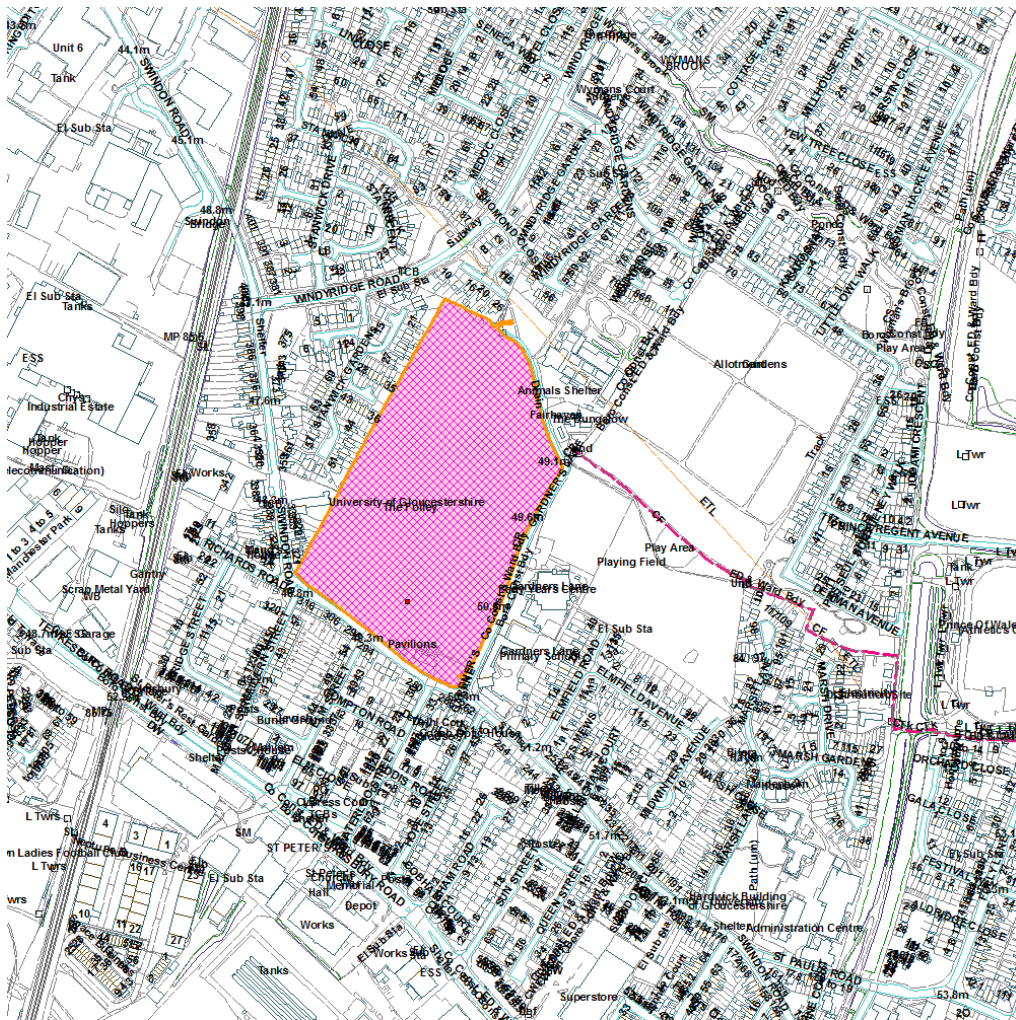


<b>APPLICATION NO: 24/00399/FUL</b>		<b>OFFICER: Michelle Payne</b>
<b>DATE REGISTERED: 8th March 2024</b>		<b>DATE OF EXPIRY: 7th June 2024</b> (extension of time agreed until 23rd December 2024)
<b>DATE VALIDATED: 8th March 2024</b>		<b>DATE OF SITE VISIT:</b>
<b>WARD: Swindon Village</b>		<b>PARISH:</b>
<b>APPLICANT:</b>	Aster Homes Ltd.	
<b>AGENT:</b>	Black Box Planning	
<b>LOCATION:</b>	The Folley Swindon Road Cheltenham	
<b>PROPOSAL:</b>	Development comprising the erection of 122no. dwellings along with associated access, infrastructure, landscaping, open space and car park.	

**RECOMMENDATION:** Permit subject to a s106 agreement



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located to the north of Swindon Road within the Principal Urban Area and comprises some 6.18 hectares of land. The site is not subject to any other designation.
- 1.2 The site comprises a single field owned by the University of Gloucestershire, the site having formally been used for sports provision for the university, but now vacant. The Planning Statement that accompanies the application stating, *“The ongoing investment programme by the University including in its sports related courses has meant sports provision is now focused at the Oxstalls Campus, Oxstalls Sports Park and The Park Campus”*. The site includes a derelict pavilion building and changing building with an associated car park; and is enclosed along the street frontages by palisade fencing, and not publicly accessible.
- 1.3 The site is bound by residential properties in Stanwick Gardens to the west, with residential properties opposite the site on Swindon Road. Additional residential properties in Thomond Close and Windyridge Gardens, together with Cheltenham Animal Shelter lie to the north of the site. To the east, Gardner’s Lane runs adjacent to the boundary with Gardners Lane Primary School and Early Years Centre beyond. There are a number of mature trees and hedges along the site boundaries.
- 1.4 The application seeks full planning permission for a new residential development comprising the erection of 122no. low carbon dwellings along with associated access, infrastructure, landscaping, open space and car park. The applicant, Aster Homes Ltd, are proposing a mixed tenure affordable scheme comprising shared ownership homes (offering a route to affordable home ownership), together with homes for social rent. Aster Homes Ltd are part of Aster Group, a housing association.
- 1.5 In addition to drawings, the application has been accompanied by a number of detailed reports and statements some of which have been revised/addended during the course of the application; all of the documents have been available to view on the Council’s website (and marked superseded where appropriate).
- 1.6 The application is before the planning committee at the request of Councillor Flo Clucas for the following reasons:
  - Increase in traffic on an already extremely busy highway, Swindon Rd;
  - The difficulties caused for traffic in relation to the railway bridge;
  - Access and egress from the site;
  - Access and egress from school;
  - Impact on Animal Shelter;
  - Loss of green space;
  - Impact on amenity for local people;
  - Impact on wildlife.
- 1.7 Revised plans have been submitted during the course of the application, and these are addressed in the report below.
- 1.8 Members will have the opportunity to visit the site on planning view.

## 2. CONSTRAINTS AND PREVIOUS APPLICATIONS

### **Constraints:**

Airport Safeguarding over 45m  
Honeybourne Line  
Principal Urban Area  
Smoke Control Order

**Previous applications:**

**CB18622/00**

**REFUSE**

**4th August 1988**

Outline Planning Permission For Residential Development

**CB18622/01**

**REFUSE**

**5th May 1992**

Erection Of 350 - Place Student Residence, Replacement Sports Pavilion, Car, Coach And Cycle Parking And Ancillary Works

**Officer comment:** It is noted in the objections that reference is made to the above refusals of planning permission for the development of the site in 1988 and 1992, suggesting that they provide a clear reason for refusal; however, these decisions were made over 30 years ago and given the significant changes to planning policy that have since taken place, both nationally and locally, these previous refusals are largely immaterial in the determination of this application, which must be considered in the context of the current development plan.

### **3. POLICIES AND GUIDANCE**

**National Planning Policy Framework 2024 (NPPF)**

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 5 Delivering a sufficient supply of homes

Section 8 Promoting healthy and safe communities

Section 9 Promoting sustainable transport

Section 11 Making effective use of land

Section 12 Achieving well-designed places

Section 14 Meeting the challenge of climate change, flooding and coastal change

Section 15 Conserving and enhancing the natural environment

Section 16 Conserving and enhancing the historic environment

**Adopted Cheltenham Plan 2020 (CP) Policies**

D1 Design

D3 Private Green Space

HE1 Buildings of Local Importance and Non-Designated Heritage Assets

HE2 National and Local Archaeological Remains of Importance

BG1 Cotswold Beechwoods Special Area Of Conservation Recreation Pressure

SL1 Safe and Sustainable Living

GI2 Protection and replacement of trees

GI3 Trees and Development

CI1 Securing community infrastructure benefits

CI2 Sports and open space provision in new residential development

CI4 Broadband provision

**Adopted Joint Core Strategy 2017 (JCS) Policies**

SP1 The Need for New Development

SP2 Distribution of New Development

SD3 Sustainable Design and Construction

SD4 Design Requirements

SD8 Historic Environment

SD9 Biodiversity and Geodiversity

SD10 Residential Development

SD11 Housing Mix and Standards

SD12 Affordable Housing

SD14 Health and Environmental Quality

INF1 Transport Network

INF2 Flood Risk Management

INF3 Green Infrastructure

INF4 Social and Community Infrastructure

INF5 Renewable Energy/Low Carbon Energy Development  
INF6 Infrastructure Delivery  
INF7 Developer Contributions

**Supplementary Planning Guidance/Documents**

Cheltenham Climate Change SPD (2022)

#### **4. CONSULTATION RESPONSES**

See Appendix at end of report

#### **5. PUBLICITY AND REPRESENTATIONS**

- 5.1 Letters of notification were sent to 141 neighbouring properties on receipt of the application. In addition, site notices were posted in various locations around the site, and an advert published in the Gloucestershire Echo.
- 5.2 Additional consultation was carried out on receipt of the revised plans, where deemed necessary.
- 5.3 In response to the publicity, a total of 59 representations have been received; 57 in objection, and two in support. A petition with 92 signatures has also been received.
- 5.4 The comments have been circulated in full to members but the main objections are summarised below:
  - Loss of green space
  - Impact on wildlife
  - Insufficient local infrastructure and amenities
  - Increase in traffic and pollution – cumulative effects
  - Impact on air quality
  - Highway safety
  - Impact on privacy and light to neighbouring properties
  - Flood risk
  - Increase in noise and disturbance to residents, the Animal Shelter, and neighbouring school, particularly during construction
  - Lack of communication and transparency
  - Previous applications refused
  - Overdevelopment
  - Potential increase in crime and anti-social behaviour
  - Loss of view
  - Devaluation in property
- 5.5 Members should note that the representations include a joint objection from Richard Gibson, CBC Head of communities, wellbeing & partnerships, and Adam Reynolds, CBC Green Space Manager.
- 5.6 The applicant also undertook their own consultation exercise prior to the submission of the application, and the application is accompanied by a detailed Statement of Community Involvement. A drop-in exhibition was held in the school hall at Gardner's Lane Primary School on 11th January 2024, with invitations sent to more than 850 addresses within the vicinity of the site; the event was attended by 88 people. The drop-in exhibition was supported by a number of stakeholder meetings before and after the drop-in event, a leaflet advertising the consultation, feedback forms, a press release, and a dedicated consultation website.

## 6. OFFICER COMMENTS

### 6.1 Determining issues

6.1.1 The key issues in determining this application are:

- the principle of development in terms of the proposed residential use and the loss of the existing playing pitch/green space;
- design and layout;
- sustainability and climate change;
- impact on the historic environment;
- access, parking and highway impacts;
- impact on the amenity of neighbouring land users;
- drainage and flooding;
- trees and landscaping;
- ecology and biodiversity net gain; and
- s106 obligations.

### 6.2 Policy Background / Principle of Development

6.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for development must be determined in accordance with the development plan, unless material considerations indicate otherwise. This is reiterated in NPPF paragraph 48.

6.2.2 For Cheltenham, the development plan comprises the saved policies of the Cheltenham Borough Local Plan Second Review 2006 (CBLP), adopted policies of the Cheltenham Plan 2020 (CP) and adopted policies of the Tewkesbury, Gloucester and Cheltenham Joint Core Strategy 2017 (JCS). Material considerations include the National Planning Policy Framework 2024 (NPPF), and Planning Practice Guidance (nPPG).

6.2.3 Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development which in decision-taking means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
  - i) *the application of policies in [the] Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
  - ii) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the] Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*

6.2.4 It should be noted that paragraph 11d) was explicitly updated in the latest revision to the NPPF to direct developments to sustainable locations and ensure the provision of affordable homes.

### *Principle of redeveloping the site for residential purposes*

6.2.5 In Cheltenham, the housing policies (those most relevant to this application) are out-of-date as the Council is currently unable to demonstrate a five-year supply of deliverable housing sites (the latest published figure in January 2025 being just 2.52 years), and the 'tilted balance' in favour of granting permission is therefore engaged.

6.2.6 Notwithstanding the housing policies being out-of-date, as previously noted, the application site is sustainably located within the Principal Urban Area, wherein JCS policy SD10 (and the NPPF) supports new housing development on previously developed land. The site is also located within a predominantly residential area.

6.2.7 The proposed development would result in the welcome provision of an additional 122no. affordable housing units in this highly sustainable location and will make a valuable contribution to the borough's housing stock, helping to alleviate the acute shortfall. This matter carries significant weight in the determination of this application.

6.2.8 Moreover, throughout the NPPF, emphasis is given to new development optimising the potential of the site; policy SD10 also requires new residential development proposals to *"seek to achieve the maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network."*

6.2.9 As such, officers are satisfied that the general principle of developing the site for residential purposes in this location is acceptable. That said, it is still necessary to assess the proposals against the other policies within the NPPF.

### *Loss of existing playing pitch/green space*

6.2.10 Notwithstanding the above, it is important to recognise that the proposed development would result in the loss of the existing playing pitch on site and Sport England (SE) which is a statutory consultee has objected to the proposed development on these grounds. SE's detailed comments can be read in full in the consultations appendix at the end of this report.

6.2.11 SE's default policy is:

*to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of:*

- all or any part of a playing field, or*
- land which has been used as a playing field land remains undeveloped, or*
- land allocated for use as a playing field*

*unless, in the judgement of Sport England the development as a whole meets with one or more of five specific exceptions.*

6.2.12 In addition, NPPF paragraph 103 advises that:

*Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.*

6.2.13 Paragraph 104 goes on to state that:

*Existing open space, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless:*

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

6.2.15 In their initial response, SE advised that they had consulted with several national governing bodies of sport (NGBs), which had potential to be interested in the site, and summarised their comments; these were England Lacrosse, (EL), the Rugby Football Union, (RFU), The England and Wales Cricket Board/Gloucestershire Cricket Foundation, ECB/GCF and the Gloucestershire County Football Association/the Football Foundation GCFA/FF. The comments can be read in full in the Appendix to this report and it is not considered necessary to repeat them here.

6.2.16 SE has stated that “*The planning consultants fail to understand the National Planning Policy Framework (NPPF) paragraph 102 by trying to draw a distinction between private and publicly available playing fields. The NPPF does not draw any distinctions between them.*”

6.2.17 As initially submitted, the application proposed to retain a playing pitch on site for children’s/youth sport provision, together with a pavilion and car parking; however, the pavilion failed to incorporate any changing facilities, and its ability to be a sports pavilion was questioned by SE, together with the size of the pitch. SE also noted that no mitigation was proposed for the loss of the rest of the playing field site.

6.2.18 As a consequence, the scheme was amended to omit the sport provision from the proposal, but to provide a new community park, and a package of sport mitigation in the form of securing a community use agreement (CUA) for facilities at The Park Campus; however, SE maintained their objection as they consider the proposed mitigation package, while having some merit, fails to fulfil the requirements of NPPF paragraph 103, as it does not re-provide the lost playing field area in terms of quantity and quality, nor meet any of the exceptions.

6.2.19 In addition to the above, during the course of the application, a new Playing Pitch Strategy (PPS) was agreed by the Cabinet in July 2024. The PPS recommends that the use of The Folley site is protected for sporting activities; and, as previously noted, a joint objection from the Council’s Head of communities, wellbeing & partnerships, and Green Space Manager has been received. Additional comments from the Green Space team have been received.

