

APPLICATION NO: 24/02102/FUL	OFFICER: Mrs Victoria Harris
DATE REGISTERED: 18th December 2024	DATE OF EXPIRY: 12th February 2025 Extension of time: 21/07/2025
DATE VALIDATED: 18th December 2024	DATE OF SITE VISIT:
WARD: Oakley	PARISH:
APPLICANT:	Cheltenham Borough Homes
AGENT:	MHP Design Ltd
LOCATION:	Foster Court Mendip Road Cheltenham
PROPOSAL:	Proposal for new secure bin store away from curtilage of building, including new access path and proposed screening planting including biodiversity mitigation planting.

RECOMMENDATION: PERMIT



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Foster Court is a large, two-storey, brick-faced building located on Mendip Road. The building is sub-divided into a number of self-contained flats. The site is open, with several trees located adjacent to the northern site boundary. The character of the surrounding development is predominantly two-storey and residential.
- 1.2 Planning permission is sought for the erection of a secure bin store within the curtilage of Foster Court, along with new internal access paths and screen planting.
- 1.3 This application is before the Planning Committee because the applicant is Cheltenham Borough Council.
- 1.4 An earlier application (ref: 24/01451/FUL) for a bin store was withdrawn. In that proposal, the bin store was positioned closer to the highway, beyond the building line of Foster Court. Officers considered this location to be harmful to the street scene. Officers suggested that the bin storage be located in the rear courtyard of the building. However, the Design and Access Statement confirmed: *"This was reviewed and deemed inappropriate due to its proximity to an emergency exit, ground floor windows, residents' sheds, and the neighbouring property. It would not have been considered compliant, and an alternative solution was sought."*

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Principal Urban Area

Relevant Planning History:

16/02320/CLPUD 18th January 2017 CERTPU

Replacement windows to the following properties, 1-6 Foster Court, 1-6 Hanna Boote House, 1-8 George Maisey House, 1-8 Norton House, 1-10 and 30 - 39 Lynworth Place, 1-21 Naseby House, 7-35 and 36-47 Popes Close, 110 (A to D) and 126 to 132 (even) Alstone Lane, 122 - 126 Brunswick Street

24/01451/FUL 3rd October 2024 WDN

Proposed bin store including new access path and proposed screening planting.

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 8 Promoting healthy and safe communities

Section 12 Achieving well-designed places

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

Section 15 Conserving and enhancing the natural environment

Adopted Cheltenham Plan Policies

D1 Design

SL1 Safe and Sustainable Living

Adopted Joint Core Strategy Policies

SD4 Design Requirements

SD9 Biodiversity and Geodiversity

SD14 Health and Environmental Quality

4. CONSULTATIONS

See appendix at end of report

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	13
Total comments received	1
Number of objections	1
Number of supporting	0
General comment	0

- 5.1** Thirteen letters were sent to neighbouring properties. In response to this publicity, one objection was received. The concerns raised related to the loss of open space and the potential conflict with existing trees.

6. OFFICER COMMENTS

6.1 Determining Issues

- 6.2** The key issues for consideration are the design and layout of the proposals and their impact on the character and appearance of the street scene and amenities of neighbouring land users and biodiversity net gain.

6.3 Design and amenity

- 6.4** The proposed layout includes one refuse bin enclosure, located adjacent to the eastern site boundary, along with the construction of a new footpath. The bin store would be enclosed and partially screened by soft landscaping and a hedgerow. The bin store does not extend beyond the building line of Foster Court.

- 6.5** The structure would be constructed using 2-metre-high paladin mesh panels with a swing gate for access and finished in a moss green colour. Officers acknowledge that the 2-metre height is relatively tall, and the upper sections of the bin store would remain visible above the proposed hedge screening (once established). However, the overall footprint of the structure is modest, it is set back from the road frontage, and new screen planting is proposed around it. These factors help to reduce the visual impact of the fencing on the street scene.

- 6.6** In conclusion, the proposal is not considered to result in significant harm to the character or appearance of the street scene, and any harm identified is not sufficient to warrant refusal of the application. Furthermore, similar proposals for bin store enclosures have recently been approved on other Cheltenham Borough Council sites.

- 6.7** The bin store is located close to two large trees. The Council's Tree Officer has reviewed the proposal and, following the submission of a suitable Tree Protection Plan, has raised no further concerns. The Tree Officer's comments are set out in full at the end of this report.

- 6.8** Given the separation distances from building elevations and windows, there are no concerns regarding neighbour or occupier amenity.

