 2

4th October 2024 –

The tree protection plan that has been submitted conforms to BS5837 (2012) and will benefit the scheme. No further details are required from the Trees Section.

CBC Ecologist 1

9th October 2024 - The BNG metric shows a net loss calculation (-77%) and the trading rules have not been met.

Can you please pass on that the team will have to revise their proposals to achieve a net gain in biodiversity. I recommend they use an ecologist to complete their BNG assessment and advise on habitat creation to get their calculation over the 10% net gain mark.

CBC Ecologist 2

11th November 2024 – Full response with diagrams in documents tab

This application needs an accompanying BNG report to explain the contents of the Small Sites Biodiversity Metric (“the metric”) submitted (Alex Dallyn, Landscape Architect, October 2024) and for the metric to be revised to address some inputting errors.

The areas (m²) of the two lines of vegetated garden in Baseline Habitats of tab 5 in the metric equate to 113.50m². This neither corresponds to the actual area of each bin store, or the total area of the site (3748m² according to this proposal’s application form).

According to the idox measuring tool on the Bin Store Proposals plan submitted (drawing number: 24037.101 REV C), the area of each proposed bin store is (approximately):

17.61m²

11.83m²

12.56m²

These measurements do not include the area of hedgerow proposed around each bin store. There are no issues with the inputting of the proposed hedgerow lines in tab 6 of the metric, 33m corresponds to the Bin Store Proposals plan. See below.

The Bin Store Proposals plan doesn’t show the proposed creation of any introduced shrub however this habitat has been put into the metric under habitat creation in tab 5. This needs to be removed from the metric and the proposals adjusted accordingly.

There is no issue with the inputting of the 52m² of other neutral grassland, this corresponds to the measurements on the Bin Store Proposals plan. See below.

Further net gains could be achieved by increasing the amount of wildflower area created.

CBC Ecologist 3

10th December 2024 –

My previous comments have been addressed in the updated small sites biodiversity metric (SSBM) (Alex Dallyn, Landscape Architect, November 2024) and the Biodiversity Net Gain (BNG) assessment report (MHP Design, November 2024).

The mandatory Biodiversity Net Gain (BNG) condition applies to this development. The BNG calculation is 129.99% gain in area habitat units (and a net gain in hedgerow units as none were present on the baseline prior to the works). This calculation is based on the creation of other neutral grassland in good condition. Good condition is unlikely to be achieved over 30-years for this habitat due to its location and the likelihood of disturbance during establishment. Moderate condition is a more realistic target for this habitat, therefore the SSBM and the Biodiversity Gain Plan required under the mandatory BNG condition should be updated to reflect this. A net gain over 10% will still be achieved on-site.

If the applicants view is to the contrary, this will only be supported if the areas of other neutral grassland creation can be fenced off to ensure no disturbance occurs during its establishment. If this measure is taken up, this must be shown in the Biodiversity Gain Plan and the long-term management plan.

As this development is subject to the mandatory BNG condition, the LEMP submitted (MHP Design, November 2024) must be updated to a BNG 30-year Habitat Management and Monitoring Plan (HMMP). This is conditioned below along with a landscaping plan.

The proposals are deemed to not be 'significant' gains in biodiversity according to the guidance provided by the Department for Environment, Food & Rural Affairs (DEFRA) (2024), therefore a S106 will not be required to secure the delivery of the measures outlined in the BNG Plan to be submitted post-determination.

See "significant on-site enhancements" workings from Cheltenham Borough Council below. This proposals' assessment passes 2/5 of the "significant" criteria, therefore the proposals are not deemed to be significant.

"Significant" criteria 1-5 as per DEFRA guidance found: Make on-site biodiversity gains as a developer - GOV.UK	This development: 24/01520/FUL
<i>1. Habitats of medium or higher distinctiveness</i>	Yes, other neutral grassland
<i>2. Habitats of low distinctiveness which create a large number of biodiversity units relative to the biodiversity value of the site before development</i>	No
<i>3. Habitat creation or enhancement where distinctiveness is increased relative to the distinctiveness of the habitat before development</i>	Yes, other neutral grassland
<i>4. Areas of habitat creation or enhancement which are significant in area relative to the size of the development</i>	No
<i>5. Enhancements to habitat condition, for example from poor or moderate to good</i>	N/A

The BNG informative must be added to the decision notice of this planning application if it is deemed approved.

Condition: Habitat Management and Monitoring Plan (HMMP)

The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan and including:

- (a) a non-technical summary;
 - (b) the roles and responsibilities of the people or organisation(s) delivering the [HMMP];
 - (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - (e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,
- has been submitted to, and approved in writing by, the local planning authority.

Notice in writing shall be given to the Council when the:

- (f) [HMMP] has been implemented; and
- (g) habitat creation and enhancement works as set out in the [HMMP] have been completed.

No operations shall take place until:

- (h) the habitat creation and enhancement works set out in the approved [HMMP] have been completed; and
- (i) a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by the Local Planning Authority.

The created and/or enhanced habitat specified in the approved [HMMP] shall be managed and maintained in accordance with the approved [HMMP].

Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved [HMMP].

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.

Soft Landscape Plan

Prior to the commencement of the development hereby approved, a soft Landscape Plan including a planting schedule, shall be submitted to and approved in writing by Cheltenham Borough Council.

The development shall be carried out in full accordance with the details submitted or any amendments approved in writing by the Council.

Reason: to comply with the revised National Planning Policy Framework (NPPF, 2023). The NPPF states in paragraph 180 (d) on page 50 that "Planning policies and decisions should contribute to and enhance the natural and local environment by... minimising impacts on and providing net gains for biodiversity..." and in paragraph 185 (b) "To protect and enhance biodiversity and geodiversity, plans should...identify and pursue opportunities for securing measurable net gains for biodiversity".

GCC Highways Planning Liaison Officer

4th October 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.

The justification for this decision is provided below.

The bin storage areas proposed do not directly restrict the public highway or any means of access currently available by foot or vehicle.

The Highway Authority therefore submits a response of no objection.