6.2.20 The applicant’s agent has responded to the objection/comments in a letter dated 25th February 2025. With regard to the PPS, the letter states:

*The greenspace consultation response starts by placing emphasis on the 2024 PPS assessment and recommendation to protect The Folley. However, as set out in our previous letter dated 05th November 2024, the PPS presents an unrealistic analysis and recommendation for The Folley. The greenspace consultation response somewhat creates the perception that the development proposal at The Folley would result in the loss of 3no. adult football pitches, a mini 7 v 7 football pitch, two rugby*



*pitches and a cricket pitch. It is readily apparent that this is not the case for the reasons as follows.*

*The site is privately owned and disused. As confirmed by the PPS assessment 2024 The Folley is not available for community use, and moreover is unmarked, and therefore delivers 0 (zero) match equivalent sessions in the Borough. No sport has taken place on the site for a number of years and GCFA/FF note within the Sport England (SE) letter dated 25th March 2024 that 'the current facilities at the site are at the end of life and would need improving, including the pitches.' The site also has a secure boundary with palisade fencing and locked gates, and thus has no public access currently for either sport uses, or general public greenspace uses. Development of the site as proposed will not, therefore directly result in any tangible loss of playing pitches or match equivalent sessions within the Borough. On the contrary the proposed scheme will deliver a significant net increase in public greenspace for new & existing residents.*

*Turning to the specifics of each sport referred to in the greenspace response, regarding rugby, aerial photography evidence shows The Folley being laid out with two rugby pitches in 2007 (17 years ago) with one pitch marked in 2019 (6 years ago). The RFU response as incorporated within the Sport England (SE) letter dated 25th March 2024 specifically targets off-site mitigation towards floodlit pitches in the local area, noting a deficit in both Cheltenham Borough and Tewkesbury. The proposed development does not result in loss of any floodlight pitches so the mitigation measures sought are not reasonably related or proportionate to the proposed development.*

*Regarding cricket, the English Cricket Board's response (incorporated within the Sport England letter dated 25th March 2024) confirms there is no evidence of cricket having been played on the site for 19 years. Furthermore, the 2017 PPS made no reference to cricket in relation to The Folley. The 2024 PPS is thus unreasonable in reintroducing the concept of cricket at this site, and the development proposal would not result in loss of a cricket pitch. Accordingly, mitigation measures are not directly or reasonably related.*

*With regard to football, the original application plans incorporated formal sport (85m x 61m pitch area to provide 2 x mini soccer pitches or 1 x youth football pitch) in order to respond directly to an identified need in the PPS. The subsequent consultation response from Sport England dated 25th March 2024 (including comments from the Gloucestershire FA and Football Foundation) did not support the provision of pitch space at The Folley as part of the development proposals.*

#### **6.2.21 The letter goes on to state in relation to the proposed sports mitigation:**

*The greenspace consultation response considers the proposed mitigation measures as insufficient. This position fails to consider that the proposal will increase match equivalent sessions for mini pitches in the Borough in the form of securing a community use agreement (CUA) at The Park (PPS Site ID 61). The CUA (in an agreed form between the parties) will increase match equivalent sessions (MES) at The Park from 2.5 to 12 MES, and will deliver upon a requirement of the PPS described as 'imperative' by safeguarding use of this currently unsecured site for the club (PPS Para 2.18), consistent with the recommendations for football within the PPS 2024. The greenspace response also appears to query the quality of the pitches at The Park Campus when the 2024 PPS seeks to 'maintain pitch quality' (PPS, page 82). The greenspace response also suggests that ancillary facilities are being marketed, but in any event the signed heads of terms for the Community Use Agreement between the parties would secure the requisite ancillary facilities alongside the pitches.*



*The position of the Council's greenspace team is therefore focused not on preventing the development of The Folley but rather seeking financial contributions to off-site projects. It is the applicant's position that the provision of over 2 hectares of new public open greenspace on the site including a community park area, LEAP and trim trail, in combination with the sports provision secured at The Park via a Community Use Agreement provides an ample response to greenspace provision. Accordingly, no other financial obligations towards greenspace provision are necessary to make the proposal acceptable in planning terms having regard to the CIL regulations. Indeed, by comparison to a number of other recently approved development proposals in the Borough, it is clear that the proposed development at The Folley is more than adequately addressing green space provision, exceeding the open greenspace requirements of the Six Acre Standard within an affordable led housing scheme.*

*It is recognised that the Council's greenspace team has aspirations to delivery new 3G playing pitches in the Borough, but respectfully, to seek contributions from this development proposal is needed to make the proposal acceptable in planning terms.*

*The proposal is securing an unequivocal substantial public benefit with increased provision of green recreation space in the community, thus promoting physical, mental and social well-being. The new community park will have a transformative impact on the character and sense of place along Swindon Road, promoting social cohesion and sense of pride in the community. The new park will provide an area which is accessible to all age groups, thus responding directly to requests made through the public consultation undertaken at the pre-application stage for a more inclusive public space to benefit all members of the local community.*

6.2.22 In taking all of the above into account, on balance, officers consider the provision of housing to outweigh the loss of the playing pitch, particularly given the current under supply of housing land. Whilst it is acknowledged that the NPPF does not draw any distinction between private and publicly available playing fields, and the PPS recommends that The Folley site is protected for sporting activities, the site is currently secured by palisade fencing and has not been used for sport for a number of years. Officers also consider the provision of the publicly accessible open space has the significant potential to provide for an enhancement to this part of the town; one that is accessible by all. The extent of public green space proposed is considered more than ample.

6.2.23 As such, it would not be appropriate to secure additional financial contributions through the s106 as these are not considered necessary to make the proposal acceptable in planning terms.

6.2.24 Putting the loss of the playing pitch to one side, officers have also considered the proposals in relation to CP policy D3 which advises that "*The development of private green areas, private open spaces and private gardens which make a significant contribution to the townscape and environmental quality of Cheltenham will not be permitted.*" CP paragraph 5.19. sets out the factors that will be taken into account in determining whether a green space has significant value, these include the spacious character of the town, the quality of the local townscape, the established character of the locality, the setting of important buildings, and important landmarks, views and vistas.

6.2.25 In this case, officers do not consider the site to make so significant a contribution that it should remain undeveloped, particularly given the proposed use of the site for housing. In accordance with the latter part of CP policy D3, the proposals have taken account of the scale and location of existing buildings within or adjacent to the site, mature trees are to largely be retained, and new and enhanced landscaping is proposed, to include the provision of an area of high quality, public green space (currently, the site is not publicly accessible and is secured by palisade fencing).

6.2.26 It is acknowledged that the previous refusals of planning permission found that the site made a significant contribution to the character of the town but, as previously noted, given the length of time that has passed and the need to determine this application in the context of the current development plan, officers are satisfied that, on the merits of this scheme, the loss of the green space is acceptable in principle.

### 6.3 Design and layout

6.3.1 Chapter 12 of the NPPF places great emphasis on the importance of design in decision making, and states at paragraph 131 that *“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”*.

6.3.2 Paragraph 135 of the NPPF 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...whilst not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place...; optimise the potential of the site...; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”*.

6.3.3 Local design requirements are set out in CP policy D1 and JCS policy SD4, with all new development required to adequately reflect principles of urban and architectural design, to complement and respect neighbouring development and the character of the locality, and to avoid causing harm to the architectural integrity of the building or group of buildings, or the unacceptable erosion of open space around the existing building.

6.3.4 Additional guidance of some relevance to this application can be found in the Council’s SPD relating to development on garden land and infill sites, which sets out that various elements combine to create the character of an area and include grain, type of building, location of buildings within the block or street, plot widths and building lines.

#### *Layout*

6.3.5 The Design and Access Statement (DAS) which accompanies the application sets out how the layout evolved during the design process, albeit as previously noted, changes have been made during the course of the application. The DAS sets out the key aspects that the architects were keen to enhance or retain; namely the openness on Swindon Road and the mature trees, and pedestrians connections through to Windyridge Road/Wymans Court and to Elmfield Park. The proposals also seek to reinforce the existing buffer zone along the eastern boundary to provide improved separation between the school and the site, and to create a new buffer along the western edge to provide privacy and security to existing neighbours. The housing has also been developed to comprise three character areas, to provide architectural interest across the site.

6.3.6 Vehicular access to the site would be provided via a single access point on Swindon Road, with the existing access to the site in Gardner’s Lane retained for access to the car park. The Planning Statement that accompanies the application sets out that the new access point on Swindon Road *“seeks to optimise highway safety and also retention of existing trees along the Swindon Road frontage”*.

6.3.7 A network of pedestrian footways and cycleways would provide safe and attractive links through the site to and from neighbouring developments to encourage walking and cycling opportunities.

6.3.8 The revised layout provides for an area of high quality, public green space fronting Swindon Road and now incorporates a Locally Equipped Area of Play (LEAP), benches for rest/recreation, a trim trail, and circular pedestrian routes. It is hoped that the new 'community park' would have a transformative impact on the character and sense of place along Swindon Road and create a more inclusive public space of benefit to all members of the local community.

6.3.9 The proposed housing is proposed to the rear (north) of the site. The majority of buildings proposed are two storeys in height, with some limited single storey buildings. The general scale of the buildings is considered to be appropriate in this context and generally consistent with nearby developments. Accommodation across the site comprises 1no. two bedroom bungalow, 6no. one bedroom maisonettes, 52no. two bedroom houses, 36no. 3 bedroom houses, 26no. four bedroom houses, and 1no. five bedroom house.

6.3.10 Each dwelling would benefit from a minimum of one car parking space, up to a total of three spaces for the five-bedroom home and the larger four bedroom homes. Secure and covered cycle parking for each dwelling would also be provided for all units. The car park would provide 40no. parking spaces, including three disabled spaces and 4 motorcycle parking bays.

6.3.11 High quality landscaping is proposed throughout the site, including the significant green landscape buffers, which would help to soften the development, and allow for the majority of the existing mature trees. Although the proposals would result in the loss of 5no existing trees, as revised, the scheme proposes some 190no. new trees as part of the wider landscaping scheme.

6.3.12 SuDS infrastructure comprising two detention basins and a pump compound would be located to the north-east of the site.

6.3.13 With reference to the Architects Panel comments that "*The layout is an efficient use of space but we are concerned that it doesn't make for the more engaging plan form*", revisions have been sought to ensure that more of the houses address the main spine road. The replacement of the sports pitch with the area of open green space also addresses their concerns in relation to the quantum of public open space.

### *Design*

6.3.14 The buildings themselves take a relatively traditional pitched roof form which is considered to be appropriate for the context. Externally, a fairly simple palette of materials is proposed, primarily comprising pink pastel multi-brick, buff brick and dark grey brick together with a dark grey/brown brick to provide darker brick panel surround front door areas. Additional interest to the street scene and facades would be provided by contrasting running course panels, window surrounds and heads/cills. The Architects Panel, whilst noting that the design of the dwellings is very simple, welcome the aesthetics of the scheme and the interest provided by the varying brick colours and varying coursing patterns as well as the render panels.

6.3.15 Officers are satisfied that such a simple but varied palette of materials would ensure that overall the development would have a coherent appearance and create an identity of its own, whilst responding to nearby developments.

## 6.4 Sustainability and climate change

6.4.1 In addition to the afore-mentioned design policies, JCS policy SD3 requires new development to be designed and constructed to maximise the principles of sustainability; with development proposals required to "*demonstrate how they contribute to the aims of*

*sustainability” and “be adaptable to climate change in respect of the design, layout, siting, orientation...”*

6.4.2 The policy also requires major applications to be accompanied by an Energy Statement that indicates the methods used to calculate predicted annual energy demand and association annual Carbon Dioxide (CO<sub>2</sub>) emissions.

6.4.3 JCS paragraph 4.4.11 goes on to advise that:

*Before considering the use of renewable energy technologies the design of a development should first identify measures to reduce overall energy demand. This can include choice of building fabric and construction techniques, optimising solar gain, natural lighting and ventilation to reduce the need for space heating and/or cooling and lighting. Secondly, the design should include measures to use energy more efficiently such as increasing levels of insulation in walls, floors and roofs and improved air-tightness.*

6.4.4 The adopted Cheltenham Climate Change SPD also provides guidance on how applicants can successfully integrate a best-practice approach towards climate change and biodiversity in to all new development proposals.

6.4.5 The policy and SPD reflects advice within the NPPF at paragraph 161 which 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.*

6.4.6 NPPF paragraph 164b) goes on to state that new development should be planned for in ways that *“can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards”*.

6.4.7 The Energy and Sustainability Strategy (ESS) that accompanies the application sets out at paragraph 4.4.3 that *“The residential units show a planning stage estimate of 61% carbon savings over the regulatory requirement set out in Part L 2022”* of the Building Regulations.

6.4.8 The ESS sets out the strategy as follows:

- Fabric efficiency;
  - Demanding wall, floor and roof U-values;
  - High performance doors/glazing;
  - Sealing of party walls;
  - Adoption of construction detailing to minimise linear thermal bridging normally caused by penetrations to the insulating layer;
  - Demanding air tightness levels.
- Hot water efficiency;
  - Tap flow rates with appropriate controls;
  - Managed shower flow rates.
- Electrical efficiency;
  - LED lighting throughout;
  - Energy labelled white goods where provided;

- Controls on external lighting to switch automatically when not required;
  - Controlled ventilation fan power.
- Heating and hot water efficiency;
  - Programmable heating controls;
  - Waste-water heat recovery;
  - Hot water storage with low heat losses.
- Apply renewable energy;
  - Air source heat pumps for each unit.

6.4.9 The ESS is thorough and adequately responds to climate change matters, and is sufficient to demonstrate compliance with policy SD3, the SPD, and the NPPF.

6.4.10 Whilst it is regrettable that solar photo-voltaic technology is not specifically proposed at this time, the ESS sets out that the scheme has been designed so that the roofs are unencumbered, avoiding dormer windows and roof hips, so that solar PV can be introduced either at outset or a later date. It is important that the scheme achieves a high level of sustainability while remaining a viable and deliverable development.

## 6.5 Impact on the historic environment

6.5.1 JCS policy SD8 requires both designated and undesignated heritage assets and their settings to be conserved and enhanced as appropriate to their significance, and is consistent with paragraph 210 of the NPPF. Additionally, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires special regard must be paid to the desirability of preserving the setting of nearby listed buildings. CP policies HE1 (Buildings of Local Importance and Non-Designated Heritage Assets) and HE2 (National and Local Archaeological Remains of Importance) are also relevant.

6.5.2 The application is accompanied by a Heritage Assessment which has been reviewed by the Conservation Officer (CO). Although a degree of visibility exists along Waterloo Street between the application site and the Grade II\* listed St. Peter's Church and adjacent Grade II listed War Memorial on Tewkesbury Road, and the proposed development would impact upon the wider setting of these listed buildings, given the built-up context of the area, the CO is satisfied that there would only be a limited impact upon the setting of the church, and no harm would occur to its significance.

6.5.3 The CO does reference the existing pavilion building on site (which is deemed to be a non-heritage asset given its age, local historic interest, and the contribution it makes to the character and appearance of the area) and suggest that there would be a preference to retain it, they do acknowledge that the building overall has limited significance and therefore, whilst its loss would be regrettable, do not raise an in-principle objection to its demolition. That said, they do recommend a condition that requires the permanent record of the structure and setting to be made, and deposited with Historic England.

6.5.4 The Heritage Assessment has also been reviewed by the County Archaeologist (CA) who has advised that the County Historic Environment Record shows no known heritage assets to lie within the site, which it is situated on the outskirts of the historic town. However, as the site appears to have largely remained as open space throughout the post-medieval period to present, there has been little archaeological investigation close to the site, but more recent discoveries on the outskirts of Cheltenham have revealed a large distribution of settlement sites particularly from the late prehistoric period to medieval periods. The CA therefore requested that the results of a geophysical survey and trial trench evaluation be submitted prior to determination of the application in order to establish the presence and significance of archaeological remains impacted by the proposals.

6.5.5 A Geophysical Survey Report was subsequently carried out, the results of which show a number of features of likely post-medieval date such as possible land drains in the area

of glasshouses in the centre of the site, earlier field boundaries and ridge and furrow remains. There are a few features of unknown origin which could be of archaeological interest such as a small enclosure and several linear features. Following a review of the report, the CA considers it unlikely that archaeological remains of such significance are present within the site which would preclude development, and therefore recommends that further archaeological investigation can be secured by condition.

## 6.6 Access, parking and highway safety impacts

6.6.1 JCS policy INF1 requires all development proposals to provide safe and efficient access to the highway network for all transport modes; and provide connections where appropriate, to existing walking, cycling and passenger transport networks to ensure that credible travel choices are provided by sustainable modes. The policy states that planning permission will only be granted where the impacts of the development are not considered to be severe, and requires developers to assess the impact of proposals through a Transport Assessment.

6.6.2 The above policy generally reflects the advice set out within the NPPF at Section 9 which states at paragraphs 115-118:

*115. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users;*
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and*
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.*

*116. 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, following mitigation, would be severe, taking into account all reasonable future scenarios.*

*117. Within this context, applications for development should:*

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

*118. All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a vision-led transport statement or transport assessment so that the likely impacts of the proposal can be assessed and monitored.*

6.6.3 From a highways perspective, the access, parking and highway safety impacts associated with the proposed development have been assessed by the Highways Development Management Team (HDM) at the County Council, as the Highway Authority acting in its role as statutory consultee, and their full comments can be read in the Appendix below.

#### *On Site Highway Matters*

6.6.4 As previously noted, vehicular access to the site would be provided via a single access point on Swindon Road, with the existing access to the site in Gardner's Lane retained for access to the car park. The new access point is supported by HDM.

6.6.5 A network of pedestrian footways and cycleways would provide safe and attractive links through the site to and from neighbouring developments to encourage walking and cycling opportunities.

6.6.6 Each dwelling would benefit from a minimum of one car parking space, up to a total of three spaces for the five-bedroom home and the larger four bedroom homes. The car park would provide 40no. parking spaces, including three disabled spaces and 4 motorcycle parking bays. HDM are satisfied with the level of on-plot parking now proposed. Secure and covered cycle parking for each dwelling would also be provided for all units.

6.6.7 HDM also support the *“significant changes to both the internal layout and individual plot positions to provide a safer and enhanced environment for future residents as detailed on the revised master plan 2103-TDS-XX-XX-DR-A-0010.Rev.9.”*

#### *Off-site pedestrian improvements*

6.6.8 Eleven off-site pedestrian improvements are proposed that would assist routes to/from the bus stop locations on A4019 when crossing Swindon Road and via Malvern Street and Waterloo Street. These works could be secured by condition to specifically remove potential conflict at the Elm Street junction that has substandard footway width on the eastern side. The locations include:

- Crossing Malvern Street near Swindon Road
- Crossing Bridge Street near Malvern Street
- Crossing Malvern Street near Elm Street
- Crossing Elm Street near service road
- Crossing Waterloo Street near A4019 Tewkesbury Road
- Crossing Service Road near Waterloo Street
- Crossing Addis Road near Waterloo Street
- Crossing Compton Road near Waterloo Street
- Crossing Waterloo Street near Swindon Road
- Crossing Swindon Road near Waterloo Street

#### *Wider Highway Impacts*

6.6.9 Gloucestershire County Council has concluded that the traffic movements associated with the 122 homes proposed at The Folley, taken together with other growth across Cheltenham, will lead to unacceptable harm/impacts to the road network. GCC are satisfied however that this harm can/will be adequately mitigated by proposed improvement works to Junction 10 of the M5 motorway and associated works (these being the subject of a



recent as-yet-undetermined Development Consent Order – examiners recommendation to the Secretary of State is scheduled June 2025) and therefore have requested a financial contribution of circa £492K towards the Junction 10 improvement works.