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

6.10 Sustainability

6.11 Section 14 The NPPF prescribes that the planning system should support the transition to a low carbon future in a changing climate. This is a key theme and objective of the Cheltenham Local Plan. This aim is recognised in Policy SD3 of the JCS, which sets out an expectation that all development should be adaptable to climate change. The Cheltenham Climate Change SPD (adopted June 2022), sets out a strategy for decarbonising homes over the next decade.

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

6.13 Ecology and biodiversity net gain

6.14 JCS policy SD9 seeks to ensure that new developments contribute positively to biodiversity and geodiversity. Similarly, paragraph 187 of the NPPF requires decision on planning applications to minimise impacts on and provide net gains for biodiversity.

6.15 In addition, a minimum biodiversity net gain (BNG) of 10% is now a statutory requirement for minor developments (albeit there are some exceptions), and the mandatory BNG condition is applicable to this development.

6.16 The Council's Ecologist has reviewed the application, and advised that a mandatory 10% Biodiversity Net Gain (BNG) requirement is applicable to the proposed development. As such, the applicant provided an sites biodiversity metric and BNG Assessment report. The BNG calculations demonstrate a 23.97% gain in habitat units. The EO considers that a net gain over 10% is achievable for this site.

6.17 As the proposals will not be 'significant' gains in biodiversity, a S106 is not required in this case.

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

7. CONCLUSION AND RECOMMENDATION

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

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

8. CONDITIONS / INFORMATIVES

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

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

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

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

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

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

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

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

No operations shall take place until:

(h) the habitat creation and enhancement works set out in the approved [HMMP] have been completed; and

(i) a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by the Local Planning Authority.

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

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

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

- 4 The development hereby approved shall not be carried out unless in accordance with the approved Tree Protection Plan (TPP). The protective measures specified within the TPP shall remain in place until the completion of the construction process.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020).

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

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

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, GI2 and GI3 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017).

INFORMATIVES

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

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

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

- 2 THIS DEVELOPMENT IS LIABLE FOR THE DELIVERY OF BIODIVERSITY NET GAIN (BNG)

A BIODIVERSITY GAIN PLAN MUST BE SUBMITTED TO, AND APPROVED, BY THIS COUNCIL PRIOR TO DEVELOPMENT COMMENCING

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.

Biodiversity gain plans are required to be submitted to, and approved by, Cheltenham Borough Council before development can be begun (the overall plan), and before each phase of development may be begun (phase plans) should this be a phased development.

The Biodiversity Gain Plan Form/Template is available here:
<https://www.gov.uk/government/publications/biodiversity-gain-plan>

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

We can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

1.do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and

2.in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

For guidance please visit:

https://www.cheltenham.gov.uk/info/42/planning/1817/biodiversity_net_gain_-_planning_applications

<https://www.gov.uk/guidance/biodiversity-net-gain>

Consultations Appendix

Building Control

8th January 2025 - No comment.

CBC Ecologist

14th January 2025 - 24/02102/FUL Foster Court Mendip Road Proposal for new secure bin store away from curtilage of building, including new access path and proposed screening planting including biodiversity mitigation planting

Ecology comments 14th January 2025

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.

In principle I have no objection to this proposal, I only require a minor amendment to the biodiversity net gain (BNG) assessment and an update to the Landscape and Ecological Management Plan (LEMP).

1. The condition of the proposed neutral grassland is not likely to reach "good" condition under the BNG habitat management prescriptions due to its location, size and accessibility to local residents. The proposed condition of this habitat should be downgraded to "moderate" in the statutory small sites biodiversity metric submitted (Alex Dallyn, Landscape Architect, December 2024) unless the applicant can demonstrate how provisions will be made to prevent degradation of the habitat over time (e.g. with fencing around it to protect it from disturbance).

2. The LEMP needs to be updated to a habitat management and monitoring plan (HMMP). A HMMP will be conditioned.

Further comments and conditions will be provided following submission of an updated biodiversity metric, and HMMP should the applicant wish to submit this pre-determination. If a HMMP is submitted pre-determination, the following wording of the standard condition for this document is below (which needs to be followed):

Habitat Management and Monitoring Plan (HMMP)

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

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

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

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

No operational use of the proposed development shall take place until:

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

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

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

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

Tree Officer

24th February 2025 - The tree protection plan is welcomed by the Trees Section. No further information is required by the Trees Section.

CBC Ecologist

17th February 2025 - Response in documents tab.

Tree Officer

2nd January 2025 - The Trees Section has no objection to this proposal. However, it would benefit the scheme to demark a construction exclusion zone (to BS5837:2012) to avoid inappropriate storage / spillage etc within RPAs of adjacent trees. Although the proposed path is outside of the RPA of retained trees, any roots that are encountered should be treated in accordance with BS5837:2012.

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