6.6.10 The council is not free to secure financial contributions as it sees fit. Planning obligations such as the aforementioned £492K must meet all of the tests set out in Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) to be eligible and legitimate. These legislative tests are repeated as policy tests in the National Planning Policy Framework and are as follows:

A planning obligation must be:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

6.6.11 There has been close engagement with the county council in respect of proposed s106 requests related to the Junction 10 improvement works and whilst the challenge of funding is clearly understood, as the decision taker the local planning authority must be confident that it is acting reasonably in the application of the s106 tests and within the context of the NPPF.

6.6.12 The information that the council has received to-date fails to demonstrate that the above tests have been met. It has not been demonstrated by the county council that a financial contribution is necessary to make the development acceptable in planning terms nor that it is directly related to the development in question.

6.6.13 To meet the NPPF and s106 tests, it must be demonstrated that the impact of the proposed development will be 'severe' in the event that the Junction 10 works are not forthcoming. The evidence that has been submitted is generalised and high level in context and relates to the need for the J10 improvements in a broad sense (which is not disputed and indeed the council supports this long-needed transport intervention); it fails however to deal with the site-specific impacts and characteristics of The Folley proposals and fails to show how it is 'directly related' to the development. Furthermore, it is unclear how the requested £492k 'fairly and reasonably' relates in scale and kind to the development. A financial contribution intended to mitigate an impact must be proportionate and directly related to the degree/severity of that impact; it cannot be applied in a manner which is tantamount to a 'roof tax' which is calculated to address a funding shortfall. There must be a clear correlation between the level of impact and level of financial contribution requested; this has not been demonstrated to the council's satisfaction.

6.6.14 To conclude, it has not been demonstrated that the requested financial contribution meets the Regulation 122 tests and as such it has not been formally requested by officers. The committee is entitled of course to reach a different conclusion regarding this matter and the county council's case for requesting the financial contribution is appended to this report.

6.6.15 As a consequence of the financial contribution towards Junction 10 improvement works failing to meet the Regulation 122 tests, the Grampian condition suggested by HDM which seeks to restrict occupancies on the dwellings until the motorway junction upgrade has been completed is unreasonable.

## 6.7 Impact on the amenity of neighbouring land users

6.7.1 CP policy SL1 states that development will only be permitted where it will not cause unacceptable harm to the amenity of adjoining land users and living conditions in the locality. CP paragraph 14.4 advising that:

*In assessing the impacts of a development including any potential harm, the Council will have regard to matters including loss of daylight; loss of outlook; loss of privacy; and potential disturbance from noise, smells, dust, fumes, vibration, glare from artificial lighting, hours of operation, and traffic / travel patterns.*

6.7.2 JCS policy SD14 reiterates this advice and also seeks to ensure high quality developments that “*protect and seek to improve environmental quality*”. In addition, NPPF paragraph 135f) also highlights the need to ensure that developments achieve a high standard of amenity for both existing and future users.

#### *Privacy, outlook and daylight*

6.7.3 The concerns raised by the adjacent residential occupiers have been duly noted; however, officers are satisfied that the proposed development of the site would not result in any unacceptable harm in terms of privacy, outlook or daylight. As previously noted, despite some suggestion otherwise, the majority of the buildings across the site are two storeys in height, with a limited number of single storey buildings. There are no three storey buildings proposed.

6.7.4 With regard to privacy, there are no first-floor windows within 10.5 metres of the site boundaries (the minimum distance normally sought) that would overlook neighbouring properties. Many of the properties would be side on to the boundary with only bathroom windows which can be reasonably assumed to be obscurely glazed. Where plots 49 and 50 would have their rear elevations facing the boundary, with first floor bedroom windows, a distance of approximately 15 metres to the boundary is achieved. Moreover, in terms of outlook, views of the proposed development would be softened by the additional planting proposed to the site boundaries. All of the dwellings are set away from the boundaries.

6.7.5 Officers are also satisfied that no significant loss of daylight would occur, nor overshadowing of existing residential gardens.

#### *Noise*

6.7.6 From a noise perspective, the application is accompanied by a Noise Impact Assessment which considers the impacts on future occupiers of the development. The assessment has been reviewed by the Environmental Health team (EH) who raise no objection to the proposals, subject to a condition requiring adherence to the recommendations in section 7 of the report in relation to additional noise protection measures to protect residents from potential noise disturbance at the nearby Cheltenham Animal Shelter (CAS). This should address the concerns raised by CAS in relation to future noise complaints.

6.7.7 The concerns raised by local residents and CAS in relation to noise and disturbance during construction are noted and understood; however, some noise and disturbance during the construction phase of the development is inevitable and is not a reason to refuse development proposals. The developer will need to adhere to the accepted hours of work set out by EH which are 7:30am to 6pm Monday to Friday, and 8am to 1pm on Saturdays, with no working on Sundays and/or Bank Holidays. Ultimately, this would be a matter for EH to enforce, to ensure that the impact is minimised and controlled where possible. A Construction Management Plan or Construction Method Statement could be suitably secured by condition to ensure that suitable provision is made for the parking of site operatives, storage of plant and construction materials, abnormal loads or unusually large vehicles and the control of dust and other air-borne pollutants, etc.

6.7.8 It is not considered that noise levels from future occupiers of the site would be detrimental to the enjoyment of the existing residential neighbours. The concerns raised by CAS in relation to fireworks have been duly noted but are not a material consideration in

the determination of this application. Additional detail in relation to the proposed air source heat pumps can be secured by condition.

#### *Adjacent school*

6.7.9 The proposed development would undoubtedly have an impact on the adjacent school. However, at present the school has no on-site car parking for staff or visitors, and the proposals include the provision of a car parking facility for the school which will improve security and safety for staff and their vehicles and reduce roadside parking. The school have also commented that *"The school is currently under subscribed and the proposed development is likely to provide homes for families that would attend and raise numbers thus, through funding from GCC, benefitting the provision for all in the school."* As such, officers are satisfied that the proposed development would have the potential to result in a significant positive impact on the school.

#### *Air quality*

6.7.10 Environmental Health have advised that there is a Nitrogen Dioxide (NO<sub>2</sub>) tube at Gardner's Lane Primary School, and that the average for 2024 was well below the maximum allowance of 40 micrograms per cubic meter (µg/m<sup>3</sup>) for the annual mean concentration of nitrogen dioxide (NO<sub>2</sub>) in the UK. It is however recommended that an Air Quality Assessment be secured by condition.

6.7.11 Overall, on balance, the proposed development is therefore considered to be acceptable on amenity grounds.

### 6.8 Drainage and flooding

6.8.1 Adopted JCS plan policy INF2 advises that development proposals must avoid areas at risk of flooding, and must not increase the level of risk to the safety of occupiers of a site, the local community or the wider environment either on the site or elsewhere. Additionally, where possible, the policy requires new development to contribute to a reduction in existing flood risk; and to incorporate Sustainable Drainage Systems (SuDS) where appropriate.

6.8.2 The policy is consistent with NPPF paragraph 181 which states that when determining planning applications, the local planning authority should ensure that flood risk is not increased elsewhere.

6.8.3 The site is located within Flood Zone 1, and the Environment Agency's online flood risk service advises that the surrounding area is at a low risk of surface water flooding.

6.8.4 The application has been accompanied by a Flood Risk Assessment and Drainage Strategy (FRA) which has been reviewed by the County Council as the Lead Local Flood Authority (LLFA) who are a statutory consultee for surface water flood risk and management. Again, their comments can be read in full in the appendix below.

6.8.5 Overall, the LLFA are satisfied with the proposed drainage strategy, and raise no objection. Although they note that the FRA fails to address historic flood records of properties flooding in Stanwick Gardens, the LLFA recognise that this has been *"previously managed by means of a bund and filter drain along the northwestern boundary"* and that these *"measures are designed to prevent flows from the site flowing overland to Stanwick Gardens."* They go on to note that *"managing all flow from property roofs to the attenuation ponds and... addressing site levels will prevent overland flows from the site towards Stanwick Garden"* and so previous flood risks to Stanwick Gardens should be managed by the development of the site.

6.8.6 The LLFA are satisfied with the level of detail supplied with the application, and do not consider it necessary to secure any additional detail by condition; the FRA was updated in response to the amended site layout. A condition has been added which requires the development to be carried out in accordance with the submitted FRA and accompanying plans.

6.8.7 Officers are therefore satisfied that the proposed development is acceptable in relation to flooding and drainage and is compliant with JCS policy INF2 and the relevant paragraphs of the NPPF.

6.8.8 It should be noted that Severn Trent Water has also confirmed that they have no objection, subject to conditions.

## 6.9 Trees and landscaping

6.9.1 CP policies GI2 and GI3 seek to resist the unnecessary felling of trees, and the planting of replacement trees, where practicable.

6.9.2 In this regard, the proposals have been reviewed by the Trees Officer (TO) who initially objected to the removal of trees T2 – T5 and a TPO was subsequently served to protect these trees (24/00815/TREEPO).

6.9.3 In their more recent comments, although maintaining their objection to the removal of T2 - T5, the TO does commend the applicant's commitment to additional planting around the site to make the streets feel more tree-lined, whilst still seeking further improvements to the scheme.

6.9.4 In their final comment, the TO concludes that *"the revised landscape design broadly addresses the concerns previously raised."*

6.9.5 In relation to the removal of the (now) TPO'd trees, whilst officers acknowledge their removal is regrettable, on balance, their removal to facilitate the new entrance to the site is considered acceptable, given the extent of tree planting and landscaping proposed throughout the site. In total, as revised, 190 new trees are proposed.

## 6.10 Ecology and biodiversity net gain

6.10.1 JCS policy SD9 seeks to ensure that all development, wherever possible, makes a positive contribution to biodiversity and geodiversity, and that important habitats and species are protected. Where developers are unable to avoid harm to biodiversity, mitigation measures should be incorporated into the design of the development. The policy reflects the advice set out within the NPPF at paragraph 187.

6.10.2 A minimum biodiversity net gain (BNG) of 10% is now a statutory requirement for major developments, and the mandatory BNG condition is applicable to this development.

6.10.3 The application is accompanied by an Ecological Impact Assessment (EclA) which has been reviewed by the Council's Ecologist (CE); the BNG assessment within the report has been updated based on the revised landscape proposals, and to include a proposed habitat plan. The application has also been commented on by Natural England and a shadow Habitats Regulations Assessment has been submitted during the course of the application, and subsequently adopted.

### *Protected species*

6.10.4 The EIA sets out that a desk study, extended habitat survey, a Badger survey, and bat activity surveys were undertaken. The results are summarised below:

- The Preliminary Roost Assessment found that the existing pavilion buildings on site had the potential to have high suitability for roosting bats. A number of trees along the site boundaries also contained features which were potentially suitable for roosting bats. However, emergence surveys of on-site buildings and trees recorded no emergences/re-entries of bats, confirming a likely absence of roosting bats.
- At least 7 species of bat were recorded commuting/foraging on site by automated detectors; Pipistrelle bats being those most frequently recorded, accounting for over 91% of the automated records. Across all the surveys, activity was highest along the eastern boundary. The highest average monthly activity was recorded along the southern boundary with over a thousand passes per night being recorded. Limited activity was recorded away from the site boundaries.
- A likely inactive Badger sett with two entrances was found to be present in a mound in the northern corner of the site. Subsequent checks found that there was no evidence of the sett being active.
- Hedgehogs are known to occur nearby and are likely to use the site. In addition, a fox was seen on site and it appeared likely that a fox was using the space underneath the porch of one of the pavilion buildings for resting. The habitats on site were deemed unsuitable for Hazel Dormouse.
- The trees around the site could be used by a range of tree/shrub nesting species and birds' nests were observed during the survey.
- GCER reports show that slow worm have been recorded on land to the north of the site so it is likely that small numbers of reptiles could use the tall ruderal vegetation and log piles adjacent to the northern boundary or adjacent to gardens.
- The site provides limited suitable terrestrial habitat for amphibians, though it is possible that the log and brash piles could be used by amphibians. The nearest mapped pond is 300m away so it is considered very unlikely that Great Crested Newt would utilise the site.
- The habitats on the site are widespread and unlikely to be used by invertebrates of conservation concern.

6.10.5 The CE has reviewed the revised EclA and other revised documentation, and their comments can be read in full below. In summary, they comment:

- The change from the open space on this site being a playing field to a community park area, the increase in street tree provision and tree planting in the community park area, and the integration of more scrub and meadow areas is supported.
- An updated ecology report with the results of an updated badger survey is required prior to commencement.
- A precautionary method of working statement is required to ensure there are strict precautions in place for protected species on the site, as the ecology and bat surveys were completed over a year ago.
- Details of bird, bat, insect and hedgehog boxes for ecological enhancement is required.
- An updated Lighting Plan will be required.

6.10.6 Officers are satisfied that all of the required information can be secured by condition.

#### *Biodiversity net gain (BNG)*

6.10.7 The mandatory biodiversity (net) gain (BNG) condition applies to this development and therefore a Biodiversity Gain Plan will be required to be submitted and agreed prior to commencement of any works.

6.10.8 The CE notes that the BNG Assessment and biodiversity metric calculate a 14.88% gain in area habitat units, and the trading rules are met. The mandatory biodiversity net gain condition has therefore been met. The Biodiversity Gain Plan must outline how a 10% net gain in biodiversity will be achieved (using the statutory biodiversity metric). The plan and the metric must reflect the finalised proposals for the site, including the finalised plans for SUDs/detention basin provision.

6.10.9 As the proposals are deemed to be 'significant' gains in biodiversity according to guidance provided by the Department for Environment, Food & Rural Affairs (DEFRA) (2024), a s106 will be required to secure the delivery of the measures outlined in a Habitat Management and Monitoring Plan (HMMP) to be submitted post-determination.

6.10.10 A detailed soft landscaping scheme is also required.

### 6.11 s106 obligations

#### *Affordable housing*

6.11.1 Paragraph 61 of the NPPF states that to support the government's objective of significantly boosting the supply of homes, it is important that the needs of groups with specific housing requirements be addressed. Within this context, paragraph 63 goes on to state that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.

6.11.2 In Cheltenham, outside of Strategic Allocation sites, JCS policy SD12 seeks the provision of a minimum of 40% affordable housing in new residential developments of 11 dwellings or more.

6.11.3 In this case, as previously noted, the applicant is proposing a wholly affordable scheme (100%), and the additional affordable housing provision is welcomed.

6.11.4 The affordable housing provision has been amended during the course of application in liaison with the Council's Housing Enabling Officer, whose detailed comments are set out in full in the Appendix below. It is not considered necessary to repeat the comments here but, in summary, the officer supports the proposed development and recognises that the proposals "*largely comply with CBC's adopted policies relating to affordable housing.*"

6.11.5 The agreed affordable housing mix comprises 53no. social rented homes, and 69no. shared ownership homes.

#### *Education and libraries*

6.11.6 JCS policy INF6 states that where site proposals generate infrastructure requirements, new development will be served and supported by adequate on and/or off-site infrastructure and services which are fairly and reasonably related to the scale and type of development proposed. Regard to the cumulative impacts on existing infrastructure and services must also be considered. Planning permission should only be granted where sufficient provision has been made to meet the needs of new development and/or which are required to mitigate the impact of the development upon existing communities.

6.11.7 In addition, JCS policy INF7 advises that financial contributions will be sought through the s106 and CIL mechanisms as appropriate. The s106 mechanism being used to secure site-specific obligations.

6.11.8 Gloucestershire County Council have commented on the proposed development and set out the infrastructure and services requirements for education and libraries provision arising from the development and the contributions required to make the development acceptable in planning terms.

6.11.9 The contributions sought by the County are £473,473.33 towards secondary education (ages 11-16), £91,629.25 towards secondary education (ages 16-18), and £23,912.00 towards improvements to existing library provision. No contribution towards primary education is required as there is adequate space capacity.

6.11.10 The necessary education and libraries contributions are required to be secured via the s106 agreement as there are no formal mechanisms or agreed financial arrangements currently in place between CBC (as CIL Charging Authority) and GCC to fund the required strategic (education and libraries) infrastructure from CIL.

#### *Highways*

6.11.11 The following Highways contributions are also required:

(1) Specific Purpose - Travel Plan Monitoring Fee

Contribution – £10,000

Trigger – Prior to occupation

Retention Period – N/A

(2) Specific Purpose - Travel Plan Deposit / Development / Incentives / Marketing if implemented by the applicant

Contribution – £43,908

Trigger – Prior to first occupation

Retention Period – 10 years from date of first occupation

#### *Cotswold Beechwoods Special Area of Conservation*

6.11.12 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).

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

6.11.14 Without appropriate mitigation, the proposed development would be likely to have a significant effect on the Cotswold Beechwoods SAC (either alone or in combination with other development) through increased recreational pressure, as a result.

6.11.15 In this case, financial contributions would be sought in accordance with the abovementioned mitigation strategy, at a rate of £673 per dwelling.

#### *Other S106 obligations*



6.11.16 Other obligations to be secured via the s106 agreement include, but may not be limited to, Biodiversity Net Gain delivery, and management and maintenance of the public open space, and LEAP.

## 6.12 Other considerations

### *Minerals and Waste*

6.12.1 The conditions suggested by the GCC Minerals and Waste team have been added.

### *Public Sector Equality Duty (PSED)*

6.12.2 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.

6.12.3 In this case, having considering the merits of the planning application, this authority is satisfied that the proposed development meets the requirements of the PSED.

6.12.4 Due regard has been had to the nine protected characteristics recognised within the PSED, and officers are satisfied that no-one has been discriminated against in the determination of this application. All representations received in response to the publicity exercise have been duly noted and taken into account.

## **7. SUMMARY AND RECOMMENDATION**

7.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2 Furthermore, paragraph 11 of the National Planning Policy Framework 2024 sets out a presumption in favour of sustainable development which in decision-taking means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
  - i) *the application of policies in [the] Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
  - ii) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the] Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*

7.3 In Cheltenham, the housing policies (those most relevant to this application) are out-of-date as the Council is currently unable to demonstrate a five-year supply of deliverable housing

sites, the latest published figure (January 2025) being just 2.52 years, and as such the 'tilted balance' in favour of granting permission is engaged. Whilst the site to which this application relates is not allocated for housing, it is sustainably located within the Principal Urban Area, in a predominantly residential area.

- 7.4 The proposed development would result in the welcome provision of an additional 122no. affordable housing units in this highly sustainable location and make a valuable contribution to the borough's housing stock, helping to alleviate the acute shortfall. This is a matter that carries significant weight in the determination of this application.
- 7.5 Notwithstanding the above, the proposed development would result in the loss of an existing playing pitch and Sport England (SE) as a statutory consultee has objected to the proposed development on these grounds. This is a matter that carries significant weight however, on balance, it is not considered that the loss of the playing pitch constitutes a matter which 'significantly and demonstrably outweighs the benefits' (as explained elsewhere in this report and which notably include the significant public benefits associated with the provision of 122 affordable homes).
- 7.6 Whilst it is acknowledged that the NPPF does not draw any distinction between private and publicly available playing fields, and the Playing Pitch Strategy (2024) recommends that the use of The Folley site is protected for sporting activities, the site is currently secured by palisade fencing and has not been used for sport for a number of years.
- 7.7 Putting the loss of the playing pitch to one side, officers have also considered whether the site makes so significant a contribution to the townscape and environmental quality of the town that it should remain undeveloped. In this regard, and particularly given the proposed use of the site for affordable housing, officers are satisfied that the loss of the green space is acceptable in principle. The proposals have taken account of the scale and location of existing buildings adjacent to the site, mature trees are to largely be retained, and new and enhanced landscaping is proposed, to include the retention of an area of high quality, public green space.
- 7.8 Although it is acknowledged that previous refusals of planning permission found that the site made a significant contribution to the character of the town, a considerable length of time has since passed, and this application must be determined in the context of the current development plan.
- 7.9 The application proposes the erection of low carbon, timber framed homes, the majority of which are two storeys, with some limited single storey dwellings; and the general scale of the buildings is considered to be appropriate in this context and largely consistent with nearby developments. The buildings themselves take a relatively traditional pitched roof form which is again considered to be appropriate in this context. Externally, a fairly simple palette of facing materials is proposed, primarily comprising pink pastel multi-brick, buff brick and dark grey brick together with a dark grey/brown brick to provide darker brick panel surround front door areas.
- 7.10 The application is accompanied by an Energy and Sustainability Strategy (ESS) which provides a thorough and suitable response to climate change matters. The ESS sets out the residential units show a planning stage estimate of 61% carbon savings over the regulatory requirement set out in Part L 2022 of the Building Regulations. Each dwelling would be provided with an air source heat pump. Electric vehicle charging points would also be required.
- 7.11 The proposed development has been assessed by the Highways Development Management Team (HDM) at the County Council, as the Highway Authority acting in its role as statutory consultee. HDM raise no highway objection subject to a number of conditions and financial obligations, concluding that "*Based on the analysis of the information*

*submitted and GCC's own wider cumulative assessment, we conclude that if adequate improvements are made to the network, there would not be an unacceptable cumulative severe impact, and in those circumstances, there would be no justifiable grounds on which an objection could be maintained."*

- 7.12 For the reasons set out at paragraphs 6.6.9 – 6.6.15, the financial contribution requested by HDM towards the Junction 10 improvement works, and associated Grampian condition, is not being sought by officers.
- 7.13 The site is located within Flood Zone 1, and the Environment Agency's online flood risk service advises that the surrounding area is at a low risk of surface water flooding. The application has been accompanied by a Flood Risk Assessment and Drainage Strategy (FRA) which has been reviewed by the Lead Local Flood Authority (LLFA) as a statutory consultee for surface water flood risk and management. Overall, the LLFA are satisfied with the proposed drainage strategy, and raise no objection. Previous flood risks to Stanwick Gardens should be managed by the development of the site. Severn Trent Water has also confirmed that they have no objection, subject to conditions.
- 7.14 The application is accompanied by an Ecological Impact Assessment which has been reviewed by the Council's Ecologist; the BNG assessment within the report has been updated based on the revised landscape proposals, and to include a proposed habitat plan. The Ecologist has reviewed the revised EclA and other revised documentation, and the ecological impacts of the proposed development have been found to be acceptable subject a number of conditions.
- 7.15 A minimum biodiversity net gain (BNG) of 10% is now a statutory requirement for major developments, and the mandatory BNG condition is applicable to this development; a Biodiversity Gain Plan would therefore be required to be submitted and agreed prior to commencement of any works. The submitted BNG Assessment and biodiversity metric calculate a 14.88% gain in area habitat units, and the trading rules are met. The mandatory biodiversity net gain condition has therefore been met.
- 7.16 With regard to the heritage impacts of the development, the submitted Heritage Assessment has been reviewed by the Conservation Officer and the County Archaeologist. The Conservation Officer, in acknowledging a degree of visibility exists along Waterloo Street between the application site and the Grade II\* listed St. Peter's Church and adjacent Grade II listed War Memorial on Tewkesbury Road, is satisfied that there would only be a limited impact upon the setting of the church, and no harm would occur to its significance. In addition, whilst not raising in-principle objection to the existing pavilion building which is deemed to be a non-designated heritage asset, they do recommend that a permanent record of the structure and setting to be made, and deposited with Historic England. From an archaeology perspective, the County Archaeologist is satisfied that any further archaeological investigation could be secured by condition.
- 7.17 With all of the above in mind, taking into account all of the economic, social, and environmental aspects of the application, and paragraph 11d) of the NPPF, on balance, officers are satisfied that the proposed development is one that should be supported.
- 7.18 As such, the officer recommendation is to grant planning permission subject to a signed s106 legal agreement, and the schedule of conditions below. The applicant's written agreement to the terms of the pre-commencement conditions would need to be secured.
- 7.19 It must be noted that should Members be minded to grant planning permission contrary to Sport England's statutory objection, then the Town and Country Planning (Consultation) (England) Direction 2021 requires the application to be referred to the Secretary of State, via the National Planning Casework Unit.

## 8. 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, a Construction Management Plan or similar shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period and shall provide details of:

- a) hours of operation;
- b) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- c) routes for construction traffic and appropriate signage;
- d) any temporary access to the site;
- e) locations for loading / unloading and storage of plant, waste and construction materials;
- f) method of preventing and dust mud being carried onto highway;
- g) measures to protect vulnerable road users (cyclists and pedestrians);
- h) any necessary temporary traffic management measures
- i) arrangements for turning vehicles;
- j) arrangements to receive abnormal loads or unusually large vehicles
- k) methods of communicating the construction management plan to staff, visitors and neighbouring residents and businesses;
- l) highway condition survey;
- m) control measures for dust and other air-borne pollutants;
- n) measures for controlling the use of site lighting whether required for safe working or for security purposes; and
- o) any generators that will be used at any time during the build phase.

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.

- 4 Prior to the commencement of development, including all site clearance and vegetation removal, an updated walkover survey of the site shall be undertaken by a suitably qualified ecologist and an update to the Ecological Impact Assessment (EclA) shall be submitted to and approved in writing by the Local Planning Authority. The updated EclA shall confirm (or otherwise) whether there has been a significant change to the site since the most recent surveys in 2024 and whether further surveys for protected, priority or locally notable species or habitats are required. In particular this shall confirm the status of the site with regards to the inactive badger sett present.

Reason: To ensure legal and policy compliance with regards to protected species, in particular the Protection of Badgers Action (1992) and habitats, as well as to invasive plant species.

- 5 Prior to the commencement of development, including all site clearance and vegetation removal, a method statement for a Precautionary Method of Working (PMW) with respect to legally protected species shall be prepared by a suitably qualified ecological consultant and submitted to and approved in writing by the Local Planning Authority.  
The development shall be carried out in full accordance with the approved method statement.

Reason: To ensure the safeguarding of legally protected and priority species, having regard to policy SD9 of the Joint Core Strategy (2017), the 1981 Wildlife and Countryside Act (as amended), and the 2017 Habitats Regulations. Approval is required upfront to ensure the safeguarding of protected species.

- 6 Prior to the commencement of development, an Ecological Mitigation and Enhancement Strategy (EMES) shall be submitted to and approved in writing by the Local Planning Authority. The EMES shall include details of the provision of integral bird (50no.), bat (50no.), insect (50no.) and hedgehog (40no.) boxes, and the location, specification, height and orientation of these features shall be shown on a plan. The bird boxes must include bricks or tiles for swift and house sparrow. The development shall thereafter be carried out in full accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

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

- 7 Prior to the commencement of development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the Local Planning Authority. The HMMP shall be prepared in accordance with the approved Biodiversity Gain Plan and include:
- (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.

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.

All habitat creation and enhancement works set out in the approved HMMP shall be carried out no later than the first planting season following first occupation of the building or the completion of the development whichever is the sooner, and a completion report evidencing the completed habitat enhancements, shall be 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 the 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, having regard to policy SD9 of the Joint Core Strategy (2017), and Schedule 7A of the Town and Country Planning Act 1990.

- 8 Prior to the commencement of development, drawings of the following off-site works shall be submitted to and approved in writing by the Local Planning Authority:

Works Description – Identified on drawing 230290-RAP-XX-XX-DR-TP-6000

- Implementation of pedestrian walking route improvements including but not limited to;
- Widening of the existing central reserve to accommodate an uncontrolled staggered pedestrian facilities at Swindon Road / Malvern Street.
- Drop kerbs and tactile paving at various locations listed below—
  - o Crossing Malvern Street near Swindon Road
  - o Crossing Bridge Street near Malvern Street
  - o Crossing Malvern Street near Elm Street
  - o Crossing Elm Street near Service Road
  - o Crossing Waterloo Street near A4019 Tewkesbury Road
  - o Crossing Service Road near Waterloo Street
  - o Crossing Addis Road near Waterloo Street
  - o Crossing Compton Road near Waterloo Street
  - o Crossing Waterloo Street near Swindon Road
  - o Crossing Swindon Road near Waterloo Street
- Upgrading of the path linking Gardener's Lane and Thomond Close and to the development to a 4m shared use pedestrian & cycle route with appropriate street lighting.

The development shall not be occupied until those works have been completed as part of a S278 agreement in accordance with the approved details.

Reason: To promote sustainable travel and healthy communities, having regard to policy INF1 of the Joint Core Strategy (2017).

- 9 Prior to the commencement of development, full details of a hard and/or soft landscaping scheme for that phase 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 that phase unless otherwise agreed in writing by the Local Planning Authority.

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

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

- 10 Prior to the demolition of the building known as the 'Pavilion' a permanent record of the structure and setting shall be made to Historic England's Level 3 standard. Once

completed, the record shall be submitted to and approved in writing by the Local Planning Authority and deposited with the Gloucestershire Historic Environment Record and retained in perpetuity.

Reason: To ensure that an appropriate record is made of the historic building fabric that would be affected by the development in the interests of the historic environment, having regard to Policy SD8 of the Joint Core Strategy 2017, Chapter 16 of the National Planning Policy Framework and Historic Environment Good Practice Advice (note 2).

- 11 Prior to the commencement of development, the applicant, or their agents or successors in title, shall secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the recording of any archaeological remains that may be destroyed by ground works, having regard to adopted policy HE2 of the Cheltenham Plan (2020) and adopted policy SD8 of the Joint Core Strategy (2017).

- 12 Prior to the commencement of development within each phase, the following information for that phase shall be submitted to and approved in writing by the Local Planning Authority:

(a) a full site survey showing:

- i) the datum used to calibrate the site levels;
- ii) levels along all site boundaries at regular intervals;
- iii) levels across the site at regular intervals;
- iv) finished floor levels or other datum of adjacent buildings; and
- v) cross section drawings clearly showing existing ground levels in relationship with the finished floor and eaves levels of adjacent buildings

(b) full details showing:

- i) the proposed finished floor level of all buildings and ground levels including hard surfaces; and
- ii) cross section drawings showing the proposed finished floor and eaves levels of all buildings and ground levels including hard surfaces.

The development shall thereafter be implemented strictly in accordance with the agreed details.

Reason: To ensure a satisfactory relationship between the proposed development and adjacent buildings and land, having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020) and adopted policies SD4 and SD14 of the Joint Core Strategy (2017).

- 13 Prior to the commencement of development, an Air Quality Assessment shall be submitted to and approved by the Local Planning Authority. If the assessment indicates that air quality is likely to affect this proposed residential development then a detailed scheme for protecting the future residential occupiers of the development from the effects of nitrogen dioxide/airborne particulate matter arising from an increase in road traffic shall subsequently be submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to the occupation of the building hereby approved, and thereafter maintained for the lifetime of the development.

Reason: To safeguard the amenity of future occupiers of the development, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).



- 14 Prior to the commencement of development (excluding demolition, site clearance and initial ground investigation works), details of the access(es) into the site, together with parking and turning area(s) [including details of lines, widths, levels, gradients, cross sections, drainage and lighting] shall be submitted to and approved in writing by the Local Planning Authority.

The development shall not be occupied until the access(es) into the site, together with parking and turning area(s) within the site have been laid out in accordance with the approved details. These area(s) shall thereafter be retained and not be used for any other purpose for the life of the development.

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

- 15 Prior to the commencement of development, a detailed Site Waste Management Plan (SWMP) or equivalent shall be submitted to and approved in writing by the Local Planning Authority. The SWMP must identify: - the specific types and amount of waste materials forecast to be generated from the development during site preparation and demolition and construction phases; and the specific measures will be employed for dealing with this material so as to: - minimise its creation, maximise the amount of reuse 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. In addition, the SWMP must also set out the proposed proportions of recycled content that will be used in construction materials. The development shall be fully implemented in accordance with the SWMP unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures in accordance with adopted core policy WCS2 of the Gloucestershire Waste Core Strategy and adopted Minerals Local Plan for Gloucestershire Policy SR01.

- 16 Prior to the commencement of development, details of any proposed external lighting shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include a lux level contour plan, and seek to ensure no light spill outside of the site boundaries. The lux contour plan shall show lux levels at frequent intervals (lux levels at 0, 0.2, 0.5, 1, 1.5, 2, 3, 4, 5 lux and higher are particularly useful) and extend outwards to additional levels (above the pre-existing background light level) of zero lux. The lux contour levels shall be superimposed on a site plan which includes all land that is affected by raised light levels (including potentially land outside the red line planning application area) and shall reflect the use of any proposed mitigation, e.g visors. All external lighting shall thereafter be implemented and maintained in accordance with the approved details.

Reason: To safeguard the amenities of the area and avoid light pollution, and to ensure that foraging and commuting of bats is not discouraged in this location, whilst providing adequate safety and security, having regard to adopted policy SL1 of the Cheltenham Plan (2020), adopted policies SD9 and SD14 of the Joint Core Strategy (2017), and the requirements of the 1981 Wildlife & Countryside Act (as amended).

- 17 Prior to the commencement of any works above ground level, full details of the provision made for facilitating the management and recycling of waste generated during occupation shall be submitted to and approved in writing by the Local Planning Authority. This must include details of the appropriate and adequate space and infrastructure to allow for the separate storage of recyclable waste materials. The management of waste during occupation must be aligned with the principles of the waste hierarchy and not prejudice the local collection authority's ability to meet its waste management targets. The development shall be fully implemented in accordance with the approved details unless

otherwise agreed in writing by the Local Planning Authority. The refuse and recycling storage facilities shall be maintained for this purpose thereafter.

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures in accordance with adopted Gloucestershire Waste Core Strategy: Core Policy WCS2 – Waste Reduction

- 18 The development shall be carried out in accordance with the plans as described in in the submitted Flood Risk and Drainage Statement (Infrastruct CS Ltd, ref. 4829-FILL-ICS-XX-RP-C-07.001 revision A, dated November 2024).

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 policy INF2 of the Joint Core Strategy (2017).

- 19 The development shall be carried out in accordance with the recommendations in section 7 of the submitted Noise Impact Assessment (Acoustic Consultants Ltd, Report Ref. 10652/BL/SF, dated February 2024) for the set plots to have the additional noise protection measures built into the construction to protect future residents from potential noise disturbance.

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).

- 20 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).

- 21 The following elements of the scheme shall be installed, implemented or carried out in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority:

- a) Windows;
- b) External doors; and
- c) Rainwater goods;

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).

- 22 Prior to installation of the proposed air source heat pumps (ASHPs), details of the type/model, location and predicted noise levels shall be submitted to and approved in writing by the Local Planning Authority. The ASHPs shall be installed prior to first occupation of each dwelling in accordance with the details approved. The ASHPs shall be retained as such thereafter unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of future occupiers and neighbouring properties, and to reduce carbon emissions, having regard to adopted policies D1 and SL1 of the

Cheltenham Plan (2020), adopted policies SD3, SD4 and SD14 of the Joint Core Strategy (2017) and guidance set out in Cheltenham Climate Change SPD.

- 23 Prior to first occupation of the development, access, parking and turning facilities shall be provided in accordance with Drawing No. 2103-TDS-XX-XX-DRA-0010.Rev.9.

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

- 24 Prior to first occupation of the development, visibility splays shall be provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 43 metres in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.75 metres from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

Reason: In the interests of highway safety for pedestrians and all other users, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 25 Prior to first occupation of the development, visibility splays shall be provided from a point 0.6m above finished surface level at the centre of the various internal roads and footway locations as shown on Drawing No. 230290-RAP-XX-XX-DRTP-3202 / P03. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above finished surface level.

Reason: In the interests of highway safety for pedestrians and all other users, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 26 Prior to first occupation of the development, sheltered, secure and accessible bicycle parking shall be provided in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The cycle storage area shall be maintained for this purpose thereafter.

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).

- 27 Prior to first occupation of the development, details of a Homeowner's Information Pack resource providing information on recreation resources in the locality shall be submitted to and approved in writing by the Local Planning Authority. The pack should reference local and regional recreation opportunities.

Each household shall be provided with an approved Homeowner Information Pack on first occupation.

Reason: To assist in mitigating any impacts the proposed development may cause to designated landscape areas having regard to adopted policy BG1 of the Cheltenham Plan (202), and adopted policy SD9 of the Joint Core Strategy (2017).

- 28 The approved Residential Travel Plan dated February 2024 shall be implemented and monitored in accordance with the regime contained within the plan and for a period of 10 years from first occupation of the development unless otherwise agreed in writing by the Local Planning Authority.

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

## **INFORMATIVES**

- 1     IMPORTANT: BIODIVERSITY NET GAIN CONDITION - DEVELOPMENT CANNOT COMMENCE UNTIL A BIODIVERSITY GAIN PLAN HAS BEEN SUBMITTED TO (AS A CONDITION DISCHARGE APPLICATION) AND APPROVED IN WRITING BY CHELTENHAM BOROUGH COUNCIL.

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan in writing.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Cheltenham Borough Council. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply. If the onsite habitats include irreplaceable habitats (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitats) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. Advice about how to prepare a Biodiversity Gain Plan and a template can be found at <https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan>.

Information on how to discharge the biodiversity gain condition can be found here: <https://www.cotswold.gov.uk/planning-and-building/wildlife-and-biodiversity/biodiversity-net-gain-bng/>

30-year Habitat Management and Monitoring Plan templates can be found here: <https://publications.naturalengland.org.uk/publication/5813530037846016>

- 2     The applicant/developer is reminded that the recommended hours of work during the construction phase of the development are 7:30am to 6pm Monday to Friday, and 8am to 1pm on Saturdays, with no working on Sundays and/or Bank Holidays.
- 3     The applicant/developer is reminded that under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended) it is an offence to (amongst other things): deliberately capture, disturb, injure, or kill great crested newts; damage or destroy a breeding or resting place; intentionally or recklessly obstruct access to a resting or sheltering place. Planning permission for a development does not provide a defence against prosecution under this legislation. Should great crested newts be found at any stage of the development works, then all works should cease, and a professional and/or suitably qualified and experienced ecologist (or Natural England) should be contacted for advice on any special precautions before continuing, including the need for a licence.
- 4     It is strongly recommended that the applicant/developer make contact with Severn Trent Water and look to submit a Development Enquiry for the site; this will discuss the drainage proposals for site, and if any issues, look to resolve them. You can visit their website: <https://www.stwater.co.uk/building-and-developing/overview/new-site-developments/developer-enquiries/> and follow the application form guidance to begin this process.

- 5 The proposed development 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](mailto:highwaylegalagreements@gloucestershire.gov.uk) allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Council's costs in undertaking the following actions:

Drafting the Agreement  
A Monitoring Fee  
Approving the highway details  
Inspecting the highway works

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

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

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

Drafting the Agreement  
Set up costs  
Approving the highway details  
Inspecting the highway works

You should enter into discussions with statutory undertakers as soon as possible to co-ordinate the laying of services under any new highways to be adopted by the Highway Authority. The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

- 7 It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full. The CMP 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.

- 8 Sustainable drainage arrangements should be provided to ensure that surface water from the driveways and/or vehicular turning areas do 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.

- 9 This planning permission is subject to section 106 legal agreements and should be read in conjunction with those agreements.

## Consultation responses

### **Ward Councillor - Councillor Flo Clucas**

**15th March 2024**

Can the above application go to full committee please.

My reasons are:

Increase in traffic on an already extremely busy highway, Swindon Rd;

The difficulties caused for traffic in relation to the railway bridge;

Access and egress from the site;

Access and egress from school;

Impact on Animal Shelter;

Loss of green space;

Impact on amenity for local people;

Impact on wildlife.

**27th August 2024**

I note that the decisions of Planning Inspectorate, confirmed by planning decisions are not noted in the reports. I find that of concern.

The decision by the Inspectorate, conformed by consent not being granted, was that the area was a valued open space, in an area where open space was extremely limited. That and other comments, I will leave you to look up.

The Community values this as a Community asset and notes both the impact on wildlife and on local people in the area.

It is also of concern that no mention is made of the traffic impact on roads already overloaded.

The trees are protected, but they must continue so to be.

I would be grateful if my comments could be added to the application as I am not in favour of it.

**18th November 2024**

My objections still stand. The revised documents do not show, either, the pitches being retained. They should be for the community.

The issues in relation to environmental land loss for wildlife and local residents is not addressed sufficiently.

The website keeps crashing, so local residents find it difficult to access, as I did.

Access and egress for the site is not clear.

### **Ward Councillor - Councillor Tabi Joy**

**3rd April 2024**

There has been significant pressure on roadways and infrastructure in this area, which has dense existing housing already in place and very few green spaces to meet residents' needs. Unfortunately the bus services, particularly for schools, are struggling to meet existing user demand, so any suggestion here that sustainable transportation options will be 'encouraged' can't be meaningfully supported in reality. There will be continuing strong reliance on cars, which will mean heavier traffic as well as air and noise pollution.

The loss of the sports field and open space is one that cannot be fully compensated for, even with provisions made to create a smaller community pitch. There are increased flooding risks associated with development on green spaces, which will become a more significant problem in time to come. Rainwater runoff is absorbed for the most part in green spaces around Cheltenham, and there will need to be a far stronger commitment to mitigation if this site is developed, particularly since it's likely that the community pitch will be compromised in bad weather.

This space is not appropriate for development when brownfield sites are preferable, particularly when they do not contribute to urban sprawl in the manner that this does. The housing crisis does not lie in a lack of buildings, but in the policies that keep homes affordable for a range of demographics. There are measures presently being taken to revitalise our town centre through



redevelopment of empty commercial properties or flats for first-time buyers and couples without children, which are more fit for meeting the social and economic needs that we're seeing materialising post-covid.

This development is unfortunately not making best use of Cheltenham's town-centre culture or the opportunities we have to realise more intuitive housing options, but is eradicating elements of its irreplaceable social capital instead.

**11th September 2024**

There isn't sufficient investment in surrounding infrastructure to alleviate the inevitable pressure on roadways and amenities that will come from this development. While the government's assessment of surface water flood risk is Low, there has been little monitoring of the absorption of water served by the existing site of 6.21 hectares lawn, as well as the long-term effect of heavily concreting over the grass, even taking into account proposed detention basins. Would the historic ditch system be updated and maintained as part of development in order to address the medium-risk of overland flood flows?

The underlying sand and gravel beneath Cheltenham can present a higher risk of potholes and sinkholes. Pressure on roadways will exacerbate this. This needs to be taken into account since the weight of new buildings and cars across the site will have a tangible impact on underlying geological structure, even if it's not immediately apparent.

In terms of nature, the fact that this space is an expansive corridor for wildlife to utilise to avoid death and injury along busy roadways means that it will be difficult to carry these full amenities over to a substantial housing site with little active travel provision (which has been noted within Sports England's objection to the site designation change). There has been mention of artificial grass pitches on site which would be highly polluting and would fail to provide the surface water absorption previously provided by lawn. We do not have adequate information on the long-term effects of large-scale artificial grass, but the fact that it creates urban heat traps as well as shedding incalculable amounts of microplastics pollution suggests that this is not a sustainable option.

The proximity of the Folley site to the Kingsditch Trading Estate is also a cause for concern, since that space is heavily overbuilt and offers nothing in the way of urban nature corridors. The Folly could be vital mitigation for urban heating as well as wildlife support if given the right investment.

Swindon Village is facing substantial development for new housing over the next few years, and the pressure on the space will increase significantly. The loss of irreplaceable green space, even if the community has been cut off from utilising it, still have manifest effect on neighbouring residents, and little has been done to consult with them or include them in decision-making processes beyond cursory attempts at awareness-raising exercises.

**Building Control**

**25th March 2024**

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

**Gloucestershire District Licencing Officer (Great Crested Newts)**

**3rd April 2024**

I have reviewed the above application in regard to the risk to great crested newts. It is considered that the proposed development would present a low risk to great crested newts and/or their habitats. However, as the development is within the amber Impact Risk Zone, as modelled by district licence mapping, I recommend that the following informative should be attached to planning consent:

"The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure, or kill great crested newts; damage or destroy a breeding or resting place; intentionally or recklessly obstruct access to a resting or sheltering place. Planning permission for a development does not provide a defence against prosecution under this legislation. Should great crested newts be found at any stage of the development works, then all works should cease, and a professional and/or suitably qualified and experienced ecologist (or Natural England) should be contacted for advice on any special precautions before continuing, including the need for a licence."

The district licence scheme also remains open as an option for the applicant. More info can be found at: [www.naturespaceuk.com](http://www.naturespaceuk.com)

### **Cheltenham Civic Society**

**25th March 2024**

#### **SUPPORT WITH COMMENTS**

We welcome the provision of affordable housing. The community engagement appears to have been good.

Our concerns include the absence of community greenspace within the scheme. We would also like to see more street trees.

The houses are described as being PV ready. It would be better if the PVs could be installed as part of the plan, so enabling all residents to benefit for reduced energy bills.

In terms of materials, we have doubts about the dark brick and would prefer to see tones similar to the Cheltenham brick which is a feature of the neighbouring areas.

This development will put more pressure on what is already a busy and at times congested road. Could the junction with Swindon Road be improved, possibly with a roundabout?

We would recommend the developers implementing an EV car sharing scheme to reduce the need for car ownership for future residents (and their neighbours).

**17th December 2024**

#### **SUPPORT**

We continue to support the development of this area with a substantial amount of affordable housing but with significant reservations about this scheme:

- re the provision of affordable housing, we note the Housing Enabling Officer's comments about housing mix and hope the developers will take this into account.
- the roofs should have PVs installed, rather than merely being PV ready. This would ensure full compliance with council's own Climate Change SPD and reduce the costs of those living in the new homes.
- while we welcome the increase in the number of street trees in the revised plans, there is a still too much hard standing.
- there is potential to slightly increase the density by including some terraces (rather than the semi-detached and detached houses proposed) which would also enable more green space to be provided.

Our other comments made at the time of the previous version of this application also still stand: about the suitability of some materials, the implications for traffic on and access to Swindon Road, and recommendation for an EV car sharing scheme.

### **Architects Panel**

**29th April 2024**

Design Concept: The site is located within the PUA of Cheltenham. The Design and Access Statement explains that the site is private land owned by the University of Gloucestershire and as such it doesn't provide any public amenity beyond a visual amenity to the public.

Detail Design: The development is for a significant number of houses on a site that is in a very sustainable location. The layout is an efficient use of space but we are concerned that it doesn't make for the more engaging plan form.

The site analysis within the DAS highlighted some key points that don't appear to have translated into the final scheme.

Beyond the sports pitch retained at the front of the site and the detention basins there is little in the way of public open space. The space along the north west boundary is a particular concern given that large elements of it will be defined by the gable end of properties or their fencing.

Within the Design and Access Statement there are some initial studies considering alternative layouts which the panel felt could have created a more interesting scheme.

The re-provided sports facility although described as a 'Sports Pavilion' is little more than a storage area with limited catering facilities and wcs. The location of the sports facility and the associated parking the other side of the access road to the sports pitch is a concern given the number of dwellings being served by a single point of access.

The design of the dwellings is very simple but the interest provided by the varying brick colours and varying coursing patterns as well as the render panels is welcomed.

Whilst the aesthetics of the scheme are welcomed and the sustainability of the site is accepted the layout currently fails to create a development with much character.

Recommendation: Not Supported.

## **Wild Service**

**4th July 2024**

Thanks for forwarding the updated EclA and the sHRA. My first requirement prior to determination given in my response of 10th June 2024 has now been addressed. The second requirement concerning the payment in line with the Cotswold Beechwoods SAC Recreation Mitigation Strategy still applies.

## **Sport England**

**2nd April 2024**

Thank you for consulting Sport England on the above application.

Sport England – statutory consultee role and policy

We understand that you have consulted us as a statutory consultee in line with the above Order. Therefore, we have considered the application in light of the National Planning Policy Framework (NPPF), in particular paragraph 103, and Sport England's Playing Fields Policy, which is presented within our 'Playing Fields Policy and Guidance Document': [www.sportengland.org/playingfieldspolicy](http://www.sportengland.org/playingfieldspolicy)

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field land remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England the development as a whole meets with one or more of five specific exceptions. The exceptions are provided in the Annex to this response.

The proposal and impact on playing field

The proposal is for housing on a playing field which is one proposing to retain one pitch and car parking and a 'sports facility, away from the pitch.

### Pre-application

The planning consult Conor Flangan sought pre-application advice on the first of April 2022 on a housing proposal for the site which included 2 artificial grass pitches. We responded stating that the proposal would be a statutory objection. See Annex B It is disappointing there was no further pre-application dialogue.

### Assessment against Sport England's Playing Fields Policy and NPPF

We note on page 85 of the Design access Statement there is the following statement:

The sports provision of this application is covered within a separate Sports Provision Design document.

We note that this document and the D and A were only uploaded 3 days ago and Sport England was not notified of this, we only found out while doing a final check of the submission on CBC's website.

The sport facility/pavilion does not include any changing and is therefore not considered to be a sports pavilion. The fact that the 'pavilion' is not located adjacent to the pitch, also raises questions on its ability to be a sports pavilion.

The proposal to have a sports pitch of an area 85 x 61, which the architects call an under 16/15 football pitch. Unfortunately, they are not quite correct. The area required is 97 x 61m which includes the run-off area. They mention that the area could also accommodate two 5-a-side pitches, this has not been proven.

Since the pre-application advice was sought Cheltenham Borough Council as commissioned a new playing pitch strategy, PPS, which is in the final stages of completion, and it should be adopted in the early summer of this year. The applicants state on p8 of the Sports Provision Design document, that this along with the sports provision building, pavilion is to be offered to a local club.

The car park appears to be on the large size if it is only to accommodate a single pitch/2 5 sides pitches and is not conducive to promoting active travel.

We note that there is no offsite contributions towards built facilities, in order to create a sustainable development.

The Folly is mentioned in two places in the PPS: in table 3.4 and in paragraph 5.13. In the later the PPS states the following:

There is also one site that has been identified as previously having rugby union pitches marked out on them but no longer do. The site isn't disused and could provide pitches again in the future should there be sufficient demand to do so.

Sport England have consulted with several national governing bodies of sport, (NGBs), which may have an interest in this site: England Lacrosse, (EL), the Rugby Football Union, (RFU), The England and Wales Cricket Board/Gloucestershire Cricket Foundation, ECB/GCF and the Gloucestershire County Football Association/the Football Foundation GCFA/FF. I have summarised their comments below:

#### EL:

The proposal does not impact on Cheltenham Lacrosse Club but may impact on the university's lacrosse club and American Football Club.

We suggest clarification is sought on whether the university's American Football and Lacrosse clubs are to be disadvantaged by the loss of the site or whether they are to remain. If they are to remain, they will need a club house.

#### RFU:

The RFU have considered the application and are unable to find within the documents the proposed mitigation for the loss of 2 x marked Rugby pitches, it notes the inclusion of one Sports pitch but this pitch would not achieve world Rugby Law 1 pitch dimensions and is not shown as marked for Rugby.

The Emerging PPS in Cheltenham shows that there is a deficit of floodlight pitches (approx. 4 pitches) within the borough, within the surrounding borough (Tewkesbury) where there is significant latent demand, there is a further undersupply of floodlight pitches (approx. 15 pitches)

The RFU would be keen to work with the applicant to agree suitable offsite contributions for the loss of marked rugby pitches at the folly site.

The RFU therefore at this stage objects to the application and look forward to working with the applicant moving forwards.

Sport England also notes the lack of response with the planning statement regarding the lack of mitigation for rugby and notes the findings in the emerging PPS regarding rugby deficit.

#### ECB/GCF:

They note that cricket is not currently played on the site, the emerging PPS has identified that more cricket pitches are needed. Therefore, they are not supportive of the proposal until the PPS has been finalised and the needs of sport have been confirmed.

Sport England notes that historical aerial photographs show that cricket was played on this site in the past. There were 5 wickets marked out on a square circa 2006.

#### GCFA/FF:

Although historically, the site has been used by a number of football clubs, the main user has been the University of Gloucestershire. In recent years, this site hasn't been used as the university has developed other sites which their sport department uses. However, community football has also used this site in the past. The current facilities at the site are at the end of life and would need improving, including the pitches.

There was no mitigation plan set out in the planning portal for the loss of this site as it was declared 'unused' and as such, the FF would seek to understand how the applicant is intending to offset the loss of playing field land from this development.

The current Playing Pitch Strategy (PPS) (which is currently in development and not adopted by the council yet) is showing that football Natural Turf Pitches (NTPs) in Cheltenham are catered for in the area however, 3G provision is showing a shortfall. Therefore, the FF propose that any mitigation for the loss of this site to be offered as 'off site contribution' towards sports playing fields weighting heavily towards 3G provision when considering football.

Sport England notes the comments GCFA/FF that there is a need for mitigation for the loss of the playing field.

The planning consultants fail to understand the National Planning Policy Framework (NPPF) paragraph 102 by trying to draw a distinction between private and publicly available playing fields. The NPPF does not draw any distinctions between them.

The site is currently used as playing fields. The Planning consultants fail to address paragraph 103 of the NPPF or Sport England's planning policy exceptions.

The emerging PPS is showing a deficit in existing sports facilities as indicated above but the PPS is not finished a comment made by the ECB/GCF. Sport England feels this planning application is therefore premature, as the site may be required to be retained for sport.

Notwithstanding this the applicants have only retained a single pitch and no mitigation for the loss of the rest of the playing field site.

#### Sport England's position

Given the above, Sport England raises a statutory objection to the application because it is not considered to accord with any of the exceptions to our Playing Fields Policy or paragraph 103 of the NPPF.

#### Potential to overcome the statutory objection

Sport England would suggest that the applicants withdraw the current application and wait till the PPS is adopted then meet with CBC officers, NGBs and Sport England to see if there is a solution which meets the NPPF, CBC's planning policies and the PPS.

#### Determining the application

Should the local planning authority be minded to approve this application contrary to Sport England's statutory objection, then the Town and Country Planning (Consultation) (England) Direction 2021 requires the application to be referred to the Secretary of State, via the National Planning Casework Unit.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s).

**26th November 2024**

Thank you for re-consulting Sport England with additional information for the above application.

We have reviewed the submitted documents, and we are pleased to see that our comments along with GFA/FF regarding the proposed football provision on site has been removed.

However, the mitigation package which has been proposed, while has some merit does not fulfil the requirements of the NPPF paragraph 103, as it does not re-provide the lost playing field area in terms of quantity and quality.

We would draw your decision to two recent appeals: APP/P4605/W/24/3342499 and APP/W4325/W/23/3329105 which deal with the issues of replacement quantity and quality. We are attaching the decision documents for your ease.

For Clarity Sport England's position

Given the above, Sport England maintains a statutory objection to the application because it is not considered to accord with any of the exceptions to our Playing Fields Policy or paragraph 103 of the NPPF.

Potential to overcome the statutory objection

Sport England would suggest that the applicants withdraw the current application and meet with CBC officers, NGBs and Sport England to see if there is a solution which meets the NPPF, CBC's planning policies and the PPS.

Determining the application

Should the local planning authority be minded to approve this application contrary to Sport England's statutory objection, then the Town and Country Planning (Consultation) (England) Direction 2021 requires the application to be referred to the Secretary of State, via the National Planning Casework Unit.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s).

**GCC Section 106 Officer**

**29th August 2024**

Please see response in document tab.

**Gloucestershire Wildlife Trust**

**8th April 2024**

I am writing to set out Gloucestershire Wildlife Trust's (GWT) comments on the above application.

This proposal presents an opportunity to provide benefits for biodiversity in this urban area. We are therefore pleased to see that most of the trees on site would be retained and that new infrastructure to support biodiversity would be integrated, including bat boxes. This proposal presents an opportunity to provide benefits for biodiversity in this urban area. We are therefore pleased to see that most of the trees on site would be retained and that new infrastructure to support biodiversity would be integrated, including bat boxes. However, improvements should be made prior to these proposals going any further.

The site is positioned in the middle of several areas of core habitat, as per Gloucestershire's Nature Recovery Network (NRN) and includes an area of medium priority woodland habitat. In relation to this, we would like to see two things included within the proposals. The first is that

the opportunity to extend habitats, in line with the local NRN is optimised (as per para 185 (a) of the NPPF). There is minimal planting planned for the medium opportunity woodland area of the site, with trees mainly being retained, and this area of habitat could be enhanced and extended.

The proposals could also go further to improve connectivity across the site. There are seemingly plans for only one line of individual trees to cross the site from west to east, with no pockets of planting within the area of the site assigned to housing. Ensuring that GI is better integrated across the whole site, rather than being limited to certain areas of it, will help to create a development that better supports wildlife and the wellbeing of existing and future residents.

Given that this development would significantly reduce the level of natural drainage within an urban area, more should be done to integrate natural, multifunctional, drainage solutions, into the scheme.

We note that the EIA mentions a homeowner pack, informing residents on the sensitivities of the Cotswold Beechwood SAC and how to reduce their impact. The cumulative impact of high levels of planned development in the area will lead to increasing recreational pressure across a number of sites that are important for wildlife and biodiversity, not just the Cotswold Beechwoods, including SSSI's and local nature reserves. We would therefore ask that the homeowner pack is extended to provide broader information, helping to educate residents on why it is important to reduce their impact at sites that are important for wildlife and how to do so (ie by sticking to paths, keeping dogs on leads where possible etc). We would be happy to discuss this further.

We note that Natural England have responded to the consultation to request that a habitat regulations assessment (HRA) is carried out, as the application could have potential significant effects on the Cotswold Beechwoods SAC, which we would be interested to view.

To address some of the comments made, the developer may find it useful to refer to the Building with Nature green infrastructure standards. This will ensure the green infrastructure is delivered to a high standard, providing multifunctionality and connectivity benefits as mentioned above, and we would propose getting this site Building with Nature Accredited.

### **Clean Green Team**

**10th April 2024**

Response available to view in documents tab.

### **Heritage and Conservation**

**22nd October 2024**

The proposed development impacts upon the setting of the Grade II\* listed St. Peter's Church and immediately adjacent Grade II listed War Memorial, with a degree of intervisibility between the sites along Waterloo Street. Whilst in the wider setting of the designated heritage assets, the application site does not form part of the Church or Memorial's significance (given physical distance and the land not being associated with the Church/Memorial). Given the built-up context of the area, there would be a limited impact upon the setting of the Church and thus no harm would occur to its significance.

The site has limited potential for archaeological remains, with no record nor evidence of an archaeological remains on the site. However given the potential of any remains, if required, a suitably worded condition as to secure a geophysical survey prior to development would suffice.

With respect to the pavilion, as the submitted heritage assessment asserts, this building is considered to be a non-designated heritage asset (NDHA) given the age, local historic interest as well as the contribution to the character and appearance of the area. Given this contribution,

there would be a preference in the retention of the pavilion. Notwithstanding the physical condition of the building, whilst the pavilion is identified as NDHA, it has overall limited significance, given this, and whilst the loss of any heritage asset is regrettable, if it cannot be retained as part of the development scheme, the demolition does not raise an objection. If the application is to include the loss of the building, the following condition is advised upon any grant of planning permission:

Prior to the demolition of the building known as the 'Pavilion' a permanent record of the structure and setting shall be made to Historic England's Level 2 standard. Once completed the record shall be deposited with the HER and retained in perpetuity.

Reason: In the interests of the historic environment, having regard to Policy SD8 of the Joint Core Strategy 2017, Chapter 16 of the National Planning Policy Framework and Historic Environment Good Practice Advice (note 2).

### **Active Travel England**

**13th March 2024**

Following a high-level review of the above planning consultation, Active Travel England has determined that standing advice should be issued and would encourage the local planning authority to consider this as part of its assessment of the application. Our standing advice can be found here: <https://www.gov.uk/government/publications/active-travel-england-sustainable-development-advice-notes>

ATE would like to be notified of the outcome of the application through the receipt of a copy of the decision notice, in addition to being notified of committee dates for this application.

### **County Archaeology**

**28th March 2024**

Thank you for consulting the archaeology department on this application. The county Historic Environment Record shows no known heritage assets to lie within the proposed development site and it is situated on the outskirts of the historic town. The site appears to have remained largely as open space throughout development in the post-medieval period to present though historic maps depict a building/glasshouses within the centre of the site in the early-mid 20th century and the site of a pavilion has existed in the south-east corner of the site since c. 1910.

A Heritage Assessment has been submitted with the application which summarises "a limited potential for archaeological remains of prehistoric and/or Romano-British date to be encountered within the Site." It should be noted however that there has been little archaeological investigation close to the site but more recent discoveries on the outskirts of Cheltenham have revealed a large distribution of settlement sites particularly from the late prehistoric period to medieval periods. The Heritage Assessment reports the presence of made ground ranging from depths of 0.2-1.3m across the site which has the potential to bury archaeological remains beneath and states that a geophysical survey would provide additional information on the potential for previously unrecorded remains within the Site. It also states that the pavilion has a degree of historical and architectural interest as a rare pre-war sporting structure and recommends a level 3 building record is made prior to its demolition (you should discuss the principle of its demolition with the Conservation Officer).

As this is a reasonable size of development, I agree with the conclusion of the Heritage Statement that the results of geophysical survey should help to identify sites of archaeological interest within the site but this should also be ground-truthed by trial trench evaluation as geophysical survey results cannot be wholly relied upon to identify archaeological remains within a site.

The National Planning Policy framework states:-



200. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

201. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

As archaeological remains are regarded as heritage assets, in line with the NPPF I recommend that the results of geophysical survey and trial trench evaluation are made available prior to determination of the application in order to establish the presence and significance of archaeological remains impacted by the proposals. I also advise the applicants to provide more information on the depth of construction in relation to the made-ground deposits.

I will be happy to advise further following receipt of the additional information requested.

### **3rd July 2024**

Thank you for consulting the archaeology department on the additional information submitted with the application and I note the submission of the geophysical survey report.

The results from the geophysical survey show a number of features of likely post-medieval date such as possible land drains in the area of glasshouses in the centre of the site, earlier field boundaries and ridge and furrow remains. There are a few features of unknown origin which could be archaeological interest such as a small enclosure and several linear features. As I mentioned in my earlier advice, geophysical survey on its own is not wholly reliable and should be ground-truthed by trial trench evaluation. On the basis of the Desk Based Assessment and geophysical survey results however I consider it unlikely that archaeological remains of such significance are present within the site which would preclude development. I therefore recommend that further archaeological investigation can be made a condition of planning permission and should include a programme of archaeological investigation (trial trench evaluation followed by any necessary mitigation) and a level 3 building recording of the pavilion prior to its demolition, due to its historical and architectural interest as a rare pre-war sporting structure. You may wish to use the following conditions:-

"No development to which this permission (or consent) relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority."

Reason: To ensure that an appropriate record is made of the historic building fabric that may be affected by the development, in accordance with paragraph 211 of the National Planning Policy Framework

And

'No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority'.

Reason: It is important to agree a programme of archaeological work in advance of the commencement of development, so as to make provision for the investigation and recording of any archaeological remains that may be destroyed by ground works required for the scheme. The archaeological programme will advance understanding of any heritage assets which will be lost, in accordance with paragraph 211 of the National Planning Policy Framework

**Natural England**

**15th March 2024**

Response available to view in documents tab.

**7th February 2025**

Response in documents tab.

**21st February 2025**

Response in documents tab.

**Severn Trent Water Ltd**

**3rd April 2024**

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative, other sustainable methods should also be explored. If these are found unsuitable satisfactory evidence will need to be submitted before a discharge to the public sewerage system is considered. No surface water to enter the foul or combined water systems by any means.

Reason

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

NOTE: we would strongly recommend the Developer/Applicant to make contact with STW and look to submit a Development Enquiry for this development site; this will discuss the drainage proposals for site, and if any issues, look to resolve them. It is best to visit our website: <https://www.stwater.co.uk/building-and-developing/overview/new-site-developments/developer-enquiries/> and follow the application form guidance to begin this process.

IMPORTANT NOTE: This response only relates to the public waste water network and does not include representation from other areas of Severn Trent Water, such as the provision of water supply or the protection of drinking water quality.

**Minerals And Waste Policy Gloucestershire**

**9th April 2024**

Response available to view in documents tab.

**17th March 2025**

Comment available to view in documents tab.

## **Gloucestershire Centre for Environmental Records**

**15th March 2024**

Report available to view in documents tab.

## **Housing Enabling**

**24th April 2024**

Response available to view in documents tab.

**11th September 2024**

Response in documents tab.

**4th December 2024**

Regarding the revised planning documentation submitted relating to the 122 affordable homes at the Folley (Planning Application reference 24/00399/FUL), I have nothing further to add to my previous comments (dated 10.09.24), as I can't immediately see any substantive changes to the scheme from an AH perspective- with one exception.

Specifically, it would be really helpful if the applicant added a more detailed housing mix table to planning drawing- 'Site Masterplan- Tenure Clustering', drawing reference 2103-TDS-XX-XX-DR-A-0016-REV 5. Currently, the attached scheme proposals show the tenures (indicated by colour), however, the table in the top left of the planning drawing does not clearly translate this colour-coded proposal into a simple table format.

Moving forwards, it would be helpful if the applicant provided a breakdown of the unit sizes, types, tenures and occupation on this masterplan within a table (that uses the same presentation format used within my latest (Sept 24') published comments.

I appreciate that the applicant has submitted separate information covering the types and tenures of the affordable homes, but it is difficult to picture how this will map onto a scheme without being able to see the plan. As I'm sure you are aware, this is common practice across all affordable housing schemes that we deal with and will help members to better understand the nature of affordable housing accommodation that is being offered on this scheme.

I attach my previous comments to give an indication of what I'm looking for in terms of the table.

## **Trees Officer**

**5th April 2024**

The arb report appears to be incomplete - although the filename is marked "AIA, method statement and TPP", it lacks much of this information. It doesn't currently have a map with tree numbers marked up so making any real assessment of what has been submitted relies on assumptions and guesswork. This should be remedied at the earliest possibility.

The removal of Ts 2-5 appears wholly unnecessary when access points could be created to the east or west of that group of trees. This proposed removal is not supported by the Trees Section and alternative access arrangements should be proposed in revised plans.

The landscape design needs some further consideration. Although the buffer planting around the site appears generous, the streets could not reasonably be described as tree-lined - this is mandated in national policy.

NPPF para 136 states:

...Planning policies and decisions should ensure that new streets are tree-lined...

Also further consideration should be given to species selection - planting aspen (or any poplar) near roads and houses is not advisable. Planting large growing species (e.g. beech) to the east and south of houses (Swindon Road, Stanwick Gardens, Thomond Gardens) backing onto the site should be reconsidered. Trees in the Folley have historically caused conflict with these neighbouring communities and so care should be taken over any planting proposals. Buffer planting to the east may require further thought as well. Planting walnut and cherry in the shade of larger trees may prove unsuccessful. Beech and lime may well fair better but perhaps a wiser approach would be to plant trees that will provide understorey (yew, holly etc) with occasional larger growing trees to provide succession to the existing trees. As such, revised landscape plans should be submitted.

To avoid conflict between both retained and newly planted trees and the proposed built environment, foundation depths and designs should be submitted and approved by Building Control.

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

**11th July 2024**

The submission of the complete documents is welcomed by the Trees Section.

In an email from the agent, an allusion to advice from Highways regarding the preferred access arrangements is noted by the Trees Section. However, the removal of Ts 2-5 is in direct conflict with Policy GI3 of the Cheltenham Plan:

Development which would cause permanent damage to trees of high value (Note 1) will not be permitted.

Therefore, the Trees Section maintains its objection to the proposed access arrangement of the scheme in its current iteration. It should be noted that a TPO was served to protect those trees, and other trees around the site. The TPO was met with no objections within the allocated consultation period.

**30th August 2024**

As before, the Trees Section maintains its objection to the removal of Ts 2-5.

The revised documents do not include landscape details so no assessment can be made of that aspect of the scheme.

**6th December 2024**

As before, the Trees Section maintains its objection to the removal of Ts 2-5.

The revised landscaping makes some further commitment to planting around the site to make the streets feel more tree-lined. This should be commended.

Some improvements to the scheme could still be made. Plots 18-33 have only one tree and this may feel like a stark contrast for this section of the development. Turkish hazel is a potentially large growing tree so may be unsuitable to plant to the western border of the site where it could dominate the boundary and cause conflict with neighbouring properties. It is also not a shade tolerant species so where it is proposed for planting in the shade of existing trees (e.g. to the northeast of the site), it will not thrive. Similarly, black birch, downy birch, sweet gum and honey locust are also not shade tolerant so should not be planted in the shade of existing trees. Honey locust may not be a suitable species for what are relatively small front gardens (e.g. Plot 118) as they can produce an unruly and spreading, open-formed tree. Similarly, Turkish hazel has the potential to become too large (e.g. Plots 89-94). Trees at the following plots are unspecified: 7, 8, 9, 13, 27, 40, 44, 52, 68, 83 to 87, 97 and 100. This should

be remedied so that the landscape plan can be assessed properly. Planting cherry adjacent to Detention Basin 1 may prove unsuccessful as these will not thrive in very wet soil.

Whilst these adjustments are made, it would be worth noting that CBC would also not support a single species to be planted in front gardens of plots (i.e. changing honey locust and Turkish hazel for Himalayan birch would be inappropriate) as this would discourage biodiversity and resilience.

**3rd February 2025**

Notwithstanding the Trees Section's previous advice to avoid planting shade intolerant species in the shade of larger trees and to avoid planting large growing species to the west of the site where they may cause conflict with adjacent properties (although screening will of course become more important should the application be permitted), the revised landscape design broadly addresses the concerns previously raised.

**GCC Highways Development Management**

**19th April 2024**

Response available to view in documents tab.

**23rd July 2024**

Comment available to view in documents tab.

**4th February 2025**

Response in documents tab.

**Environmental Health**

**4th April 2024**

In relation to application reference 24/00399/FUL for The Folley, Swindon Road, Cheltenham please can the following be added from Environmental Health:

Conditions:

a) For the construction phase to be kept within the times of work as follows: 07:30 - 18:00 Monday - Friday and 08:00 - 13:00 Saturdays with no works to take place on a Sunday or Bank Holiday.

b) No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:

- hours of operation
- parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction)
- routes for construction traffic
- locations for loading / unloading and storage of plant, waste and construction materials
- method of prevention of mud being carried onto highway - measures to protect vulnerable road users (cyclists and pedestrians)
- any necessary temporary traffic management measures - arrangements for turning vehicles
- arrangements to receive abnormal loads or unusually large vehicles - methods of communicating the construction management plan to staff, visitors and neighbouring residents and businesses
- waste and material storage
- control measures for dust and other air-borne pollutants
- measures for controlling the use of site lighting whether required for safe working or for security purpose
- if any generators will be used at any time during the build phase

c) For the applicant to adhere to the recommendations in section 7 of the Acoustic Consultants Ltd noise impact assessment for this site (Report Reference: 10652/BL/SF // dated: 21/02/24) for the set plots to have the detailed additional noise protection measures built into the construction to protect the residents from potential noise disturbance at the nearby Cheltenham Animal Shelter.

d) Prior to approval, please can the applicant submit further information in writing as to how the sports pitch will be utilised - this would need to be in writing and detail the sports the pitch will be used for, if it is external hire only, how this will be managed, the times of use for the pitch, how the times of use will be managed/controlled and any other information relating to the use of this pitch. This document will also specify if the applicant is intending on installing any external lighting for the sports pitch or the associated car park with cycle storage? If so, the EH team may at a later date require a condition requiring a lighting impact assessment to be submitted for prior approval.

Queries:

e) Will the applicant be utilising ASHP or GSHP in order to heat the residential homes or any of the sports facilities buildings? If so, the EH team may at a later date require further acoustic information on these installations and may not be able to provide full support until the assessments are reviewed and approved.

### **GCC Lead Local Flood Authority (LLFA)**

**19th March 2024**

The proposal is for development in flood zone 1. The development will enable surface water drainage to be restricted to 15 l/s for all events, this compares to a greenfield QBAR rate of 21.1 l/s. Flows will be controlled by a Hydrobrake and volumes attenuated in 2 attenuation basins providing capacity for 1:100 events plus a 45% allowance for climate change over the lifetime of the development. The discharge will be to a Severn Trent surface water sewer that flows in a northerly direction. This approach satisfies the requirements of a SuDS and the LLFA has no objection to it.

The FRA fails to address directly historic flood records indicating property flooding in Stanwick Gardens. This has been previously managed by means of a bund and filter drain along the northwestern boundary. Such measures are designed to prevent flows from the site flowing overland to Stanwick Gardens. The development, by managing all flow from property roofs to the attenuation ponds and through addressing site levels will prevent overland flows from the site towards Stanwick Garden and so the flood risks that have caused issues in Stanwick Gardens previously should be managed by the development of the site.

The LLFA have no objection to the proposal and believe that detail supplied with the application is adequate such that there would be no benefit in drainage conditions provided that development follows the plans as described in Flood Risk and Drainage Statement published by Infrastruct CS Ltd ref 4829-FILL-ICS-XX-RP-C-07.001 at draft issue dated 13/02/2024.

NOTE 1: The Lead Local Flood Authority (LLFA) will consider how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency.

NOTE 2: Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through [suds@gloucestershire.gov.uk](mailto:suds@gloucestershire.gov.uk) e-mail address. Please quote the planning application number in the subject field.

**6th March 2025**

Subsequent amendments to the proposal have an insignificant impact on the proportion of impermeable area of the site and previous comments about the drainage strategy remain valid. The LLFA have no objection to the proposal and believe that detail supplied with the application is adequate such that there would be no benefit in drainage conditions provided that development follows the plans as described in Flood Risk and Drainage Statement published by Infrastruct CS Ltd ref 4829-FILL-ICS-XX-RP-C-07.001 at revision A dated 12/11/2024.

NOTE 1: The Lead Local Flood Authority (LLFA) will consider how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency.

NOTE 2: Any revised documentation will only be considered by the LLFA when resubmitted through suds@gloucestershire.gov.uk e-mail address. Please quote the planning application number in the subject field.

## **Parks and Landscapes Division**

**11th September 2024**

I have noted this on the design statement changes document.  
[https://publicaccess.cheltenham.gov.uk/online-applications/files/CEE7100943BCA44BEF48455437A37A0D/pdf/24\\_00399\\_FUL-STATEMENT\\_OF\\_DESIGN\\_CHANGES-1517454.pdf](https://publicaccess.cheltenham.gov.uk/online-applications/files/CEE7100943BCA44BEF48455437A37A0D/pdf/24_00399_FUL-STATEMENT_OF_DESIGN_CHANGES-1517454.pdf)

'The area to the west of the sports pitch has been marked as potential 'Park/Natural Play or similar.' It is the intention to work collaboratively with Officers to agree the open space/play solution for this area, to be shown on updated landscape plans prior to determination'

Has any more detail come through about this?

As the number of dwellings on this site is 122, they need to incorporate at least a LAP and if they can't incorporate a LEAP on site they need to contribute to offsite provisions at Elmfield playing field near the allotments within 400m of the development. Also, as part of the FiT standards they should be contributing to a multi-use games area.

<https://fit.viewcreative.agency/content/files/Guidance-for-Outdoor-Sport-and-Play-England.pdf>

More guidance on play provision is in this document.  
[https://www.cheltenham.gov.uk/download/downloads/id/6480/open\\_space\\_standards\\_paper.pdf](https://www.cheltenham.gov.uk/download/downloads/id/6480/open_space_standards_paper.pdf)

I've seen that county highways have commented on improving the cycle access to the northern boundary connecting Gardners Lane to Thomond Close and connecting to the site. This 120m link will become a very busy and will need resurfacing and widening to 3m. It should incorporate street lighting and bollards to prevent vehicles.

The self-binding gravel path running through Elmfield playing field to Denman Avenue and the Honeybourne Line cycle route is 2m wide. The council would be open to widening it to 3m if funding came available. This is about 230m long. The community have express support for this and lighting to be incorporated along the route. Any lighting would need to be adopted by the county council.

**26th November 2024**

As it stands, the proposal isn't acceptable on play provision grounds.

Play provisions.

The development doesn't provide play provisions in line with Guidance for Outdoor Sport and Play: Beyond the Six Acre Standard. The standards state that a development of this size should provide a LAP, LEAP and contributions to an offsite multi use games area. The current

proposal identifies a LAP which is in line with the standards, but we'd need more details on the playground design to fully understand the provision. There's no detail on the fencing around the LAP, but it should be metal bow top or similar. Robinia play equipment would be supported, but the detailed proposal should consider a harder wearing safety surface like wetpour, around the main units for accessibility and usability. Because the LAP is located near existing residential properties, we would advise moving it slightly further away, may be just over the path in the Community park area.

The proposal also mentions 'potential outdoor gym equipment'. Are pieces of outdoor gym equipment proposed or not? We wouldn't object to outdoor gym equipment, but we need more details to be able approve it.

There are no proposals for a LEAP and just an outdoor gym, doesn't constitute a LEAP. Looking strategically at play provisions in the area, Elmfield playing field playground is within 400m of the development and could be upgraded to a LEAP to offset the need for one on the Folley development. The level of contribution towards upgrading Elmfield playground could be agreed as part of a S106 agreement.

There is no mention of contributions towards multi use games facilities. There are no multi use games areas within 700m of this development or Elmfield playing field and previous consultations in the area have expressed the need for one. There isn't enough space in Elmfield playing field for a multi use games area (recommended minimum size 23m x 14m) and we'd support the developer constructing one on the Folley, instead of contributing to an offsite facility. This offsetting of the multi use games area contribution could be integrated into the S106 agreement. The multi use games area could be landscaped into the Community park area of the Folley proposal.

Here are some more comments regarding the surround area and site landscaping.

- The developer should undertake a design risk assessment based on the proximity of the SuDs basins to footpath and cycle paths, and consider installing fencing rather than a timber knee rail.
- The cycling paths and exit routes should be a minimum of 3m wide and should have some bollards to prevent vehicles going through.
- I've seen county highways team have commented on improving the cycle and pedestrian provisions along the northern boundary connecting Gardners Lane to Thomond Close and connecting to the site. This will become a very busy route to the shops and should be resurfaced and widened to 3m. It should incorporate street lighting and bollards to prevent vehicles.
- The self-binding gravel path running through Elmfield playing field to Denman Avenue and the Honeybourne Line cycle route is 2m wide. The council would be open to widening the 230m long route to 3m and tarmacing it, if funding came available. The community have expressed support for this improvement and additional lighting. Any lighting would need to be adopted by the county council. This would create a traffic free route to the station and the town centre.'

**27th January 2025**

## **CBC Ecologist**

**3rd December 2024**

I have reviewed the revised Ecological Impact Assessment (EcIA) (Nicolas Pearson Associates, June 2024), the revised Statutory Biodiversity Metric (Nicolas Pearson Associates, October 2024), the previous ecology comments (Wild Service, June 2024) and the revised site masterplan (2103-TDS-XX-XX-DR-A-0010).

The following comments need to be addressed to continue the assessment of the BNG proposal for this site.



The whole of the community park area appears to be planned to be Other Neutral Grassland in moderate condition, with a twice annual cut and collect for management.

The applicant needs to consider whether this area is going to function well as a community park if it is only mown twice a year. Visually and practically a twice annual mow is not conducive to the areas' use by the public for play and exercise. It will likely need much more regular mowing for this, and if a high frequency mowing regime is required, it is unlikely to reach moderate condition as Other Neutral Grassland. It is more likely a Modified Grassland habitat classification would be appropriate here.

The Local Area for Play (LAP) needs to be input to the biodiversity metric as a separate classification to grassland.

The biodiversity metric is incomplete without the SUDS feature(s) being included as an appropriately classified separate habitat. If proposals for these features of the site are finalised the biodiversity metric needs to reflect this.

The delay in habitat creation column in the biodiversity metric has not been completed for any of the proposed habitats. This needs to reflect the delay between the site being cleared for development and the new habitat proposals being installed. For a development this size a 2-year delay would be expected.

The revised EcIA refers to a plan to create tussocky grass with scrub along the boundaries of the site for reptile habitat. This is welcomed but the classification of the tussocky grass habitat in the biodiversity metric needs to be clarified or amended. Tussocky grass will not match the description of Other Neutral Grassland in moderate condition as once developed it will not be species rich. Tussocky grass usually consists of coarse grass species which out-compete the forbs one might expect to see in Other Neutral Grassland.

The revised EcIA (Nicolas Pearson Associates, June 2024) states the BNG calculation for area habitats is 14.11% net gain, with >120 new trees planted. The biodiversity metric shows a 20.85% net gain calculation, with 151 new trees (input as 58 small poor condition non-native, and 93 small moderate condition native). The most recent covering letter (Black Box Planning, 5th November 2024) states the BNG calculation is 20% net gain, with 160 trees. The Soft Landscaping Plan sheet 1 of 8 (Swan Paul, Feb 2024) shows 160 proposed trees on it. The EcIA needs updating to reflect the same calculation as the biodiversity metric (once this is revised addressing the above comments). The small discrepancy between the tree numbers in the biodiversity metric and the landscaping plan needs to be addressed.

A post-development habitat plan needs to be included in the revised EcIA showing where different habitat classifications have been made, in response to the above comments.

## **22nd January 2025**

I have reviewed the Revised Ecological Impact Assessment (EcIA) (Nicolas Pearson Associates, December 2024), the revised Statutory Biodiversity Metric (Nicolas Pearson Associates, December 2024), the Shadow Habitats Regulations Assessment (HRA) (Nicolas Pearson Associates, December 2024), and the revised landscape masterplan (SPP333-90-001 REV K).

The change from the open space on this site being a playing field to a community park area is supported. There is an increase in street tree provision and tree planting in the community park area which is more in line with the site's partial location in the medium priority woodland zone of the Gloucestershire Nature Recovery Network. The integration of more scrub and meadow areas is also supported.

The Shadow HRA is supported, but Cheltenham Borough Council defers to Natural England for their final comment on this application before adopting the Shadow HRA.

An updated ecology report with the results of a pre-works update badger survey must be submitted prior to commencement.

A precautionary method of working statement must be submitted prior to commencement to ensure there are strict precautions in place for protected species on this site, as the ecology surveys were completed over a year ago. The bat surveys are over a year old so special precautions need to be in place for the demolition of buildings and felling of trees with bat roost potential so that the proposed works can continue lawfully.

Provision of bird, bat, insect and hedgehog boxes for ecological enhancement is conditioned below. Emphasis on appropriate orientation and location of these features is included in the condition. Bird boxes should be installed to face between north and east to avoid direct sunlight and heavy rain. Bird boxes should be erected out of the reach of predators. For small hole-nesting species bird boxes should be erected between two and four metres high. Bat boxes should face south, between south-east and south-west. Bat boxes should be erected at a height of at least four metres, close to hedges, shrubs or tree-lines and avoid well-lit locations. Ideally existing mature trees on the site should be utilised for placement of these enhancements. Otherwise, properties facing the ecological boundaries where orientation is appropriate for the species will be accepted.

A finalised Lighting Plan is conditioned. This must reflect the latest design and layout of the site.

The mandatory biodiversity (net) gain (BNG) condition applies to this development; therefore, a Biodiversity Gain Plan must be submitted prior to commencement if this application is approved. The BNG informative must be added to the decision notice of this planning application if it is deemed approved.

The BNG Assessment and biodiversity metric calculates a 14.88% gain in area habitat units, and the trading rules are met. The mandatory biodiversity net gain condition has therefore been met. The Biodiversity Gain Plan required under the statutory biodiversity gain condition must outline how a 10% net gain in biodiversity will be achieved (using the statutory biodiversity metric). The Plan and the metric must reflect the finalised proposals for the site, including the finalised plans for SUDs/detention basin provision. The Plan will not be approved if it does not reflect the finalised proposals for the proposed development.

A Habitat Management and Monitoring Plan (HMMP) is conditioned.

The proposals are deemed to be 'significant' gains in biodiversity according to the guidance provided by the Department for Environment, Food & Rural Affairs (DEFRA) (2024), therefore a S106 will be required to secure the delivery of the measures outlined in the HMMP to be submitted post-determination.

See "significant on-site enhancements" workings from Cheltenham Borough Council below. This proposals' assessment passes 4/5 of the "significant" criteria, therefore the proposals are deemed to be significant.

"Significant" criteria 1-5 as per DEFRA guidance found: <a href="https://www.gov.uk/guidance/make-on-site-biodiversity-gains-as-a-developer">Make on-site biodiversity gains as a developer - GOV.UK</a>	This development: 24/00399/FUL
1. Habitats of medium or higher distinctiveness	50% medium distinctiveness
2. Habitats of low distinctiveness which create a large number of biodiversity	Yes

units relative to the biodiversity value of the site before development	
3. Habitat creation or enhancement where distinctiveness is increased relative to the distinctiveness of the habitat before development	Yes
4. Areas of habitat creation or enhancement which are significant in area relative to the size of the development	Yes
5. Enhancements to habitat condition, for example from poor or moderate to good	No

Conditions outlined above and outlined in the previous ecology comments (Wild Service, June 2024) are provided below if this proposal is granted planning permission.

#### Ecology report

Prior to the commencement of the development hereby approved, an update walkover survey of the site shall be undertaken by a suitably qualified ecologist and an update of the Ecological Impact Assessment (EclA) will be submitted to Cheltenham Borough Council for written approval. The updated EclA shall confirm (or otherwise) whether there has been a significant change to the site since the most recent surveys in 2024 and whether further surveys for protected, priority or locally notable species or habitats are required. In particular this shall confirm the status of the sites with regards to the inactive badger sett present.

Reason: To ensure legal and policy compliance with regards to protected species, in particular the Protection of Badgers Action (1992) and habitats, as well as to invasive plant species.

Guidance: the Chartered Institute of Ecologists and Environmental Managers (CIEEM) Advice Note on the lifespan of Ecological Reports and Surveys [Advice-Note.pdf \(cieem.net\)](#) states that reports over 12 months old will require updating.

#### Precautionary Method of Working (PMW)

Prior to the commencement of development hereby approved, including all site clearance and vegetation removal, a method statement for a Precautionary Method of Working (PMW) with respect to legally protected species shall be prepared by a suitably qualified ecological consultant and submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in full accordance with the approved method statement.

Reason: To ensure the protection of legally protected and priority (Section 41) species which are a material planning consideration. And to demonstrate compliance with the 1981 Wildlife & Countryside Act (as amended) and the 2017 Habitats Regulations.

Guidance: According to paragraph 180 (page 52) of the National Planning Policy Framework (2023), 'Planning policies and decisions should... limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.' Reason: To conserve legally protected bats and other nocturnal wildlife.

#### Ecological Mitigation & Enhancement Strategy (EMES)

Prior to the commencement of the development hereby approved the applicant shall submit an Ecological Mitigation & Enhancement Strategy (EMES). This shall include details of the provision of integral bird (50No), bat (50No), insect (50No) and hedgehog (40No) boxes. The bird boxes must include bricks or tiles for swift and house sparrow. The location, specification, height and orientation of these features shall be shown on a site plan.

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

Reason: (1) The Natural Environment and Rural Communities (NERC) Act 2006 (Section 40) obliges the LPA ‘... in exercising its functions, [to] have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity’. In order to discharge its biodiversity duty, the LPA must satisfy itself that all developments deliver ecological enhancement wherever reasonably possible; (2) Ecological enhancement is a requirement of the revised National Planning Policy Framework (2023) which states (in paragraph 180) that ‘Planning policies and decisions should contribute to and enhance the natural and local environment...’. And (3) Policy SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017) which encourages new development to: “contribute positively to biodiversity and geodiversity whilst linking with wider networks of green infrastructure. For example, by incorporating habitat features into the design to assist in the creation and enhancement of wildlife corridors and ecological steppingstones between sites”.

#### Lighting Plan

Prior to the commencement of the development hereby approved, details for any proposed external lighting shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be undertaken in accordance with the approved details. This shall include a lux level contour plan, and shall seek to ensure no light spill outside of the site boundaries. The lux contour plan shall show lux levels at frequent intervals (lux levels at 0, 0.2, 0.5, 1, 1.5, 2, 3, 4, 5 lux and higher are particularly useful) and extend outwards to additional levels (above the pre-existing background light level) of zero lux. The lux contour levels shall be superimposed on a site plan which includes all land that is affected by raised light levels (including potentially land outside the red line planning application area) and shall reflect the use of any proposed mitigation, e.g visors.

Advice note: Lux Levels on natural habitats potentially used by nocturnal species such as bats and badgers, not previously exposed to increased light levels, will receive approximate lux levels of between 0.1 (typical moonlight/cloudy sky) and 10 (sunset) lux [‘Bats and Artificial Lighting at Night’ ILP Guidance Note update released - News - Bat Conservation Trust](#) Increasing lux levels in these natural habitats is likely to cause disturbance, therefore the implementation of visors etc as mitigation is strongly advised.

Guidance: According to paragraph 191 of the National Planning Policy Framework (2023), ‘Planning policies and decisions should... limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.’

Reason: To conserve legally protected bats and other nocturnal wildlife complying with the 1981 Wildlife & Countryside Act (as amended).

#### Soft Landscape Plan

Prior to the commencement of the development hereby approved, a finalised 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”.

**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.
- (h)

No occupation shall take place until:

- (i) the habitat creation and enhancement works set out in the approved [HMMP] have been completed; and
- (j) 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.

**GCC Highways Development Management**

***17th January 2025***

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 and financial obligations.

The justification for this decision is provided below.

The County Council has recently undertaken a new traffic modelling assessment (GC3M) of the cumulative traffic impacts of Joint Core Strategy (JCS) allocated housing and employment sites, in the absence of the proposed M5 Junction 10 package of works. This shows there would be a very severe impact throughout Cheltenham.

The existing JCS allocations at West Cheltenham and North-West Cheltenham are unable to fully mitigate their severe cumulative traffic impacts on the links between the A40 and A4019 and they are reliant on completion of the M5 Junction 10 scheme for the relief it provides in order to fully build out their sites. The proposed package of works enables the redistribution of a significant amount of strategic traffic travelling via M5 Junction 11, the A40, Princess

Elizabeth Way, Old Gloucester Road, Gloucester Road and north Cheltenham due to the restricted movements at M5 J10.

The cumulative impacts of future developments beyond 2040 would be mitigated to a great extent by the provision of the all movements M5 Junction 10, the ancillary A4019 improvements and the Cheltenham Western Link Road, which have been proposed in a recent Development Consent Order application to the Government. (A decision concerning the DCO is expected in Summer 2025).

It should be noted that 'The Folley' proposal is not an allocated site within the current JCS but nevertheless the anticipated wider cumulative impacts, with additional traffic from this site, would worsen in the event that the M5 Junction 10 proposals do not come forward.

The original (GCTM) traffic modelling assessment to calculate the without DCO maximum development capacity did not include this application site, and in the current Local Plan period the acceptable level of housing growth for Cheltenham Borough as a whole has been calculated as 1711 units prior to the Junction 10 package of measures being delivered. Although the developer has undertaken their own assessment of local traffic impacts, the Statement does consider the significant highway mitigation schemes from adjacent committed development sites that are not yet consented will be beneficial to this site in the long term.

Further work is ongoing to consider other scenarios which may allow this limit to be increased slightly and the County Council will report to the LPA's as soon as that work is complete. The calculations continue to exclude the 122 units proposed and therefore the LPA would need to either reallocate part of the total capacity from the committed developments, or condition this development's commencement should this application be approved.

Some of the prospective developers in the area correctly point out that their schemes have a lesser impact at M5 Junction 10, when compared to other committed development proposals. However, this is a misunderstanding of the benefits of the Junction 10 package which will provide relief capacity for local roads elsewhere on the network, such as the A40 Arle Court, Benhall roundabout, Princess Elizabeth Way, Coronation Square, Kingsditch roundabout etc, rather than solely benefiting the strategic road network.

Currently, the nearby junction of Kingsditch Lane, Wymans Lane and Swindon Road is heavily congested and has a relatively high road safety casualty rate. This is proposed to be improved as part of the allocated Elms Park development (16/02000/OUT). In particular, the developers propose replacing the existing double mini roundabout with new traffic signals (PJA drawing 1041-109) and replacing the Kingsditch Road / A4019 roundabout with a large signalised junction (PJA drawing 1041-104). Both the M5 Junction 10 and Elms Park packages include a range of public transport and active travel improvements that will enhance the A4019 corridor and surrounding network which will benefit potential residents travelling to the centre of Cheltenham (PJA drawings 1041-105 and -106), but all current mitigation measures remain subject to LPA or Government consent.

The only major strategic issue which remains unresolved is the narrow road bridge over the rail line on Swindon Road, which is a significant impediment to increasing walking and cycling between the application site and the employment / retail uses to the west. It would not be proportionate to expect this site to resolve the bridge issue, however one-way traffic signalisation might be considered in the future to allow a wider pedestrian margin over the bridge when capacity has been increased on the A4019. So, there is the prospect that a significant proportion of the strategic highway and transportation issues that surround this application site can be mitigated by wider strategic improvements, however, the Junction 10 scheme currently has a significant funding gap which needs to be addressed to ensure delivery.

This consultation response is given on the basis that GCC expects the Elms Park and West of Cheltenham allocated sites to be determined during 2025 and therefore any additional capacity that is identified would be taken up by the allocated sites. However, if those sites are not consented, this recommendation conditions the extent of development that will be permitted without said mitigation(s).

Policy INF1, 6 and 7 of the JCS all reference cumulative traffic impacts. It is very important that the impacts of smaller, piecemeal development are considered through the development management process and that those sites make a proportionate contribution to resolving these strategic problems. Therefore, the County Council recommends that if the LPA support housing development on this site, it makes a contribution towards the costs of the M5 Junction 10 package of works in line with the contributions that are proposed by nearby sites. The funding apportionment methodology identifies a contribution of £4036.14 / per residential unit for the allocated sites in this area, which would equate to £492,409.00 for this application site.

These contributions are of course subject to the viability of the development, (JCS Policy INF7), which may be an issue where there are exceptional development costs, such as a high proportion of affordable housing. In addition to the contribution to the wider scheme, if this site is supported, it would seem prudent to recommend a planning condition concerning the associated mitigation if in the event the Elms Park site does not come forward, however that can be considered nearer to the determination of this application.

The NPPF (December 2024) Paragraph 58 requires that any contribution be;

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In considering these tests, it is important to note that the Joint Core Strategy policy INF6 references cumulative impact and then goes on to reference the above tests. In terms of the tests and whether the M5 Junction 10 package is necessary to make the development acceptable, GCC's own assessment is that the residual cumulative impact of the wider JCS proposals (as defined by Para 11 of NPPF December 2024), includes a range of severe impacts at various locations if the M5 Junction 10 package does not come forward:

- Increased congestion and journey times causing rat running onto inappropriate routes
- Increased congestion at junctions/links resulting in additional vehicular emissions impacting air quality and linked to this queuing and congestion making walking and cycling less attractive due to increased vehicle emissions in the locality
- Blocking back through key junctions caused by junctions operating above their theoretical capacity.
- Increased congestion and journey times having a negative impact on journey times for local and strategic public transport routes, again making these modal choices potentially less attractive.
- Increased congestion/volume of traffic hindering pedestrian and cyclists crossing the highway safely

In respect of the tests and whether the contribution would be fair and directly related, GCC have recently consulted on a methodology for the apportionment of Junction 10 costs. This methodology uses traffic modelling to determine site specific impacts from allocated sites at the hotspots in Cheltenham. That apportionment did not include this site, so in order to fully align with the tests, GCC will need to undertake a site-specific assessment in order to determine how a contribution would be directly related to this site and fairly apportioned. This

should not prevent determination of the application, as the contribution rate is unlikely to be significantly different from the figure mentioned above, calculated by referencing the adjacent Elms Park development rate that is providing significant local mitigation.

The JCS policy deals with the issue in more detail, at INF1 it states that “where severe impacts that are attributable to the development are considered likely, including as a consequence of cumulative impacts, they must be mitigated to the satisfactions of the Local Planning Authority in consultation with the Highway Authorities and in line with the Local Transport Plan”. Furthermore, Policy INF6: Infrastructure Delivery states “Where infrastructure requirements are generated as a result of individual site proposals and/ or having regard to cumulative impact, new development will be served and supported by adequate and appropriate on- and / or off-site infrastructure and services. Planning permission will be granted only where sufficient provision has been made for infrastructure and services (together with their continued maintenance) to meet the needs of new development and / or which are required to mitigate the impact of new development upon existing communities”. Lastly INF7 states that “Arrangements for direct implementation or financial contributions towards the provision of infrastructure and services required as a consequence of development, including its wider cumulative impact, and provision where appropriate for its maintenance, will be negotiated with developers before the grant of planning permission.” Financial contributions will be sought through the S106 and CIL mechanisms as appropriate.

Regarding the site detail, further to the submission dated 22nd July 2024, the applicant has made significant changes to both the internal layout and individual plot positions to provide a safer and enhanced environment for future residents as detailed on the revised master plan 2103-TDS-XX-XX-DR-A-0010.Rev.9.

On-plot parking provision has been reduced where possible with all units having secure and covered cycle storage which is to be supported by a proactive Travel Plan to sustain alternative mode transport solutions for future residents within this wholly ‘affordable homes’ development.

Eleven off-site pedestrian improvements are to be introduced that will assist routes to/from the bus stop locations on A4019 when crossing Swindon Road and via Malvern Street and Waterloo Street. These works are to be secured by condition to specifically remove potential conflict at the Elm Street junction that has substandard footway width on the eastern side. The locations listed below are indicated on plan 230290-RAP-XXXX-DR-TP-6000.

- Crossing Malvern Street near Swindon Road
- Crossing Bridge Street near Malvern Street
- Crossing Malvern Street near Elm Street
- Crossing Elm Street near service road
- Crossing Waterloo Street near A4019 Tewkesbury Road
- Crossing Service Road near Waterloo Street
- Crossing Addis Road near Waterloo Street
- Crossing Compton Road near Waterloo Street
- Crossing Waterloo Street near Swindon Road
- Crossing Swindon Road near Waterloo Street

Following the conclusion of discussions with CBC’s Green Space Development Team, it has been determined that the existing footpath between the Animal Centre at the end of Gardener’s Lane and Thomond Close, be improved to a 4m shared use pedestrian and cycle track with appropriate street lighting provided. This will then positively connect with the site’s active travel route between plots 52-54 and SUDS basin 1 leading north to the shops and bus services on Windyridge Road.



Both these sustainable mode requirements need to be secured by planning condition to be provided within a Highways Section 278 agreement for completion prior to first occupation of the site in line with Joint Core Strategy INF 1.

Based on the analysis of the information submitted and GCC's own wider cumulative assessment, we conclude that if adequate improvements are made to the network, there would not be an unacceptable cumulative severe impact, and in those circumstances, there would be no justifiable grounds on which an objection could be maintained. If the developer does demonstrate viability issues concerning the proposed M5 J.10 and ancillary works contribution, then this recommendation can be revisited in line with the provisions of INF7.

#### Planning Obligations - S106 Site Specific Mitigation

The applicant should provide the following planning obligations through a suitable legal mechanism.

(1) Specific Purpose - Travel Plan Monitoring Fee

Contribution – £10,000

Trigger – Prior to occupation

Retention Period – N/A

(2) Specific Purpose - Travel Plan Deposit / Development / Incentives / Marketing if implemented by the applicant

Contribution – £43,908

Trigger – Prior to first occupation

Retention Period – 10 years from date of first occupation

(3) Specific Purpose – Cheltenham Borough Network Mitigation To mitigate against the cumulative impact of additional vehicle movements across the Cheltenham Borough local highway network, where it will be alleviated by the 'M5 Junction 10 All Movement Improvement scheme and A4019 ancillary works', and where the proposal will reduce the total 1711 unit committed development capacity.

Contribution - £4036.13/ unit (122) = £492,407.86

Trigger – Initial 30% prior to commencement = £147,722.86. Balance at 70% occupation or 2 years. = £344,685

Retention Period – 10 years from date of first occupation

#### Conditions

Conformity with Submitted Details (Multiple Buildings)

The Development hereby approved shall not be occupied until the access, parking and turning facilities has been provided as shown on drawing 2103-TDS-XX-XX-DRA-0010.Rev.9.

REASON: To ensure conformity with submitted details.

Site Area to be adopted

No development shall commence (excluding demolition, site clearance and initial ground investigation works) until details of the access(es) into the site, together with parking and turning area(s) [including details of lines, widths, levels, gradients, cross sections, drainage and lighting] have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the access(es) into the site, together with parking and turning area(s) within the site have been laid out in accordance with the approved details. These area(s) shall thereafter be retained and not be used for any other purpose for the life of the development.

REASON: In the interests of highway safety

Provision of Vehicular Visibility Splays – Primary Access at Swindon Road

The development hereby approved shall not be occupied until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 43 metres in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.75 metres from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

REASON: In the interests of highway safety for pedestrians and all other users.

#### Provision of Vehicular and Pedestrian Visibility Splays within the site

The development hereby approved shall not be occupied until visibility splays are provided from a point 0.6m above finished surface level at the centre of the various internal roads and footway locations as defined on drawing 230290-RAP-XX-XX-DRTP-3202 / P03. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above finished surface level.

REASON: In the interests of highway safety for pedestrians and all other users.

#### Highway improvements - Offsite works (Details not provided)

The Development hereby approved shall not commence until drawings of the offsite works comprising:

Works Description – Identified on drawing 230290-RAP-XX-XX-DR-TP-6000 - Implementation of pedestrian walking route improvements including but not limited to;

- Widening of the existing central reserve to accommodate an uncontrolled staggered pedestrian facilities at Swindon Road / Malvern Street.
- Drop kerbs and tactile paving at various locations listed below–
  - o Crossing Malvern Street near Swindon Road
  - o Crossing Bridge Street near Malvern Street
  - o Crossing Malvern Street near Elm Street
  - o Crossing Elm Street near Service Road
  - o Crossing Waterloo Street near A4019 Tewkesbury Road
  - o Crossing Service Road near Waterloo Street
  - o Crossing Addis Road near Waterloo Street
  - o Crossing Compton Road near Waterloo Street
  - o Crossing Waterloo Street near Swindon Road
  - o Crossing Swindon Road near Waterloo Street
- Upgrading of the path linking Gardener's Lane and Thomond Close and to the development to a 4m shared use pedestrian & cycle route with appropriate street lighting. Have been submitted to and approved in writing by the Local Planning Authority; and no properties shall be occupied until those works have been completed as part of a S278 agreement in accordance with the approved details.

REASON: To promote sustainable travel and healthy communities

#### 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

#### Residential Travel Plan

The Residential Travel Plan hereby approved, dated February 2024 shall be implemented and monitored in accordance with the regime contained within the Plan and for a period of 10 years from first occupation unless otherwise agreed in writing.

REASON: To reduce vehicle movements and promote sustainable access.

#### Construction Management Plan

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

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

#### Grampian Condition – Cumulative Mitigation of the Strategic Network

No dwellings in the development hereby permitted shall be occupied until the 'M5 Junction 10 All Movements Improvement Scheme and A4019 ancillary works', or an alternative scheme that provides equal or greater benefit, has been completed, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To restrict impact and harm until suitable mitigation is delivered.

#### Informatives

##### Works on the Public Highway

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

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

Drafting the Agreement

A Monitoring Fee

Approving the highway details

Inspecting the highway works

Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway

Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

#### Highway to be adopted

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

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

- Drafting the Agreement
- Set up costs
- Approving the highway details
- Inspecting the highway works You should enter into discussions with statutory undertakers as soon as possible to co-ordinate the laying of services under any new highways to be adopted by the Highway Authority. The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

#### 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. 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

Sustainable 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.

#### **8th April 2025**

I can confirm the evidence we have is from the work undertaken via the GC3M model for all allocated sites. These modelling results show severe impacts on the local network based on a cumulative assessment. The Folley was not included within this assessment because it is not an allocated site, but background growth is included within the model.

This cumulative assessment approach is wholly in line with the JCS policies INF1, INF6 and INF7. The cumulative approach is further supported by Planning Practice Guidance :-

"It is important to give appropriate consideration to the cumulative impacts arising from other committed development (ie development that is consented or allocated where there is a reasonable degree of certainty will proceed within the next 3 years). At the decision-taking stage this may require the developer to carry out an assessment of the impact of those adopted Local Plan allocations which have the potential to impact on the same sections of transport network as well as other relevant local sites benefitting from as yet unimplemented planning approval."

The details of this approach was included within the HDM comments for this application.

In addition, the approach for funding in our view meets the tests of The NPPF (December 2024) Paragraph 58 requires that any contribution be;

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The evidence for this approach is provided in the attached technical note and the GC3M modelling outputs which clearly indicate that the network results in an unacceptable impact above the deadweight level (1,711) when the cumulative impact is considered.

Should the application be approved without a contribution towards the M5 J10 the scheme may be placed in jeopardy and will result in a reduction of the 1,711 deadweight for the allocated sites.